

The moral status of institutional negligence

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ABSTRACT The moral status of negligent actions presents a unique quandary because these actions are *prima facie* unintentional, but preventable with due care. This essay examines the moral status of these actions, arguing that while individual negligence is often minimally blameworthy, institutional negligence by powerful organizations is significantly more morally culpable. Building on Seana Shiffrin's account of negligence as a failure of character, I propose that powerful institutions, unlike individuals, possess enhanced capacities to shape their character, foresee consequences, and distribute costs for reform. Consequently, their negligent actions reflect deeper moral failings. Introducing the concept of a "reasonably virtuous institution" as analogous to the "reasonably prudent person" standard, I suggest a framework for assessing institutional negligence that accounts for character-based deficiencies rather than mere intent. Through case studies of the IMF's and WTO's international trade policies, I illustrate how organizational vices, rather than direct malice, underlie morally culpable institutional negligence.¹

KEYWORDS Institutional negligence; institutional responsibility; individual vs. institutional responsibility; institutional character; legal vs. moral culpability justice.

RESUMO O estatuto moral das acções negligentes apresenta um problema particular, pois essas acções são, à primeira vista, não intencionais, mas poderiam ter sido evitadas com o devido cuidado. Este ensaio examina o estatuto moral dessas acções, argumentando que, embora a negligência individual seja frequentemente minimamente censurável, a negligência institucional por parte de organizações poderosas é significativamente mais moralmente culpável. Com base na concepção de Seana Shiffrin da negligência como uma falha de carácter, proponho que as instituições poderosas, ao contrário dos indivíduos, possuem capacidades acrescidas para moldar o seu carácter, prever as consequências e distribuir os custos da reforma. Consequentemente, as suas acções negligentes reflectem falhas morais mais profundas. Introduzindo o conceito de "instituição razoavelmente virtuosa", em analogia com o padrão da "pessoa razoavelmente prudente", proponho um quadro de avaliação da negligência institucional que tenha em conta as deficiências de carácter em vez da mera intenção. Através de estudos de caso sobre as políticas comerciais internacionais do FMI e da OMC, ilustro como os vícios organizacionais, em vez da malícia directa, estão na base da negligência institucional moralmente censurável.

PALAVRAS-CHAVE Negligência institucional; responsabilidade institucional; responsabilidade individual vs. responsabilidade institucional; carácter institucional justiça da culpabilidade legal vs. moral.

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Introduction

The moral status of actions that result in unintended harm is a topic of lively debate, but the moral status of a particular subset of these actions, i.e. negligent actions, needs further exploration. One of the main characteristics of a legally culpable negligent action is that its harmful consequences occur as a result of a lack of due care taken by the agent. Legally culpable negligent acts, therefore, typically result in harm that was caused without malicious intent, but the harm occurred in a situation in an agent failed to act with the appropriate care due to the victim. The lack of malicious intent behind these actions has traditionally made their moral status dubious. In this essay, I argue that the *moral* status of negligent actions varies depending on the nature of the agent, particularly on whether the agent is an individual, or a powerful organization or institution. I contend that while negligence is often only minimally morally blameworthy in cases of individual agents, it is significantly more blameworthy in many cases in which the agent is a powerful organization or institution. As agents, these institutions are different in kind from individuals, largely due to their superior capacities, which give them the ability to shape their own character, and therefore the moral fault of their vices that lead to negligent actions are morally weightier than those of individuals. By introducing the concept of a “reasonably virtuous institution,” I propose a normative framework to evaluate institutional negligence. This framework centers on whether an institution has cultivated the virtues and epistemic practices necessary to recognize and prevent foreseeable harms.

While this argument has many potential repercussions, I will focus later in the essay on its application to the realm of global financial institutions and their effects on global poverty. A common defense of the catastrophic effects that the policies of institutions like the International Monetary Fund (IMF) and the World Trade Organization (WTO) have on the global poor is that these negative effects arise from actions that are merely negligent, rather than malicious, and the institutions are therefore not morally blameworthy for these consequences. Determining institutional intent is also a very complex task because “in complex and opaque organizations, the paper trail may be too long and incomplete to find individuals who commit crimes attributable to the corporation.” (Diamantis, 2016, p. 2050). Here, I aim to demonstrate that the lack of direct malintent on the part of these institutions does not immunize

them to moral blame for the harmful effects of their negligent actions because of their ability to shape their institutional character in ways that would avoid a significant amount of negligent harm.

In order to develop this argument, I first elaborate on the nature of negligence, beginning with its grounding in legal philosophy, and then describe how and why the moral analysis of negligence differs from the legal one, establishing that the moral culpability of negligent acts stem from the character vices that they betray. In Section 2, I explain the complexities of discussing negligence as a moral failure in individuals, and develop the argument that morally culpable negligence requires both standard and enhanced control, but individuals often lack one or the other. Section 3 explores negligence in the context of a powerful organization or institution. I introduce and develop the idea of institutional character and a “reasonably virtuous institution”, connecting them to institutional capacities, and ultimately argue for the heightened moral weight of institutional negligence, despite its superficial similarity to the negligent actions of individuals. I then provide two case studies of institutional negligence, and explain how institutional character explains the wrongfulness of their negligence. In Section 4, I address some potential concerns and objections to my proposed view.

1 The nature of negligence

1.A. Negligence under U.S. Law

Under U.S. tort law, negligence is conceived of as a “failure to behave with the level of care that someone of ordinary prudence would have exercised under the same circumstances. The behavior usually consists of actions, but can also consist of omissions when there is some duty to act (e.g., a duty to help victims of one's previous conduct)” (Cornell Law School Legal Information Institute, n.d.). A familiar example given to illustrate negligence involves Rick, who is repairing a roof. Towards the end of the work day, Rick starts throwing some of the leftover building materials off the roof, without looking to see whether anyone passing by could be hurt by the falling materials (Hart, 2008, p. 147). If a passerby were hurt, Rick's actions are culpably negligent, despite his lack of intention to harm.

In order to judge whether an agent has acted negligently, the standard elements considered in a civil negligence claim are duty, breach, cause,

and harm/damage. These elements focus on whether an agent has failed to meet a reasonable standard of care, resulting in harm to another party.

“Duty” exists if the agent had an obligation to avoid causing the harm that they inflicted. Proving “Breach” involves demonstrating that if there was a preexisting duty to avoid causing this harm, it was violated in this particular instance. Although legal obligations are more easily determined in cases in which there is a contract explicitly stating the duties of each party, there is often no such contract, and therefore determining whether there was a preexisting duty to avoid harm can be a complicated matter. Since the content of this general standard of care expected of everyone is nebulous, the “reasonable prudent person” test is usually used in court. This test involves asking how a reasonably prudent person “would behave in a particular situation, in pursuing his or her own objectives, to avoid harming others in the process” (Owen, 2007, p. 1677). One of the benefits of conjuring up this hypothetical prudent individual is to move the question away from subjective analyses of an agent’s state of mind or intent, and move towards a more objective evaluation of their behavior.

The next fundamental element of negligence is “Cause”, that is, the harm suffered must have been caused, at least partially, by the defendant’s negligent action or omission. Cause is typically categorized as “cause in fact” and/or “proximate cause”. Proving “cause in fact” involves demonstrating that there was a direct causal connection between the agent’s negligent action and the harm that befell the victim. A “cause in fact” is often determined by the “but for” test: *but for* the action, the result would not have happened. The cause is therefore a necessary but not sufficient condition for the result. A demonstration of “proximate cause”, on the other hand, requires that the agent’s action or omission had not just a *causal*, but also a *logical* connection, to the harm. The importance of proximate causation comes from the recognition that we ought not to be held liable for every possible consequence of our actions, but rather only those that result in a harm that could be reasonably foreseen (Owen, 2007, pp. 1679-1685).

Finally, a legal claim of negligent action requires that the plaintiff prove that they were harmed or incurred “Damage” by the defendant’s negligence. One cannot be held legally liable if no harm was suffered. The harm itself is usually physical harm to a person or their property. While one can sue for severe emotional distress resulting from negligent actions, most states require that emotional harm must manifest in

physical symptoms to be considered worthy of compensation (Owen, 2007, pp. 1685-1686).²

It is also important to examine another legal characterization of actions, recklessness, which is often confused with our commonsense idea of negligence, but is importantly different from it in a legal context. While the above discussion has focused on how negligence is understood under tort law, the moral analysis that comes later in this paper is understood more clearly by examining how recklessness is defined under criminal law. "Recklessness" involves an agent acting with "conscious disregard of a substantial and unjustifiable risk" (Tanaka, n.d.). Recklessness, therefore, involves less culpability than maliciousness (i.e. harmful actions that were performed with the intent to harm), but involves more culpability than negligent or accidental actions. When an agent performs a reckless action, they do not necessarily desire that the consequent harm occur, but they perform the action with full knowledge that the harm could or will occur. One of the central differences between reckless and negligent actions, then, lies in the mental state of the agent. Negligent actors *should have known* better than to perform their action or fail to act, whereas reckless actors *knew* better, yet performed or failed to perform the action anyway.³ For example, a driver who accidentally runs a red light because they were momentarily looking at the passenger they were talking to is acting negligently because they should have known to focus on the road and look at the light, but a driver who knowingly chooses to run a red light because they think they will make it across before the light of the other lane of traffic changes is acting recklessly, because they knowingly ran the red light.

2 These elements of negligence come together in the courtroom, and one of the most influential methods for how to weigh them when determining negligence liability is the Hand Formula, articulated by Judge Learned Hand in *United States v Carroll Towing*. The formula states that if the burden of taking precautions to prevent the breach of duty (B) is less than the probability of injury (P) multiplied by the severity of the resulting injury or loss (L), then the agent who ought to have taken the precaution has at least some amount of legal liability. The Hand Formula states: "If $B < PL$, then there will be negligence liability for the party with the burden of taking precautions." (Cornell Law School Legal Information Institute, n.d.). This formula considers not simply which duties we have to others, but whether an agent's conduct is reasonable in the given situation, by considering the likelihood and severity of the harm that could come from the breach of one's duty against the cost of taking the appropriate precaution or due care. For example, a reasonable person would and should change the batteries in their smoke detectors despite the probability of a house fire being relatively low, because the cost of the action is low, and the possible severity of the resulting injury or loss is high.

3 For an interesting criticism of this distinction, see Simons, K. (2009). The distinction between negligence and recklessness is unstable. In P. Robinson, K. Ferzan, & S. Garvey (Eds.), *Criminal law conversations* (pp. 290-291). Oxford University Press.

Under U.S. law, then, negligent actions are those actions or omissions that breach a duty of care, causing harm or damage to the victim. One does not need to prove that the agent actively desired to cause the harm, or that they knew that the harm would occur as a result, but rather that the agent should have known about the possibility of harm, and therefore should have taken reasonable precautions to prevent it. The agent's actual state of mind is less relevant in these cases than is the state of mind a reasonable person could or should have had.

1.B. Negligence and morality

Under U.S. law, an agent's action is judged to be negligent based on whether it meets the criteria of duty, breach, cause, and harm/damage. As we now move from the legal realm to the moral realm, the reader should note the conspicuous absence of malintent or harmful motivation from these criteria. The legal understanding of negligence may be able to sidestep questions about intent for the sake of fair compensation, but we would be hard-pressed to do so in any moral examination of an action that is not entirely utilitarian.

Overall, the harms that befall the victim of the negligent act seem more akin to the results of accidents than to the consequences of malicious acts. For this reason, many have argued that inadvertent harms are not morally blameworthy. Heidi Hurd, for example, argues that an agent is "without moral blame if the harm he causes another is a product of genuine inadvertence (however unreasonable) to the riskiness of his own behavior" (Hurd, 2014, p. 388). Similarly, Matt King argues that "while negligence is characterized by the lack of a conscious mental element, paradigmatic cases of responsibility seem to require at least some conscious mental element tying the agent to the outcome in question" (King, 2009, p. 579). Moral blame for an inadvertent act or consequence appears antithetical to most common-sense conceptions of responsibility.

However, in "The Moral Neglect of Negligence", Seana Shiffrin argues that in many cases, a morally culpable negligent action is just as morally wrong as a malicious action.⁴ Her argument for this develops based on asking this important question: why do agents fail to take due care? Her answer:

4 Note that neither Shiffrin nor I are making the claim that all negligent acts are morally culpable. We are focused on those that are.

The negligent agent often fails to take care because another end (or means) displaces the appropriate end in perceived importance or salience; what is risked (or permitted) is not valued for itself or as a means, but is an insufficiently disvalued side-effect of the agent's primary agenda in action. (Shiffrin, 2016, p. 204).

Thus, the wrongfulness of the negligent agent's action does not lie in the desire or intention to cause the harm (because that is not present), but instead, it lies in the fact that the agent does not appropriately care what happens to others as a result of their action, because they are solely or largely focused on their own goal. When this disregard for the effects of our actions violates the due standard of care, the negligence is morally culpable.

Basing moral culpability on something other than the direct intent of the immediate action that betrayed the lack of due care is referred to as "tracing". Benjamin Zipursky defines tracing as applying to cases in which, answer:

[t]here is an earlier act or omission that was both wrong and advertent, and part of the wrongfulness of the earlier act or omission was its running an undue risk of harm to others based on just this kind of occurrence. The blameworthiness of each can be traced back to [...] the blameworthiness of the earlier, advertent wrongful act [...]. (Zipursky, 2021, p. 226)

A clear example of this is that the moral wrongfulness of harming someone while drunk can be traced to the decision, when sober, to put oneself in a position where self-control is impossible, especially in a case in which the agent has a history of violent action when inebriated. Applying this to Shiffrin's view, then, morally culpable negligence is blameworthy because the lack of due care can be traced to an advertent failure to develop one's character in a morally appropriate manner. It is important to note, however, that tracing need not only apply to the process of tracing responsibility for an action to a character-trait. For instance, in "The Truth about Tracing", Fischer and Tognazzini argue for an account of tracing that primarily follows the lineage of an action to a previous action that was under the agent's control, rather than to a character-trait of the agent. It is beyond the scope of this essay to enter into this particular debate about the nature of tracing here, but I will be

adopting Shiffrin's character-based account of tracing for the remainder of this paper.⁵

On Shiffrin's view, culpable negligence is not simply a "more dilute version of malicious action", but should be seen as a "distinct, serious wrong" (Shiffrin, 2016, p. 213). Its distinctiveness comes from the fact that negligent actions or omissions are often a result of a failure of character rather than malicious intent. An agent could cultivate habits of non-negligence such as thinking about whether their personal goals are compatible with their duties to others, and being thoughtful about the possible consequences of their actions, how their goals could interact with or inhibit those of others, how their agency could be used most effectively, avoiding putting themselves in tempting situations etc. (Shiffrin, 2016, p. 206). Instead, an agent could cultivate their character in such a way that they repeatedly find ways to rationalize the behaviors that serve their self-interest at the expense of the well-being of others, or continually ignore the lessons from their past actions, or regularly avoid being thoughtful about where their actions could lead. Other morally blameworthy characteristics include overestimating or underestimating one's abilities, and other hubristic "pathologies of independence" (Shiffrin, 2016, p. 204). If, then, these characteristics lead to a lack of due care for others, the agent can be said to be morally blameworthy for their action or omission, even if they were not actively attending to the possibility of the harm being created by that particular action or omission. Shiffrin contends that rather than looking at negligence as a snapshot of the moment in time at which the negligent action or omission occurred, we ought to zoom out and trace the causes of the agent's lack of due care, and we will likely see that the agent has directly or indirectly constructed their approach to the world, including what kinds of consequences they do and do not consider before acting (Shiffrin, 2016, p. 204). Consider a modified version of an example Shiffrin provides: a professor hurriedly sets up a time to meet with a student, but does not write down the details, and then forgets about the meeting (Shiffrin, 2016, p. 202). While the professor may not have intended to miss the meeting, she prioritizes whatever she is in a hurry to get to over ensuring that she will remember the details of the meeting. This shows how negligence "involves a failure properly to recognize and acknowledge [...] [the] moral significance [of others]"

5 For another defense of character-based accounts of tracing, see Stark, F. (2016). *Culpable carelessness: Recklessness and negligence in the criminal law*. Cambridge University Press.

(Shiffrin, 2016, p. 202). While forgetting the appointment may not itself be morally blameworthy (as it seems entirely unintentional), the failure of the professor to have or utilize any systems that could help remind her of such plans is morally blameworthy, as it demonstrates a lack of due care for the time of her student.

Negligence therefore can often be traced to a moral failure of one's character; the negligent actor has consciously or unconsciously cultivated an epistemic approach to the world that allows them to live in blissful ignorance of the standards of care they are not meeting. A number of powerful examples of this appear in Bong Joon-ho's 2019 film *Parasite*, in which a wealthy couple, the Parks, routinely and purposefully ignore the suffering that their quality of life depends on. For example, during a captivating shot of Mr. Park slowly descending the stairs in his house, a new light turns on above him for each new step he takes. He believes this to be an automatic lighting system, but later in the film, the audience sees that unbeknownst to Mr. Park, each light is being turned on by a man, Oh Geun-sae, who is locked in the basement, as he hears Mr. Park's footsteps on the stairs. While this may not be an instance of morally culpable negligence on its own, it does illustrate the illusions under which the Park family live that allow them to remain ignorant to the human price of their luxurious lives. The film also depicts how the family actively builds their world to avoid any evidence of suffering in their midst; for example, when a long-serving housekeeper appears to be coughing up some blood, Mrs. Park fires her, without bothering to check the cause (which, in reality, is a simple peach allergy). These kinds of actions enable the characters to live blind to the realities of the world around them, which allows them plausible deniability of whether they were meeting the standards of care owed to those around them. Building a personality or a life that ensures that one's negligent harm is unintentional is the core of what makes negligence morally blameworthy. As Shiffrin puts it, the negligent agent is not blameworthy because she is merely mistaken about moral norms, "but because she has opted out, as though she wore earplugs during part of the relevant briefing" (Shiffrin, 2016, p. 214).

Thus, while our contemporary notions of negligence primarily stem from its legal interpretation, examining it through a moral lens adds depth, and helps us delve further into its curious nature. At the same time, the legal understanding helps us gain clarity, particularly in relation to what negligence is *not*. Negligence requires the breach of an

achievable standard of care, and unlike recklessness, it does not involve an outright or direct disregard for risk of undue harm. The moral examination above adds to this picture by uncovering the core of the moral wrongfulness of negligence, which is the failure of character that leads to a lack of due care. This moral account of negligence, emphasizing character failures rather than mere outcomes, sets the stage for a more nuanced discussion of individual negligence and its limitations.

2 Individual negligence

With the moral framework outlined, I now examine negligence in individual agents to highlight the extent and limits of their moral responsibility. While I largely agree with Shiffrin's analysis of the moral wrongfulness of many negligent acts, I contend that, at times, she overstates the case for how much control we have over our own character, and therefore overstates the moral weight of the negligent actions of individuals. Our character is significantly shaped by so many external forces and circumstances that we cannot claim that in every case, all people have either complete or substantial control over the characteristics they develop. My claim does not undermine the possibility of free will or agency, but instead, simply points out that if we remove ourselves from the snapshot view of the particular action, and instead focus on why the agent is the way they are, we are faced with the problem of how far to step back or zoom out. If it is reasonable to ask why an agent lacked due care in a particular instance, and to examine their character in the search for a response, then it seems equally reasonable to ask *why* their character is the way it is, and how much of their character was within the agent's control.

There are many different senses in which one may have control over one's self and one's actions, but most relevant here is the difference between standard control and enhanced control. Zimmerman illustrates this distinction by use of the example of Sam, a shopper. As Sam is walking down the street, he passes by a department store. Unbeknownst to him, if he had entered that store, he would have been its millionth customer, and would have won a "fabulous prize" (Zimmerman, 1986, p. 202). Sam was perfectly free to walk into the store, and in this sense, he had "standard control" over his actions and over winning the prize. However, in another sense, Sam does not seem to have had control over

whether he won the prize, because he did not know of the possibility of winning the prize, and he, therefore, lacked “enhanced control”. “And it seems that, not only standard, but enhanced control is required for moral responsibility,” argues Zimmerman (Zimmerman, 1986, p. 202). This requirement appears to apply to control over one’s characteristics as well. In order to be held morally responsible for the characteristics that caused an agent to lack due care, they must have both standard and enhanced control over their characteristics, meaning that the characteristics they ought to develop or ought not to develop to avoid negligent actions must not only be logically possible to attain, but the agent must also have some kind of advertence to the importance of the characteristic, or the danger of it. In the case of the shopper, Sam, there are no reasonable characteristics that he could have developed that would lead him to have good reason to believe that if he entered the shop, he would win the prize. Thus, Sam lacked enhanced control and could not be said to have been in control of the characteristics that would have led to him winning the prize.

The goal here is not to delve into the metaphysical questions of personhood and autonomy, but rather merely to appeal to commonsense understandings of personal development. Given human interdependence, as well as economic and social realities, we often do not have even standard control over a number of our character traits. However, while it may be tempting to read my argument as implying that we cannot be morally blamed for any of our actions because we are never entirely in control of the person we become, or the characteristics we develop, this would be a misunderstanding. While there are parts of us that we have very little or no standard or enhanced control over, that does not mean that we have little or no control over *all* our characteristics or actions. The moral status of negligent actions is so interesting to consider *precisely because* these actions lie in the nebulous middle ground between intentional and unintentional actions. Therefore, their examination requires that we recognize the hazy nature of some of the causes of our personal character. While many instances of negligent behavior may be caused by failures of character, not all failures of character are equally morally blameworthy, as they vary in their causes. Of course, we have good reasons to be careful when determining whether a particular individual in a particular instance had control over their characteristics. As Raz has argued, “In acknowledging our responsibility for these unintentional acts and omissions we affirm our mastery of these abilities, deny

that we are disabled in the relevant regards” (Raz, 2011, p. 268). When we avoid blame by claiming a lack of control, we are rejecting our moral capacities, and “given the kind of social creatures we are, projecting and accepting such a degraded moral status” goes against our interests (Rudy-Hiller, 2022, p. 137). Additionally, as Shiffrin contends, the fundamental defect of a negligent agent “involves the basic failure to treat her own agency as her responsibility [...]” (Shiffrin, 2016, p. 214). However, to reiterate, the acknowledgment of our genuine limitations and lack of individual control does not entirely degrade our moral status or deny our agency, it merely recognizes that our capacities are not infinite.

To illustrate my argument, let us return to the previous example of the absent-minded professor who failed to write down the details of the meeting that she agreed to. She seems to be in the wrong to a certain extent, but most people can recognize that even an otherwise diligent person may be legitimately distracted by something like very bad news. The failure to write down the details may be less indicative of a lack of care for the student than an emotional inability to fully appreciate the importance of anything other than the news she has received. Alternatively, even if this kind of action were perfectly in keeping with the professor’s character (i.e. this wasn’t simply a one-off failure), it could be the result of a mental incapacity that cannot be overcome simply by choice. Thus, while the negligent behavior of individual agents *could be* and often *may be* a result of character-based failure, this failure can, in many cases, be seen as only minimally morally wrong, if the agent did not have much or any control over the aspect of their character under consideration. Let us now contrast this with the moral failure of institutional negligence, as powerful institutions possess enhanced control via their far greater capacities to shape character and foresee harm.

3 Institutional negligence

Shiffrin’s argument that negligence is morally blameworthy because it demonstrates a morally deficient lack of care for others is, I propose, even better suited for an analysis of institutional negligence than it is for individual negligence. As I argue above, at least some of the individual character flaws that lead to negligent actions by individuals are a result of forces at least partially out of our control. Many institutions,

however, have (and ought to have) much more control over their character, and therefore their negligent actions are, in many cases, far more morally blameworthy than those of individuals.⁶

3.A. The nature of institutional character

Determining the character of an individual involves examining a number of their attributes and actions, including their psychological traits, moral commitments, and consistent or repeated behaviors. An institution's character, I propose, is expressed through its operational norms and priorities, which can be understood by studying its structures of power, its core values (particularly as evidenced by its priorities), and its habits and epistemic practices, which shape how the institution understands and responds to its obligations. Thus, rather than existing in one unified consciousness, institutional character is distributed across policies, decision-making structures, internal cultures, and common narratives.

An institution's priorities can be formed in numerous ways, and just like individuals, it can prioritize its own ends over the due care it owes those it impacts. For example, corporations regularly utilize sub-standard materials in production, without much thought about the quality of the product or its impact on the consumer. An institution may not explicitly deprioritize these duties of care, but its actions can often clearly demonstrate what it does and does not prioritize. Furthermore, an institution's habits and practices are a clear indicator of its character and virtues. A virtuous institution cultivates habits of non-negligence like deep thoughtfulness about the consequences of its actions on all relevant stake-holders, which includes carefully considering the duties of care it owes those stake-holders, and avoiding self-serving rationalizations. One important way in which these habits are often cultivated is through institutional structures that encourage these virtues, which often include a democratic organization and distribution of power, clear and authoritative checks and balances on those parties with the most power, and systems that prevent retribution against whistleblowers or those who are vulnerable for voicing or acting upon disagreement with the majority. Institutional character is not static; a virtuous institution

6 Note that the issue of institutional negligence is separate from the question of whether an institution/organization is responsible for every action of its individual members. My focus is on the actions of institutions when the institution acts *as a body*.

engages in an ongoing process of cultivating its character to align with moral commitments like those listed above, and then reevaluating and reforming it when needed.

Thus, institutional character cannot be determined by attempting to understand the motivations of each individual agent that the institution is comprised of, but it emerges from the interplay of formal rules (such as oversight mechanisms and thoughtful procedures) and informal cultural practices (such as norms of internal dissent, openness to criticism, and responsiveness to stakeholder voices). While individuals certainly contribute to these rules and practices, an institution's character is more than the sum of its parts.

Let us now consider the kind of institutions I am focusing on for this argument. In his analysis of institutional responsibility in "Institutional Responsibility for Moral Problems," Michael Green defines institutional agents as "organized agencies" that "can make decisions and act on them" (Green, 2012, p. 123). Along these lines, the kinds of institutions I have in mind are formal in nature, have significant power and resources, and can develop their own culture or habits. Therefore, there is a significant threshold of power that an institution must reach in order to be included in the institutional responsibility I propose. Examples of these institutions could include a government, a wealthy university, a Fortune 500 business, and an international agency like the United Nations (UN).

Green goes on to argue that for a number of reasons, in relation to their agency, powerful institutional agents differ from individual agents not only in terms of number, but also in kind. First, these institutional agents are able to have an impact on the world, both positive and negative, that exceeds the impact that the individuals comprising the institution could advertently have without working together (Green, 2012, p. 201-1). A global problem like climate change is an example of this kind of impact; the vast majority of greenhouse gas emissions are produced by corporations or state-owned industries, rather than by individuals. While much is made of the individual responsibility to reuse and recycle, the real power to affect change lies with these corporations, and the governments that insufficiently regulate their emissions.

Second, Green argues that powerful institutional agents have vastly different capacities than individuals in three primary ways: institutions have far more information, far more influence, and they can widely distribute the cost of any problem that may arise (Green, 2012, p. 124). Such institutions have access to more information than individuals because

they have the resources to attain multiple sources of information, they can divide labor efficiently to process the information, they can spend resources on having that information verified and interpreted, etc. Information is particularly salient in terms of moral responsibility, as institutions can use these resources to predict or at least estimate the potential consequences of their actions, whereas most individuals are greatly limited in that capacity. Green then considers institutional influence in terms of its ability to “alter mass behavior,” (Green, 2012, p. 124) like the power of a government to dictate the average speed being driven on a highway, or the amount of water used when a toilet is flushed. While there may be rare cases in which an individual can alter the behavior of many others, this power often derives from an institutional role (like the head of government). Green’s final claim is that institutions can spread out the cost of a problem, thereby minimizing the negative effect on any individual of solving it. Governments can pay for war through taxation, universities can increase student tuition, etc. Institutions thus have the capacity to bear the cost of far larger issues than individuals can (Green, 2012, p. 124).

We therefore see that Green’s account of the distinctive capacities of institutions (specifically their superior access to information, their greater power to shape social outcomes, and their ability to distribute costs) complements my understanding of institutional character. Institutions have an enhanced capacity to affect both internal and external change. These capacities do not merely entail an expansion of direct duties, but also imply a heightened responsibility to cultivate institutional virtues that enable the moral exercise of power. Having defined institutional character and its moral significance, I next analyze how these traits translate into moral culpability when institutions act negligently.

3.B. The moral culpability of institutional negligence

Returning to the question of responsibility for negligence, the institutional capacities mentioned above give institutional negligence a unique flavor. The ability of powerful institutions to more reliably shape their structure and culture than most individuals, and thereby their capacity to predict and affect the consequences of their actions, makes their negligent actions significantly morally weighty, even if the harms they caused did not stem from malicious intent. Additionally,

their capacity to spread out the cost of a problem deprives many of their actions of the excuse that preventing or repairing a harm is too onerous or burdensome.

At this point it may seem that I am primarily arguing that because institutions have a greater *ability* to minimize their wrongdoings than individuals do, they have a greater *obligation* to do so. However, this is only part of the view. Since my primary focus is on wrongs caused by negligence rather than malice, I see these institutional capacities as unique in their ability to affect the virtue of the character of the institution, rather than purely in their ability to predict or prevent any specific wrong. If negligence involves a failure to take due care when performing (or not performing) an action, the moral wrongdoing in question is the *neglect* of those duties of care, which stems from a lack of virtue, rather than a lack of ability. Power or ability is a precondition for responsibility, but is not the cause of the content of the responsibility. To illustrate this, let us return to the example of Rick the roof repairer, who absent-mindedly throws building materials off the roof without checking to see if a passerby could be harmed by the falling material. While Rick did not actively desire to harm a potential passerby, Shiffrin would argue that his negligence is morally blameworthy because he failed to develop a habit of taking due care by checking for passersby, and this failure is a vice born out of prioritizing his self-interest of wanting to go home as quickly as possible. While the standard of care Rick owes may be affected by his *ability* to refrain from throwing the building materials (for example, if he were somehow forced to throw the materials, he would not be obligated to refrain from throwing the materials), the moral wrongfulness of his action stems from his *character failure*, not the harm itself, since the harm was not consciously chosen (i.e. he did not desire to harm the passersby).

Similarly, when a powerful institution negligently causes harm, its capacities may dictate the duties of care it owes, but the moral wrongness of the action or omission is grounded in the institution's failure to develop the habits and virtues that could have prevented the failure to duly care. To illustrate this in terms of powerful institutions, think of the issue of the responsibility borne by a company that produces self-driving cars. The company has a moral duty to equip the vehicles with the capacity to detect many potential obstacles in its path, so that it may avoid hitting them and causing harm, even if doing so would delay its previously publicized product release-date, which in turn

would hurt its reputation and profit margins. If the company's culture is such that workers are uncertain whether they can safely voice that the car's programming is missing the ability to detect an obstacle, as this would delay the roll-out of the car, then even if the corporation did not maliciously intend to cause harm, or recklessly and knowingly ignore possible harm, it may nonetheless be morally culpable for this failure to develop a culture in which due care could have been taken. This is not to say that changing institutional character is objectively easy; institutions often face unique challenges to change like internal resistance, political pressure, or simple inertia. However, the moral expectations on powerful institutions can be justified not only by their significant power, but also by the fact that their available resources provide them with a greater ability to modify their character (i.e. the very dispositions and structures that determine their responsiveness to moral demands) than most individuals or even resource-deprived institutions possess.

I therefore propose that evaluating institutional actions or omissions for *morally* culpable negligence requires us to consider multiple factors, integrating the legal categories of duty, breach, and cause with character-based considerations centered on the cultivation of institutional virtues, as discussed in Section 3.A.⁷ In this context, I suggest adapting the legal "reasonably prudent person" test into what we might call the "reasonably virtuous institution" test. Given that the bureaucratic and diffuse nature of institutions often makes it impossible to precisely determine collective intent, this test provides a useful framework for assessing an institution's moral position. Like the reasonably prudent person standard, the reasonably virtuous institution test shifts the focus from subjective states of mind to an objective evaluation of conduct and structural character. Specifically, it asks whether an institution that had appropriately cultivated moral and epistemic virtues could have foreseen and reasonably prevented the harm or breach of duty in question. This standard requires us to evaluate not merely whether an institution claims it *could* foresee or prevent harm, but whether it *would have* done so if it had developed and maintained a reasonably virtuous character. In summary, an institution can be said to engage in morally culpable negligence if it causes a breach of duty that was both foreseeable and preventable, had it cultivated its character in a reasonably virtuous manner.

7 Note, however, that my goal is not to propose a strict mathematical formula like the Hand Formula to help weigh these factors. Instead, contextually morally relevant facts will need to be considered when weighing each element.

One many wonder why the criteria proposed above do not include damage. As part of her mission to “wrest the topic of negligence away from the monopolistic grip of legal commentators,” (Shiffrin, 2016, p. 200) Shiffrin argues that the last legal criteria, i.e. damage or harm, is not actually necessary for a negligent action to be morally culpable (Shiffrin, 2016, p. 203). One may, for instance, act negligently, but due to lucky circumstances, may not harm anyone or anything. The agent in this case has still acted without due care, and has left the consequences of their negligence “more of a hostage to fortune than is warranted,” which is, at its core, the central morally blameworthy aspect of negligence (Shiffrin, 2016, p. 203). Consider William Clifford’s example in “The Ethics of Belief”: a shipowner decides to send out his ship on a voyage with many passengers, despite being unsure of whether she was in a good enough condition for the trip (Clifford, 1999, p. 70). The ship was old, not built very well, and needed repairs. Not sending out the ship or repairing the ship would cost the owner a significant amount of money, and he thus manages to create within himself a “sincere and comfortable conviction that his vessel was thoroughly safe and seaworthy,” (Clifford, 1999, p. 70) and sends the ship out on the journey. In one version of the example the ship goes down mid-voyage, whereas in the second version, it arrives safely at its destination. Clifford argues that the shipowner is equally morally culpable for sending out the ship in both versions, because the moral failure lies in leaving the potential catastrophic results of the voyage to chance, given that significant harm was both predictable and preventable. Thus, morally culpable negligence *need not* result in harm or damage, but will often result in it nonetheless.

In sum, institutional negligence is morally significant not merely because of the greater power and resources of institutions, but because these enable them to develop a virtuous character that systematically upholds duties of care. Their failure to do so reflects a deeper vice than mere inattentiveness: it signals an institutional prioritization of self-interest or ideology over moral responsibility. By integrating structural capacities with a commitment to moral cultivation, institutions could avoid many harms currently dismissed as inevitable or accidental. Thus, morally culpable institutional negligence reveals itself as a profound failure of character rather than as an excusable shortcoming of foresight. With this framework in place, I now illustrate my argument using concrete examples of institutional negligence in global organizations.

3.C. Case studies

Given the proposed criteria above, consider two examples of what I take to be institutional negligence. First, the International Monetary Fund (IMF) has been widely criticized for its historical commitment to providing one-size-fits-all neoliberal solutions to a variety of economic woes, without taking much local context into account. One clear instance of this is the effect of its Structural Adjustment Policies (SAPs) in Ghana. In the 1980s, in order to liberalize Ghana's markets, the IMF loan conditions dictated that the Ghanaian government could no longer subsidize its rice farmers, resulting in the decimation of Ghana's previously productive rice production. In 2005, Ghana received another IMF loan, which contained similar demands that the government cease subsidizing its rice farmers, and once again, Ghana's re-developed rice production was destroyed (Moore, 2005). While the IMF does not decry all government subsidies in all situations, it generally advocates against subsidies, as they are seen as antithetical to the IMF's neoliberal goals of free trade and economic efficiency. However, while the IMF has the power to significantly reduce government agricultural subsidies in the global south, it does not have the same power in the global north, which means that agricultural production in the global north is often subsidized and therefore cheaper than that of the global south. This was the case in Ghana; once the subsidies for rice-farmers were removed, Ghanaian markets became flooded by cheaper rice from the USA. Mats Karlsson, the country director for Ghana for the World Bank in 2005 declared, "The biggest problem facing farmers in the developing world are the subsidies the west provides to its own farmers. These are deeply unfair" (quoted in Moore 2005). While it may be tempting to interpret the recurrent harms inflicted on Ghana as evidence of deliberate malice, establishing intentional wrongdoing within a large bureaucratic institution is exceedingly challenging. Nevertheless, at a minimum, these harms are clearly a consequence of epistemic vices on the part of the IMF, which stem from the institution's unwavering adherence to its neoliberal policy agenda despite ever-mounting evidence of the duties it breaches and the damages it causes, as well as the institution's overestimation of its own capacities to determine what is best for the economy of all nations. Additionally, as critics like SAPRIN have demonstrated, the IMF repeatedly failed to include local farmers unions or local economists in their decision-making (SAPRIN). While the institution has the resources and ability to change its character (its policy-makers could

be conscious of their lack of power to stop subsidies in the global north, and could take its critics more seriously, for example), it does not do so, and therein lies one of the reasons for the moral blameworthiness of the harm caused by its negligent actions in Ghana.

This is a case of morally culpable negligence because it *breaches* the IMF's *duty* to Ghana (this is a general duty not to harm, but also its self-proclaimed duty from its mission of "[h]elping a country benefit from globalization while avoiding potential downsides [...]" (International Monetary Fund, n.d.)), it *causes* this harm, and the *foreseeability* and *preventability* of these breaches provide insight into the vices of its institutional character (as it refuses to recognize and adapt its character based on evidence). A reasonably virtuous institution would not breach this duty in a way that causes foreseeable harm; it would more actively consider the economic impacts of previous loans and SAPs, particularly when determining new SAPs in the same country, or countries with similar economies. A reasonably virtuous institution would also be far more open-minded to the possibility that its ideology blinds it to the real harm being done to individual nations during its pursuit of global neoliberalism. It would be more realistic and conscious about where it does and does not have power, and in doing so, would recognize that if it cannot reduce subsidies across the board, it ought not simply reduce subsidies wherever it can. A reasonably virtuous institution would also implement power structures that require the most powerful voices in the institution to have diverse perspectives and be representative of vulnerable populations, to avoid this type of ideological rigidity.

Another international and impactful example of institutional negligence can be seen in the World Trade Organization's (WTO) imposition of the TRIPS (Trade-Related aspects of Intellectual Property Rights) trading regulations around the world, and specifically its negative impact on victims of the AIDS epidemic. TRIPS was conceptualized as a way to strengthen intellectual property (IP) laws around the world. The stated objective of this regulation is

The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations. (World Trade Organization, n.d.)

One of the consequences of TRIPS was that it greatly extended the protection of patents for pharmaceutical drugs, resulting in nations in the global south being prevented from producing generic versions of life-saving medicine. “Millions of deaths from AIDS and other treatable or curable diseases are due to the suppression of manufacture and trading of generic drugs” (Pogge, 2008, p. 232). Additionally, when countries like India and Kenya tried to point out that the supposed benefit to developing countries of strong IP laws (i.e. an increase in Foreign Direct Investment) had not and would not come to fruition, they were largely ignored (Raghavan, 2000). While the WTO is ostensibly a democratically-structured organization, powerful developed nations hold enormous amounts of “persuasive” power (which in reality is coercive power), and often use that power for their economic or political advantage. For example, when Thailand attempted to use some of the flexibility provisions in TRIPS to create generic life-saving drugs for those with HIV, the US government threatened economic sanctions in retaliation. Many developing nations do not have the resources to bear the costs of such sanctions (Collins-Chase, 2008, p. 776). Overall, the WTO has *breached* its *duties* to the poor in many of the vulnerable countries they purport to help (its own mission states that it seeks to be “more beneficial” to developing countries than developed ones (World Trade Organization, n.d.)), it has *caused* harm to millions of vulnerable people, and while there may not be direct malintent, it has developed a vicious institutional character, as evidenced by the fact that it ignored voices warning of the negative effects of its trade agreement, and ignored common-sense *predictions* of what would follow from increased international patent protection for life-saving drugs. A reasonably virtuous institution would do far more to ensure its decision-making procedures are *genuinely* democratic and free of economic coercion. Additionally, just like the case with the IMF, a reasonably virtuous institution would not stick to its neoliberal goals at all costs in the face of both evidence and common sense, and would restructure itself to ensure diverse and vulnerable voices are given audience and power.

Recognizing this failure of character of institutions is, I believe, one of the keys to accountability for global institutions, for whom it is all too common and easy to avoid taking responsibility by pleading ignorance or good intentions. While institutions cannot be morally blamed for harm they could not have intended or foreseen, they can indeed be blamed for the vices that “displace[d] the appropriate end in perceived

importance or salience,” (Shiffrin, 2016, p. 204) preventing them from advertent to the possible consequences of their actions.

4 Potential concerns and objections

In “Minding Negligence,” Craig Agule argues the any account involving tracing is likely to be unsatisfactory because in order for an agent to be morally culpable for an action, “we can ask whether there was relevant awareness at the prior opportunity to exercise control. [...] If there was awareness at that prior choice point [...] the agent was reckless for failing to act in light of that risk” (Agule, 2022, p. 237). In terms of Shiffrin’s understanding of the wrongfulness of negligence, Agule’s objection boils down to this: if at any point during the planning and implementation process of an action, a conscious choice was made to not develop a characteristic that would prevent harm, or to develop a characteristic that would cause harm, then it seems to be a case of recklessness rather than negligence, because recklessness requires awareness and conscious choice, and deliberately cultivating a particular character trait constitutes this choice. This objection relates to the validity of tracing as a method of determining negligence generally, rather than relating specifically to negligence by institutions, but it certainly applies to determining the moral culpability of institutional negligent actions as well.

There are at least two ways to respond to this objection. The first is Shiffrin’s, which bites the bullet. She denies that recklessness is different in kind than negligence, arguing instead that recklessness “represents the extreme or limit case of negligence” (Shiffrin, 2016, p. 205). In other words, recklessness is simply an extreme form of negligence, and therefore the question of awareness is one of degree rather than a black and white fact. If the distinction between recklessness and negligence is about points on a spectrum, then, the exact time or amount of conscious decision-making does not undermine the possibility of moral culpability of certain negligent acts.

On the other hand, I see the value in retaining the distinction between recklessness and negligence, and therefore propose a different response. If one way of distinguishing between the two concepts is that negligent actors *should have known* better, whereas reckless actors *knew* better, yet performed the action anyway (since recklessness involves an

agent acting with “conscious disregard of a substantial and unjustifiable risk” (Tanaka, n.d.)), we need to further investigate what it means to say that an agent should have known something that they did not, in fact, know. *Prima facie*, it seems absurd to be held accountable for simply not having a particular thought or not knowing some information. However, when a drunk driver is arrested, it is on the basis of the fact that when they did have control over their mind and actions (i.e. when they were sober), they should not have put themselves into a mental state that prevents them from driving well, knowing that they would or could need to drive home. The moral culpability lies more in this conscious and sober decision than in the action of drunk driving (though the latter may be the basis of the legal liabilities that follow). Drunk driving is an example of morally culpable *negligence* in the case in which someone believed they could drive safely because they weren’t significantly impaired, since they had only had three beers, and they had driven home safely on many previous occasions after drinking three beers. It is reasonable to assert that they should have known that alcohol can affect the same person in different ways depending on things like age and how much food they had consumed that day. The act is negligent because even though they did not intend to do harm by their actions, they should have known better while sober. Drunk driving can be seen as culpably *reckless* in cases in which the driver knows that they will be drunk and impaired, and chooses to drink and drive without any regard for the potential consequences. While both actions entail culpability, there is a relevant moral difference between an agent failing to cultivate the characteristics that would make them think more carefully about whether their capabilities are severely impaired by their alcohol-intake, and them being actively indifferent to harm they are likely to cause. If we deny this difference, then we must return to Shiffrin’s view and assert that there is only a difference in degree, not in kind, between negligence and recklessness.

Similarly, in relation to institutional negligence, there is a significant moral distinction between a situation in which an institution does not appropriately consider the harms it could cause by its actions, and an institution that moves forward with actions that it knows will cause harm. Given the complexities involved in determining institutional motivations, because institutions do not have a unified consciousness or awareness, we must recognize, as argued above in Section 3.A., that institutions are made up of distributed systems of knowledge, habits,

and cultures. When we think of what it means for an institution to have awareness, we must look to its systems of formal reports, internal warnings, power structures, procedural checks, and other factors that affect what is attended to and what is ignored. Returning to the example of the IMF, there is a moral difference between the situation in which the organization (particularly its powerful members) did not consider the potential effects of its SAPs on Ghana's rice production deeply enough, or did not question its ideologically-motivated economic commitments deeply enough, versus a situation in which it predicted exactly what would happen and chose to enforce the SAPs that destroyed Ghana's rice production anyway. I concede that determining the IMF's motivations or exact knowledge in the case of Ghana is difficult if not impossible, but part of the importance of determining and asserting the moral weight of institutional negligence is precisely to be able to hold institutions accountable for their moral failures even if their motivations and level of knowledge are not entirely transparent; it provides the tools by which to assert moral responsibility even when recklessness or malice cannot be proven.

Relatedly, there is a broad concern over the use of tracing an agent's character to determine moral blameworthiness. One version of this is that actions that may appear to be a result of character-based vices that demonstrate a lack of due care for others are instead sometimes based on "performance mistakes", where agents violate moral norms because of their failure to connect their moral understandings to the particular situation at hand (Amaya and Doris, 2015), or that these instances ought to be more properly seen as moral "slips", which involve non-negligent failures of awareness, and therefore moral blame that is "backward-looking and dessert-entailing" is inappropriate for these types of actions (Rudy-Hiller, 2019, p. 721). While I certainly agree that not every apparent instance of negligence is genuinely a result of a morally-blameworthy failure of character, especially in individual agents, these concerns are less applicable to the powerful institutions included in my analysis, as institutions have superior control over their character, and therefore are not in the same position as individuals to make performance mistakes or slips. Additionally, my focus on the place of institutional character in the moral blameworthiness of an institution's actions underscores that my argument applies to cases in which the way an institution constructs its world view is in question, and therefore the scope of my argument goes beyond momentary lapses in judgment. If

“performance mistakes” are indeed persistent, they reflect a systemic avoidance of moral responsibility.

Another concern that arises in light of my argument regards the reasonably prudent person test, and in the case of institutions, the reasonably virtuous institution test for negligence. One of the important factors in determining morally culpable negligence includes foreseeability of harm, and specifically, whether the reasonable person or institution would have been able to foresee the harm. However, as Zimmerman has argued,

[h]ow is it relevant, when trying to determine whether or not a particular person is morally responsible for a particular event, whether or not the “reasonable man” would have foreseen it? If the person in question falls short of this criterion of reasonability then how is it justifiable to judge him by it [...]? (Zimmerman, 1986, p. 6)

The crux of Zimmerman’s concern lies in the moral and non-pragmatic nature of the investigation; what seems to be relevant in determinations of moral responsibility is the actual state of mind of the agent, not what *would have been* their state of mind had they been the proverbial “reasonably prudent person”, or in our context, the “reasonably virtuous institution”.

In the cases of morally culpable negligence of the kind described above, however, the foreseeability of the harm by the individual or the institution is affected by the characteristics that it adopts or omits. In relation to individuals, we do regularly and justifiably judge people by what they could have reasonably foreseen. For example, think of a student who does not study for an exam; we cannot expect students simply to “will that [they] recollect the right answer” (Shiffrin, 2016, p. 216) during the exam, but we *can* point to a previous lack of relevant action (studying, taking notes, paying attention, etc.) as the basis on which to hold them accountable for their lack of knowledge. This is true even if the student was not actively indifferent to how they did in the exam. Even if the student merely overestimated their capacity (as opposed to simply not caring about their results), and believed that a quick glance over their notes would suffice, it would still be perfectly justifiable to evaluate their actions critically because they could have reasonably foreseen that they would not remember class material sufficiently without deeper study for the exam.

This reasoning is even more compelling in the case of institutions. Returning to the example of the WTO and the effect of TRIPS on AIDS medication in the global south, I have argued above that if the WTO were a reasonably virtuous institution, its actions would have been markedly different. While it is unlikely that the WTO had direct malintent and actively wanted to cause harm, or that it was entirely indifferent to the harm it was causing, it is reasonable to assume that its most powerful members were so entrenched in their ideology that they believed their actions to be beneficial rather than harmful, because the aim of the agreement was to create stronger intellectual property rights around the world, which they see as beneficial to everyone, including those in the global south. Were the WTO to use this reasoning to insist that it did not, in fact, foresee the harms of TRIPS, it is nonetheless true that were it a reasonably virtuous institution in the ways I have suggested above, it would have taken seriously the critiques raised by vulnerable states, and adverted to the predictable harms of the agreement. The possibility of foresight, then, is not purely a matter of actual knowledge, but is mediated by the institution's character, and willingness to confront inconvenient truths. Thus, the reasonably virtuous institution test becomes morally relevant, for it captures the responsibility to develop the epistemic and moral dispositions that make genuine foresight possible.

A fourth concern regards the practicalities involved in the case studies provided above. It is not greatly controversial to say that most economic policies, especially those with huge potential impact, involve trade-offs, and cannot avoid harming someone in the process. Perhaps, therefore, the examples only demonstrate that these institutions are imperfect or require compromise, rather than showing that they have engaged in morally culpable negligence and developed morally deficient characteristics.

It is likely true that at least some negligent acts by institutions, no matter how powerful, are not morally blameworthy, as they arise from a true dilemma or absolutely necessary compromise. However, there are many cases (and I take the examples above of the IMF and WTO to be two of them) in which the trade-off or compromise could have looked significantly different and less harmful, had the institution developed a reasonably virtuous character. In the case of TRIPS and the life-saving drugs it prohibits from being generically manufactured, for instance, one might argue that having and enforcing strong intellectual property laws is essential, as inventors have a "natural right" to their inven-

tions, and in the long run, providing companies with assurance that their research will profit them will result in more important drugs being produced (Pogge, 2008, p. 227). That many poor people will die because there are no generic and affordable versions of these drugs available to them due to the intellectual property laws is an unfortunate possibility, but is a viable trade-off given the above benefits of these laws. However, the trade-off does not simply happen to go in this direction (i.e. in favor of the intellectual property holder rather than those who are effectively given a death sentence), and Pogge asks why it should “have precisely the contours enshrined in the TRIPS/TRIPS-plus agreements [...] Why should this natural right have exactly the breadth and duration now globalized under WTO auspices?” (Pogge, 2008, p. 227). In other words, the details of the intellectual property laws are not derived from nature; they reflect the biases of the organization and its powerful stakeholders. Additionally, Joseph Stiglitz, former Senior Vice President and Chief Economist for the World Bank, argues that in fact such stringent intellectual property rules for life-saving drugs often do not actually significantly improve profits or incentivize further research because, “the increased profits from sales in the developing world were small, since few could afford the drugs, and hence the incentive effect, at best, might be limited” (Stiglitz, 2002, p. 6-7). The WTO’s commitment to neoliberal ideology and anti-democratic structure ensured that the particular intellectual property provisions now in place were passed, despite the protests of countries like India and Kenya, and despite the evidence that demonstrates that the trade-offs accepted were not morally necessary or beneficial. Had the WTO developed better practices by which such evidence was genuinely considered, and the voices of less powerful nations were genuinely heard, these seemingly unavoidable trade-offs would be seen for what they are: preventable and subjectable to genuine compromise.

5 Conclusion

I have argued that in many cases, negligence ought to be seen as not simply a legal, but also a moral wrong. I have extended Shiffrin’s account of negligence as a failure of character to include certain institutional agents, arguing that institutional negligence is often more morally blameworthy due to the superior epistemic, structural, and deliberative capacities that powerful institutions possess. Because institutions

can more effectively shape their character, anticipate the foreseeable effects of their actions, and distribute the costs of reform, they bear a heightened responsibility to avoid negligent harm.

One of the essay's central contributions lies in conceptualizing institutional character as a morally evaluative category, and in showing how morally culpable negligence by institutions can be assessed through a lens that integrates legal criteria such as duty and breach with character-based considerations centered on the cultivation of institutional virtues. This hybrid framework enables meaningful moral evaluation of institutional actions, even when direct intent is opaque or indeterminate - conditions under which many global institutions, such as the IMF and WTO, have historically escaped accountability.

Moreover, by developing the notion of a “reasonably virtuous institution”, I have offered a moral and institutional counterpart to the legal “reasonably prudent person” standard. This standard provides a way to assess foreseeability and preventability in institutional behavior by considering what a morally well-structured institution could have been expected to do, given its resources and position. The case studies of the IMF's policies in Ghana and the WTO's TRIPS agreement illustrate how institutional character flaws, not simply adverse outcomes, can lead to morally culpable negligence, even in the absence of clear malice.

In advancing these arguments, I hope to have offered an interesting and novel approach to attributing responsibility to institutions in our globalized world. The essay seeks to bridge a gap in normative theory by explaining how institutions can be morally culpable for the harms they cause through negligence, harms that are often rationalized or obscured by appeals to complexity, inadvertence, or structural inevitability.

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