



## Review of Emanuela Ceva and Maria Paola Ferretti, *Political Corruption: The Internal Enemy of Public Institutions* (Oxford: Oxford University Press 2021)

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Political corruption has a ‘double nature’: it can manifest in individual and also in institutional action. (p. 45) In *Political Corruption: The Internal Enemy of Public Institutions*, Emanuela Ceva and Maria Paola Ferretti ambitiously aim to supply a unified explanation for these phenomena by means of a careful analysis of the metaphysics of institutions. They identify a ‘shared structural root’ of corruption in its individual and institutional forms: the interdependent nature of officeholders’ exercises of official power within any given institution. (p. 45) The authors then relate their theory causally to the kinds of negative consequences on which some other views focus, and they develop a plausible decision-making framework to be used when deontological duties and consequentialist considerations appear to conflict. (pp. 109–11)

Ceva and Ferretti’s contribution to the political corruption literature is distinctively valuable because their theory is well-suited to structure ethical deliberations by individual public officials who wish to do the right thing. Its primary weakness lies in the authors’ failure to firmly anchor the reciprocal norms that bind institutional insiders to the rights of the general public. However, this weakness is not fatal to the authors’ deontological strategy. A future extension of their work could anchor the mutual rights and duties of institutional insiders to a more plausible moral foundation: a conception of ‘the people’ as a unitary constructive agent.

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## 1 Institutional Roles and Office Accountability

Ceva and Ferretti conceive of an institution as a system of human-occupied roles. (pp. 22–23) Each of these roles is constituted by a mandate and conjoined set of powers: ‘tasks, and rules regulating the performance of those tasks’, in Seamus Miller’s clarifying terms.<sup>1</sup> These occupied roles constitute a *single* system—and therefore a single institution—in virtue of two further facts. First, the roles are interdependent, meaning that ‘the performance of the constitutive tasks of one role cannot be undertaken, or cannot be undertaken except with great difficulty, unless the tasks constitutive of some other role or roles in the structure have been undertaken or are being undertaken.’<sup>2</sup> (p. 23) Second, the system of roles can be understood by reference to the institution’s ‘raison d’être’—a unifying norm defined in terms of institutional functions.<sup>3</sup> (pp. 23, 96)

An institution’s *raison d’être* and system of interdependent, human-occupied roles together constitute a distinct normative order, which gives officeholders a set of reciprocal moral rights and duties. (pp. 97–98) ‘Office accountability’ is the general term that the authors use to refer to these institutional duties. (p. 96) The conduct of a particular public official exhibits office accountability just in case that official is in a position to vindicate the rationale underpinning any given use of public power as coherent with the set of tasks (collectively the ‘mandate’) that defines that official’s institutional role. (p. 96) Every officeholder ought to engage only in conduct that they can account for to their institutional colleagues in this way, and each officeholder likewise has a reciprocal authority to hold institutional colleagues accountable for those colleagues’ uses of official power. (p. 96)

## 2 Political Corruption: Individual and Institutional

Political corruption is, by definition, a deficit of office accountability. (p. 45) A specific action is politically corrupt just in case it is a use of public power by an official to pursue an agenda, the rationale of which cannot be vindicated as coherent with the terms of that official’s mandate. (pp. 10, 14, 19, 22, 39) Ceva and Ferretti never explicitly define the terms ‘agenda’ and ‘rationale’, nor are they standard terminology in the wider literature. Fortunately, their book includes many clarifying examples, which indicate that the word ‘agenda’ refers to any specific use of a power of office and the word ‘rationale’ refers to an officeholder’s subjective motivation for pursuing a particular agenda.

<sup>1</sup> Seamus Miller, “Social Institutions”, Stanford Encyclopedia of Philosophy, available at <https://plato.stanford.edu/entries/social-institutions/> <accessed 18 May 2023>

<sup>2</sup> Miller.

<sup>3</sup> Ceva and Ferretti acknowledge that an institution’s *raison d’être* is ‘neither internally monolithic nor diachronically static’ and remain maximally ecumenical on the thorny question of how the *raison d’être* of an institution is determined. (p. 23).

Ceva and Ferretti analyse several hypotheticals involving Sophia, the head of a public administrative department. (p. 4) Sophia's mandate is to ensure that the department as a whole fulfils its *raison d'être*. To accomplish this mandate, she is entrusted with a set of powers, including the power to hire staff. Sophia's agenda—the specific use she makes of her hiring power—is to hire Mark to fill a vacancy in her department. In the original version of the story, Sophia chooses Mark over a better-qualified candidate because Mark owes Sophia money, and he has promised to pay her back out of the salary he will earn in his new job. (p. 4) Sophia's conduct would be corrupt according to most theories, but Ceva and Ferretti offer a distinctive explanation for why this is the case: Sophia's 'rationale'—her private motivation—cannot be vindicated by reference to the terms of her mandate of office. (p. 7) Sophia's use of her hiring power therefore exhibits a deficit of office accountability: she is in no position to offer her colleagues an account of how collecting on her private debt advances her department's *raison d'être*.

Corrupt conduct need not be self-seeking, as Ceva and Ferretti demonstrate by tweaking the facts of Sophia's case. Alternative rationales for Sophia's choice to hire Mark include Mark's admirable political commitments, Mark's needy family (who will suffer if he is not hired), or Mark's membership in a marginalised minority group. (p. 5) The authors judge Sophia's conduct to be corrupt in every case because none of these considerations cohere with Sophia's mandate to ensure that her department fulfils its *raison d'être*. It is not her mandate to make the world a better place in general.<sup>4</sup> (pp. 7–8) Ceva and Ferretti would thus identify many instances of official conduct as corrupt that do not arise from the base motives that typically feature in public scandals.

After the authors present the above account of political corruption in the context of individual decision-making, they advance a 'continuity thesis' concerning its institutional counterpart:

Institutional corruption can always and only be understood by spelling out the relation between the functioning of institutional roles and the individual officeholders' uses of power. Any time we call an institution corrupt, we're actually using a shorthand expression to signify a kind of institutional *action*. Political corruption thus refers to corrupt institutional practices instantiated by the interrelated conduct of the officeholders in an institution. (p. 55)

An institutional practice is constituted by a 'pattern' of individually corrupt officeholder conduct. (p. 55) Such patterns arise due to the interdependence of institutional roles: the mismatch between private rationale and public mandate that defines an individually corrupt act will make it more difficult for a corrupt official's institutional colleagues to discharge their own responsibilities ethically. Ceva and

<sup>4</sup> One wonders what Ceva and Ferretti would make of the recent trend towards 'environmental and social governance', a management decision-making framework according to which all exercises of entrusted power should 'contribute to an equitable and sustainable world'. Judith Rodin and Saadia Madsbjerg, *Making Money Moral: How a New Wave of Visionaries Is Linking Purpose and Profit* (Philadelphia: Wharton School Press, 2021), p. xi.

Ferretti take an institution to be corrupt insofar as its patterns of officeholder conduct cannot be vindicated with reference to the institution's *raison d'être*. (pp. 56–57)

Ceva and Ferretti are at pains to distinguish their account from the prominent 'institutionalist' theories of corruption developed by Dennis F. Thompson and Lawrence Lessig. These institutionalists, the authors write, 'view institutional mechanisms as separate from the action of the...officeholders' and therefore 'cannot give an appropriate account of the mechanisms through which political corruption occurs'. (pp. 47–48) This discontinuity, they suggest, arises from an unduly narrow conception of individual corruption according to which an official's conduct is only corrupt if it is motivated by 'personal gain'. (p. 49)

This is arguably uncharitable. Thompson and Lessig both contrast institutional corruption with the kind of narrow self-seeking targeted by the criminal law.<sup>5</sup> But neither theorist denies that officeholders' subjective motivations play an essential role in any case of institutional corruption. Lessig develops his own continuity thesis in a lengthy and insightful analysis of the so-called 'economy of influence' surrounding the U.S. Congress.<sup>6</sup> Lessig describes this professional ecosystem as a classic 'gift economy': no two things of monetary value are ever directly exchanged, but participants follow strong norms of reciprocity sustained by feelings of trust, loyalty, and even friendship engendered over the course of repeated encounters.<sup>7</sup>

Lessig and Thompson each explicate institutional corruption in terms of individual officeholders' improper private motivations in specific examples. Lessig cites a senator's belief that he had 'a moral obligation to defend' insurance companies because they had previously contributed to his campaigns.<sup>8</sup> Thompson describes loyalty to a zealous single-issue pressure group as a distorting influence on official decision-making.<sup>9</sup> Such examples can easily be recast in Ceva and Ferretti's terms: these officials are pursuing agendas on the basis of rationales that cannot be vindicated as coherent with their mandates of office.

The primary disagreement between Lessig and Thompson, on one hand, and Ceva and Ferretti, on the other, might actually be their competing psychological models. Lessig and Thompson take a gentler rhetorical tone with improperly motivated officials in part because they think self-deception is common in corrupt systems. Thompson describes lawmakers who eagerly sought reasons to doubt the probity of evidence that smoking causes cancer because they 'could not have brought themselves to vote against the cigarette advertising bill if they believed that smoking caused cancer'.<sup>10</sup> Lessig avers that 'it is quite plausible that "intent" to repay a gift happens completely subconsciously'.<sup>11</sup> Ceva and Ferretti, by contrast, seem to

<sup>5</sup> Examples include Lawrence Lessig, *Republic, Lost* (New York & Boston: Twelve, 2011), pp. 227–28; Dennis F. Thompson, *Political Ethics and Public Office* (Cambridge & London: Harvard University Press, 1987), p. 41.

<sup>6</sup> Lessig, n. 6 above, pp. 104–15.

<sup>7</sup> Lessig, n. 6 above, p. 111.

<sup>8</sup> Lessig, n. 6 above, p. 132.

<sup>9</sup> Thompson, n. 6 above, p. 98.

<sup>10</sup> Thompson, n. 6 above, p. 112.

<sup>11</sup> Lessig, n. 6 above, p. 114.

presuppose a more Kantian view of motivation according to which it is not possible to do the wrong thing for the right reason if one is fully informed of the relevant facts.<sup>12</sup>

### 3 A Deontological Theory

Ceva and Ferretti's theory is nonetheless distinctive in a valuable way: it is a purely deontological theory. (p. 80) Their theory is deontological in virtue of the fact that it compares only an officeholder's rationale—and not the officeholder's associated agenda itself—to that officeholder's mandate to test for coherence. (p. 7) This choice sometimes yields results that differ from those that would be reached according to most theories. For example, the authors imagine a scenario in which Sophia has a 'lucky day': when the time arrives to interview job applicants, no one except Mark shows up to vie for the job. Although Sophia's decision to hire Mark in such circumstances will look 'formally impeccable', the authors question whether she should 'sleep tight, free of fear that she acted in the wrong manner' by hiring the only candidate who presented himself. (p. 7)

Ceva and Ferretti think that their deontological theory has at least two important advantages over alternative accounts. First, it can make sense of cases in which we intuitively feel that conduct is corrupt even though it seems not to impair institutional function. (p. 91) The authors suggest, for example, that Jared Kushner was more likely to successfully advance Donald Trump's policy agenda from the White House than anyone else President Trump could have appointed. (p. 92) Kushner suggested to the media that his personal relationship with the president uniquely enabled him to be effective in areas such as international trade and criminal justice reform. (p. 93) Yet, Kushner's appointment still smacks of corruption to many observers, and Ceva and Ferretti can explain why: widespread suspicion that Trump's *rationale* for appointing his son-in-law had little to do with public policy and quite a bit to do with Trump's private interests in making money and avoiding scrutiny.

Second, the principle of office accountability at the heart of the authors' deontological approach is a *regulative idea*. (pp. 30, 37) That is, it is no mere principle of 'answerability' useful for assigning blame in connection with past conduct, although the authors make some recommendations in that area as well. (p. 125) Instead, the idea of office accountability is primarily useful for structuring the ethical deliberations of officeholders as they consider potential uses of their public power. (pp. 25–26) It is on this basis that Ceva and Ferretti present their work as filling an important gap in the broader literature, and they have a point. Institutional theories that consider negative consequences to be a definitionally necessary feature of political corruption can generate valuable practical guidance for those who create and reform institutions, but they are less well-suited to guide prospective ethical deliberation. Ethical conduct in public office is challenging.

<sup>12</sup> See generally Ralf M. Bader, "Kantian axiology and the dualism of practical reason", *Oxford Handbook of Value Theory* (OUP, 2015), pp. 175–201.

Ceva and Ferretti have met an important need by developing a theory to assist well-meaning individuals and institutional communities in their efforts to meet this challenge.<sup>13</sup>

#### 4 Implausible Moral Foundation

If Ceva and Ferretti's rigorous book fails to convince readers, it will likely be due to their failure to explicitly anchor their theory to any more compelling moral foundation than professional relationships between institutional colleagues. The duty of office accountability, which they consider the 'primary component of a public ethics of office', is a duty that officeholders owe to each other as co-participants in the distinctive normative order that arises from a system of human-occupied roles that constitute an institution. (p. 100) To adhere to this duty to one's colleagues is to practice 'interactive justice'. By contrast, acts of political corruption are definitionally deficits of office accountability and thus instances of 'interactive injustice'. (p. 100) Throughout the book, the way in which these conceptual choices are presented seems to commit Ceva and Ferretti to an extremely implausible moral claim: that the primary, and only definitionally necessary, victims of political corruption are *wrongdoers' own professional colleagues*.

Consider the authors' analysis of a teacher's duty to assess students impartially, without regard for personal sympathy or the prestige of a student's family:

[This duty] is not just a matter of honouring either a voluntary contracted professional obligation or a general moral commitment to fair treatment, nor is it just grounded in the instrumental value of this line of conduct in view of the educational purposes of the schooling system. The normative source of this duty is in the normative order of role-based relations within which her action acquires a sense as it is considered in the interrelation with that of her fellow members. These are the role-based relations that the teacher entertains with the other teachers who teach to that class, but also with the school staff, e.g., the administrators...Officeholders directly owe the fulfilment of this duty to each other, and not merely to a third-person authority... (p. 98)

Teachers surely have obligations to their co-workers. But the authors' decision to place these collegial duties—rather than 'just' a promise made in return for a tax-funded pay check, 'merely' the authority of a public legislature, or even a moral commitment to fair treatment of the students in their care—'at the core' of their explanation of why biased grading would be corrupt is strikingly counterintuitive. (p. 101)

The teaching example is no outlier; it reflects Ceva and Ferretti's primary methodological commitment. If a politician hires her spouse as chief of staff for the private purpose (that is, 'rationale') of saving her marriage, her wrongdoing supposedly 'consists in an alteration of the relational patterns between officeholders'.

<sup>13</sup> They strive to 'offer a more determinate guidance for individual and institutional action'. (p. 94).

(p. 99) Even the famous ‘Keating Five’ savings and loan scandal, a mainstay of the political corruption literature, is described as an example of ‘interactive injustice’ between professional colleagues in the U.S. Senate—a group in which the authors seem to include disgraced lobbyist Charles H. Keating himself (‘as a citizen and funder of the senator’s electoral campaign’), but which could not, without making the concept of an ‘officeholder’ useless, include the general public: the beneficiary on whose behalf the fiduciary U.S. Senate ostensibly acts.<sup>14</sup> (p. 103)

The result often looks like an oddly myopic, even incestuous account of a phenomenon that most people, and indeed most theorists, see centrally as a betrayal of *public* trust. The idea of wronging the public, either directly or indirectly, appears to play no load-bearing role in Ceva and Ferretti’s theory of political corruption. One worries that, despite their rigour, Ceva and Ferretti have simply missed the point.

## 5 Relation to End-State Justice

To be sure, Ceva and Ferretti devote the latter half of Chapter 4 to explaining how their deontological theory relates to the central concerns of theories that understand political corruption to be ‘a form of end-state injustice’. (p. 106) This relationship is causal and contingent: political corruption may, but need not, have ‘negative consequences on the distributive patterns of people’s subjective moral rights’. (p. 106) The authors offer some helpful examples:

[P]atronage may entail an unequal distribution of people’s rights to fair job opportunities; Bribery may infringe upon rights to fair play; and vote buying may hinder the distribution of citizens’ rights to democratic participation. (p. 106)

Ceva and Ferretti also explain that political corruption can have ‘distributive-justice-enhancing’ effects in dysfunctional institutions. (p. 108) For example, straightforward cash bribery may remediate unjust patterns of public welfare spending caused by clientelism. (p. 108)

Justice has ‘two dimensions’, according to the authors: interactive justice and end-state justice. (p. 123) After describing the causal relationship between them, Ceva and Ferretti fashion these two sets of concerns into a broader practical framework for morally evaluating officials’ conduct in non-ideal conditions. An official act that is unjust in both dimensions will always be wrong all things considered. (p. 109) By contrast, an act that is ‘verified’ to be unjust in one, but not both, dimensions is only

<sup>14</sup> Corruption is best understood as a breach of fiduciary theory. The distinction between agent and patient is essential to make sense of the rights and obligations attendant to any fiduciary relationship. M. E. Newhouse, “Institutional Corruption: A Fiduciary Theory”, *Cornell Journal of Law and Public Policy* 23(3) (2014): pp. 553–94.

*pro tanto* wrong and therefore may be excused depending on the overall circumstances of the case.<sup>15</sup> (pp. 109, 113)

Ceva and Ferretti also make an important distinction between *pro tanto* wrongs, which leave officials with dirty hands even when they are morally excused all things considered, and acts that are merely *prima facie* wrong. (p. 110) The latter category includes act types that *would* violate an official's duty of office accountability if only it were not the case that the institution in question—like Nazi Germany—fails to constitute a binding internal normative order due to its 'deeper injustice'. (p. 111) In such cases, any appearance of interactive injustice is merely an illusion.

Overall, Ceva and Ferretti's discussion in this chapter is innovative and worthy of serious study. It is a plausible effort to bridge the gap between deontological and consequentialist conceptions of political corruption. But one thing it cannot do is ameliorate the concern that Ceva and Ferretti's deontological theory lacks a plausible moral foundation. It is telling that the end-state injustices that the authors describe are inevitably wrongs to individuals. Their synthesis thus extends rather than transcends the methodological individualism of their primary theory, leaving a further gap unbridged: the conceptual gap between the plurality of individuals who reside within a state and the constructive agent into which they are united as members of a legitimate state.

## 6 Finding a Foundation

Ceva and Ferretti's theory of political corruption would be more plausible, yet would retain its deontological character, if the authors developed a richer account of the relationship between a public institution's *raison d'être* and the deontological rights of 'the people' considered as a unity. An institution's *raison d'être*, we are told, is the norm that unites a system of interdependent roles into a distinct institution within which office-holders owe one another reciprocal duties of office accountability. (p. 23) But what kind of authority can create such a norm? Ceva and Ferretti never address this question, although they seem to presuppose that public institutions can be legally authoritative.<sup>16</sup>

The enlightenment-era social contract idea of the 'general will'—so often deployed to answer this question about the basis of state authority—could be a

<sup>15</sup> This is an intelligible and plausible claim with respect to cases involving acts that we know to be unjust in the deontological, interactive dimension: their *pro tanto* wrongness will be morally excused if the end-state injustices that would arise (or perhaps persist) from adhering to office accountability instead are sufficiently dire. This is standard threshold deontology. I was less sure how this would work the other way around. Consider an act that creates a 'verified' end-state injustice. According to Ceva and Ferretti, this act is merely *pro tanto* wrong and thus potentially excusable. What further circumstances would we consult in order to decide whether or not it is excused? Interactive injustices are deontological and therefore presumably not scalar, so is this a binary question of whether or not omitting the act would be interactively unjust? And if so, wouldn't the *pro tanto* (rather than all-things-considered) status of acts that cause end-state injustices be limited to the set of such acts that cause end-state injustices below the excusatory threshold? I leave these puzzles for the reader.

<sup>16</sup> For example, they write: 'if a random stranger knocks on my door and demands that I give her some money, she is a thief; but if this stranger is a tax collector, she has a right to demand that I give her money and I have the duty to give it to her.' (p. 24).



promising potential moral foundation for Ceva and Ferretti's theory of political corruption. Immanuel Kant, for example, divides wrong actions into two partially overlapping types.<sup>17</sup> An action is privately wrong if it violates the rights of other individuals, including in the ways contemplated by Ceva and Ferretti in their discussions of end-state injustice. An action is publicly wrong if it violates public right: the right we have as a unified people.<sup>18</sup> Any use of public power for a private end is wrong because it is a misappropriation of power that belongs to the people considered as a unity. Such a misappropriation is wrong regardless of whether or not it results in any end-state injustice.

An extension of Ceva and Ferretti's theory along these lines would have at least two further benefits. First, it would enable them to offer a more robust explanation for their conclusion, in the context of an example drawn from Nazi Germany, that 'deeply unjust' institutions cannot create duties of office accountability. Second, it would firmly establish the public boundaries of their theory. In a very brief discussion, the authors seem to equivocate between characterising their theory as distinctively public and suggesting that this is more of a subject matter limitation intended to keep the scope of the project manageable. (p. 24) A version of their theory that was explicitly founded upon the rights of the general public would be more clearly a theory of *political* corruption rather than a more broadly applicable theory of institutional corruption.

## 7 Conclusion

Ceva and Ferretti's new book is a careful, well-organised exposition of a rigorous and wide-ranging new theory of political corruption. It deserves careful attention from other corruption theorists. Moreover, their theory's unique suitability for structuring the prospective ethical deliberations of institutional insiders makes it a worthy object of study for professionals charged with developing anticorruption programmes in public institutions. The intuitive appeal of the authors' theory would be strengthened if the authors chose to develop a richer account of its moral foundation in future.

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<sup>17</sup> See M. E. Newhouse, "Two Types of Legal Wrongdoing", *Legal Theory* 22(1) (2016): pp. 59–75.

<sup>18</sup> For an explanation of the way in which a constructive group agent can be wronged, see M. E. Newhouse, "The Legislative Authority", *Kantian Review* 24(4) (2019): pp. 531–53.