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In Defense of Our Common Goods

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Seumas Miller has written a necessary book for our current political era. *Institutional Corruption: A Study in Applied Philosophy* offers a philosophical taxonomy and diagnostic for what is probably the most intractable problem in human politics, the corruption of public and private institutions so that the wealthy and privileged can raid the larders of the poor for their own enrichment.

We know that the corruption of governance and public welfare institutions, whether at the local, national, or global level, is a source of incredible injustice. Miller's book serves an important purpose in helping us understand the nature of corruption itself, because corruption is a slippery crime to define. We usually know it when we see it, but building legal regimes and institutions that encourage and enforce fairness requires firm definitions if we are to succeed consistently.

As Miller makes this quest for a firm footing of definitions and essential concepts, I cannot help but hear a voice that sounds like Ludwig Wittgenstein whispering about the impossible nature of such an inquiry. Any search for certainty and clarity always risks finding oneself in the role of Don Quixote in his search for purity in a gritty reality, or of Sam Spade assembling an order when all is always already chaos.

### **Corruption as a Violation of Joint Rights**

I may appear to be questioning the possibility of applied philosophy in this book review, and that is true, in a sense. I don't wish to declare applied philosophy literally impossible. As I discuss the benefits and drawbacks of Miller's approach to the problem of institutional corruption, I want to consider how applied philosophy can be done best. There are points in *Institutional Corruption* where Miller expresses an intriguing approach to applied philosophy, and others where a reliance on orthodox approaches leaves his thinking falling short of its potential.

I mean, nobody's perfect.

But the best work in *Institutional Corruption* is its first of three parts, where Miller develops his theoretical account of corruption. The most important and most radical concept in his creative work here is that of joint rights. These are rights which only come to exist through many different interlocking relationships of large numbers of people. Joint rights are rights that can only be exercised as a community, and apply only to the community as an aggregate whole.

The concept of joint rights is, therefore, a powerful rebuke to the dominant concept in the thinking of many contemporary politicians, state leaders, and the corporate barons who lobby them: that a right can be held and manifest only by an individual. Yet our rights cannot be fully reduced to our individuality, since the relationships through which we claim our rights are among individuals. Joint rights manifest through social relationships, and

enough social relationships constitute the most primitive institutions, the social regularities of custom and ritual.

Our claims to rights as individuals and through groups express the purpose of social institutions from the least formal to the most sedimented – to provide common goods in a fair process. Miller’s entire analysis of institutional corruption spreads from this point. When individuals who take on roles in those institutions interrupt those common goods from their proper provision for any reason, that constitutes institutional corruption.

### **When There Is Nothing to Gain from Corruption**

The best element of Miller’s analysis is that he remains neutral on the particular reasons and motivations for actors to sabotage their own institutions’ abilities and capacities to deliver common goods to the populations in their remit. This avoids the central problem with the most common sense understanding of corruption, that it is to undermine the fair functioning of a public or powerful private institution for personal gain.

Miller’s conception of corruption covers instances that we often feel instinctually are corruption, but which are not directly related to personal gain. There are reasons for corruption rooted in group identity that are not reducible to personal greed, forms of institutional corruption that go beyond the typical crime of corruption: such as racial bias in the police and prison system, or professional cultures in a health system that result in women receiving poorer medical care.

These tendencies corrupt public institutions because they interfere with their fundamental purpose of providing common goods to all. No individual in an institution necessarily gains from, for example, a housing policy that prevents ethnic minorities from building financial prosperity in their communities. Certainly, the corruption is not as obvious as when an official speeds a development application in return for a bribe. But such a policy corrupts an institution because it accords disrespect to people who should be treated with charity.

Acknowledging joint rights and analyzing the material processes in a living society which constitute them gives further support for a more communitarian approach to politics to overcome the failed ideologies of competition that choke our media. This is the single greatest contribution that *Institutional Corruption* gives to the actual fight against government and corporate corruption, which so urgently threatens our democratic societies.

### **Quis Custodiet Ipsos Custodes?**

The book is a work of applied philosophy, but it is worth paying attention to how far that application can go. The task of fighting corruption of our institutions is a noble and necessary one. The mission of Miller’s work is especially important, given the massive growth of corruption and kleptocratic culture in public institutions, even in countries that have for decades been leaders of the democratic world, like the Trump government in the United States.

But while our needs for anti-corruption thinking and action is urgent, there remains a problematic gap between Miller's targeting, and real strategies to implement that goal. This is the core problem of the second half of *Institutional Corruption*, which examines ways to build institutions that prevent the corruption of institutions. He focusses on different approaches to building institutions, which are either separate from or folded within other institution, which monitor and investigate members' activities for potential bribery or other interference with achieving institutional purposes.

Miller calls these monitoring institutions *integrity systems*. While important, any integrity system is still an institution, and so itself is amenable to corruption. Members can, for whatever motive they may develop for themselves, give up on or actively obstruct the common good whose responsibility an institution holds.

Anyone in any institution can lose the virtue required to maintain their devotion to the common good. Obviously, politicians, agents, and officials who corrupt an institution lack *virtue*. If you are a government official who accepts a bribe, your virtue as an individual is weak. Maybe you work for a chronically underpaid department, and this weakens your personal resolve against taking bribes. Maybe you work in an institution whose culture is thoroughly corrupt.

Consider, for example, the New York Police Department in which Frank Serpico found himself, where every officer took some level of mafia bribe. This is a straightforward, common sense situation of corruption a public institution for private gain.

Consider also the example of Kim Davis, the government clerk who refused to carry out a legal judgment demanding fair treatment to same-sex couples because of her extremist Christian religious beliefs. She made no personal gains from her decision, and in fact has suffered financial penalty for her actions. Nonetheless, she is an agent of corruption for putting her individual religious convictions above the common good.

These two examples show the benefits of Miller's view of corruption, in that we can understand how motives that do not focus on greed and personal enrichment, like religious extremism, also lead to forms of corruption. But they also illustrate the limitations of integrity system.

Miller devotes many chapters to describe the structures and necessary rules and regulations for any integrity system. But being an institution, an integrity system can also be corrupted by a deficit in virtue. Serpico was nearly killed because the integrity system of the NYPD, its Internal Affairs division, was just as corrupt as the beat cops he worked with. If the United States court system were filled with extremist Christians like Kim Davis, her obstruction of common goods for Kansas' county clerkships would have been celebrated and encouraged.

Miller has identified the roots of corruption as virtue's degradation. But his solution, the integrity system institution, is just as vulnerable to virtue's degradation as any other institution.

## **How a Real Case Shows a Theory's Shortfall**

Consider a case of corruption in the moral and cultural sense that Miller discusses. I am not discussing the following case in a legal context, whether some political leader or his staff engaged in activity that strictly broke the law. That is up to the parliament in question and any investigators that eventually become involved.

This is a case of corruption in government institutions, where a culture of favour-trading and cozy lobbying has set in between government and corporate leaders over generations. Given what I have discussed about the limits of Miller's analysis, consider what can be done to change such a culture.

As of this publication, the OECD's Working Group on Bribery has rebuked my own country's government because of Prime Minister Justin Trudeau's attempt to shield a well-connected Canadian engineering firm from charges of bribery at a scale of many millions of dollars. Trudeau first ordered a halt to the investigation, then demoted his own Justice Minister and Attorney-General when she informed him of how incredibly illegal and unethical it was for him to interfere with criminal prosecutions already in progress.

The primary corruption here is not the acts of bribery themselves, which was a matter of a significant Canadian engineering firm engaging in the routine corruption of doing business in Gaddafi's Libya, on a disgustingly large scale. The primary corruption here is the ease with which those guilty of bribery used their friendly connections with the Prime Minister's Office to escape accountability. They have eroded the ability of the government to provide the common good of impartial justice.

No institution exists in the Canadian state that is immune from cynicism and cronyism overtaking virtue in safeguarding the people's common good. Not even the Canadian Parliament itself, as the Liberal Party majority is obstructing further investigation into the Prime Minister's pressuring the Justice Minister / Attorney General.

How we understand that imperfection determines how pessimistic or optimistic we allow ourselves to become, at the prospect of a society genuinely free of corruption.

## **The Strongest Wall Between Is and Ought**

Canadians who continue to fall into our myth of national virtue would do well to consider what the Honourable Puglass Jody Wilson-Raybould revealed in her testimonies against Prime Minister Trudeau and his party's leadership. No one's virtue is so great that they need never worry about falling.

Wilson-Raybould also carries a name in her people's language, Kwakwaka'wakw. Puglass means, in that language, a woman born to a noble people. It is fitting that, in being punished for refusing the ubiquitous corruption of the Liberal Party's culture, she holds a position of the highest virtue.

It is to this example of Puglass, as well as those of Frank Serpico and Kim Davis that I have mentioned in this review, that Miller should look to understand his book's shortcomings. No matter how many institutions of integrity systems we have, there can be no institutional redress to institutional corruption that itself cannot become corrupted.

What can answer this shortcoming of Miller's thinking in the case of Puglass? Begin with these words of Niccòlo Machiavelli in the *Discourses on Livy*:

“The return of Republics back to their principles in part results from the simple virtue of one person, without depending on any law that excites him to any execution: none the less, they are of such influence and example that good men desire to imitate him, and the wicked are ashamed to lead a life contrary to those examples.”

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