

Who Is Responsible for Harm in Immigration Detention? Models of Accountability for Private Corporations

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About the Global Detention Project

The Global Detention Project (GDP) is a non-profit research centre based in Geneva, Switzerland, that investigates the use of detention in response to global migration. The GDP's aims include: (1) providing researchers, advocates, and journalists with a measurable and regularly updated baseline for analysing the growth and evolution of detention practices and policies; (2) facilitating accountability and transparency in the treatment of detainees; and (3) encouraging scholarship in this field of immigration and refugee studies.

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Abstract: This paper argues that private corporations can and should be held responsible for structural injustices that take place in immigration detention regimes in which they operate. It draws on literature from business ethics to evaluate various ethical arguments for assessing corporate responsibility, emphasising models that may lead to the prevention of harm and suffering. In particular, the paper employs a social connection model of ethics as well as evidence of detention practices in Europe, the United States, and Australia to address a number of inter-related questions: How is immigration detention harmful? Who is responsible for this harm? How can responsible institutions reduce harm? The paper concludes by arguing that in addition to corporations and states, citizens and non-citizens have obligations to share in efforts to reduce the harm of immigration-related detention.

Introduction

An important aim of many scholars in migration studies has been to identify moral arguments defending the rights of non-citizens. This effort tends to be framed within broader debates concerning access to justice, human rights, globalisation and neo-liberalism, state transformation, and inequality. The benefits of open borders, scrutinizing the complex interrelationship between border security and migrant suffering, and critically interrogating detention and deportation systems are three of the main focus areas in recent scholarship. These discussions have enriched our understanding of how structural violence and social control interact and shed new light on how pro-migrant advocates can frame opportunities for action.

Concurrently, there is a growing body of interdisciplinary literature regarding democratic accountability and responsibility for harm and suffering,¹ including in particular with respect to corporate moral responsibility.² What has yet to be fully developed in the literature, however, is a focus on how corporations contribute to the harm and suffering of migrants, and how best to address this issue. For example, a recent overview of immigration ethics in a Special Issue of the *Critical Review of International Social and Political Philosophy* fails to include a discussion of corporations, despite the fact that privatisation and externalisation have been

¹ "Harm" has been conceptualized in multiple ways. See, for instance, Hausman (1986), Linklater (2001), and Young (2003, 2004). Although she does not explicitly define it, Young (2003, 2004, 2006) implicitly conceives of harm as unjust suffering, abuse, or deprivation associated with a reduction of individual capability, which may be the effect of either (a) an identifiable individual or (b) social structure(s). Young's definition of harm conceives of "suffering" as a state of feeling bad, which impacts one's capability to act meaningfully.

² This paper sidesteps the literature on "corporate social responsibility," in part because CSR has become "a product or service strategy designed to sustain competitive advantage" and can serve as "a form of 'greenwashing'" of corporate activity (Banerjee (2008, pp. 61, 64). The paper focuses instead on moral responsibility and migration, emphasising the individual and the corporation as moral agents not acting beyond structures of injustice.

two of the major focuses of immigration scholarship over the past two decades (Akakpo & Lenard, 2014; Carens, 2014).

This paper intends to help address this gap by critically scrutinizing the roles that private corporations can play in the harm and suffering of migrants. How can we theorize the involvement of for-profit actors in the treatment of migrants? Should corporations facilitate access to justice or be held accountable when migrants are harmed?

Migration has become big business, as many scholars have pointed out (Gammeltoft-Hansen & Sorensen, 2013; Salt & Stein, 1997). Among the most important areas of growth in this regard has been immigration-related detention as private companies have become increasingly involved in countries across the globe in operating detention centres, lobbying for relevant laws and policies, and expanding the range of their activities (Flynn, 2015; Flynn & Cannon, 2009). Nevertheless, discussions of immigration detention in normative and ethical theory, like the connection between the corporation and migrant harm, have been relatively rare “despite the harms caused by the practice” (Silverman, 2014, p. 607).³ Thus, this paper focuses particular attention on corporate responsibility for migrant harm and suffering in detention systems.

This paper begins by comparing Iris Young’s social connection model to alternative models of corporate responsibility in order to theorize the structures and institutions that contribute to harm and suffering, as well as the roles that private corporations have in these structures. The paper then turns its attention to immigration detention, addressing three interrelated questions: How is immigration detention harmful? Who is responsible for this harm? How can responsible institutions reduce harm? I conclude that in addition to corporations and states, citizens and non-citizens alike have obligations to share in efforts to reduce the harm of migrant detention.

Structural Injustice and the Social Connection Model

Iris Young’s “social connection model” argues that “all agents who contribute by their actions to the structural processes that produce injustice have responsibilities to work to remedy these injustices” (Young, 2006, pp. 102-103). In contrast to the “liability model” of justice prevalent in much legal reasoning,⁴ the social connection model deals with shared responsibility without resorting to individual liability, “because the harms are produced by many of us acting together within accepted institutions and practices, and because it is not possible

³ Silverman (2014) identifies four reasons why immigration detention has not figured strongly on the radar of normative and ethical theorists: (1) the relative novelty of the expansion of immigrant detention; (2) difficulties in defining and analysing the phenomenon because of its social complexities and insufficient data; (3) the lack of political-ethical vocabulary to discuss it; and (4) its normative complexity nested within immigration admissions debates. One interesting exception is the work of Caloz-Tschopp (1997), who critiques immigration detention as a crucial test for democratic rights in an era of state transformation under conditions of globalization.

⁴ The liability model “seeks to identify liable parties for the purposes of sanctioning, punishing, or exacting compensation or redress” (Young, 2011, p. 98).

for any of us to identify just what in our own actions results in which aspects of the injustice that particular individuals suffer” (Young, 2011, p. 110).

According to Young, harm (or injustice) is produced collectively and structurally. Structural injustice is defined in relation to collective deprivation of capabilities or capacities—that is, the deprivation of a person’s opportunities “to be” or “to do” (Robeyns, 2011). In Young writes (2006, p. 114):

Structural injustice exists when social processes put large categories of persons under a systematic threat of domination or deprivation of the means to develop and exercise their capacities, at the same time as these processes enable others to dominate or have a wide range of opportunities for developing and exercising their capacities.

Thus, structural injustice is distinct from the morally wrongful actions of individuals or states because it arises “as a consequence of many individuals and institutions acting in pursuit of their particular goals and interests, within given institutional rules and accepted norms” (Young, 2006, p. 114). Everyone who participates in the structure is responsible for perpetuating the “deprivation of capacities” as they take part in socio-structural processes that perpetuate them without being identified as a singular entity that can be held liable for a specific action. Obligations arise because of connections to social processes: “The social connection model of responsibility says that individuals bear responsibility for structural injustice because they contribute by their actions to the processes that produce unjust outcomes” (Young, 2006, p. 119). In contrast, the liability model identifies a distinct individual (or institution) that has directed and/or contributed to morally wrongful outcomes.

The social connection model provides us with a conception of assigning (moral) responsibility that extends beyond individual (legal) liability to include morally wrongful outcomes situated among individuals acting in concert according to the rules, positions, relations, spaces, and temporalities of social institutions. Individuals are connected to structural harms, but not liable in the legal sense. “Coordinated action” and “collective projects” (Young, 2006, pp. 102-103) that generate harmful outcomes (such as deprivation or domination) include individuals with specific roles and relations who act according to institutional rules applicable to particular spaces and times. Thus, criminal or tort liability does not suffice to assign responsibility (Young, 2011, p. 105):

Our responsibility derives from belonging together with others in a system of interdependent processes of cooperation and competition through which we seek benefits and aim to realize projects. ... All who dwell within the structures must take responsibility for remedying injustices they cause, though none is specifically liable for the harm in a legal sense. Responsibility in relation to injustice thus derives not from living under a common constitution [as a Rawlsian position might advocate], but rather from participation in the diverse institutional processes that produce structural injustice.

In this model, an individual's relative connection—or "proximity"—to harm is less important than his or her position within the social structure that (re)produces harm. Thus, the social connection model emphasizes the "relation" and "position" of those who participate in processes that produce and reproduce injustice. If a person is involved in a structure that generates injustice, he or she has a responsibility to transform the structure to remedy the injustice. Even structurally weak actors or actors positioned on the margins incur responsibilities. In this manner, Young draws in not only powerful agents who produce suffering, but also those who are suffering.

If we follow Young's proposition, we arrive at a revised-Kantian cosmopolitanism that extends globally, beyond the community (or the state). Blameworthiness, personal responsibility, and group responsibility are important for Young, but inadequate for addressing structural injustice that extends beyond the borders of the state. Young writes that "each of us expects justice toward ourselves, and others can legitimately make claims of justice on us" (Young, 2011, p. 105). Responsibility is this "shared" rather than collective or causal.⁵

Shared responsibility, in Young's (2011, p. 110) words, "is a personal responsibility for outcomes or the risks of harmful outcomes, produced by a group of persons." Since the specific role that an individual plays within the social structure may not be identifiable ("isolated"), the responsibility for injustice is diffuse, communal, and shared within the context of a relational structure.

To apply this model to corporations, it is important to understand *who* is responsible and ultimately accountable: the individual moral agent acting within the corporation or the corporation itself as moral agent (Dempsey, 2013; Goodpaster & John B. Matthews, 1982; Soares, 2003). At the risk of being overly broad, we can distinguish between three main arguments: **(1)** that corporations cannot be treated like persons, and thus do not have moral responsibilities; **(2)** that corporations are composed of individuals who have responsibilities; **(3)** that corporations have responsibilities as collectives of individuals who participate in decision-making structures or have a distinct "corporate culture" that is responsible for outcomes. Each position is derived from alternative views of what constitutes moral agency (either individual or collective).

There are at least four alternative models for determining the kinds of responsibilities that flow from the three arguments listed above: **(1)** the property model, which broadly argues corporations do not have responsibilities beyond making profit; **(2)** the entity model, which argues that corporations have responsibilities to "stakeholders"; **(3)** the leverage model, which argues that corporations have responsibilities not to violate rights; and **(4)** the political responsibility model, which advocates cosmopolitan responsibility and is thus most akin to Young. The distinction between the social connection model and

⁵ Collective responsibility associates a social group (or "collective") as the location or source of moral responsibility following the causal logic of proximity. The notion of collective responsibility arose from debates over group morality and identifying groups as moral agents. See Smiley (2011) for a brief introduction.

the political responsibility model is that Young’s model addresses structural injustices generally, while the political responsibility model addresses the agency of business leaders specifically.

As Figure 1 illustrates, corporate responsibility can be conceived as moving from narrower to broader fields of responsibility as we shift from the property model to the social connection model. This figure represents a horizontal slice of an inverted three-dimensional cone, with the property model at the bottom apex representing the narrowest field of responsibility (with obligations only to shareholders), and the social connection model at the top representing the flat base (with obligations to all social connections which produce harm).

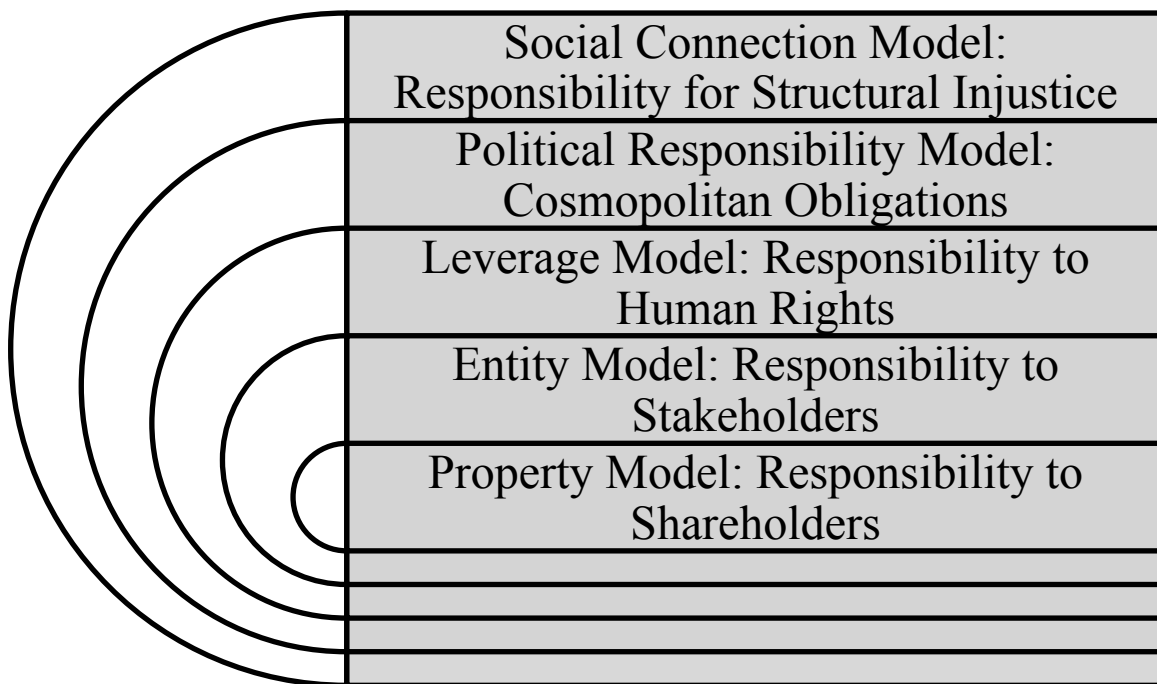


Figure 1: Expanding Fields of Corporate Responsibility.

The *property model* sees the corporation as primarily the private property of the stockholders, and exists to increase shareholder wealth (Allen, 1992; Stout, 2002). In this model the well-being of the shareholder/stockholder is equated with the well-being of society, i.e. the maximization of profit improves the general welfare. According to this reasoning doing good is bad for business: if the corporation does not seek profit or invests too much in activities outside the profit-seeking process, then it will be penalized by the market. In other words long-term social action and concern for societal well-being are punished by the market: the only obligation of the corporation is to gain wealth in the short-term and maximize profit at the expense of all else.

The most famous expression of this model is the Friedman doctrine (Friedman, 1970), which asserts that corporations are only responsible for their shareholders and to maximize profits. Thus, striving for high profit is how the corporation discharges its social responsibilities. Similarly, Carr (1968) argues that the

corporation is not bound by the general moral responsibilities of society, but by the “rules of the game” specific to business. The only moral obligation that the corporation has is to play the game, and play to win, giving space to deception or exploitation when it provides advantage. Wilmot (2001) provides a contemporary example drawing on organizational theory, concluding that the corporation has less moral responsibility than an individual moral agent would, as organizational theory posits a limited autonomy for corporations. In sum, the property model holds that corporations should be efficient and that its moral responsibilities are limited. In this sense, the individual or the corporation is only accountable for harm if it decreases profits (Friedman), harms the stockholders (Allen and Stout), or violates the specific rules and norms governing corporate or organizational behavior (Carr and Wilmot). In other words, if we extrapolate from Young’s liability model, corporations have *limited liability*, which forms a cornerstone of corporate law.⁶

The *entity model*, an extension of the property model, sees the corporation as servicing of the interests not only of stockholders and shareholders, but also of employees, clients, and society (Allen, 1992; Stout, 2002). This model seeks to respond to the question: “Is the role of the corporation simply to make profit for shareholders or does it have important obligations to others?” The entity model finds its most robust expression in “stakeholder theories,” which posit that corporations have moral obligations to select groups of stakeholders, “groups and individuals who benefit from or are harmed by, and whose rights are violated or respected by, corporate actions” (Freeman, 2014, p. 186). Stakeholders may include owners, management, employees, customers, communities, and societies, depending on the scope of obligations outlined by the theorist. Corporations have obligations beyond themselves, and should be concerned with society, discharging collective responsibilities as moral agents (Soares, 2003).

A mild critique and extension of the stakeholder approach is to place emphasis not on deontological ethics, but on consequentialism and “co-responsibility” (Gonzalez, 2002). Since the corporation has decision-making structures in place, and has the freedom to choose among multiple courses of action, the corporation has moral responsibilities (ibid.). In another variation, the corporation is a “morally significant system,” a responsibility-bearing system that includes individuals who are responsible for the *system* itself (including all individuals involved), rather than its harmful outputs (Dempsey, 2013).

In sum, the stakeholder theory/entity model addresses moral responsibilities beyond the profit-motive, and rests on a notion of moral agency that views the corporation as a moral collective of stakeholders, moving away from the individual towards notions of a shared “corporate culture” giving rise to ethical failures (Belcher, 2003). Responsibility for harm is applied to the group in a collective manner, either to change the system or to be considered collectively

⁶ This has led Greenfield (2008, p. 430) to assert: “Corporate law and financial markets operate to make these ethical obligations difficult to satisfy in a business setting. Limited liability, for example, the very cornerstone of corporate law, is inconsistent with the ethical norm of taking responsibility for one’s own actions since it shields people from liability that arises from their wrongful conduct.”

liable as an organization for specific harms. In this sense the entity model follows a logic of causation that identifies an isolated group (or an individual participating in that group), which has collective responsibility for harms. Collective responsibility, however, does not adequately address structural causes of harm and injustice.

The *leverage model* envisions the corporation as a powerful actor that has sway over others, and thus has responsibilities arising from that power. Employing a human rights perspective, Wood (2012) argues that a company's "ability to influence" those with which it has a relationship gives rise to responsibility, even if the company is not directly committing human rights abuses (but rather abetting a state's violations). Wettstein (2010) attempts to build on the concept of corporate "complicity" in human rights abuse, reasoning that corporations have positive obligations to protect. Gammeltoft-Hansen (2013, p. 144) argues that the migration control industry "brings about certain responsibility and accountability gaps, which risks further undermining human rights of migrants and refugees." He questions the "feasibility of leaving human rights fulfilments to private companies," arguing that the privatization of migration control "serves to partially insulate states from legal responsibility, but also provides an institutional distancing of control practices away from the state," and that forms of "institutional monitoring and public accountability" are needed (Gammeltoft-Hansen, 2013, pp. 140, 143, 144).

In the work of Gammeltoft-Hansen we can observe how the leverage model moves beyond the stakeholder to broader groups and structures. However, theorists who apply this model, like Wood and Wettstein, appear to attach responsibility to individual organizations rather than groups of organizations, thus confining the model to a liability model of causal responsibility, even if they acknowledge that a collective theory of responsibility akin to Young's could respond to human rights abuses involving groups of organizations (Wood, 2012).

The *political responsibility model* derived from Young's work holds that corporations and business leaders have moral obligations and duties beyond the stakeholder. Maak and Pless (2009) argue that business leaders have obligations to act as cosmopolitan agents who have "political responsibilities" that should benefit society by caring rather than harming others. Dubbink and Smith (2011) offer a form of moral responsibility that differs from legal responsibility (i.e. proximate liability) through a discussion of intentionality, blame, and punishment. They advocate a rational-choice model (what they call "rational action planning") of moral responsibility: since corporations have structures of decision-making which can incorporate moral reasoning, then these structures of deliberation confer moral obligations and duties. Corporations are "administrators of duty" that can discharge the "political goal of enhanced coordination" of moral responsibility in liberal democracies (Dubbink & Smith, 2011, p. 244). Thus, responsibility is shared according to the political responsibility model, serving as an interpretation of Young's social connection model, and an expression of cosmopolitan obligation. What is missing from the political responsibility model, however, are structural explanations for how and why harm occurs, thus partly

distinguishing it from Young. The difference between the political responsibility model and Young's social connection model is minor, as the political responsibility model is an interpretation of Young applied to business leaders.

The literature on corporate crime provides us with detailed structural explanations for how and why corporations (and individuals working for corporations) violate the law. However, criminological scholarship that investigates the prosecution of corporate crime leans towards the liability model: responsibility and accountability are driven by the identification of individuals within the corporation who are blameworthy and liable for prosecution under international law (Huisman & van Sliedregt, 2010). Theories and case studies on corporate crime attempt to explain the corporation as criminal actor and why individual actors within the corporation act wrongfully. Although criminological explanations for social action take into account macro, meso, and micro levels of social structure, they are concerned primarily with explaining individual action and the "corporate culture" of the structure itself (e.g. Van Baar & Huisman, 2012).

Clapham (2008) suggests ways to extend responsibility beyond the individual to the corporation in international law through the notion of the "legal personality" and "complicity" in rights violations carried out by states. According to Clapham, if the corporation is complicit in state crimes (or commits them outright) then it can be held liable in both national and international law, following a causal model of assigning collective responsibility. Clapham's approach leaves the possibility that states could sidestep responsibility (and get off the hook for harms) or that states could fail to hold corporations liable.

Thus, while authors writing in criminology and criminal law offer insights into how to think through corporate crime and international law, by remaining within the framework of the liability model they overlook the ways in which responsibility for structural injustices can be discharged in a shared manner. Shared responsibility is an important component of both the social connection and political responsibility models. In the case of private contractors who benefit from migrant detention but may not be proximate to abuse, they still share responsibility to end suffering: "although business leaders or the firms they lead have not caused [certain harms in detention], at least not directly, as members of the global political community they still bear *some* political responsibility for what they have *not* done, or caused. ... [When private contractors are involved] because of their specific position in the network of social and economic structures in our interconnected world business leaders bear *more* responsibility than others" (Maak & Pless, 2009, p. 541). In this sense of the political responsibility model, responsibility is grounded in the individual agency of the business leader within a structure, while in Young's formulation responsibility is grounded in the relational, structural connections among groups and communities (the difference is perhaps minor). Thus, the corporation that endorses or benefits from detention arguably bears moral responsibilities to end such harms, even if it is not directly linked to a harm.

This brief summary of models of corporate responsibility is intended to provide the groundwork for discussing the case studies that follow. While Young provides a useful framework for thinking through corporate forms of harm, a number of alternative models provide insight into the ways in which we can reason through specific cases and structural processes. In the following section, the paper discusses how corporations can be identified with harm and suffering of migrants, and provide evidence for and analysis of these abuses.

Immigration Detention, Corporations, and Structural Injustice

Multinational companies contribute to injustices in immigration detention institutions across the globe. This section provides particular cases illustrating how corporations have contributed to suffering and harm. While corporate entities can theoretically act as just institutions, these examples underscore how corporations appear to be inherently unjust in certain contexts because of their structural positioning.

There are a number of different definitions for immigration-related detention. The Global Detention Project (GDP), for example, defines it as the “deprivation of liberty of non-citizens for reasons related to their immigration status.”⁷ Discussing the GDP’s definition, Flynn (Flynn, 2011, pp. 1-3) highlights several key elements: (1) that it involves the deprivation of liberty of all types of non-citizens, including *inter alia* asylum seekers, stateless persons, and undocumented migrants; (2) that it can involve a criminal prosecution and/or administrative procedure; (3) that it implies a “carefully circumscribed meaning of deprivation of liberty,” such as confinement within a narrowly defined space and not other forms of limitations of liberty; and (4) that there be an element of physical force or coercion preventing the person from leaving the space at his or her will.

Silverman & Massa (2012, p. 679) adopt a very similar definition, writing that immigration detention is “the holding of foreign nationals, or non-citizens, for the purposes of realising an immigration-related goal.” According to Silverman & Massa, immigration detention is the institutional embodiment of “the conflict in contemporary immigration control regimes between a sovereign state’s capacity to regulate the entry and residence of non-members on the one hand, and its legal and ethical obligations towards those residing within its cartographic borders, on the other” (Silverman & Massa, 2012, p. 679). Such a definition highlights how migrant detention is not a detached social institution, unconnected from wider institutional structures. Instead immigration detention “is embedded in, and essential for, wider immigration and penal apparatuses” even while “it has its own logics that shape population boundaries in new ways both within and beyond the sovereign state” (Silverman & Massa, 2012, p. 680). In other words, by definition, immigration detention is an institutional expression of structural forms of social control that arise from ethical conflict in the

⁷ Global Detention Project Website, FAQ, <http://www.globaldetentionproject.org/about/FAQ>.

international order. Ethical conflict in the international order is shared through connected participation in structural injustices.

This form of detention has been increasingly adopted by states as part of an array of institutions and novel geographies devised to restrict migrants from gaining access to sovereign state territory (Mountz, 2011). The institutions of border security and surveillance, passports, visas, and employer and carrier sanctions each serve to prevent migrants from accessing territory (and by extension the legal structures and institutions where they can claim rights). When unauthorized migrants are able to enter territory, they can be denied liberty and removed from the territory through deportation, held in detention pending removal. The institution of immigration detention thus forms part of a structure of control and prohibition, a “spectacle” on display which signals deterrence and transmits trauma (Pugliese, 2008).

There are a growing number of reports detailing how immigration detention practices have expanded globally since the 1980s, diffusing over time, space, and scale. A key reason for this growth has been efforts by receiving countries such as the United States, Australia, and the Member States of the European Union, which “have successfully diffused detention practices [through imitation, diplomatic or economic incentive, or normativity] to a large number of states on their peripheries, helping to establish an archipelago of emerging detention regimes that literally spans the globe” (Flynn, 2014, p. 190 ff). Thus, the responsibility for alleviating potential harm caused by migrant detention is expanding into new spaces and new scales over time. In parallel, responsibility for preventing harm and suffering swells alongside rising detention populations.

Private corporations have arisen as an important institution involved in the detention of non-citizens, as immigration law enforcement has increasingly been privatized (Doty & Wheatley, 2013; Gammeltoft-Hansen, 2013; Guiraudon & Lahav, 2000; Lemberg-Pedersen, 2013; Menz, 2013). In some—though not all—countries, multiple functions and operations of detention centres have been privatized, including guarding, accompaniment, transportation, food services, or medical facilities. As such, the corporation has formed an important part of the global structural expansion of migrant detention, contributing to a range of harms against migrants held in detention in certain contexts.

A large body of literature from medicine, psychology, law, sociology and anthropology, and geography (among others) provides detailed evidence of the harmful effects of detention on migrants and asylum seekers in general, with a number of studies providing evidence of harm produced by private contractors in particular.⁸ The harms generated by migrant detention in general are structurally induced: rather than forming the exception, the harm of immigration-related detention is part of the normal functioning of liberal democracies (Basaran, 2008).

⁸ For an excellent annotated outline of the main literature, see Silverman (2013).

For example, in the United States, the growth of detention has been swift: from 6,000 noncitizens a day in 1994 to more than 30,000 by 2011, with annual detention numbers quadrupling in two decades from just over 100,000 to approximately 429,000 (Chacon, 2014). Corporations operate approximately half of all migrant detention beds, compared to around 8 percent of federal and state prison beds, and the cost of immigrant detention in the U.S. is approximately 1.7 billion USD per year (Conlon & Hiemstra, 2014, p. 336).

In 2007, the American Civil Liberties Union (ACLU) with the University of Texas Immigration Law Clinic and the private law firm LaBeouf Lamb Greene and MacRae LLP sued the Department of Homeland Security (DHS) for harm it caused to children confined at the T. Don Hutto Family Residential Facility operated by the Correctional Corporation of America (CCA) (Martin, 2011).⁹ Martin (2011, p. 490) demonstrates how “‘irreparable harm’ [to the children] could only be established by challenging the legality of ICE’s discretion,” which led to a separation of law and irreparable harm: “Defining law and irreparable harm as mutually exclusive worked, further, to cleanse the federal court of its own responsibility for children’s harm [and by extension CCA’s responsibility], mystifying the violence authorized in and through the law.” The judge reasoned that “[t]he harm caused by detention is not irreparable, first, because it is legal, and second, because it cannot be quantified separately from pre-detention trauma. ... This dichotomized figuration effectively pathologizes transboundary migration, again displacing responsibility for the effects of detention onto the parents’ choice to migrate” (Martin, 2011, pp. 490-491).

The ACLU and its partners won a settlement with the other parties to the case, which did not allow for the release of the detainees, but did allow for the transformation of “the socio-temporal ordering at Hutto from ‘prison-like’ to ‘home-like’ conditions” (Martin, 2011, p. 491). Furthermore, Hernandez (2014) argues that immigration detention in the U.S. is not simply a form of civil or administrative penalty, but a form of penal incarceration and punishment. In sum, the socio-spatial structure of detention, in giving rise to harm, is amenable to renovation and re-ordering, while maintaining the basic legal and institutional structure intact.

Australia’s “Pacific Solution” involves offshore detention on islands for migrants and asylum seekers who arrive without a visa by boat (Mountz, 2011, pp. 124-125). Boats are interdicted in the high seas and then directed to one of the nearby islands for processing. The geographical remoteness of the detention has given rise to a number of allegations of harm. For example, employees from G4S hired to guard an offshore refugee processing center located on Manus Island in Papua New Guinea allegedly beat migrants with improvised weapons during a riot in February 2014 (Siegfried, 2014). The apparent cause of the riot was frustration and anger stemming from detention conditions and relations with detention staff,

⁹ *Bunikyte et al. v. Chertoff et al.* (2007) [Case No. A-07-CA-164]. CCA is also alleged to participate in wrongs at its other facilities. For a brief overview of allegations against CCA see Detention Watch Network (n.d.) “A Brief History of Private Prisons in Immigration Detention,” available online at: http://www.detentionwatchnetwork.org/privateprisons_note2. [Last accessed 30.01.2015]

problems with the refugee status determination procedure, and uncertainty about the future (Cornall, 2014). Recent reporting on the harms of migrant detention has been met with police action in attempts to uncover the confidential sources of journalists, underscoring the political sensitivity surrounding allegations of harm (Farrell, 2015).

Following the allegations of abuse, Australia replaced G4S with Transfield Services (subcontracting further with Wilson Security) at its detention centres on Manus and Nauru. Offshore contracts are valued at 859.363 USD per person according to one analysis, while onshore contracts are worth 157.014 USD per person (Evershed, 2014). Serco Australia is the largest beneficiary (with a value of 3.2 billion USD), with Transfield Services (2.5 billion USD) in a close second. The increasing profits mean increasing ability to expand operations, hire new workers, and detain more migrants. As the system swells in Australia, so do the structural scaffolds of harm, and the potential for corporations to be involved in harms.¹⁰ Recent reports suggest that the government will simply resettle migrants in detention to Papua New Guinea as a means to skirt their asylum responsibilities and end protests (BBC, 2015). Although such reporting is unconfirmed, it raises the question of what the effects of transfer will be in countries of reception, and whether transferring to PNG will result in undue harm, and which private actors may be involved.¹¹ Recently, the High Court of Australia ruled offshore detention is not in violation of the Australian constitution.¹² The ruling allows for the detention of children.

In the European Union, a number of Member States contract private enterprises to provide services in detention centres. Facilities in the UK, Greece, France, Spain, Italy, Sweden, and the Netherlands are known to utilize private contractors in migrant detention, while other Member States are beginning to outsource such services (Nielsen, 2013).

Widespread reports of abuses at facilities that are serviced by private contractors in Europe arguably points to structural causes. In late 2014, for example, pictures were released of a detention centre in Burbach, a town in North Rhine-Westphalia, Germany, depicting a guard standing with his boot on a refugee lying on the floor (Bartsch et al., 2014). The pictures sparked public outrage, and drew attention to what was considered widespread abuse within German detention facilities run by both the state and private contractors (although it is not clear to what extent private contractors were involved in this case).

¹⁰ The number of references to harm in Australian psychological and medical journals is high. For brief overviews of harm in Australian detention see: (Loff, 2002; Newman et al., 2010; Silove, Steel, & Mollica, 2001)

¹¹ A study in south Australia found that a low-security migrant detention center had very little impact on the local community, as most of the fears of the local community were not born out (Every et al., 2013). Such research suggests that alternatives to detention practices may have little effect on local receiving communities in Australia, but says nothing about what may happen following detention and resettlement in PNG.

¹² Gillan, Taylor (2016) "Australia high court rules offshore detention policy legal," *Jurist*, Paper Chase, 03.02.2016. Available online at: <http://jurist.org/paperchase/2016/02/australia-high-court-rules-offshore-detention-policy-legal.php>

A number of cases of harm in detention have been adjudicated at the European Court of Human Rights.¹³ O’Nions (2008) concludes that routine detention of migrants represents a serious threat to the right to seek asylum. A special issue of the *European Journal of Criminology* provides evidence of systemic repression, coercion, and punishment in immigration detention facilities in France, Norway, Greece, and Italy (Cheliotis, 2013a, 2013b; Colombo, 2013; Fischer, 2013b; Ugelvik & Ugelvik, 2013). Khosravi’s (2009) ethnographic work finds that immigration detention in Sweden is structurally ambiguous, expressing hospitality and harm:

The detention apparatus in Sweden does not operate in the form of simple acts of violence but as a complex and ambiguous set of regulations. Built on a “hostile hospitality,” it is partly caring, partly punitive; partly endangering (deportation), partly saving (protecting deportees from police brutality); partly forced, partly empowering; partly a site of hospitality, partly a site of hostility.

Mainwaring (2012) argues that detention on Malta has led to the criminalization of migrants, the rise of xenophobic reactions among the Maltese citizens, and has consequences not only for migrants, but for local communities and the region. While these cases do not point towards direct corporate involvement in harm, they do demonstrate the structural sources of harm produced by detention practices in general, and when private contractors are involved they have responsibilities to end the continuation of such suffering and harm.

In the UK, Gill (2009) finds that circulating migrants and asylum seekers through the detention estate in the UK subjects them to physical force and create symbolic representations of asylum seekers that cause providers to withhold support for migrants. Cohen (2008) reports that the levels of self-harm in migrant detention in the UK exceed those in prison (at a rate of 12.97 percent of detained asylum-seekers compared to 5-10 percent of prison inmates). She concludes that detention centers in the UK fail to provide adequate care for migrants and asylum seekers, and that they do not mitigate the possibilities for harm.

Despite allegations of harm, Serco’s contract for Yarl’s Wood Immigration Removal Centre was renewed with the UK Home Office (Morris & Pells, 2014). Yarl’s Wood has been at the centre of controversy since its opening in November 2001, with reportedly regular hunger strikes; allegations of sexual abuse; suicides; and perhaps most well-known, a fire in February 2002 following a riot precipitated by forceful restraint of a detainee by an employee of G4S (named Group 4 at the time) (Phelps, 2014). Rather than dismantling the facility and searching for alternative solutions, Yarl’s Wood was repaired and Serco was provided with a new contract. In other words, the structure giving rise to harm was merely renewed.

Finally, harms suffered in detention, with or without the involvement of private contractors, may persist following release (Coffey, Kaplan, Sampson, & Tucci,

¹³ For a recent review of case law at the ECtHR see the online factsheet at the European Court of Human Rights Press Office website (European Court of Human Rights - Press Unit, 2014).

2010; Klein & Williams, 2012), while harms suffered before detention (from conflict, persecution, or events during migration) may be exacerbated by detention conditions (Bull, Schindeler, Berkman, & Ransley, 2013; Ichikawa, Nakahara, & Wakai, 2006; Steel, Momartin, Bateman, Hafshejani, & Silove, 2004).¹⁴ Medical treatment within the centers may be substandard (Venters & Keller, 2009), or treatment regimens are terminated through transfer to another center or by deportation, raising moral and ethical problems for employees (Briskman & Zion, 2014; Fischer, 2013a). Legal aid may be lacking or denied outright, impeding access to asylum procedures, legal remedies for wrongs, or to rights protections (Cheliotis, 2013a). Regarding the effects on refugee children held in detention, Fazel, Karunakara, & Newnham (2014, p. e313) provide detailed evidence from 60 countries that “poor facilities are widespread, with little attention paid to child protection, sanitation, safety, and access to education or health services.” The structure of the detention system may even give rise to self-harm and/or suicide.¹⁵ Although the individual is proximately responsible for the harm, their suffering arises from the structural conditions of detention.

In sum, the social institution of migrant detention, as a material and symbolic display of structural injustice, produces psycho-social (including affective and cognitive), medical, legal, and mortal harm, imposing undue suffering on migrants. Immigration-related detention is an expression of structurally unjust policies of immigration and border security, and the harm caused within its walls is due to the structure of the system itself, not the result of “a few bad apples” or the mismanagement of particular contracts with service providers.

When private corporations are involved, however, there are identifiable social connections to harm and suffering, raising important ethical questions about corporate responsibility. It is important to stress, nevertheless, that the evidence of abuse in detention is not always in relation to private companies. Not all countries use private contractors in detention centres. Not all harms related to the structure of migrant detention can be connected to the activities of private actors. However, as the evidence above suggests, corporations involved in migrant detention are socially connected to a system of structural injustice, even when they do not partake directly in harm, and they have obligations to prevent such suffering and harm. We we can assess the degree of responsibility employing various models of responsibility, the following section of this paper details.

Assessing Responsibility for Harm

Three immediate questions come to mind following the review above: (1) Why is immigrant detention harmful? (2) Who is responsible for harm? (3) How can responsible institutions reduce harm?

¹⁴ Note that these conclusions are in contrast to the judge’s reasoning in *Bunikyte et al. v. Chertoff et al.* (note 19, above). See also Martin (2011).

¹⁵ For Australia see Neave (2013, pp. 37-42). For suicides in UK detention see Athwal (2015), Cohen, (2008) and the website ‘No-Deportations’ (<http://www.no-deportations.org.uk/Media-6-4-2011/DeathInRemovalCentres.html>).

Immigration detention is the result of the everyday rules, norms, practices, and processes of liberal states' policies on migration and security. The violence that stems from this form of detention is arguably a function of the workings of the liberal democratic-capitalist state in the European Union, Australia, and the United States. Moreover, the causes and impacts are global. They affect sending communities, transit countries that are pressured to comply with the demands of more powerful states, and receiving communities. The corporation is a crucial actor in co-constructing the liberal order(s) of democratic States, a fact that can be observed in its growing role in immigration control.

Establishing who is responsible for this harm and suffering is a more complicated endeavour as the structural interdependence of states and corporations is, on the surface, more challenging to untangle. To adequately address this question, we should also look at the same time at the third question, namely how can responsible institutions reduce harm.

This section argues that corporations involved in national detention regimes or immigration control efforts have obligations to prevent suffering. The argument starts from the narrow conception of corporate responsibility (the property model) and works up to broader conceptions of responsibility (the political and social connection models), addressing criticisms and shortcomings of each model with reference to how each model envisions discharging responsibilities for reducing harm.

The *property model* gives rise to a form of corporate *adiaphora*: responsibility for harm is not regarded as essential for the corporation, but is permissible as long as it nets profits. The corporation only has a responsibility to protect its own property. Indeed, according to a strict reading of the property model, capital accumulation is the *only* responsibility the corporation should have. According to this model, Serco, G4S, Transfield Services, or the CCA only have the responsibility to make money from the detention of migrants and asylum seekers, and any responsibility beyond this is at their own expense (which is seen as undesirable).

Because private contractors are receiving public money, the problem of responsibility in relation to expenses and net profits becomes a matter of scale: if the government pays more, then the corporation can discharge more responsibilities for "socially responsible" activities. The negotiation of contracts with private companies varies from country to country, and often rests on vying for the lowest bidder, i.e. quality may be sacrificed for efficiency.

There are related questions concerning how government funds are used. For Friedman, deceiving or defrauding the government should not be permitted, while for Carr a little deception or fraud are reasonable as long as the company nets more profit. If we follow the logic of responsibility presented by the property model, we arrive at a short-sighted and morally discredited position: the private contractor will use resources to implement detention at the minimum level of

efficiency necessary to net profit for the company, with limited scope for moral responsibility outside playing within the norms and rules of the State's contract.

Although such a model may allow the business of migrant detention to survive, it is inappropriate for reducing harm. It is not clear how far harm will be reduced if moral responsibility is simply a limited by-product of profit-making. Thus, socially desirable effects of the property model of migrant detention are seriously lacking, and the property model fails to provide us with a form of corporate responsibility that could reduce harm to those in detention. Indeed, the model implicitly argues for the reproduction of harm as long as it makes money. In this sense, the property model assures that the corporation will *not* be responsible for harm, and that any responsibility for injustice will be discharged to any other institution other than the corporation itself.

The *entity model* is perhaps more inclusive than the property model but it still does not satisfy the conditions for reducing harm. Recall that the entity model views the corporation as responsible not only for its property, but also for entities (groups of "stakeholders") including local communities. Depending on how the stakeholder group is defined, stakeholder theory widens or narrows responsibility for harm. In theory, stakeholders could include all actors connected to harm (as in the social connection model). The entity model diverges from the social connection model by its vision of discharging responsibility: responsibility is collectively discharged in the entity model, versus shared in the social connection model. Young's logic of connection is replaced by a logic of causal isolation of a collective group (i.e. collectively liable as a single corporation). Because of its isolating tendency and logic of liability, the entity model can address the moral wrongfulness of specific corporations or states that commit isolated harms (a common logic employed in case law), but does not allow us to address the harms arising from the structure of institutions, of the structural injustice of the system of immigration detention itself.

The *leverage model*, derived from logic of rights protection, sees the corporation as a liable and isolated institution that is not relieved of human rights obligations even if it does not directly contribute to them but is in support of states that commit abuses. The leverage model rests on causal proximity to harm: the corporation can be proximate or distant from harms, but still has responsibilities to reduce abuse and provide protection. Based on the leverage model, multinational firms should work toward eliminating injustice and have important obligations to prevent abuses against migrants from happening. This requires that private firms: a) have a negative obligation to ensure that they do not contribute to structural injustice and rights abuses and b) have a positive obligation to promote justice, reduce inequality, and decrease rights abuses in their practice. The leverage model thus rests on a causal logic of liability, which allows corporations to be held liable for rights abuses when they commit them or fail to prevent them from happening (and thus is quite useful for case law and judicial accountability). However, this model does not address the core of the structure of immigration detention and the shared rules, norms, and relations that characterize the abuses of the liberal democratic-capitalist state.

The *political responsibility model*, derived from Young's work pre-dating the social connection model, provides considerably more scope for addressing structural harms involving the corporation in migrant detention. This model takes into account a wider political role for the corporation and its business leaders insofar as it acknowledges the scope of corporate power and the corporation's built-in structures of decision-making (the agency of its leaders). Not only do its leaders have political responsibilities, but the corporation is able to coordinate with other powerful institutions in liberal democracies to discharge responsibility and alleviate suffering and harm. The political avenues for reducing harm are broader than in previous models and there is wider discretion in how to assign responsibility. Groups of corporations and states have responsibilities to coordinate to reduce harm in a shared process. This model does not exclude narrower forms of punishment for harm derived from causal liability (e.g. individuals may be liable) but it provides the necessary groundwork for discharging shared responsibility through coordinated political action involving the deliberation and action of powerful institutions. In this model, ending harm in migrant detention involves coordinated political action within the bounds of liberal democratic deliberation and the full accountability of corporations, which act as deliberative institutions that reduce harm.

The *social connection model* is a fuller expression of the political responsibility model and widens the scope of responsibility and coordination *beyond* politics. Structural injustice implies shared responsibility even when "there is no clear culprit to blame and therefore no agent clearly liable for rectification" (Young, 2011, p. 95). The corporation is not the only institution responsible for the harms it commits in detention regimes. We as citizens of liberal democratic states, as well as non-citizens detained by these states, are obligated to share with corporations, states, civil society, and all related actors and institutions the responsibility to reduce structural harm.

This is a daunting argument to consider, and as Young points out it can be "paralyzing" (Young, 2011, p. 123): "How can I begin to take action to discharge my responsibility in the face of such massive and diverse problems?" Young advises that we must ignore indifference to harm and take "special efforts to make a break in the processes" of immigration detention through "political struggle" (Young, 2011, pp. 149-151). When the structure of law and liberal democracy are at the root of harm, however, the forms in which special efforts and political struggle must take are broad and involve shared action across a number of fields involving a number of actors. If the law itself is unjust because of its connection to harm, what is to be done? Viewed through the multiple frameworks of corporate responsibility outlined in this article, much can be done, and much is already being done.

One important problem with Young's social connection model is that shared responsibility may produce new harms or new structures that have the potential to produce harm. While envisioning what can be done to alleviate structural injustice, she fails to adequately consider what negative consequences may occur

when we try to alleviate injustice. The prevention of harm and suffering may beget more harm and suffering (See for example Flynn, 2013). There may be unintended harmful consequences to alleviating harm and suffering arising from structural injustice. For example, dismantling immigration detention as an institution may produce further unintended harms and suffering that we cannot foresee. The same could be argued regarding the open borders argument: there may well be unintended effects that we cannot predict. The question remains, should the inability to predict harmful consequences prevent us from discharging shared responsibility?

In sum, this section has argued that each framework of corporate responsibility offers different avenues for holding corporations responsible for harms exercised in migrant detention. Immigration detention embodies structural injustice, as detention practices arise from the shared rules and relations constituting immigration and border security policies of liberal democratic states. Harms suffered in detention may be multiple and varied, including harm to property and shareholders, harm to entities and stakeholders, harm to rights, harms to cosmopolitan society, and structural injustices, each involving migrants and asylum seekers. Even in the presence of multiple harms, however, private contractors are often left unaccountable and irresponsible behind a "corporate veil" (Gammeltoft-Hansen, 2013).

Conclusion

This article has endeavoured to open space for an evaluation of corporate involvement in migrant detention based on models of corporate moral responsibility. It has argued, following Iris Young's social connection model, that not only corporations but all individuals in society have obligations to reduce harm and suffering through political struggle. Although "lifting the corporate veil," as proposed by Gammeltoft-Hansen (2013), is an important first step to preventing harm and suffering in migrant detention, is it not sufficient.

As migration scholars we must make "special efforts" (Young's phrase) to criticize powerful actors and establish new relations to counteract harm. If the law is an important component of perpetuating injustice, then reforming law could be an important step, even if Chacon (2014) warns us that legal reform in the domain of immigration detention may be a long way off due to structural constraints and path dependency.

Dismantling immigration detention as an institution and replacing it with community supervision (as in Sweden) or redirecting money towards an "integration industry" is a pragmatic vision of the future (e.g. Long, 2015), but may introduce unseen effects and new structural abnormalities. We cannot assume that private power will uphold responsibility for preventing the suffering of migrants (Macleod & Lewis, 2004, p. 90). Young's work on dispensing responsibility points us in the appropriate direction, but it is up to us as citizens and non-citizens alike to share responsibility with corporations and the state for

deriving new relations that overcome the contemporary dilemmas of immigration-related detention.

References

- Akakpo, C. E. G., & Lenard, P. T. (2014). New challenges in immigration theory: an overview. *Critical Review of International Social and Political Philosophy*, 17(5), 493-502.
- Allen, W. T. (1992). Our Schizophrenic Conception of the Business Corporation. *Cardozo Law Review*, 14, 261-282.
- Athwal, H. (2015). 'I don't have a life to live': deaths and UK detention. *Race & Class*, 56(3), 50-68. doi:Doi 10.1177/0306396814556224
- Banerjee, S. B. (2008). Corporate Social Responsibility: The Good, the Bad and the Ugly. *Critical Sociology*, 34(1), 51-79.
- Bartsch, M., Dahlkamp, J., Deggerich, M., Gude, H., Neumann, C., Popp, M., . . . Winter, S. (2014). Systemic Shame: Germany's Woeful Asylum Infrastructure. *Der Spiegel*, 6 October 2014(Available online at: <http://www.spiegel.de/international/germany/abuse-case-reveals-terrible-state-of-refugee-homes-in-germany-a-995537.html>. Last accessed 02.02.2015).
- Basaran, T. (2008). Security, Law, Borders: Spaces of Exclusion. *International Political Sociology*, 2(4), 339-354.
- BBC. (2015). Australia asylum: 'Most Manus detainees to be sent home'. *BBC*, 28 January 2015(Available online at: <http://www.bbc.com/news/world-australia-31014258>. [Last accessed: 04.02.2015]).
- Belcher, A. (2003). Inside the black box: Corporate laws and theories. *Social & Legal Studies*, 12(3), 359-376. doi:Doi 10.1177/09646639030123004
- Briskman, L., & Zion, D. (2014). Dual Loyalties and Impossible Dilemmas: Health care in Immigration Detention. *Public Health Ethics*, 7(3), 277-286. doi:Doi 10.1093/Phe/Phu024
- Bull, M., Schindeler, E., Berkman, D., & Ransley, J. (2013). Sickness in the System of Long-term Immigration Detention. *Journal of Refugee Studies*, 26(1), 47-68. doi:Doi 10.1093/Jrs/Fes017
- Caloz-Tschopp, M.-C. (1997). On the Detention of Aliens: The Impact on Democratic Rights. *Journal of Refugee Studies*, 10(2), 165-180.
- Carens, J. H. (2014). An overview of the ethics of immigration. *Critical Review of International Social and Political Philosophy*, 17(5), 538-559.
- Carr, A. Z. (1968). Is Business Bluffing Ethical? *Harvard Business Review*, 46(1), 143-153.
- Chacon, J. M. (2014). Immigration Detention: No Turning Back? *South Atlantic Quarterly*, 113(3), 621-628. doi:Doi 10.1215/00382876-2692209
- Cheliotis, L. K. (2013a). Behind the veil of philoxenia: The politics of immigration detention in Greece. *European Journal of Criminology*, 10(6), 725-745. doi:Doi 10.1177/1477370813495129
- Cheliotis, L. K. (2013b). Immigration detention around Europe introduction. *European Journal of Criminology*, 10(6), 690-691. doi:Doi 10.1177/1477370813497874
- Clapham, A. (2008). Extending International Criminal Law beyond the Individual to Corporations and Armed Opposition Groups. *Journal of International Criminal Justice*, 6, 899-926.
- Coffey, G. J., Kaplan, I., Sampson, R. C., & Tucci, M. M. (2010). The meaning and mental health consequences of long-term immigration detention for people seeking asylum. *Social Science & Medicine*, 70(12), 2070-2079. doi:DOI 10.1016/j.socscimed.2010.02.042

- Cohen, J. (2008). Safe in our hands?: A study of suicide and self-harm in asylum seekers. *Journal of Forensic and Legal Medicine*, 15, 235–244.
- Colombo, A. (2013). Foreigners and immigrants in Italy's penal and administrative detention systems. *European Journal of Criminology*, 10(6), 746-759. doi:Doi 10.1177/1477370813495128
- Conlon, D., & Hiemstra, N. (2014). Examining the everyday micro-economies of migrant detention in the United States. *Geographica Helvetica*, 69, 335-344.
- Cornall, R. (2014). Review into the Events of 16-18 February 2014 at the Manus Regional Processing Centre. *Department of Immigration and Border Protection: Report to the Secretary, 23 May 2014*(https://www.immi.gov.au/about/dept-info/_files/review-robert-cornall.pdf).
- Dempsey, J. (2013). Corporations and Non-Agential Moral Responsibility. *Journal of Applied Philosophy*, 30(4), 334-350. doi:Doi 10.1111/Japp.12029
- Doty, R. L., & Wheatley, E. S. (2013). Private Detention and the Immigration Industrial Complex. *International Political Sociology*, 7(4), 426-443. doi:Doi 10.1111/Ips.12032
- Dubbink, W., & Smith, J. (2011). A Political Account of Corporate Moral Responsibility. *Ethical Theory and Moral Practice*, 14(2), 223-246. doi:DOI 10.1007/s10677-010-9235-x
- European Court of Human Rights - Press Unit. (2014). Factsheet - Migrants in detention. *ECtHR Press Unit. Media Contact: Sylvie Ruffenach, Available online at: http://www.echr.coe.int/Documents/FS_Migrants_detention_ENG.pdf. [Last Accessed 02.02.2015].*
- Evershed, N. (2014). Mandatory immigration detention is a billion-dollar business - analysis. *The Guardian, 25 August 2014*(Available online at: <http://www.theguardian.com/news/datablog/2014/aug/25/-sp-mandatory-immigration-detention-is-a-billion-dollar-business-analysis>. [Last accessed: 02.02.2015]).
- Every, D., Whetton, S., Rainbird, S., Halim, S. A., Procter, N., Sebben, B., & Thompson, K. (2013). The social and economic impacts of immigration detention facilities: a South Australian case study. *Australian Journal of Social Issues*, 48(2), 173-196. Retrieved from <Go to ISI>://WOS:000331068300002
- Farrell, P. (2015). Journalists reporting on asylum seekers referred to Australian police. *The Guardian, 21 January 2015* (Available online at: <http://www.theguardian.com/australia-news/2015/jan/22/journalists-reporting-on-asylum-seekers-referred-to-australian-police>. [Last accessed: 04.02.2015]).
- Fazel, M., Karunakara, U., & Newnham, E. A. (2014). Detention, denial, and death: migration hazards for refugee children. *Lancet Global Health*, 2(6), E313-E314. Retrieved from <Go to ISI>://WOS:000336425200007
- Fischer, N. (2013a). Bodies at the border: the medical protection of immigrants in a French immigration detention centre. *Ethnic and Racial Studies*, 36(7), 1162-1179. doi:Doi 10.1080/01419870.2013.783708
- Fischer, N. (2013b). The detention of foreigners in France: Between discretionary control and the rule of law. *European Journal of Criminology*, 10(6), 692-708. doi:Doi 10.1177/1477370813495126
- Flynn, Michael. (2011). An Introduction to Data Construction on Immigration-related Detention. *Global Detention Project, July 2011*(Available online at: http://www.globaldetentionproject.org/sites/default/files/GDP_data_introduction_v2.pdf).
- Flynn, Michael. (2013). Be careful what you wish for. *Forced Migration Review*, 44(September 2013), 22-23.
- Flynn, Michael. (2014). There and Back Again: On the Diffusion of Immigration Detention. *Journal on Migration and Human Security*, 2(3), 165-197.

- Flynn, Matthew. (2015). Bureaucratic Capitalism and the Immigration Detention Complex. *Global Detention Project Working Paper No. 9, June 2015*(Available online at: http://www.globaldetentionproject.org/sites/default/files/fileadmin/publications/Matt_Flynn_GDP_Paper_2015.pdf).
- Flynn, M., & Cannon, C. (2009). The Privatization of Immigration Detention: Towards a Global View. *A Global Detention Project Working Paper, September 2009*(Available online at: http://www.globaldetentionproject.org/sites/default/files/GDP_PrivatizationPaper_Final%20%281%29.pdf).
- Freeman, R. E. (2014). Stakeholder Theory of the Modern Corporation. In W. M. Hoffman, R. E. Frederick, & M. S. Schwartz (Eds.), *Business Ethics* (5th Edition ed., pp. 184-191). West Sussex, UK: John Wiley & Sons.
- Friedman, M. (1970). The Social Responsibility of Business Is to Increase Its Profits. *New York Times Magazine, September 13, 1970*.
- Gammeltoft-Hansen, T. (2013). The rise of the private border guard: Accountability and responsibility in the migration control industry. In T. Gammeltoft-Hansen & N. N. Sorensen (Eds.), *The Migration Industry and the Commercialization of International Migration*. Abingdon and New York: Routledge.
- Gammeltoft-Hansen, T., & Sorensen, N. N. (Eds.). (2013). *The Migration Industry and the Commercialization of International Migration*. London and New York: Routledge.
- Gill, N. (2009). Governmental mobility: The power effects of the movement of detained asylum seekers around Britain's detention estate. *Political Geography, 28*(3), 186-196. doi:DOI 10.1016/j.polgeo.2009.05.003
- Gonzalez, E. (2002). Defining a post-conventional corporate moral responsibility. *Journal of Business Ethics, 39*(1-2), 101-108. doi:Doi 10.1023/A:1016388102599
- Goodpaster, K. E., & John B. Matthews, J. (1982). Can a Corporation Have a Conscience? *Harvard Business Review, January 1982*.
- Greenfield, K. (2008). Corporate Ethics in a Devilish System. *Journal of Business and Technology Law, 3*(2), 427-435.
- Guiraudon, V., & Lahav, G. (2000). A Reappraisal of the State Sovereignty Debate: The Case of Migration Control *Comparative Political Studies, 33*, 163-194.
- Hausman, D. M. (1986). Liability, Responsibility, and Harm. *Ethics, 97*(1), 263-269. doi:Doi 10.1086/292831
- Hernandez, C. C. G. (2014). Immigration Detention as Punishment. *Ucla Law Review, 61*(5), 1346-1414. Retrieved from <Go to ISI>://WOS:000337716900005
- Huisman, W., & van Sliedregt, E. (2010). Rogue Traders Dutch Businessmen, International Crimes and Corporate Complicity. *Journal of International Criminal Justice, 8*(3), 803-828. doi:Doi 10.1093/Jicj/Mqq040
- Ichikawa, M., Nakahara, S., & Wakai, S. (2006). Effect of post-migration detention on mental health among Afghan asylum seekers in Japan. *Australian and New Zealand Journal of Psychiatry, 40*(4), 341-346. doi:DOI 10.1080/j.1440-1614.2006.01800.x
- Khosravi, S. (2009). Sweden: detention and deportation of asylum seekers. *Race & Class, 50*(4), 38-56. doi:Doi 10.1177/0306396809102996
- Klein, A., & Williams, L. (2012). Immigration Detention in the Community: Research on the Experiences of Migrants Released from Detention Centres in the UK. *Population Space and Place, 18*(6), 741-753. doi:Doi 10.1002/Psp.1725
- Lemberg-Pedersen, M. (2013). Private security companies and the European borderscapes. In T. Gammeltoft-Hansen & N. N. Sorensen (Eds.), *The Migration Industry and the Commercialization of International Migration*: Routledge.

- Linklater, A. (2001). Citizenship, humanity, and cosmopolitan harm conventions. *International Political Science Review*, 22(3), 261-277. doi:Doi 10.1177/0192512101223004
- Loff, B. (2002). Detention of asylum seekers in Australia. *Lancet*, 359(9308), 792-793. doi:Doi 10.1016/S0140-6736(02)07887-X
- Long, K. (2015). Immigration: replace the migration security complex with an 'integration industry' *The Conversation*, 29 January 2015(Available online at: <https://theconversation.com/immigration-replace-the-migration-security-complex-with-an-integration-industry-35690>. [Last Accessed 03.02.2015]).
- Maak, T., & Pless, N. M. (2009). Business Leaders as Citizens of the World. Advancing Humanism on a Global Scale. *Journal of Business Ethics*, 88(3), 537-550. doi:DOI 10.1007/s10551-009-0122-0
- Macleod, S., & Lewis, D. (2004). Transnational Corporations: Power, Influence and Responsibility. *Global Social Policy*, 4(1), 77-98.
- Mainwaring, C. (2012). Constructing a Crisis: the Role of Immigration Detention in Malta. *Population Space and Place*, 18(6), 687-700. doi:Doi 10.1002/Psp.1721
- Martin, L. (2011). The geopolitics of vulnerability: children's legal subjectivity, immigrant family detention and US immigration law and enforcement policy. *Gender Place and Culture*, 18(4), 477-498. doi:Doi 10.1080/0966369x.2011.583345
- Menz, G. (2013). The neoliberalized state and the growth of the migration industry. In T. Gammeltoft-Hansen & N. N. Sorensen (Eds.), *The Migration Industry and the Commercialization of International Migration*. London and New York: Routledge.
- Morris, N., & Pells, R. (2014). Serco given Yarls' Wood immigration contract despite 'vast failings'. *The Independent*, 24 November 2014(<http://www.independent.co.uk/news/uk/politics/serco-given-yarls-wood-immigration-contract-despite-vast-failings-9880772.html>. [Last Accessed 02.02.2015]).
- Mountz, A. (2011). The enforcement archipelago: Detention, haunting, and asylum on islands. *Political Geography*, 30(3), 118-128. doi:DOI 10.1016/j.polgeo.2011.01.005
- Neave, C. (2013). Suicide and Self-harm in the Immigration Detention Network. *Report by the Commonwealth and Immigration Ombudsman, Report No. 02/2013*.
- Newman, L., Lightfoot, T., Singleton, G., Aroche, J., Yong, C. S., Eagar, S., . . . DeHAG. (2010). Mental illness in Australian immigration detention centres. *Lancet*, 375(9723), 1344-1345. Retrieved from <Go to ISI>://WOS:000277057800021
- Nielsen, N. (2013). Private security firms cash in on guarding EU borders. *euobserver*, 25 September 2013(<https://euobserver.com/priv-immigration/121454>).
- O'Nions, H. (2008). No Right to Liberty: The Detention of Asylum Seekers for Administrative Convenience. *European Journal of Migration and Law*, 10(2), 148-185. doi:Doi 10.1163/157181608x317336
- Phelps, J. (2014). A crisis of harm in immigration detention. *openDemocracy*, 15 September 2014(Available online at: <https://www.opendemocracy.net/5050/jerome-phelps/crisis-of-harm-in-immigration-detention>. [Last accessed 02.02.2015]).
- Pugliese, J. (2008). The Tutelary Architecture of Immigration Detention Prisons and the Spectacle of 'Necessary Suffering'. *Architectural Theory Review*, 13(2), 206-221. doi:Doi 10.1080/13264820802216841
- Robeyns, I. (2011). The Capability Approach. *The Stanford Encyclopedia of Philosophy, Summer 2011 Edition*(Edward N. Zalta (ed.)), <http://plato.stanford.edu/archives/sum2011/entries/capability-approach/>.
- Salt, J., & Stein, J. (1997). Migration as a business: The case of trafficking. *International Migration*, 35(4), 467-494. Retrieved from <Go to ISI>://A1997YL03100001

- Siegfried, K. (2014). Private security firms prosper as more migrants detained. *IRIN Global: humanitarian news analysis*, 12 March 2014(<http://www.irinnews.org/report/99766/private-security-firms-prosper-as-more-migrants-detained>).
- Silove, D., Steel, Z., & Mollica, R. F. (2001). Detention of asylum seekers: assault on health, human rights, and social development. *Lancet*, 357(9266), 1436-1437. doi:Doi 10.1016/S0140-6736(00)04575-X
- Silverman, S. J. (2013). Key Academic Research on Detention and Asylum. *Refugee Research Network, Autumn 2013* [<http://www.refugeereseach.net/detention-asylum-cluster/>](Available online at: <http://refugeereseach.net/sites/default/files/Silverman-Key-Academic-Research-on-Detention-and-Asylum%202013.pdf>. [Last Accessed 02.02.2015]).
- Silverman, S. J. (2014). Detaining immigrants and asylum seekers: a normative introduction. *Critical Review of International Social and Political Philosophy*, 17(5), 600-617.
- Silverman, S. J., & Massa, E. (2012). Why Immigration Detention is Unique. *Population Space and Place*, 18(6), 677-686. doi:Doi 10.1002/Psp.1720
- Smiley, M. (2011). Collective Responsibility. *The Stanford Encyclopedia of Philosophy, Fall 2011 Edition*(Edward N. Zalta (ed.)), <http://plato.stanford.edu/archives/fall2011/entries/collective-responsibility/>.
- Soares, C. (2003). Corporate versus individual moral responsibility. *Journal of Business Ethics*, 46(2), 143-150. doi:Doi 10.1023/A:1025061632660
- Steel, Z., Momartin, S., Bateman, C., Hafshejani, A., & Silove, D. M. (2004). Psychiatric status of asylum seeker families held for a protracted period in a remote detention centre in Australia. *Australian and New Zealand Journal of Public Health*, 28(6), 527-536. doi:DOI 10.1111/j.1467-842X.2004.tb00042.x
- Stout, L. A. (2002). Commentary on the Social Responsibility of Corporate Entities: Bad and Not-so-Bad Arguments for Shareholder Primacy. *Southern California Law Review*, 75(5), 1189-1209.
- Ugelvik, S., & Ugelvik, T. (2013). Immigration control in Ultima Thule: Detention and exclusion, Norwegian style. *European Journal of Criminology*, 10(6), 709-724. doi:Doi 10.1177/1477370813495127
- Van Baar, A., & Huisman, W. (2012). THE OVEN BUILDERS OF THE HOLOCAUST A Case Study of Corporate Complicity in International Crimes. *British Journal of Criminology*, 52(6), 1033-1050. doi:Doi 10.1093/Bjc/Azs044
- Venters, H. D., & Keller, A. S. (2009). The Immigration Detention Health Plan: An Acute Care Model for a Chronic Care Population. *Journal of Health Care for the Poor and Underserved*, 20(4), 951-957. Retrieved from <Go to ISI>://WOS:000271759100004
- Wettstein, F. (2010). The Duty to Protect: Corporate Complicity, Political Responsibility, and Human Rights Advocacy. *Journal of Business Ethics*, 96(1), 33-47. doi:DOI 10.1007/s10551-010-0447-8
- Wilmot, S. (2001). Corporate moral responsibility: What can we infer from our understanding of organisations? *Journal of Business Ethics*, 30(2), 161-169. doi:Doi 10.1023/A:1006346125667
- Wood, S. (2012). The Case for Leverage-Based Corporate Human Rights Responsibility. *Business Ethics Quarterly*, 22(1), 63-98. Retrieved from <Go to ISI>://WOS:000299147300005
- Young, I. M. (2003). Political Responsibility and Structural Injustice. *University of Kansas, Department of Philosophy, Lindley Lecture, Philosophy Department, University of Kansas, May 5*,

2003(http://www.bc.edu/content/dam/files/schools/cas_sites/sociology/pdf/PoliticalResponsibility.pdf), 1-19.

Young, I. M. (2004). Responsibility and global labor justice. *Journal of Political Philosophy*, 12(4), 365-388. doi:DOI 10.1111/j.1467-9760.2004.00205.x

Young, I. M. (2006). Responsibility and global justice: A social connection model. *Social Philosophy & Policy*, 23(1), 102-130. doi:Doi 10.1017/S0265052506060043

Young, I. M. (2011). *Responsibility for justice*. Oxford ; New York: Oxford University Press.

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