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[ESTRATTO]



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COHEN, COLLECTIVE RESPONSIBILITY, AND ECONOMIC DEMOCRACY

My main objective in this paper is to show that Hermann Cohen's ethics offers an important but hitherto neglected contribution to the current debate within Anglo-American ethics on the moral status of the modern business corporation. This debate was started by Peter A. French, who defends the moral collectivist view that the corporation is a moral person and thus a subject of moral and legal collective responsibility ascriptions that cannot be reduced to, or translated into, ascriptions of responsibility to corporate members. One major opposing view is what may be called the common moral individualist explanation and defense of the status quo. According to this view, corporations as collectives can justifiably be held 'legally' responsible but 'moral' responsibility ascriptions (e.g., Exxon was to blame for the huge oil spill in Alaska) are to be understood as condensed expressions of saying that some, not further identified, corporate members are morally blameworthy.

Cohen's contribution to the debate between moral collectivists and individualists is to be found in his transcendental analysis of the notion of the legal person. His analysis shows that moral and legal corporate responsibility ascriptions are fully justified only if the corporation is democratically controlled by its employees. On this basis, I will argue that French's collectivist view involves an untenable conception of corporate moral responsibility, while the common moral individualist explanation and defense of the status quo fails because, among other reasons, it neglects that some current legal sanctions against corporate wrongdoing may be unfair to employees. My final conclusion will be that Cohen's analysis has the critical implication that the current demand for increased corporate responsibility should go hand in hand with the demand for workers' self-management (i.e., economic democracy). I will begin by explaining Cohen's transcendental analysis of the notion of the legal person. My explanation will be set forth against the background of a synoptic discussion of Kant's impact on Cohen's

view of the proper relation between individual and ideal collective (totality).

1. *Individual and Totality*

Cohen states in the beginning of his major ethical study *Ethik des reinen Willens* that the concept of the human person (*Mensch*) is the subject matter of his ethics. But how is this concept to be understood? Cohen writes: «How about the human person; is he an individual? By no means is he this alone; he also stands as rank and file within a plurality (*Mehrheit*), or better, within many pluralities. And he is not only this; in the totality (*Allheit*) he first completes the circle of his being. And this totality also has many degrees and levels until its completion in a true unity, namely, in humanity, which is at the same time an eternal new beginning»¹. Cohen adds: «This insight must become the basic idea of the construction of our ethics».

This basic idea indicates that Cohen's view of the proper relation between individual and ideal collective is both indebted to, and critical of, Kant's view concerning this matter. Like Kant, Cohen defines the ideal collective, or totality, as a unified plurality established through general obedience to the moral law. Or, as Kant himself puts it in *Foundations of the Metaphysics of Morals*, the final purpose of the moral law is to make possible the realm of ends as the totality in which human agents treat one another as legislators, or ends in themselves, and seek to promote one another's personal ends. Using the categories of quantity — unity, plurality, and totality — from the table of categories in *Critique of Pure Reason*, Kant argues that the moral law is the unity, human agents and their ends constitute the plurality, and the application of the unity to the plurality leads to the realm of ends as a unified plurality, i.e., the totality as a harmony of ends².

¹ *Ethik des reinen Willens* (Hildesheim-New York, Georg Olms, 1981), p. 8. Reprint of the second edition of 1907. The first edition appeared in 1904.

² See *Foundations of the Metaphysics of Morals*, translated by Lewis White Beck (Indianapolis, Bobbs-Merrill 1959), pp. 54-55. German reference, *Immanuel Kants Werke*, edited by Ernst Cassirer (Berlin, Bruno Cassirer 1912-22), Vol. IV, pp. 294-295.

Furthermore, Cohen follows Kant in holding that the individual who takes his own particularity, or that of the group he is part of, as the sole guide of his moral decision-making cannot come to truly moral actions: to «complete the circle of his being», to be autonomous, the individual must make the realm of ends, or a unified humanity as the highest level of the totality, the mirror and goal of his willing and actions. Thus both Cohen and Kant view autonomy as setting a task whose ultimate completion requires the realization of ideal humanity. Moreover, they both see this task as infinite: In Cohen's terms, ideal humanity is both the aim and «eternal new beginning» of truly moral actions.

Opposing the totalitarian view that the collective is more important than the individual, Cohen emphasizes that «every community has the purpose of creating the true individual, for this individual can arise only from a real, healthy, and developed community; that this individual be created is, and remains, the true goal of all formations of communities»³. Cohen also implicitly rejects here the traditional liberal view that the community, notably, the state, is a mere instrument for the realization of individual purposes. In a sense, Cohen's criticism also applies to Kant. To be sure, Kant views the democratic state not as a mere means for enabling the pursuit of private ends within civil society (as the liberal tends to argue) but rather as an institutional precondition for the emergence of the realm of ends⁴. Yet, Kant sees the realm of ends itself as a mere ideational or inner union of good wills (the «true church» as invisible church), and in this regard he shares the liberal's mistake of failing to recognize that institutional participation is an essential aspect of moral emanci-

³ See *Einleitung mit kritischem Nachtrag zu Langes Geschichte des Materialismus*, in COHEN, *Schriften zur Philosophie und Zeitgeschichte*, Vol. II, edited by Albert Görland and Ernst Cassirer (Berlin, Akademie 1928), p. 272. Reprinted from the 9th edition of LANGE's *Geschichte des Materialismus*.

⁴ One reason that Kant offers for this latter view is that the rule of law guarantees external freedom for all, and thus reduces immorality triggered by the threat posed by others. See *Perpetual Peace*, translated by Lewis White Beck in KANT, *On History*, edited by Beck (Indianapolis, Bobbs-Merrill 1963), p. 123 n. German reference, *Immanuel Kants Werke*, Vol. VI, pp. 462-463 n. It may also be noted that the rule of law upholds freedom of speech as a necessary precondition for moral decision-making. Cf. note 8, below.

pation. Cohen, to the contrary, stresses the latter point⁵, and argues that all our economic, social, and political institutions must instantiate the ideal of the realm of ends — that is, existing pluralities must be transformed into totalities. We can find a certain institutional alienation in Kant's work in that he maintains that morality cannot really become visible in the social world, whereas Cohen argues that the continuous moral improvement of the legal system is the ultimate rationale of the moral law (ethics)⁶.

Two additional, but related, differences between Cohen and Kant must be mentioned. First, Cohen stresses to a greater degree the social nature of individuals, both metaphysically and morally. For Cohen, individuals are to be seen as individuals-in-relations in that they are defined by, but also define, social relations, while Kant has not yet completely left behind the conception of individuals as isolated egos whose relations are external to them⁷. Correspondingly, Cohen views the ideal moral agent as a 'co-legislator', as a person who arrives at moral truth in communication with others, whereas Kant tends to see the ideal moral agent as a 'legislator', as an individual who determines duty through an inner dialogue with the moral law⁸. Likewise, Cohen pays more attention to the fact that collective moral praxis rather than in-

⁵ See, for example, *Das allgemeine, gleiche und direkte Wahlrecht*, in *Schriften zur Philosophie und Zeitgeschichte*, Vol II, pp. 333-334. Cohen states here that it is a fundamental mistake to hold that moral emancipation can be realized without political participation, adding that the right to vote is « the precise instrument for the moral education of the people ».

⁶ Cf. S. S. SCHWARZSCHILD, *Introduction to Ethik des reinen Willens*, p. xv.

⁷ For a further discussion of similar conflicting « social ontologies », see C. C. GOULD, *Rethinking Democracy* (Cambridge, Cambridge University Press 1988), Chapter 2.

⁸ It would be a mistake, however, to describe Kant's ethics as a mere monological ethics. This common mistake is made, for example, by Jürgen Habermas. Kant recognized the importance of dialogue for any critical thought in *What is Orientation in Thinking?* In response to the claim that the government can take away freedom of speech but never the freedom to think, Kant wrote: « But how much, and how correctly, would we think if we did not think as it were in common with others, with whom we mutually communicate! ». See KANT, *Critique of Practical Reason and Other Writings in Moral Philosophy*, translated by Lewis White Beck (Chicago, University of Chicago Press 1949), p. 303. German reference, *Immanuel Kants Werke*, Vol. IV, p. 363. For a further discussion of this issue, see my *Kantian Ethics and Socialism* (Indianapolis, Hackett 1988), pp. 35-37.

dividual moral action is the vehicle of fundamental moral and historical progress⁹. Second, Cohen adheres to the Platonic methodological view that the explication of the ideal collective subject should be the basis for expounding the ideal individual subject and her moral law¹⁰. Kant traverses the opposite road in *Foundations of the Metaphysics of Morals*, explicating the moral law on the basis of our sense of duty and then deriving the ideal of the realm of ends from the moral law.

The various similarities and differences between Cohen's and Kant's accounts of the proper relation between individual and totality are highlighted in Cohen's transcendental analysis of the notion of the legal person. The main idea of this analysis is that the notion of the legal person can function as a model for the totality and that in analyzing the rational presuppositions of this notion we can explicate — and justify — the totality, and with it the moral law and the ideal individual moral subject.

The basic steps of Cohen's transcendental analysis of the legal person may be reconstructed as follows. The producer cooperative (« *Genossenschaft* ») offers the best example of the notion of the legal person, and the creation of this cooperative as legal person presupposes that the divided wills of a mere plurality are transformed into a unified will, as expressed in the charter and by-laws of the cooperative. In the words of Cohen: « [The] legal action [of becoming a cooperative] is formed through the decision [...]. The decision is the unification of individual wills into a unified will. This unified will does not belong to any of the individual wills; it is a common will (*Gesamtwille*) [...]. From the legal point of view, it is said that this common will does not represent the sum of the still existing wills but that it annihilates these and puts itself in their place. Nonetheless, this representative will is

⁹ Cf. L. GOLDMANN, *Immanuel Kant*, translated by Robert Black (London, New Left Books 1971), pp. 172 and 178. Goldmann notes that the individual as such rather than the group is emphasized in Kant and that the effect of this neglect of collective praxis is that the prospect of fundamental social change is darkened. This point, however, should not be stressed too far: after all, Kant saw the French Revolution as a sign of moral and historical progress. For Cohen's view, see, for example, *Ethik des reinen Willens*, p. 328, where Cohen describes revolutions as « periods of experimental ethics ».

¹⁰ See *Ethik des reinen Willens*, pp. 7 and 14.

the true real will [...]. This representative unified ideal will forms the unity of intention and the unity of the person — the concept of the legal person »¹¹. Now since the cooperative as legal person displays a unified will and thus is a harmony of ends, it can function as a model for the ideal of the totality. Furthermore, the continuation of the cooperative as 'unified' person requires that all its members have the right to vote and actively exercise this right so as to arrive at cooperative policies and actions that are acceptable to all and accord with the charter and by-laws of the cooperative. Accordingly, the transcendental conditions of the cooperative as legal person explicate the ideal of the totality as a thoroughly democratic ideal, and this means that other instantiations of the totality, such as the ideal state, must be described in similar terms. Cohen writes: « The state is also a person. Only as a person has it unity [...]. The person of the state must be based on the will of the state [...]. The right to vote is the fundamental right in which the will of the state originates »¹². Another aspect of Cohen's transcendental analysis is that both the ideal moral subject and the moral law are explicated: the moral law as the constitutive principle of the totality demands that all our actions be consistent with, or mirror, the totality, and this means, most importantly, that we must become legislators of the institutions in which we function and that we must recognize other participants as codeterminers of the policies and actions of these institutions. Finally, the conclusion follows that since existing economic, social, and political institutions are treated as legal persons, these institutions must become totalities, or thoroughly democratic institutions.

2. *Collective Responsibility and Economic Democracy*

French's contention that the modern business corporation should be seen as a moral person and, hence, as a subject of collective responsibility ascriptions, poses a clear challenge to Cohen's transcendental analysis of the legal person. The upshot of Cohen's transcendental analysis is that any formally organized

¹¹ *Ibid.*, p. 231.

¹² See *Das allgemeine, gleiche und direkte Wahlrecht*, p. 332.

group, such as the corporation, should be conceived as moral/legal person, and thus as fully appropriate subject of collective responsibility ascriptions, only if its will-formation is the result of a thoroughly democratic process. Now since the modern corporation lacks such a democratic process, French's contention that the corporation is a moral person puts into question Cohen's attempt to normatively ground the demand for economic democracy on the basis of his analysis of the legal person. Why is it the case that the producer cooperative rather than the modern business corporation instantiates the notion of a formally organized collective as moral/legal person?

In order to answer this question, we must examine French's theory of the corporation as moral person. His theory is motivated by the view that corporate harm is typically a question not of individual moral responsibility, but of collective responsibility. In his detailed analysis of a well-known case of corporate harm — Mc Donnell-Douglas' use of poor-functioning cargo doors on its DC-10's, which led to a plane crash in Paris in 1974, killing all 346 passengers aboard —, French points out that it is very difficult to identify corporate members who can be held morally responsible for this crash. Some factory inspectors had been negligent, but, French argues, « it would be a grand offense to our moral intuitions, in the absence of any evidence of intentional sabotage, etc., to hold those inspectors primarily responsible for the crash of ship 29 [the DC-10 that crashed] »¹³. Thus French concludes: « The aggregate of justifiable individual responsibilities for the production of ship 29 simply does not add up to an individual's responsibility for its crash. Without a theory of the corporation as a moral person upon which to base [...] accountability ascriptions [...] the real villain of the piece will escape moral detection. [...] The theory of the corporation as a moral person is intended [to bring] the corporate giants [...] into the scope of morality »¹⁴. On French's account, then, we must conceive the corporation as a moral person; for only in this way can moral responsibility for

¹³ *Collective and Corporate Responsibility* (New York, Columbia University Press 1984), p. 141. French offers an earlier defense of his theory of the corporation as moral persons in *The Corporation as a Moral Person*, « *American Philosophical Quarterly* », XVI (July 1979), pp. 207-215.

¹⁴ *Collective and Corporate Responsibility*, p. 144.

corporate harm be placed where it typically primarily should be placed — on the corporation itself.

French holds that what needs to be shown for the corporation to be a moral person is that the corporation can be an intentional actor. Obviously, the corporation can act only through the actions of its members, and so the task at hand is to show how their actions can justifiably be described as the intentional act(s) of the corporation. French claims that a Corporation's Internal Decision Structure (CID Structure) makes such a description possible. In his own words, the relevant aspects of the CID Structure are « (1) an organizational or responsibility flowchart that delineates stations and levels within the corporate power structure and (2) corporate-decision recognition rule(s) (usually embedded in something called corporate policy) »¹⁵. Now the individual decisions made at the top of the typically hierarchical responsibility flowchart — such as the voting by the board of directors of a corporation — lead to a corporate act. And, French argues, this corporate act can justifiably be described as an 'intentional' corporate act when it accords with the policy of the corporation. He states: « [W]hen the corporate act is consistent with an instantiation or an implementation of established corporate policy, then it is proper to describe it as having been done for corporate reasons, as having been caused by a corporate desire coupled with a corporate belief and so, in other words, as corporate intentional »¹⁶. Emphasizing that the reasons, desire, and belief of the corporation may but need not be identical to the reasons, desire, and belief that guided the different individual decision-makers within the corporation, French concludes that corporations have « metaphysical status », i.e., they are « intentional actors in their own right and [...] thereby full-fledged moral persons »¹⁷.

French's analysis is at first sight attractive because it makes intelligible and justifiable many common moral and legal practices, such as blaming corporations for producing dangerous consumer goods, praising corporations for being community minded, and imposing legal fines on corporations for the violation of anti-pollution laws. In short, these practices may be seen as an extension

¹⁵ *Ibid.*, p. 41.

¹⁶ *Ibid.*, p. 44.

¹⁷ *Ibid.*, p. 47.

of the practices of blaming, praising, and punishing biological persons, governed by the same moral principles but applied to the corporate person. I believe, however, that French's theory of the corporation as moral person is untenable.

The basic problem with this theory is to be found in its account of the will-formation of the corporation. French is correct in claiming that a decision made in the corporate board room need not be in accordance with the 'initial' intentions of the corporate executives, but he wrongly infers that this means that the corporation is an actor with its own intentions as distinct from the corporate executives and their intentions. Instead, we should say that the corporate executives through deliberation and voting transform their initial intentions into a common intention, assuming that they recognize the CID Structure as legitimate¹⁸. Here Cohen's transcendental analysis of the notion of the legal person is instructive. Cohen holds that through the democratic decision procedure of the cooperative, a common will is formulated, and that this will puts itself in the place of the initial wills of the cooperative. Yet, Cohen does not contend that this common will is separate from the wills of the members of the cooperative (as French would argue); rather, this will is ideally the will of each member of the cooperative after the democratic decision has taken place. Roughly speaking, the distinction between initial will and common will parallels Kant's distinction between the will of the inclinations, the particular will, and the will of moral reason, the universal will. It is through the categorical imperative as decision procedure that one's particular will is transformed into, or made consistent with, a moral or universal will. Likewise, it is through deliberation and voting within the cooperative that the particular or initial wills of the members of the cooperative are transformed into a common will. But just as it is a mistake to claim that moral reason is an intentional actor in its own right, as distinct from the individual agent, it is a mistake to argue that the cooperative or corporation is an intentional actor in its own right as distinct from the biological individuals who make up the cooperative or corporation.

¹⁸ Cf. L. MAY, *The Morality of Groups* (Notre Dame, University of Notre Dame Press 1987), pp. 69-70.

French's view that the corporate will is somehow distinct from the wills of corporate executives is reflected in his understanding of corporate responsibility as a form of collective responsibility that is altogether separate from the responsibilities of corporate individuals. Thus French maintains that the total responsibility for the Paris air disaster is a combination of collective responsibility (i.e., the responsibility of the corporation as moral person) and the responsibilities of individuals, emphasizing the role of collective responsibility. In my view (and Cohen's), collective responsibility is completely distributive over persons. In other words, collective responsibility can be analyzed in terms of the responsibility of individuals, in that it is a shared responsibility of individuals who are engaged in a cooperative enterprise, having a common intention or unified will.

One problem with French's non-distributive conception of collective responsibility is that it is doubtful whether this very idea is intelligible. As the American ethicist Susan Wolf notes: «When you have put all the members of an organization to one side, all you have left is a set of abstract relations, a structural scheme, a conceptual flow chart. How can a flow chart be guilty? It seems that either evil lurks in the hearts of men and women, or it lurks nowhere at all»¹⁹. Another problem with French's conception of corporate responsibility is that it invites the abdication of individual responsibility: the corporate moral person becomes the scapegoat behind which the dirty hands of corporate executives are hidden. And a final problem with his conception is that it makes collective responsibility ascriptions rather pointless. One major function of these ascriptions in connection with such responses as blame and praise is to change and improve collective practices. But this can be effected only if individuals consider themselves to be responsible for these practices and, hence, view collective responsibility ascriptions as distributive. In French's universe, then, we may be left with perpetually ashamed corporations, because no one feels called upon to change their immoral behavior²⁰.

¹⁹ See *The Legal and Moral Responsibility of Organizations*, «Nomos XXVII, Criminal Justice», New York, New York University Press 1985, p. 273.

²⁰ My remark here is partly a quip on French's punishment proposal that corporations engaged in illegal conduct should be put to shame by the

We now can turn to the heart of the matter: French's separation of the corporate moral person and corporate responsibility from corporate members and their responsibilities reflects the fact that the corporation lacks a thoroughly democratic decision procedure. We are not justified in claiming that the corporation is collectively responsible—in the sense of its members having a shared responsibility—for corporate harm, for the actions of the corporation are not determined by all its members. Notably, production workers usually do not share the responsibility for harmful industrial policies, because they generally are systematically excluded from shaping these policies and often are not aware of these policies in the first place. Even the responsibility of corporate executives may be limited in that the ultimate effects of their decisions may be unclear to them due to the hierarchical CID Structure (i.e., there is an enormous gap between decision and execution). Also, it is understandable, though not entirely excusable, that lower-level managers at times ignore the harmful effects of decisions they make in accordance with corporate policy, passing the responsibility for those effects to higher-level managers. Last, the responsibility of stockholders as such seems, in general, confined by the fact that they have limited direct influence on shaping corporate policy. In short, it seems then that the responsibility for corporate harm often cannot be ascribed completely to the wrong-doing of corporate members. Thus, holding on to the claim that the responsibility for corporate harm must somehow be placed on the corporation, it is not surprising that French arrives at the view that this responsibility must be placed on a person distinct from the members of the corporation, i.e., the corporation as moral person.

On the basis of these observations, several conclusions can be drawn. First, the undemocratic and hierarchical structure of the modern business corporation is a significant cause of corporate harm. Production workers may unwittingly bring about such harm due to their lack of information. Moreover, in those cases in

forced publication of their misdeeds. See *Collective and Corporate Responsibility*, Chapter 14. It may also be noted that although French himself warns against an organistic understanding of the corporation (see *ibid.*, chapter 7), his punishment proposal shows that his theory of the corporation as moral person invites such an understanding. There is no need to repeat here the well-known pitfalls of organistic approaches to institutions.

which production workers are aware that they are bringing about harm, they may not be able to prevent further harm because they lack the power to do so or may fear the consequences of their protest, if it is not already the case that their lack of control has fostered an attitude of moral indifference. Further, the CID Structure promotes an attitude of passing the responsibility for harm to higher levels, and those who have the decision power may not be aware of the ultimate effects of their decisions. Second, those persons who willingly and knowingly support the CID Structure are partly responsible for corporate harm, irrespective of whether they themselves have been negligent in specific cases. Third, it seems that this idea of structural or institutional responsibility captures the rational core of French's contention that, in general, the moral blame for corporate harm must be placed primarily on the corporation as moral person. Fourth, Cohen and French ultimately develop altogether different approaches to the issue of collective organizational responsibility. We may interpret them as both starting with the question of what the conditions are under which responsibility can be justifiably ascribed to a formal group. Cohen's answer is a radical contractarian one: we are justified in holding an organized group morally responsible for its actions only if its actions are based on the consent of all the participants. In other words, on Cohen's account, we may conceive an organization as a moral person only if the organization can continuously be thought of as originating in a social contract²¹. French, to the contrary, offers a metaphysical agency approach to collective organizational responsibility: it is only when a group can be described as an intentional agent distinct from its members that we may hold the group as such responsible for its actions. Fifth, French's analysis of the modern business corporation does

²¹ Two recent works have developed a social contract approach to business organizations: T. DONALDSON's *Corporations and Morality* (Englewood Cliffs, Prentice-Hall 1982) and M. KEELEY's *A Social-Contract Theory of Organizations* (Notre Dame, University of Notre Dame Press 1988). Keeley offers the more detailed argument. Why Cohen arrives at a more radical conception of legitimate organizations on the basis of the social contract approach than either Donaldson or Keeley is an interesting and important question that falls outside the scope of this paper. That Cohen indeed offers a social contract approach is argued in some more detail in E. WINTER, *Ethik und Rechtswissenschaft* (Berlin, Duncker & Humblot 1980), pp. 282 ff.

not show that Cohen is mistaken in holding that the cooperative rather than the corporation instantiates the notion of a formal group as moral/legal person — at least, on a tenable interpretation of this notion. After all, we have seen that since the corporation lacks economic democracy, French is led to a wrong-headed separation of the corporation as moral person from the corporate members and thus to an implausible and ineffective conception of corporate responsibility. Or, to put it otherwise, French hypostatizes the idea of a formal collective as moral person, and he is brought to this mistake because the corporation is not a totality but rather a plurality, or a collective with a divided will. Accordingly, we can underscore Cohen's claim that the cooperative but not the corporation is a moral person in the sense of being a formal group with a unified collective will. Moreover, we can conclude that collective responsibility ascriptions in the meaning of ascriptions of shared responsibility are justified with regard to the corporation only if it is transformed into a democratic enterprise or cooperative.

This latter conclusion may seem to have little critical import; for it might be argued, as one of French's moral individualist critics has done²², that the practice of blaming or praising the corporation is merely to be understood as a condensed way of saying that some corporate members are to be blamed or praised, namely, those who are morally responsible for the harmful or beneficial results in question. We engage then in this manner of speech because we are not able, or not willing, to identify the blameworthy or praiseworthy corporate members. Moreover, it might be argued that the legal practices of imposing fines on corporations and enforcing compensation for corporate harm do not presuppose collective moral responsibility ascriptions; rather, these practices are based on considerations of causal responsibility, risk distribution, the ability to pay, and the like²³. In short, it might be conceded that Cohen is right in claiming that corporations are not moral persons, but that this claim is not disconcerting because we do not treat corporations as such.

²² M. G. VELASQUEZ, *Why Corporations Are Not Responsible for Anything They Do*, «Business and Professional Ethics Journal», II (Spring 1983), p. 13.

²³ See *ibid.*, pp. 13-14.

Although I believe that this brief moral individualist explanation and defense of our present practices of holding corporations morally and legally responsible has its merits, I also believe that it offers a too easy legitimation of these practices. In my view, this common moral individualist defense of the status quo is ultimately unsatisfactory in itself, and also fails as a possible critique of Cohen. A first problem with this defense is that it overlooks what I have earlier called « structural or institutional responsibility ». The moral individualist view is correct in that moral responsibility can only meaningfully be ascribed to individuals, but this does not imply that corporate members are responsible only for the tasks defined by their positions. The common individualist account of moral responsibility for corporate harm is too narrow in that it tends to focus on negligent or knowingly harmful actions. What it ignores is that even if one has not directly caused a particular corporate harm one may still share the blame for this harm because one supports or actively participates within the kind of institution that is likely to cause such harm²⁴. Another problem with the moral individualist defense of the status quo is that the practice of blaming corporations for harmful industrial policies may induce shame and moral dissatisfaction among production workers, even though they may not be morally responsible for these harmful policies. After all, people often identify with the institutions in which they participate, whether or not they have the option to shape the policies of these institutions²⁵. A third problem is that since the legal practices of imposing fines on corporations and seeking compensation from corporations, as well as such moral practices as economically boycotting companies with harmful industrial policies, are directed against corporations as a whole, they may quite well have the greatest negative effect on precisely those who are least morally responsible: the workers who have been fired due to the worsened financial position of their companies²⁶.

²⁴ For a further discussion of this notion of responsibility, see T.R. FLYNN, *Sartre and Marxist Existentialism: The Test Case of Collective Responsibility* (Chicago, The University of Chicago Press 1984), pp. 124 ff.

²⁵ Cf. W.H. WALSH, *Pride, Shame and Responsibility*, « The Philosophical Quarterly », XX (January 1970).

²⁶ My point here is, of course, not to argue that economic boycotts of corporations with immoral industrial policies are morally wrong. Rather, I seek to support the critical nature of Cohen's transcendental analysis by

Both these last two problems have a common denominator: we cannot help but view or treat the corporation in some instances as if it were a moral person or unified plurality, but since the conditions for doing so are in fact lacking, we commit the injustice of harming those who are blameless. Clearly, the transformation of the corporation into a cooperative solves this moral dilemma.

As a final response to the claim that Cohen's transcendental analysis of the legal person has little critical import, it should be noted that it is only 'one' purpose of this analysis to bring to our attention that the cooperative solves some moral dilemmas that pertain to our present practices of holding corporations as such morally and legally accountable for their actions. We may see Cohen's analysis as having the more important purpose of setting forth conditions under which economic institutions will be more responsible than they are at present. In conclusion, I wish to point out some reasons why the cooperative economy, thanks to its economic democracy, will reduce the occurrence of economic harm as compared to our present corporate economy. Obviously, these reasons are also grounds for holding that the current demand for increased corporate responsibility should be linked to the demand for increased democracy within the workplace.

We have noted that the undemocratic hierarchical CID Structure is a significant cause of economic harm in that it promotes moral indifference and an attitude of passing responsibility for harm to higher levels. Now since within the cooperative everyone has some decision power, we may anticipate a much stronger sense of moral responsibility²⁷. It will also be less likely that within the cooperative one will pass responsibility for economic harm to others, for at least the determination of the general industrial policy of one's firm will be everyone's responsibility. Moreover, democracy within the workplace will make it less probable that eco-

noting that there is an inconsistency between our treatment of corporations as legal and moral persons and the fact that most people who make up the corporation lack a voice in determining its policies. I hold that economic boycotts are justified because the importance of changing harmful industrial policies will typically outweigh the possible harm done to workers of targeted companies. Also, boycotts can be supplemented by various forms of support for these workers.

²⁷ Cf. R.A. DAHL, *A Preface to Economic Democracy* (Berkeley, University of California Press 1985), pp. 98-99.

conomic harm will result from the fact that the decision makers were not aware of the impact of their decisions. After all, the gap between decision and execution will be much smaller in the cooperative. Furthermore, the interests of the decision makers within the cooperative, the workers, rather than the interests of the decision makers within the corporation, the corporate executives, are representative of the interests of most consumers as the common victims of economic harm. Thus we may expect that economic democracy will lead to a reduction of economic harm because workers as the decision makers will be more susceptible to the significance of economic harm, and because they are more likely than corporate executives to be themselves victims of such harm²⁸. Last, we may assume that once workers control their firms they will opt for performing a greater variety of tasks during their working day²⁹. Thus workers will become familiar with more aspects of the industrial process and increase their technological knowledge. We may expect that this will go hand in hand with an increased awareness of the toll of modern industry on both human well-being and on the environment. Economic democracy makes it possible that this increased awareness of economic harm is translated into improved industrial practices.

²⁸ Cf. *ibid.*, p. 100.

²⁹ Cohen himself argues for the overcoming of the division of labor in *Ethik des reinen Willens*, p. 607. Moreover, Cohen maintains that workers should become concerned with science for the sake of « truthfulness » (the disposition to unite moral and causal laws). See *ibid.*, p. 506. For a more detailed discussion, see my *Kantian Ethics and Socialism*, pp. 229-231.