

# Passive Corruption: How Institutions Corrupt People

## La corruzione passiva: come le istituzioni corrompono le persone

COLIN BIRD

*University of Virginia*  
craiginnan@gmail.com

**Abstract.** This paper questions the claim, advanced persuasively by Emanuela Ceva and Maria Paola Ferretti, that political corruption should primarily be understood as a “deficit of office accountability.” On the one hand, it identifies some ambiguities internal to their theory; these suggest that it underestimates the role of self-serving motives in corruption and overemphasizes the perversion of institutional mandates. On the other hand, it describes a form of “passive corruption” that their theory cannot easily accommodate. Passive corruption, I argue, consists in an excess, rather than a deficit, of “office accountability” and typically arises when different institutions come into conflict with each other.

**Keywords:** corruption, accountability, role-morality, public service, virtue-ethics.

**Sommario.** Questo articolo prende in esame la tesi, avanzata in modo convincente da Emanuela Ceva e Maria Paola Ferretti, secondo cui la corruzione politica dovrebbe essere intesa principalmente come un deficit di “office accountability”. Da un lato individua alcune ambiguità interne alla loro teoria; il fatto, cioè, che sottovaluti il ruolo dei motivi egoistici nella corruzione e enfatizzi eccessivamente la degenerazione dei mandati istituzionali. D'altra parte, l'articolo intende descrivere una forma di “corruzione passiva” che la loro teoria non riesce facilmente ad accogliere. La corruzione passiva, a mio avviso, consiste in un eccesso, piuttosto che in un deficit, di “office accountability” e si verifica generalmente quando diverse istituzioni entrano in conflitto tra loro.

**Parole chiave:** corruzione, responsabilità, morale d'ufficio, servizio pubblico, etica della virtù.

The most arresting claim of Emanuela Ceva's and Maria Ferretti's fine recent book<sup>1</sup> (henceforth PC) is that political corruption is best theorized as an intra-institutional phenomenon. The book's subtitle emphasizes this point vividly, casting political corruption as the "internal enemy of public institutions." The clear implication is that political corruption not only makes institutions less efficient, procedurally unfair, or objectionably capricious (though it may do all of these), but also subverts from within an idea of institutional accountability integral to any well-ordered political system. This is so, for Ceva and Ferretti, even if one grants that corruption could under some circumstances be socially beneficial all things considered, a possibility that they rightly leave open.

Ceva and Ferretti must be right that a "deficit" of internal institutional accountability is an important element in much political corruption. I agree, moreover, that viewing institutional corruption from this angle pays dividends, some of which are highlighted below. These virtues notwithstanding, I remain skeptical on two counts. First, I doubt that the intra-institutional diagnosis offered by Ceva and Ferretti identifies sufficient conditions for political corruption. Second, since I also doubt that it fits all important forms of political corruption, I am unconvinced that the Ceva-Ferretti model (henceforth: CFM) identifies a necessary condition either. I begin my case for both these claims by highlighting CFM's character and strengths.

### The CFM approach and its virtues

Ceva and Ferretti define an institution as a

system of embodied rule-governed roles (the offices that human persons occupy) to which powers are entrusted with a mandate. ... Institutions are defined by what their members do as an interrelated group of agents in virtue of the powers entrusted to various institutional roles. The *raison d'être* of an institution comprises the normative ideals that motivate its establishment and, consequently, its internal structure and functioning (PC, pp.22-3).

For an institution to exist, in this conception, agents who occupy various institutional offices must recognize in common the mandates defining and the constraints restricting the scope of their official responsibilities. They must also hold one another accountable for discharging those responsibilities in a manner that coheres with their institution's *raison d'être*.

---

<sup>1</sup> Ceva, Ferretti. *Political Corruption*.

The Ceva-Ferretti account regards the fulfillment of these expectations of mutual accountability, or at least officials' sincere efforts to meet them, as both an essential desideratum of all institutionalized practices and the antithesis of political corruption. Conversely, it asserts that political corruption occurs whenever officials exceed the scope of their office's formal competence in order to pursue some agenda of their own. Institutions are then free of corruption only if their members internalize and hold each other to the responsibility to stay within their mandates. So conceived, political corruption violates a "duty of office accountability." This institutional account of corruption has three key virtues.

First, CFM draws a valuable distinction between bureaucracy and institutions, and insists that officials must use their discretion, not simply apply fixed rules in a mechanical, unthinking, manner. Although Ceva and Ferretti note that the possibility of corruption can never be wholly eliminated from institutional life, they rightly argue that overwhelming officials with mandatory guidelines is not an appropriate remedy. That would denude institutions of their distinctive normative character: they are not bureaucracies in which officials robotically apply algorithms. Rather, they entrust institutional powers to agents expected to exercise their own judgment about how best to fulfill their responsibilities (PC, 61). Second, CFM's endorsement of the "continuity thesis" rightly connects structural corruption with individual misconduct in a way that avoids excessive moralism while refusing to fetishize procedures. Finally, Ceva and Ferretti rightly seek a largely descriptive conception of political corruption that doesn't prejudge normative questions about whether and when political corruption might be bad, and about how bad it might be (PC, 10-11, 41-44). In acknowledging that under some circumstances corruption might be justified all-things-considered, CFM incorporates the intuition memorably expressed by Avishai Margalit: "A society with vile rules and corrupt officials is preferable to a society with vile rules and strict officials."<sup>2</sup> Although I will later express some doubts about the notion of "noble-cause" corruption that Ceva and Ferretti discuss in this context, their willingness to keep an open mind on this point opens new questions, reframes stale stereotypes, and reminds us how complex the ethics of public life can be. While this paper raises some critical questions about CFM, my aim is not to deny the power of these and many other insights. Rather, it is to suggest some ways in which even as subtle an account as CFM can itself miss some of that complexity.

---

<sup>2</sup> Margalit, *The Decent Society*, 216.

## Does CFM identify sufficient conditions for corruption?

CFM understands political corruption as a deficit of office accountability and emphasizes officials' duty to their mandates and the larger goals of their institutions. What exactly is the strength and content of this central duty? As Ceva and Ferretti understand it, office accountability doesn't require that officials always enumerate explicitly how their conduct coheres with their mandates, nor must they answer for each and every exercise of their powers of office (unless they come under scrutiny). Accountability as CFM construes it requires only that, as they act in their official roles, officials sincerely seek a rationale for their choices that fits with the letter and spirit of their mandates given their institution's wider functions. Their colleagues within the same institution always reserve the right to demand a satisfactory account of how their conduct coheres with their mandate. Whether or not that right is actually exercised, officials must anticipate the need to supply a rationale for their decisions that could satisfy colleagues committed to the same conception of their institution's functions (PC, 25-6). Political corruption occurs, according to CFM, whenever officials neglect this expectation, instead acting on agendas of their own that conflict with the letter and spirit of their mandates, given a common understanding of the functions officials comprising an institution are to perform together.

This weaker position introduces an ambiguity in CFM's duty of accountability. On the one hand, it directs us to the character of officials' actual deliberation when they are deciding how to exercise their official powers appropriately in some concrete choice situation: did they take seriously the need to reconcile the rationale for their conduct with their office's mandate? On the other, it requires that officials – whether acting in their official capacity or observers scrutinizing a colleague's decisions – apply an independent standard of success: can an official action be given a rationale that fits the relevant mandates? Unfortunately for CFM, these two desiderata can come apart. An official can fail to attend to the right considerations as they resolve on a course of action yet still reach a decision that does in fact cohere with their office's mandate. Conversely, an official can take a decision that cannot be reconciled with their office's mandate, even though he sincerely believed that it can. Indeed, there are many ways in which success or failure along one or other of these two dimensions might be combined in actual cases. Consider some possibilities along these lines:

### *Unintended Success*

1. Official O takes a decision D in their official capacity and reaches it in a way that wholly disregards their duty to justify D as "coherent" with

the spirit or letter of their office's mandate and the larger functions of their institution.

2. Even though O made no effort to satisfy CFM's duty of accountability, as it happens D can be given a rationale that coheres with the letter and spirit of O's mandate and the institution's wider mission.

### *Conscientious Error*

1. O takes D in their official capacity and makes a sincere, thorough, and conscientious effort to fulfill their office's mandate and ensure that D "coheres" with their institution's mission.
2. Despite her best efforts, and sincere belief that D can be given a rationale consistent with O's mandate and their institution's mission, D cannot.

### *Tie-Break Partiality*

1. O takes D in their official capacity and chose D over alternative A because, having correctly found that both D and A cohere equally well with O's mandate, O applied some extra-institutional consideration to break the tie in D's favor.
2. The extra-institutional consideration O used to break the tie reflected their personal interest in D and/or personal aversion to A.

### *Good (Bad) Faith Rationalization*

1. O takes D in their official capacity solely because O has a personal preference for D over all the alternatives and without any sincere consideration of whether D coheres with their institutional mandate.
2. Knowing that he is subject to official reprimand for disregarding the duty of accountability, O forearms himself against possible later sanction by crafting a rationalization for their decision that should convince colleagues but which nevertheless played no role in O's opting for D. (Bad faith variant: O crafts a rationalization in terms of his office's mandate that he knows is tenuous but sufficient to convince skeptical colleagues either that D was appropriate, or that he should be excused from responsibility for having made an "honest mistake").

Neither *Unintended Success* nor *Conscientious Error* plausibly describe circumstances sufficient for corruption, on CFM or on any plausible view.

*Unintended Success* could simply involve incompetence, negligence, or indolence. Ceva and Ferretti themselves point out that failure to conform to an office mandate from incompetence or laziness would not count as corruption. If this is so for them even when decisions don't cohere with the letter and spirit of applicable institutional mandates, it could hardly count as corruption under CFM if, as in *Unintended Success*, a decision does so cohere.

*Conscientious Error* differs in that the officials concerned certainly cannot be accused of laziness, nor really of gross incompetence: they fully understand the right criteria and sincerely try to apply them. Despite their best efforts, however, they take action that, on inspection, cannot be reconciled with their office's mandate. I find it difficult to say that such a failure is sufficient to establish the presence of corruption. It seems closer to the sorts of poor judgment characteristic of inexperience, lack of proficiency, or perhaps a propensity to overthink and second-guess oneself. Some cases of this sort might support a charge of negligence, insofar as the official concerned could have been more vigilant about common blunders and confusions. But none of this would seem to exemplify corruption because a crucial feature of corrupt conduct is missing: the presence of a personal stake in a particular outcome on the part of the official. Since the same is true of *Unintended Success*, both of these cases underline the importance of an agent's motives in our intuitions about corruption.

Is the presence of *Tie-Break Partiality* on the part of officials sufficient to indict their conduct as corrupt? One could argue this either way. On the one hand, officials following their preferences under these conditions might invite a charge of apparent conflict of interest. This will be particularly tempting when, in repeated instances, they systematically prefer options, candidates, or outcomes to their own liking. Here, one feels some pressure to urge recusal, so that the matter can be resolved either at random, or by an independent party. On the other hand, this sort of partiality is so common in institutional life that insisting on recusal in such cases will often seem pedantically restrictive. Think, for example, of academic hiring decisions: surely members of a search committee do nothing seriously improper if, having all agreed that two candidates are equally well-qualified for the position, they decide in favor of one candidate just because their work is of greater personal interest. In any event, if *Tie-Break Partiality* does exemplify corruption, it will be because it raises worries about conflicts of interest, which again underlines the role of motives in supporting allegations of corrupt misconduct.

The same seems true of the two variants of *Rationalization*. Intuitively, both seem at least in the orbit of corruption. Here, officials exploit their institutional authority solely to get what they want. In both cases, their attitude to any constraints imposed by their role or mandate is wholly

manipulative, although the problem is aggravated in the “bad faith” variant. The bad faith rationalizer is not only indifferent to the need to supply a rationale of the right kind, but would also be undeterred even if no valid or sound rationale for her preferred outcome is available: the substantive merits of her proffered rationale are disconnected from her actual decision; all that matters to her is their power to preempt unwelcome scrutiny. The good faith rationalizer is at least unwilling to insult her colleagues’ intelligence by trying to pass off a rationale they secretly acknowledge is unsound. But both rationalizers are motivated fundamentally by their personal preference for a particular outcome; their invocation of an independent rationale is incidental and misleading. That makes allegations of corruption apt in such instances.

This analysis suggests that the presence of a corrupt motive, not the contravention of CFM’s office and mandate conditions, is the key litmus for detecting corruption. Whether a rationale that fits with the letter and spirit of an office’s mandate is available does not seem sufficient in these instances to determine the presence or absence of corruption. No such rationale is available in *Conscientious Error*, or *Bad Faith Rationalization*, yet only the latter clearly exemplifies corruption. A mandate-blessed rationale is available in *Unintended Success*, *Tie-Break Partiality*, and *Good Faith Rationalization*, yet no corruption is present in the first, it may or may not be in the second, and it is in the third. I conclude that CFM’s office and mandate conditions are not dispositive of judgments about political corruption. What really matters are the motives of those accused of corruption.

Ceva and Ferretti tacitly acknowledge this, for their model requires that corrupt officials act on an “agenda” of their own that conflicts with their institutional mandate. But they underestimate its importance and overestimate that of the mandate and office conditions. They are surely right that corruption typically involves a conflict between one’s personal interests and one’s duties, roles, or obligations. Intuitively, corruption occurs whenever self-serving motives lead an agent to neglect such responsibilities. Yet this intuition is not enough to explain the star billing CFM assigns to the office and mandate conditions in relation to political corruption. One might instead claim, more simply, that political corruption occurs whenever an agent indulges self-serving motives to the detriment of some politically important responsibility.

To be sure, self-serving conduct by officials is often inconsistent with their institutional mandate, yet acting on personal advantage can attract charges of corruption even in the absence of any such mandate. Consider, for example, expectations of fair play and reciprocity. Soccer players – whether professional or amateur – are not officials, and don’t really have a mandate. Yet, they are expected to follow, not only the rules of the

game, but also broadly recognized standards of fairness that apply beyond the sporting context. Attempting to benefit personally from a match-fixing scheme, for example, would clearly be corrupt by those standards. The reason is simply that those standards protect something – the integrity of a sport – that is of greater importance than any player’s personal advantage. The same norms of fairness and reciprocity apply in institutional life as well; indeed, they are at least as important to the smooth functioning of institutions as an explicit division of formal mandates. Given this, I see no reason for a theory of institutional corruption to concentrate exclusively on office mandates for which agents are accountable to their fellow officials within the same institution. Sometimes, officials can be corrupt simply because they self-servingly contravene a general expectation of fair play. Moreover, officials are accountable not only to their colleagues for observing these expectations, but also to the larger community.

The same applies when officials engage in self-serving conduct that is uncontroversially immoral. An official who receives a bribe in order to lie before a tribunal about matters within her remit self-servingly violates both their duties of office accountability and ordinary morality. CFM implies that the crucial factor in making the conduct corrupt is the violation of the former duty, but this strikes me as unduly restrictive. It seems sufficient to say simply that the official was corrupt in that she violated publicly important responsibilities for personal gain. This again suggests that CFM exaggerates the importance of the duty of office accountability in detecting corruption, and underplays the role of corrupt motives.

Ceva and Ferretti might reply that they are seeking a theory of *political* corruption only, and that this justifies their narrower focus on office-holders’ mandates. However, this equation of politics with institutional officialdom should be resisted. Institutions are obviously central to public life, but officials are not the only agents who can engage in political corruption. Any private citizen who accepts a bribe in return for voting for a political candidate, or who bribes a public official for personal advantage, behaves corruptly. But *qua* voters and private citizens, agents don’t act in any official capacity and are rarely constrained by anything resembling a mandate. More generally, many social practices, public and private, depend on compliance with norms of reciprocity and fair play. While it admittedly sounds a bit forced to accuse those involved in the recent U.S. college admissions scandal of political corruption,<sup>3</sup> they were seeking to circumvent rules of fair play for personal advantage in the context of the provision of the important public good of educational opportunity. This

---

<sup>3</sup> <https://www.justice.gov/usao-ma/investigations-college-admissions-and-testing-bribery-scheme>



is certainly a matter of public concern, and not merely one of personal morality. It is also a clear case of corruption.

### **Must political corruption be intra-institutional?**

I turn now to suggesting why not all worrying forms of political corruption take the intra-institutional form that CFM emphasizes. Relativizing political corruption to internal institutional expectations directs attention away from the inter-institutional dynamics that frame officials' activities. Yet these dynamics, I believe, can be sources of political corruption in their own right. So, even if one agrees that political corruption can manifest itself as the sort of internal institutional corroder Ceva and Ferretti describe, one might still think that it need not. It can also consist, I will argue, in distorted interactions between institutions, especially when they come into conflict with each other.

The public sphere, after all, is not itself an institution, but a space comprising many diverse institutions whose interrelations rarely, if ever, fit the model of office accountability on which Ceva and Ferretti rely. No settled understanding of who is accountable to whom usually exists within this interstitial space. No doubt the whole ensemble forms a hierarchy of sorts, but it is a loose one in two respects. First, the relations of subordination and priority comprising it are subject to interpretation, often actively disputed, and invariably politicized. In the last analysis, they often depend on the legal resolution of formal conflicts, with all its uncertainties.

Second, as one climbs the hierarchy, clear goals and ends for institutions become harder to pin down. As one approaches the summit, one finds the great offices of state sovereignty and the institutions of representative democracy – ministries, federal agencies, parliaments, the judicial bench, and so on. These organizations and offices will often be able to point to *raison d'être*, but they will tend to be expressed in very open-ended terms – “furthering the public interest,” “the rule of law,” “justice for all,” “national security,” etc. – that are notoriously subject to endless re-interpretation by officials with conflicting agendas. Adopting this broader perspective on public institutions and their inter-relations underlines the endemic administrative and sometimes ideological conflicts that attend the institutional politics of any complex modern state. These conflicts reflect, not only the unsettled hierarchies of power and authority that structure the whole ensemble, but also the enormous variety of types of institutions contained within it. No doubt all institutions comprise offices with mandates that make sense given an overarching institutional *raison d'être*. But those *raison d'être* can be of very different kinds.

To take one pertinent example that causes trouble for CFM, even when institutional functions and mandates are perfectly clear from an internal point of view, many institutions have an *inquisitory* function. These are agencies empowered to oversee, investigate, and sanction officials in other institutions. The growth of secondary and tertiary oversight agencies is among the most frequently cited trends of the past half century, spawning a burgeoning cadre of the “box tickers” and “task masters” Graeber memorably describes in *Bullshit Jobs*.<sup>4</sup> Ceva and Ferretti themselves note the massive increase in administrators surveilling and in some cases disciplining those discharging the primary functions of a university – research, study, and mutual enlightenment. But the same trend toward ever greater regulatory oversight can be observed across the professional sector, both in public and private organizations.

Even when not formally inquisitory, institutions are also inevitably at least partly partisan organizations. From Rousseau through to contemporary public choice theorists, commentators have recognized that institutions have their own “particular wills.” In some cases, these will be overtly ideological, as in political parties, interest groups, or executive agencies empowered to promote some project for which political parties or interest groups have successfully lobbied. But even institutions that pride themselves on being non-partisan will still have an interest in reproducing themselves. This is so not only because of sheer institutional inertia, but also because officials depend on the institutions that employ them for their livelihood, careers, social status, and a sense of personal vocation. All of this is on the line when officials and their institutions come under scrutiny. For example, many of my colleagues in schools and universities in the UK live in abject terror of an OFSTED inspection.

In other words, officials operate in an environment populated by other institutions that are potentially hostile. They always have a material stake in the institutions they serve in that the latter provide their livelihoods. Often, they also have a significant existential stake in them, because their professional self-respect, sense of vocation, and reputation hinge on their being seen to discharge official roles capably and responsibly. All of these can be threatened when they come under investigative scrutiny by officials in other organizations. The zeal of the latter may reflect their own determination to follow rigidly the terms and goals of their mandate to (say) identify miscreants. In cases like these, the *raison d'être* and mandates followed by officials from independent institutions come into conflict or at least dissonance. I contend that even when, and often precisely because,

---

<sup>4</sup> Graeber, *Bullshit Jobs*.

the officials involved in these conflicts stick closely to their mandates, certain kinds of political corruption can develop.

I will call these cases of “passive corruption” because they involve *neither* officials acting on some narrowly personal interest at odds with the *raison d’être* of their institution, *nor* conduct that is strictly inconsistent with the relevant mandates. Instead, they arise when, in the face of external pressure and coercion, officials put their duty of accountability to their colleagues *within* their institution, and hence their institution itself, ahead of their more fundamental responsibility to treat those they serve (ultimately, ordinary members of the public) fairly and decently. This is self-serving, because it reflects a desire to preserve one’s own career, livelihood, and professional respectability to the detriment of the public interest. It involves the corruption of public institutions insofar as the latter always have as part of their remit service to the political community and concern for human dignity. Ultimately it consists in a conflict between professional and personal integrity: officials exercise their official discretion in a cowardly, self-protective manner, at the cost of their personal integrity, and rationalize it by invoking the role-morality of their official mandate.

In a famous article, Robert Cover points out that the elaborate division of roles characterizing the legal system effectively dissipates responsibility for the violence and disruption that attends the enforcement of the law.<sup>5</sup> A criminal is convicted, sent to prison at gunpoint, deprived of freedom, wealth and status, and perhaps even executed. Many officials will be involved in the treatment she receives. Suppose she is actually innocent; if she is looking for a culprit on whom to focus her resentment whom can she single out? The judge? The jury? The prosecutor? The defense attorney who bungled the case? The prison guard? The arresting officer? The government in whose name the punishment is meted out? The citizens who elected it? If she taxed any of these people with wronging them, they would deny their culpability. Many of them would cite their official mandates as exculpatory: “My job is just to get them and keep them in their prison cells: do they deserve to be there? *Not my department*”; “Of course I don’t think you did it, but my personal judgments are excluded when I act in my capacity as a juror. I don’t make the rules – sorry.”

A concrete example will help to see why this process of sticking to one’s mandate under pressure can foment what I am calling passive corruption and enable those involved to evade responsibility. Consider some institution – a university, a firm, a government department – that is required to provide a grievance procedure to investigate members of the institution accused of inappropriate behavior (racial discrimination, sexu-

---

<sup>5</sup> Cover, “Violence and the Word.”

al misconduct, conflicts of interest, bullying, etc.). Accordingly, the organization in question designates an official branch of the “human resources” division for the purpose of conducting such investigations. Suppose, further, as is often the case, that a properly supervised grievance procedure is mandated by law and is itself monitored by a government department. That government department is in a position to (threaten to) disrupt the organization’s internal operation by launching its own audit or investigation, sanction the institution by imposing fines and other penalties, and in some cases to bestow and withdraw public funds from it.

Now imagine that an employee or member of the institution files a malicious but credible complaint against a colleague in bad faith. The complainant does so out of spite, to retaliate against their target for personal or political reasons. Notice immediately the complex inter-institutional pressures that attend this set of circumstances. The complainant is not really acting in an official capacity, since they are claiming (falsely) that they have personally been abused (discriminated against, bullied, etc.). But the complaint will trigger an investigation by an office whose mandate is to root out the relevant misconduct while ostensibly treating all parties fairly. It may pride itself on a “zero-tolerance” approach in order to introduce the strongest possible deterrents, but also in order to preempt any concerns from the government department overseeing it that it is being insufficiently aggressive in addressing the relevant sort of misconduct.

Meanwhile, the target of the grievance will have immediate supervisors within the organization who now find themselves in a difficult position. Let’s assume that the employee has an exemplary record of service fulfilling their official responsibilities, and that his immediate superiors recognize this and moreover find the allegations made against the employee to be implausible given their own knowledge of their character. These considerations give these superiors strong reasons to support and protect the accused individual, based on duties of care and loyalty. However, these commitments, which reflect norms of common decency, lie beyond their official mandates. Not only do those mandates not require that they comply with these everyday norms, their institutional position in this instance also gives them strong incentives to override them. Here, they are out-ranked, and likely intimidated, by the investigative office overseeing the case, which is effectively an arm of a government department. The path of least resistance is to insulate their own office and its mission, on which their own career depends, from any damage and legal exposure resulting from the investigation. Accordingly, they will likely be very reluctant to do anything that might be construed as intervening on behalf of the falsely accused person and profess a patrician neutrality. This will often be tan-

tamount to hanging the accused out to dry. The official defense for such cowardice will not, of course, reflect the actually operative motives – the desire to protect a career and an office’s turf and mission. Rather, it will invoke their official responsibilities and mandates: “Of course I feel for you, and I wish I could help; but I’m sure you understand that, given my official remit, I cannot comment or get involved. So sorry.”

All of us will have dealt with institutions and officials who are unwilling to stretch or breach their mandates even to prevent something manifestly stupid, unfair, inhumane, or outrageous, though hopefully not in as serious a situation as the one our accused employee confronts. I think most of us find this sort of response offensive and will recognize the sense of frustration it engenders all too well. There are few things more alienating than interacting with a human being who asserts a *duty* to be unhelpful and unkind. Yet that experience is, I submit, quite common in our everyday dealings with institutions, both public and private (think of insurance companies, for example). And I find it natural to describe the underlying phenomenon as passive corruption: *corruption* because it reflects the self-serving motives of officials who exploit the limits of their mandates to safeguard their reputations, ambitions, and livelihoods in the face of pressure or scrutiny; *passive*, because it involves turning a blind eye to injustice, insensitivity, and cruelty that a bit of healthy irony about “one’s station and its duties” might prevent or moderate, and then hiding behind the constraints of office as an excuse.

The predicament of the main character in Ken Loach’s film, *I, Daniel Blake*, as he struggles with the UK benefits system, exemplifies the phenomenon quite well. Blake suffers a series of humiliations and indignities precisely because the officials charged with “assisting” him refuse to stray beyond the mandates of their offices. But, as the film illustrates, if everyone takes responsibility only for their official remits, responsibility for any perverse outcomes produced by the whole institutional nexus is diffused to the point where it becomes unassignable. This is the same smudging of responsibility Cover noticed in the context of a complex legal system.<sup>6</sup> Yet, in the end, benefits officers are more than just officials accountable to their colleagues for following their mandates; they are also civil *servants*

---

<sup>6</sup> Ceva and Ferretti of course offer highly nuanced answers to the question of how responsibility for corruption across whole institutions should be allocated in the cases of summative, morphological, and systemic corruption (PC, 125-69). So CFM includes resources for handling the larger issue about the diffusion of responsibility. But those resources would not help answer my worry about passive corruption, because it concerns, not how responsibility should be divided across whole institutions, but what the relevant responsibilities are responsibilities *for*. It is the exclusive focus on internal institutional accountability and office mandates I am questioning.

accountable to the political community. A theory of institutional corruption needs to pay as much attention to the erosion of this broader ethos of public service and decency as to the undermining of an internal duty of accountability as CFM understands it.

Passive corruption as I am conceiving it occurs when institutions lose sight of their larger duties to serve the public because officials fixate excessively on the internal norms of accountability on which their professional advancement depends. As noted earlier, inter-institutional conflicts tend to exacerbate passive corruption, especially when institutions are charged with overseeing and investigating other institutions. Under the pressure of scrutiny from other officials following a captious mandate, and with their status and livelihoods on the line, officials become defensive and turn inward. At the extreme, institutional life can then become a self-referential, Kafkaesque nightmare, as officials spend more and more of their time deflecting accusations of official impropriety, and throwing one another under the inquisitory bus, in order to cling on to their professional livelihoods and reputations. We may still be short of that dystopia, but it seems less distant today than it once was.<sup>7</sup>

Not only is passive corruption very different from the form of corruption highlighted by CFM, it is also in some sense the polar opposite. CFM defines political corruption exclusively in terms of a *deficit* of office accountability. Passive corruption is, in contrast, a phenomenon of *excessive* office accountability. A natural conclusion to draw is then that institutional integrity is a public virtue that lies in a mean between two kinds of corruption, one representing defect and the other excess. Institutions are free of corruption when officials *neither* seek to exploit their powers of office for narrow personal advantage *nor* fetishize their official responsibilities to the detriment of broader duties to serve the public, and to treat citizens decently, with respect, and humanely.

---

<sup>7</sup> To illustrate what I'm calling passive corruption, I have focused on inquisitory institutions, those with the power to punish. The inquisitory case is helpful because it highlights the problems of passive corruption particularly clearly. But, to be clear, I am not claiming that passive corruption only arises in this context. Consider institutional interactions in which one organization is in a position to bestow rewards rather than impose sanctions – for example a public body that must decide to award a contract for some large infrastructure project like the Willy Brandt airport Ceva and Ferretti discuss. Here, different institutions (firms, consortia, contractors etc.) are in competition with one another. Officials within these organizations who strive to make their bids as competitive as possible are presumably acting within their mandates when they do so. Yet the competitive environment in which they pursue those mandates introduces incentives to underestimate the likely costs of the project. This tendency will make cost overruns and inefficiencies almost inevitable. But the problem here may not stem from officials pursuing their personal agendas in conflict with their official mandates, but rather from their attempts to do well by their mandates against the background of competition. See Flyvberg, “The Survival of the Unfittest.”

Thinking along these lines also suggests that the concept of corruption is fundamentally a virtue-ethical one, not (as CFM asserts) a deontological one. Up to a point, Ceva and Ferretti recognize this, for they rightly emphasize that in any healthy institution, officials should use judgment and discretion in deciding how best to discharge their official duties. Yet this valid point about discretion won't answer my worry about passive corruption. For that worry suggests that, when using their discretion, officials should not only think in terms of accountability to colleagues, but also consider that on some occasions their duties to treat their fellow citizens decently and well preempt their internal institutional obligations. In other words, a virtuous public official won't only exercise their discretion *within* the constraints defined by their official jurisdiction, but also use it to weigh obedience to those constraints against a broader ethos of service to the political community. This will require careful practical judgment suited to the needs of the occasion, and also a willingness to entertain sacrificing institutional expectations to others in a way that CFM seems to disallow.

### **But is it corruption?**

One might resist the line of argument I've been pressing by accepting that I have put my finger on a genuine problem about institutionalized life while resisting the idea that it is a species of corruption. Officials who stick to their remits may wind up acting cruelly, inconsiderately, and even unjustly, for roughly the reasons I have described, but they can't usually be accused of corruption. We should call a spade a spade and criticize them directly for cruelty, disrespect, cowardice, and injustice. No good purpose is served by expanding the concept of corruption so that it blurs into all the other deficiencies to which institutions are liable.

This is a tempting response, and I agree that not everything that is objectionable in public life is for that reason a form of corruption. I also concede that the language of corruption fits the cases of institutional conflict and self-protection I've been discussing less well than those that fall under CFM's deficit of office accountability. Nevertheless, I think there are good reasons for thinking that such cases do qualify as corruption, albeit of a different kind from that CFM emphasizes.

One reason is that, despite that difference, passive corruption does overlap at one point with CFM's diagnosis. A common element in all of these instances is officials acting in a self-serving way. In cases of passive corruption, this self-servingness is disguised because the interests and agendas of the official and their institutions happen to coincide. Passive corruption is therefore similar to the case of *Good Faith Rationalization*

discussed earlier. Those who engage in passive corruption are not willing to flagrantly defy their official mandates and then pretend that they do otherwise (they typically lack the courage to do so). They recognize the importance of paying lip-service to the role-moralities that apply to them. But it is just lip-service. Their primary motive is to protect the wealth and social prestige they derive from their positions, which would be threatened should they be seen to be derelict in their official duties.

This conduct is innocuous if otherwise unproblematic, and treats everyone involved decently, respectfully, kindly, and humanely. But passive corruption arises when allegiance to the rules competes with common decency and officials neglect the latter in favor of the former for self-protective reasons. That neglect puffs itself up as principled probity and “professionalism,” but the implicit self-congratulation in these phrases rings hollow to those whose legitimate protests of mistreatment fall on deaf ears. Asserting a duty to treat others shabbily in order to maintain an image of professional integrity is self-serving hypocrisy. To my mind, it is natural to describe such hypocrisy as contaminating the relationship between institutions and the community they are supposed to serve. I cannot think of a better way to describe such contamination than to say that it corrupts institutions and public life more generally. Impurity, adulteration, and pollution are basic connotations of our ordinary concept of corruption.

A second reason to find the language of corruption appropriate in this context has to do with another feature of that ordinary concept. We primarily use the word “corruption” to *qualify* descriptions of conduct, not to *name* discrete types of action. Corruption is not a category like “murder” or “lying” whose primary function is to pick out certain act-types and whose adverbial or adjectival forms (“murderous,” “mendaciously”) are derived by analogy from the relevant sorts of action. To the contrary, corruption refers in the first instance to the mode in which certain actions are performed and only secondarily to specific types of conduct. It’s not that our notion of corruption is derived from act-types like “bribery” that are then generalized to form a more general concept of the “corrupt.” Rather, we understand corrupt conduct primarily in terms of the spirit in which actions are chosen and only later break it down into more specific archetypes of corruption like “bribery,” “venality,” etc.

Now, I have already emphasized the importance of certain self-serving motives in characterizing corrupt conduct. Here, I want to draw attention to another distinctive feature of conduct we are apt to qualify as “corrupt”: its propensity to be contagious. Corruption contaminates institutions and practices in a way that is apt to spread and become routine. That is why clas-



sical discussions of political corruption (in the Aristotelian, Polybian,<sup>8</sup> and later republican traditions) assume that the tendency toward corruption is a permanent force that must be actively resisted (like the modern physicist's postulation that complex systems always tend toward higher entropy). The account of passive corruption I've given fits well with this feature because it postulates a tendency for institutions to become more self-absorbed as they proliferate and monitor each other. As this process ratchets, officials become increasingly defensive and exercise their discretion less with the public good in mind and more with a view to covering their backs. I worry that emphasizing internal duties of accountability is not enough to combat passive corruption of this kind, and may actually enable it.

A third reason to find the idiom of corruption apt in this context concerns the issue of how individual conduct and its institutional setting are related. Ceva and Ferretti rightly insist that institutions cannot be corrupt unless their individual members engage in corrupt acts. However, they neglect the reverse possibility, that the roles institutions expect agents to adopt in their capacity as officials can have a corrupting effect on the individuals who assume them. That this possibility deserves to be taken seriously is suggested by Lord Acton's famous aphorism that "power tends to corrupt; absolute power corrupts absolutely." As Ceva and Ferretti note, those who enjoy institutional office are usually authorized to deploy powers ordinarily denied to private individuals. Even if agents wielding these powers stay within the constraints of their office, their exercising them inevitably shapes both their own temperament and their relations to others inside and outside their institution. They may become better and worse people according as their institutional role shapes their daily activities and, in turn, their characters.

One way in which such special powers can become a temptation to corruption is the familiar one that agents can easily become intoxicated by them and develop a taste for domineering. Certainly some personality types are prey to this tendency, but I don't think that this is the typical way in which institutional power can corrupt people. What I've been describing as passive corruption describes a more common, and insidious, route whereby power corrupts people, desensitizing officials to considerations of common decency that I've associated with passive corruption. Precisely because they pride themselves on their professional integrity and refusal to stray far outside their official mandates, officials with power are apt to identify themselves so strongly with the causes pursued by their

---

<sup>8</sup> See Polybius, *The Histories*, 269-403. It is striking that Polybius's discussion of the "cycle of decay" expressly mentions the growth of state institutions as one of the two major causes of corruption.

institutions that humane concern for other considerations is suppressed.

This danger is particularly acute in the case of inquisitory institutions I discussed earlier. Recall the case of the falsely accused employee, and think about the officials who set out to investigate them. Often, the offices charged with handling such accusations think about their investigative mandate in a strongly crusading mode. This is perhaps particularly so when the intent behind establishing the grievance procedures is laudable. Nobody wants to tolerate discrimination, bullying, and sexual misconduct. But under pressure from their government department overseers, investigative offices responsible for addressing these abuses have strong incentives to be seen to be as aggressive as possible in addressing the relevant abuses; this can lead them to set rules and constraints for their investigations that are strongly biased in favor of those who make complaints of misconduct and against those whom they accuse.

To take just one example, the investigative apparatus set up in American universities under the aegis of Title IX has attracted strong criticism on this score. Here, in the name of student safety, many procedural guarantees and due process constraints that would be standard in criminal investigations have been relaxed: for example, hearsay testimony can be admitted, evidentiary standards are lowered to a bare “preponderance of evidence,” and faculty and students are sometimes required to report even rumors of misconduct. None of this is obviously inconsistent with the mandates of the officials who have set this apparatus in motion, but it reflects the trend toward greater inter-institutional oversight and conflict that I have highlighted here. As Laura Kipnis, a left-wing feminist critic of current Title IX practices, has put it:

The irony about this insistence on student vulnerability is how successful it's been as a tactic for accruing administrative power. Encouraging students' sense of fragility is swelling the ranks of potentially jobless professors while bolstering the power of administrations over faculty. As more of us get charged with newly invented crimes, more administrators get hired to adjudicate them, administrators whose powers blossom the more malfeasance they can invent to ferret out. Which means that in a situation already prone to projection and fantasy – teaching – faculty are sitting ducks for accusations made by emotionally troubled students.<sup>9</sup>

Whether the growth of this sort of surveillance, and the implicit ideologies about safety and vulnerability that it institutionalizes, are benign or can have a corrupting effect is at the very least an open question. Kipnis is not optimistic, noting, in a disturbing passage, that students

---

<sup>9</sup> Kipnis, *Unwanted Advances*, 27.

can be quite ruthless in trying to bring down the objects of their enmity, including fighting (with increasing success) to fire professors whose views, demeanor, or humor they find not to their liking. Yet, for the bureaucrats writing our campus codes, only the crudest versions of top-down power are imaginable. Students are putty in the hands of an all-powerful professoriate. ...My question is extent to which this sense of vulnerability is learned on campus. The new campus codes don't just enforce disabling myths and fantasies about power, they also produce a new host of pathologies around power. A student trying to get a professor fired over a joke or some other passing offense is someone who utterly and callously misunderstands the consequences of leaving someone else (often with dependents to support) jobless; and someone who has, in fact, seized power while hiding behind the fiction of powerlessness.<sup>10</sup>

This pessimistic view illustrates how an institutional régime has the potential to corrupt humane relationships within the communities it oversees. Again, my worry about the exclusive emphasis CFM places on expectations of internal accountability is that it cannot detect or prevent passive corruption of this kind, and may sometimes set in motion a logic that exacerbates it.

Ceva and Ferretti might reply to all this that their theory already has a device that can accommodate it: their willingness to entertain “noble-cause corruption.” But the point I am making doesn't really fit the model of “noble-cause corruption,” and I find the category a little elusive. In the latter, agents, for their own conscientious reasons, deliberately subvert their nefarious official mandates to limit how much damage they can inflict. A poster-child for “corruption” of this sort might be Charles Hypolyte LaBussiere, who saved hundreds of French citizens from being executed at the hands of Robespierre's Committee of Public Safety, including many members of the *Comédie Française*.<sup>11</sup> LaBussiere was a minor official within the Committee's administration; he devised a way to lose documents essential to carrying out executions – he would soak them, mash them into paste pellets, and launch the pellets out of his office window into the Seine river.

I think one might question whether LaBussiere's conduct was really “corrupt,” but even if it was, the cases of passive corruption I've been describing are importantly different. LaBussiere was part of an organization of terror that was irredeemably bad; such institutions should simply never exist. But passive corruption occurs in the context of institutions that are not beyond the pale in this way. These are organizations that

---

<sup>10</sup> *Ibid.*, 63-4.

<sup>11</sup> Kafka, “The Demon of Writing: Paperwork, Public Safety, and the Reign of Terror.”

*could* fulfill their functions and mandates while being humane and civilized at the same time but that, especially under pressure from other institutions, drift into a self-protective attitude that loses sight of their broader responsibilities to treat people well. If officials successfully guard against that tendency, they aren't engaging in corruption for the sake of a higher cause, but rather struggling to prevent corruption from occurring at all. I don't have any very clear prescription for how officials might do this effectively, but I'm confident that it would not be reducible to the demands of office accountability as CFM understands it. Success would require a thoughtful balancing between those demands and a wider ethos of service to the community outside the institution.

It would be nice to believe that the space of wrongdoing is finite, so that, as we fill it with institutions to anticipate and provide citizens with more protections against misconduct, the scope for such misconduct narrows until, ideally, institutional safeguards close off all loopholes. Sadly, this consoling picture is likely inaccurate. The space of wrongdoing is infinite, and as institutions are added and superadded to introduce more regulatory protection, the ever more complex web of society's institutional infrastructure expands into that unlimited space. As the official remits of individual offices are ever more minutely specified and zealously policed, less and less official attention is paid to the widening holes opened up between the strands of the web. Yet it is in these blind spots, I fear, that the most routine and insidious forms of institutional corruption can develop. I have tried to suggest that the inability of CFM to adequately account for corruption of this kind is a significant limitation of the theory, notwithstanding the many other insights it offers.

## Bibliography

- Ceva, Emanuela, and Maria Paola Ferretti. *Political Corruption: The Internal Enemy of Public Institutions*. Oxford: Oxford University Press, 2021.
- Cover, Robert M. "Violence and the Word." *The Yale Law Journal* 95, no. 8 (1986): 1601–29. <https://doi.org/10.2307/796468>
- Flyvberg, Bent. "The Survival of the Unfittest: Why the Worst Infrastructure Gets Built and What We Can Do About It." *Oxford Review of Economic Policy*, 25, no. 3 (Autumn, 2009): 344–67. DOI:10.1093/oxrep/grp024
- Graeber, David. *Bullshit Jobs*. New York: Simon and Schuster, 2018.
- Kafka, Ben. "The Demon of Writing: Paperwork, Public Safety, and the Reign of Terror." *Representations*, 98, no. 1 (2007): 1–24. <https://doi.org/10.1525/rep.2007.98.1.1>

- Kipnis, Laura. *Unwanted Advances: Sexual Paranoia on Campus*. New York: Harper Collins, 2017.
- Margalit, Avishai. *The Decent Society*. Cambridge, MA: Harvard University Press, 1998.
- Polybius. *The Histories*, bk.VI, Loeb Classical Library edition (New York: Loeb, 1923).