

**The Changing Place of Fraud in Seventeenth-century Public Debates about  
International Trading Corporations**

## Abstract

This essay surveys the changing role of fraud (dishonest and immoral commercial practices) in public justifications for corporate management of overseas trade in England across the seventeenth century. It argues that the perceived likelihood of fraud in international commercial settings played a critical role in public justifications for trading corporations at the beginning of the seventeenth century. The essay suggests that these justifications were challenged from the 1690s. The essay explores three aspects of this challenge: first, the ways in which agents of the East India Company convinced the Company to liberate private trade (an activity previously defined as fraudulent by the Company and the Courts); second, the arguments from the 1680s that depicted the joint-stock corporation as an unaccountable, soulless entity whose claim to public trust looked less credible; third, how decades of accumulated experience of international trading contexts (and interactions with non-European merchants) prompted pamphleteers to promote the possibility (and reality) of unregulated trade in those settings. All three helped to erode the former association between private individual trade in international contexts as likely to encourage dishonesty, immorality, and fraud. This change therefore led to the corporate body itself becoming a possible vehicle for fraud rather than the individual international merchant (who the corporation was meant originally to regulate). The paper analyses public deliberations about fraud and corporations to make interventions in the history of economic thought, the history of trading companies, and the history of economic crime (and especially its rhetorical role in debates about the regulation of trade).

**Key Words:** Corporation, Fraud, Monopoly, Regulation, East India Company, Private Trade, Free Trade, Public sphere,

In his opening speech at the trial of Warren Hastings (1732-1818), the former Governor General of Bengal in 1788, Edmund Burke (1729-1797) argued that the English East India Company's corporate structure and culture – what Burke labelled as its 'esprit de corps' – encouraged the Company to operate in India in ways that prompted legitimate charges of 'bribery, corruption, or malversation.' Burke went on to argue of 'the corporate spirit' [that it]...never was a spirit which corrected itself in any time or circumstance in the world.' Overseas trading corporations like the East India Company were, as far as Burke was concerned, unaccountable to social, moral, and legal prescriptions; they were structurally predisposed to permit and protect dishonesty amongst their members and officials.<sup>i</sup> Although it was Hastings in the dock, Burke (somewhat paradoxically) attributed some of the responsibility for Hastings' alleged crimes to the corporate context in which he operated. For Burke, the ways in which the East India Company's 'corporate spirit' subsumed individual action and eroded and obscured individual responsibility were profoundly unsettling.<sup>ii</sup>

A century and a half earlier, however, when corporations had emerged as the default English means to organise trading relationships beyond Europe, corporations were promoted precisely because they subsumed individual action and eroded individual responsibility. Instead of correcting their own malversation (as Burke expected) at the corporate, institutional level, corporations, for seventeenth century promoters like Edward Misselden and Henry Parker, provided internal governance that corrected what they regarded as the individual's inherent propensity to commit fraud.<sup>iii</sup> For much of the seventeenth century, corporations were seen as the state's and the public's only defense against the presumed dishonesty that ungoverned individuals – Europeans and non-Europeans – would exhibit in commercial arenas beyond Europe. By the eighteenth century, however, the individual (European and non-European) trader's private, acquisitive interests would be lauded as socially beneficial and the corporation itself would instead be depicted as an institutional vehicle for commercial deceit and dishonesty.<sup>iv</sup>

This article surveys the changing place and depiction of fraud within public justifications for corporate management of international trade across the seventeenth century. It suggests that public concern about corporate fraud emanated in the 1680s from a slowly-emerging unease about the agency of soulless corporate forms which helped – alongside embryonic arguments about the rationality of individual economic actors – to reformulate the ungoverned individual as responsible and virtuous (rather than inherently deceitful). The article connects public debates about the place of corporations in governing international trade with contrasting attempts within corporations to first restrict the economic license of their members overseas and then accommodate that license in ways that advanced the commercial interests of the corporate whole. It explores and analyses the points at which attitudes to international commercial contexts were reformulated to permit individual commercial license to satisfy the public good.

Seventeenth century trading corporations provide a distinctive and important perspective for historians of economic crime. As early-modern entities, they transgress the traditional distinctions that often exist in the literature about economic criminality: between the public and private, between political and economic, between the market and the state, the domestic and international, and between sovereignty and dependence.<sup>v</sup> Seventeenth century trading corporations were special constitutional cases that blurred the (still-evolving) boundaries of commercial criminality. They operated with important

constitutional privileges. They bent the law to advance their commercial interests. The East India Company, for example, was chartered to facilitate the export of bullion – a crime for non-incorporated entities. This privilege became a persistent source of public anger and opposition. Corporations also sometimes enjoyed tax breaks and exemption from bankruptcy legislation; they benefitted from a separate legal personality and therefore could not make oaths, could not appear in court, could not commit a crime. Trading corporations also authored economic impropriety: with their own vice-admiralty courts, which did not use juries and against which there was no appeal – the corporations could set the rules to suit their commercial needs.<sup>vi</sup> During the seventeenth century, corporations exhibited the full range of economic immorality: insider dealing, financial malpractice, defrauding of investors (stock jobbing), tax fraud, engrossment – price fixing, bribery, and corruption of elections and the political process.<sup>vii</sup> This article, however, focusses on a broader and often rhetorical notion of commercial immorality that the corporation set itself up against – the tendency for the international commercial environments that these corporate entities operated in to encourage and facilitate dishonest and deceitful commercial practices.

This article proposes the following four interventions in the broader research field of ‘white collar crime’.<sup>viii</sup> First, the essay takes the narrative of white-collar crime back to an earlier and neglected setting – the seventeenth century.<sup>ix</sup> Seventeenth century England offers a distinctive context in which to examine the history of ‘white collar crime’. In particular, it allows us the opportunity to appreciate how such impropriety derived from legal ambiguity and uncertainty because the seventeenth century was a period of innovation for corporations and because the corporations were themselves constitutionally contentious. Although there may have been ambiguity in the law, there was little moral ambiguity about fraud.<sup>x</sup> The seventeenth century also offers us the opportunity to investigate how the altered depiction for fraudulent activity – from the individual to the corporate levels - intersected with a period of impressive commercial growth overseas. Second, the article’s exploration of the public debates and legal disputes about international trading corporations – as institutions that were both private and public – offers another case study examining the potential social harm caused by the intersection of private capital and government interests.<sup>xi</sup> Third, the article’s analysis of international commercial settings demonstrates how these settings could spur innovation, which challenged commercial regulations where they were often – in any case – difficult to enforce.<sup>xii</sup> These settings also encouraged commercial offenders to justify their actions with reference to their local context. Rather than offending due to ‘low self control’ these individuals justified their rule breaking with reference to the commercial realities of their environments.<sup>xiii</sup> Fourth, in the seventeenth century, the commercial opportunities of malfeasance in new commercial contexts overseas could produce benefits for the corporation and the individuals employed by it in ways that came to explain new behaviours and, ultimately, new social norms that would come to be supported by amoral economic precepts. As such, this article reverses the traditional formulation depicting personal norms protecting the environment by showing how new commercial environments compelled malfeasant behaviour that would then be rationalised as new personal and social norms.<sup>xiv</sup>

This article also uses its focus on the relationship between fraud – broadly conceived – and public debates about the need for corporate governance in international settings – to connect writing on the history of the public sphere, economic thought, corporate history, and the history of global, cross-cultural interactions. The article examines fraud as a broad (and sometimes rhetorical) category within important public debates rather than

solely as a crime (the breaking of a public law). The altered role for fraud within justifications for corporate management of international trade emerged at a time when the abstract notion of the public and political potency of public opinion gathered traction.<sup>xv</sup> This article locates the discussion of fraud - deceit in a commercial context – into public debates about corporations and therefore into emerging debates about political economy and economic thought.<sup>xvi</sup> In these debates, fraud is often a species of vice (that is straightforward immorality) and as vice was playfully reimagined as socially beneficial by the beginning of the eighteenth century, so individual economic license lost its inherent connection with deceit and became more often a public good.<sup>xvii</sup> In this sense, the article proposes to set the reformatted role of fraud across the seventeenth century into justifications for trade regulation alongside equivalent examinations of the importance of monopolies and of civic corporate culture in the debates about the importance of trading corporations.<sup>xviii</sup> The article also argues that careful focus on the changed role of fraud in public debates about corporations helps historians to connect the altered depictions of non-European peoples to concurrent alterations in political economy. In this way, the article contributes to the literature about cross-cultural encounters and entanglements in a global setting.<sup>xix</sup>

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Across the period surveyed in this article, the meaning of fraud changed from a generalised notion of deceit (in commercial and religious contexts) to a deliberate act of criminal deception. Throughout the seventeenth century, writers juxtaposed fraud with force as the antonyms of the humanist outlook inverting honesty and intellect respectively. The appearance, in 1678, of the Statute of Frauds, which required written memoranda to grant validity to contracts, produced a new association with documentation.<sup>xx</sup> Of course, in the public (and often printed) deliberations that this article focusses on, writers used terms like fraud and crime interchangeably. For Edward Misselden, the price-fixing practices associated with monopolistic trading corporations operating within Europe (like the Merchant Adventurers) were described as ‘crimes’.<sup>xxi</sup> But Misselden’s (and countless other writers’) usage is broader here. Such practices (along with engrossment) were deemed to be immoral rather than criminal. Indeed, trading corporations existed as self-governing bodies permitted to practice what society had long depicted as against the public interest – including, in the East India Company’s case, the export of bullion. Their privileges provided new codes that would redefine previously immoral behaviour as socially beneficial. Depictions of fraud prior to the development of a rigorous criminal code for international transactions (and often relating to far flung commercial contexts where that code had limited applicability) were therefore highly partial. Fraud signified commercial deceit that resulted from deviating from acceptable economic actions and motives. It meant dishonestly undermining the public good. It included contravening written and oral obligations (charters and oaths) to promote private gain. Similarly, the pamphlet disputes that generated much of the source material for this article, of course, produced polarised and self-interested positions. But the careful reading and contextualisation of these sources offered here can nonetheless help us to discern general shifts in the conceptual relationships between broad rhetorical categories like ‘fraud’ and ‘governance’ in trade.

Commercial fraud appears to have had an instrumental connection with non-European commercial contexts and peoples. Public unease about deceit therefore grew with the expansion of overseas trade beyond Europe. Nationalist stereotypes of commercial probity emerged from this unease. In the preface to his 1599 *Principal Navigations*,

geographer Richard Hakluyt (1552-1616) abstracted some of the stories from his anthology and highlighted the strangeness of foreign practices by characterising them as a form of deviance and more than that – fraud. Similarly, Hakluyt famously used his anthology of English travels to reify an English protestant character that was beyond moral reproach and therefore well positioned to assume control over the global terrains the work surveys.<sup>xxii</sup> These concerns about the ways in which international trade could pollute the honest English character were compounded by the prevalent civic humanist view that unrestrained trade gave license to socially corrosive greed that would often be advanced through fraudulent means. The pamphleteer and currency expert Gerard de Malynes (1586-1641) expressed a broadly-held view in 1622 during a debate about the causes of the depletion of England’s bullion (a debate which placed the East India Company centre stage) when he advised that being ‘without fraud and deceit’ were the principle characteristics required for any international merchant – a prioritisation that indicated much about society’s pessimism about the mercantile class at this time. To ensure that merchants operated with integrity and in the public good Malynes advised that government (the epitome of which was – in a commercial context – the corporation) was required to ensure that the individual interests of merchants would not be permitted to challenge the public good. If individualism was the nemesis of the public interest, then fraud and deceit (for Malynes usually listed together) were the distillates of commercial individualism unrestrained by the unique and pervasive form of mercantile governmentality – the corporation. Again, the association of fraud and unregulated trade was strengthened in the international arena. Malynes had long been concerned about what he viewed as the inherently fraudulent tendencies of international currency dealers. He also worried in particular about the merchant’s ability to ‘trafficke with Turkes, Heathens, Barbarians, and Infidels, and performe promise with them’ and whether the difficulties of dealing truthfully with non-Christians might enervate the lone merchant’s already-pronounced tendency to defraud.<sup>xxiii</sup>

The trading corporation was promoted as the best method for guarding against the disorderly and immoral tendencies of the commercial world beyond Christendom (amongst Christians and non-Christians). A supporter of the East India Company, Henry Parker (1604-1652) had stressed in 1648 that trading corporations were well placed to order commerce: ‘as we are a Corporation, we are armed thereby with a competence of power to inforce, & execute our Orders so made, and if any violence of forreine States, and Potentates contrary to our Intercourses, and Treaties of amitie enterposes to our prejudice, or if any new Tolls, imposts, or exactions oppresse us, we are in this posture better qualified to relieve, or vindicate our selves, then else we should be.’<sup>xxiv</sup> As monopolies, the pamphleteers who supported the trading companies regularly proposed that those who wished to dismantle monopoly were entirely self-seeking and that ungoverned, non-corporate trade would defraud the public.<sup>xxv</sup> Parker described how corporations of all kinds boasted internal bye-laws that could be relied upon to prevent members from responding to new economic circumstances with new species of fraud:

‘as we enjoy many conveniencies by being an united, imbodyed Fraternity, so by vertue of the same we are guarded and protected from many inconveniences. As we have a jurisdiction amongst us, we are inabled upon all new emergencies to contravene new devised arts of fraud, and circumvention in bargaining, selling, &c. by making new Orders against them.’<sup>xxvi</sup>

But this was wishful thinking on Parker’s part. The trading corporation’s principal institutional challenge was altering an organisation of local government – the municipal

corporation (combining some of the civic cultures of the livery company in the process) - into an organisation designed to govern transnationally. This made the issue of moral hazard – that is preventing overseas officials from defrauding the corporate centre – trading corporation’s defining problem. The large marketplaces that factors and officials of the trading corporations found themselves in – places like Surat and Ouidah – presented substantial commercial opportunities for employees of the companies as well as independent, interloping merchants. Because of their monopolies, the companies depicted these opportunities as malfeasant. Companies used oaths to bind their employees’ honesty, they resorted to quasi-legal vice-admiralty courts to intimidate interlopers, they often deployed state power to enforce their monopolies – in the form of the Royal Navy. But none of them succeeded in restraining the individual license of their employees for very long.

Economists and business historians have long focused on the difficulties of controlling overseas corporate actors. For contemporaries and later-theorists, the difficulties of solving this problem proved both fatal and definitive for trading corporations. An investor in the Royal African Company, Nicholas Morice (1681-1726), explained the company’s downfall with reference to the difficulties of extending standards of commercial probity across long distances: ‘the frauds and cheats of their factors ... [and] that the planters in the several lands of America were men without justice and common honesty.’<sup>xxvii</sup> This view was made more famous by Adam Smith who argued that the companies’ structure generated mismanagement and allowed ‘negligence, profusion and malversion of their own servants’ which the companies were unable to control.<sup>xxviii</sup> One company, however, was able to respond to the private commercial instincts of its overseas agents by redefining fraud as commercial opportunity and therefore aligning the interests of the corporate whole with its membership. This was the East India Company. This recasting of fraud formed a part of a broader shift in the relationship between the prospect of fraud in international settings and the justification for governance of overseas trade.

Initially, the East India Company imposed strict restrictions on its agents’ freedom to trade on their own private accounts. Sociologist Emily Erikson has explored the ways in which the company learnt over the course of decades to gradually permit private trade. In 1661, the company officially withdrew from the country trade – trade between Asian ports (rather than between Europe and Asia) – and allowed agents to occupy that commercial space. In 1667, trade in certain commodities was opened up between Europe and Asia (excepting pepper and calico).<sup>xxix</sup> As Erikson makes clear, the allowing of private trade simply legitimized existing practice.<sup>xxx</sup> What is less clear is how the Company computed the corporate benefits of permitting private trade.

Earlier attempts by the Company to prosecute those who had allegedly defrauded it overseas prompted court room arguments that clarified how the individual, private interests of Company agents could simultaneously uphold those of the corporate whole. In 1673, William Blake, a former factor of the Company, brought a bill against the Company to the Court of Chancery requesting to be relieved against a Company accusation of breach of contract (act of covenant) for £26,000, which he owed because he had traded in prohibited goods on his own account beyond the limits specified in the Company’s contract with him. Since 1657, the Company had insisted on having its agents sign contracts that specified fines according to the scale of private trade. The Company sued Blake according to the terms of one of these agreements. His testimony reveals the view among representatives of the Company in India that such regulations represented

‘only a Thing of Course, and to restrain their Factors from excessive Trading in prohibited Commodities; and that the Penalties were never exacted or taken in Specie, nor insisted on farther than to satisfy the Company the real Damage they might sustain by such private Trade.’ Blake went on to offer a clear vision of the ways in which private trade facilitated the trade of the Company and how each would be instrumental in furthering the other’s interests. He mentioned how it had been ‘intimated to him’ that

‘if he should find a good Bargain... of any prohibited Goods, and should have nothing in his Hands of the Said Company to deal for it, ...it would be a good Service to them to lay out his own Money for such a Bargain, so as he would let the Company have it again at a moderate Rate, and would export no such Goods into Europe but on the Company’s Account’.

Blake went on to describe such a scenario and the consequences for the Company of him not using his initiative. In particular, Blake stressed how the on-the-spot initiative of individuals like him facilitated the Company’s corporate trade:

‘If he had not purchased them with his own Money the Company could never have them, because the Dutch and other Merchants would have contracted for them; so that when the Ships of the Company should come to India there would have been no Freight for them; and he let the Company have these Goods at an easier Rate than they could have bought them, and never charged them for more than the Price current at the Port Towns where he placed them ready to freight the Company’s Ships when they should arrive.’

The Company responded by noting the ‘many secret Opportunities’ the factors had ‘to abuse the company’ by placing their interests above the Company’s when transacting in India and how due to the distances involved and the ways in which the factors ‘by Agreement among themselves’ concealed such practices, the Company was unable to prosecute the deceitful. Ironically, the Company identified the corporate solidarity amongst its overseas factors as a structural cause for the defrauding of the corporate whole. Ultimately the Lord Keeper concluded that the Company ought to be able to enforce this covenant because ‘there could be no other way for the Company to restrain them, the Consequence whereof in Time might be the Loss of all the English trade in India.’ Within six years of the Blake case, however, the Company resolved to abandon these restrictions on the private trade in prohibited goods. Although the direct connections are not recorded, it is clear that Blake’s version of the English India Company’s trade in India proved more durable than the Lord Keeper’s.<sup>xxxii</sup>

Blake’s case demonstrates the emerging importance of recasting the frauds of members as individual license that would provide the corporate whole with better market information and responsiveness and a more durable trade. Fraud would need to be co-opted by the corporate whole – precisely as William Blake advised – to ensure the corporation could endure and the East India Company’s middle ground of permitting private trade within a corporate framework proved successful. The commercial success of the East India Company in the 1680s endorsed this new model of a corporation that thrived on the private interests of its membership. Although the connection was not made explicitly, the perceived triumph of individual license within formerly monopolistic, corporate contexts overseas aided the cause of those who wished to promote deregulated international markets.

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England's participation in international trade grew markedly from the 1660s onwards. The value of overseas trade almost doubled from £7.9 million in the 1660s to £14.5 million by the 1720s. Most of this growth derived from enlarged trade in commodities from America and Asia and the increase in the variety of export goods. Trade in plantation commodities such as tobacco, sugar and Indian cotton increased as a proportion of all imports from 7 per cent in 1621 to 34 percent in 1701.<sup>xxxii</sup> This international commercial expansion interacted in complex ways with concurrent changes in English government. Parliament had begun to limit the monarch's right to govern international trade unilaterally from the 1640s. The restoration of the monarchy had brought restored dynamism to the constitutional association between royal government and economic growth. From the 1690s, however, the primacy of Parliament as supreme regulator of the English economy became undisputed. Although the trading corporation was the institutional spearhead for much of the commercial expansion, as overseas trade expanded so too did the number of private merchants plying trades with markets beyond Europe. As the century continued, pamphleteers and the public came to understand that the increased scale of England's international trade disabused earlier suspicions about the exclusively dishonest motivations and practices of merchants trading overseas.

Within a decade of the East India Company co-opting the frauds of its overseas agents into its business, the Company became the target for opponents who alleged that its corporate structure was responsible for dishonest and immoral commercial practices. The argument to promote the individual over the corporate person was not made on solely economic grounds. While private trade increased in Asia, public debates depicted the East India Company's domestic operation as increasingly closed to non-members, overpowerful, and satisfying the narrow commercial interests of a corporate elite. Instead domestic disquiet about the corporate form appeared in the 1680s as part of a broader reaction against 'soulless' joint stock corporations who could not be trusted to honour debts. Dealing with such bodies was, for the opponent of the East India Company and lawyer, Henry Pollexfen (1632-1691) akin to 'dealing with Spirits, an Invisible Body subsisting only in intelligentia legis'.<sup>xxxiii</sup> Opponents of the corporate (and especially joint-stock) form pre-empted Burke's argument about the corporation's lack of accountability by comparing the 'unnatural' corporate entity with the 'natural' individual – an entity that was (unlike the joint stock company) subject to external judgement and could therefore be more easily kept within society's moral and legal guidelines. '[W]hen we are to account with single Persons, or with Persons Incorporated with a Soul (that is, with no Joint-Stock)', explained one anonymous opponent of the East India Company 'neither Plaintiff nor the Defendant must be their own Judges'. According to this form of opposition, corporations were subject to no other authority than their own and their corporate structure and culture privileged this introspective responsibility over the broader, public good. As another anti-company pamphlet alleged that 'the Members cannot be Free to do any thing that may lessen the Gain of the Joint-Stock, tho' the publick Good should require it'.<sup>xxxiv</sup> Corporations were therefore increasingly understood to be creating private allegiances that contradicted their earlier public role.

These arguments about the dubious public credentials of the corporations rubbed shoulders in public in the 1690s with a growing surge of anti-corporate writing that alleged various species of corporate immorality. Pamphleteers objected to the ways in which the Company had allowed its directors to behave in deceitful (but not illegal) ways: conducting closed sales of goods, practicing insider trading, and supplying the Company

on favourable terms.<sup>xxxv</sup> Evidence of stock market manipulation picked up on by pamphleteers like Daniel Defoe saw the corporation itself depicted increasingly as the agent of fraud. The state intervened to reset the public mission of the corporations through legislation banning insider trading (by insisting, for example, that sales of company goods took place in public and ‘by inch of candle’) and reforming voting regulations to prevent a small cabal of shareholders had engrossed control over the company.<sup>xxxvi</sup> To prevent ‘Fraud and Deceit’ the directors of the East India Company volunteered to introduce greater transparency to their internal dealings within the company by publicly declaring all private dealings with the Company.<sup>xxxvii</sup> In 1698, the Royal African Company’s power was circumscribed through a partial deregulation of its monopoly and a ban on its members sitting on colonial councils.<sup>xxxviii</sup> This reform addressed Pollexfen’s concerns about the ways in which the corporations’ judicial power could limit their public accountability overseas. East India Company officials involved in bribing the Speaker of the House of Commons were also severely reprimanded. These changes amounted to a Parliamentary compliance revolution to attempted to bring what were increasingly depicted as private corporations to the heel – once again - of the public good.

The traditional view of non-Europeans as inherently dishonest would, however, prove durable in public debates. Charles Davenant, a public promoter of the East India and Royal African Company’s monopolies described the West African suppliers of the African Company in 1709 as ‘a very cunning, as well as deceitful people’.<sup>xxxix</sup> Instead, commercial deceit would emerge less from intrinsic cultural (or even racial) characteristics and would be depicted as something emanating from free market circumstances. In a letter to the company’s Leadenhall Street Directorate, an African Company official at Cape Coast Castle, John Chaigneau, described the deregulation as favoring the Africans and depicted them in ways that the Company had often portrayed individual, private traders: “No people in the world (I believe) understand their interest better than the Blacks of the Gold-Coast.” Another added, “They are Selfish and Perfidious to the last degree; and having no sence of Honour, or Religion to controle them, No contracts or promises on their Parts will Bind them.” The Company began to attribute the commercial success of the independent traders to their willingness to encourage the “truckling” of African vendors. One African Company official compared the private traders’ commercial attributes to a latent but vicious tropical disease that would remain dormant until activated by the germ of unregulated human trafficking: “The Fantyns are taught to trade [by the individual traders], and by Experience are Expert Merchants, if such a Term may be given to Cunning Tricking Villains, who now give the Law to their instructors, and make them meanly and basely truckle to them for every Thing.”<sup>xl</sup> For promoters of companies, the corporate form would continue to provide the inoculation for this disease.

By the 1690s, however, more sympathetic depictions of non-Europeans merchants began to appear in public. They emanated from both pro and anti-corporate interests. Some therefore argued for corporate management on the grounds that free trade encouraged immorality that would harm rather than favour non-Europeans. According to one pamphleteer non-European contexts led honest English merchants into deceitful and immoral practices. In 1690, a “Gentleman in the City” alleged that an unregulated African trade would descend into an orgy of economic crime:

‘For as Traders at random, do seldom propose any thing, besides and beyond their private ends, so it is easie to be imagined, on what Insolences, Frauds and Rapines,

scattered and particular Men will venture, upon the hope and prospect of enriching themselves, when there is no Common and Established Society accountable for the miscarriage of every individual.’

Directly contradicting those who had sought to suggest that an individual with a soul was more trustworthy than a joint-stock ‘spirit’, for ‘the Gentleman’ only a state-sponsored monopoly company could uphold “Humanity, Truth, and Justice.”<sup>xii</sup>

Opponents of corporate organization of overseas trade began – for the first time - to contest the trading companies’ view that unregulated overseas trade was a slippery slope to fraud. Public debates about corporations publicised a century of mercantile experience of non-European commerce and therefore challenged the long-held view that international contexts encouraged deceitful and immoral commercial practices. As a result, corporations began to style a new kind of relationships for themselves with the non-European peoples they proclaimed had often been designed – from their inception – to ‘bridle and awe’.<sup>xiii</sup> Pamphleteers who sought to deregulate the slave trade proposed that African slave vendors were civilised and that their slave entrepôts, like Ouidah, resembled the civilised commercial centres of Europe, such as Livorno. Similarly, the Levant Company lobbyists who wished to reform the corporate governance of the closed East India Company had to argue that the Mughal Empire was as sophisticated a place as the Ottoman Empire.<sup>xiii</sup> These opponents of corporations argued that rather than being barbarous despots, as the corporations often depicted non-Europeans, the commercial contacts within the Hudson’s Bay Company (to take just one example) were timorous and corporate power was therefore excessive.<sup>xiv</sup> Opponents of the East India Company began to suggest in the 1690s that the price-fixing power that the Company’s monopoly was supposed to confer on the Company in Asia was immoral:

our *English* Merchants who understand it to be the Interest of the Nation to enlarge the Trades of it, yet their Interest, especially those which trade by excluding the rest of the Nation, is to continue the Trades of *England*, as they now stand; for thereby they take off the Manufactures of the poor Natives at what prizes they please, and no more then they please, whereby the Artificers in them, are not only reduced to Poverty in Working, but cannot be further employed than these Merchants please: And also impose what prizes they please upon the Natives in their Returns.<sup>xlv</sup>

The received precepts of mercantilist management - that trade ought to be managed in ways that minimised the possibility of commercial gain for non-European peoples (as well as for Europeans trading on their own accounts) became challenged. What had been a pillar of mercantilist doctrine for much of the seventeenth century – the concentration of economic power through monopolies to control prices overseas and limit the commercial gain of the ‘heathen’ began to be subject to new (and - in this period – occasional) challenge by the slow realisation that during international trading relationships were built upon the prospect of mutual business advantage across cultures. Decades of accumulated commercial experience of non-European commercial contexts made members of trading corporation’s attempts to defend their privileges with references to seductive but supposedly disorderly commercial wildernesses less likely to succeed.

This recasting of non-European commercial morality was part of a slow but sure reinvention of the economic meaning of fraud that began to alter corporate relationships

with non-European peoples and operated alongside theoretical alterations to the meaning of fraud that were led, most notoriously, by Bernard de Mandeville (1670-1733), who would push the argument that private vices produced public virtue in his 1705 poem, *The Grumbling Hive* and later in the *Fable of the Bees* (1714). As the corporations had themselves learned to permit the private trading initiatives of their overseas agents and as depictions of the commercial instincts of non-Europeans (and non-European commercial environments) became slowly more positive, individual license became a more solid foundation on which to base an economy. For independent traders, deregulated international trade produced national economic and military benefits because it transferred responsibility for trade away from government and to “those animal Spirits, those Springs of Riches which have enabled us to spend 100 Millions for the sake of our Liberties, in a long and bloody War.”<sup>xlvi</sup> With the willingness to accommodate individual interests at home and abroad, in corporate and non-corporate trades, came challenges to the view that non-European commercial contacts were inherently deceitful and fraudulent in their practices. Set alongside the emerging view that corporations’ soulless, impersonal structure lessened their public accountability, these alterations to public attitudes to private individual economic activity helped to make it possible to shift the location for fraud away from the individual and to the corporation.

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The liability of individuals within corporations, of course, remained strong. Even the notorious financial scandals of the early eighteenth centuries would single out a new group – stockjobbers – as the perpetrators of fraud rather than blaming the corporate body itself and the directors of the South Sea Company were more often blamed for the South Sea Bubble than the corporate form itself.<sup>xlvii</sup> Because a connection had been made in public between individual economic license and improved commercial performance in various trades, the arguments in favour of the corporate organisation of international trade made less reference to success in business. Instead, from the 1740s, corporations returned to arguments about accountability and, increasingly, to the need to project a moral front to non-Europeans that contrasted with the (now) amoral (rather than fraudulent) free market of individual merchants. ‘Incorporation’ became a word used to characterise a mutually beneficial commercial alliance between Europeans and non-Europeans. Subject to a further round of parliamentary enquiries in the 1740s, the Hudson Bay and Royal African Companies both depicted themselves as the friend of the non-European. In the case of the Hudson Bay Company, their apologist Thomas White insisted that the ‘Indians were always well used and kindly entertained...’ by the Company.<sup>xlviii</sup> Similarly, the Royal African Company promoted its chartered structure with reference to the hospitality it showed to Africans and the opportunities its African network of forts provided for establishing a ‘legitimate commerce’ with Africa that did not involve the slave trade.<sup>xlix</sup> The Royal African Company suggested that it could be trusted to right moral wrongs overseas because: ‘they are considered as a corporate Body, to which Application may be always made, and who are at all Times answerable to the several Negroe Governments upon the Coast for the Conduct and Behaviour of the British Nation.’<sup>1</sup> In these rather isolated accounts, the corporate form had mutated from a faceless, soulless, ‘spirit’ at home to the embodiment of accountability overseas. The Royal African Company’s arguments were not successful. Within two years its joint stock had been wound up. Rapidly expanding deregulated trades to Africa, the Levant, and elsewhere in North America made it more difficult to promote corporations on economic grounds – a difficulty that no doubt encouraged Burke’s bold indictment of the ‘corporate spirit’ in the 1780s.

So although corporations continued to promote their own privileges and provoke opposition, the contours of the debate about corporate management of overseas trade shifted across the seventeenth century – pivoting on the parliamentary debates of the 1690s. The role of fraud altered drastically across the century. Corporations ceased to be bastions against fraud and became – for the first time – possible perpetrators of fraud. Individuals operating in international commercial contexts ceased – correspondingly – to be always depicted as inherently dishonest and became increasingly styled as economically rational and therefore determinative of national economic success and supportive of the public good. The possible role of fraud within debates about corporate management of international trade changed from the deceit of the public by individuals to the deceit of individuals by corporations – from an individual to an institutional phenomenon.

This exploration of the changing public attitudes towards individual economic opportunity – and the ways that change reconceptualised the place of dishonesty and immorality in justifications for corporate trade regulation – has demonstrated how an institution designed to prevent (what its apologists believed to be) the worst fraudulent instincts of the private individual – the international commercial corporation – came to depend on liberating those instincts. The East India Company, to take the most important example, changed because it shifted forms from being a command-and-control body which sought to funnel all economic gain through its London account books into a more complex, flexible, and evasive entity that learnt to co-opt the more socially legitimate economic instincts of its overseas agents and their non-European trading partners. Private, economic liberty, in this sense, was not a norm diffused from Europe to (what contemporaries often depicted as the) barbaric cultures beyond, but was more likely infused from the cross-cultural dialogue structured by trading corporations across national boundaries. This exploratory history of the seventeenth century connections between perceptions and depictions of dishonest and immoral commercial behaviour and justifications for corporate management of international trade therefore offers historians the means to connect international contexts to changes in corporate governance, alterations to economic theory, and the modified place of a rhetorical version of fraud in public debates about international trade regulation.

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<sup>i</sup> Burke, "Speech on Opening of Impeachment," in *The Writings and Speeches of Edmund Burke*, 6:291

<sup>ii</sup> Murray, "Company Rules", 61-63

<sup>iii</sup> Parker, *Of a free trade*, 18; Misselden, *Free trade*, chap. 3

<sup>iv</sup> Hirschman, *The Passions and the Interests*, 58-62

<sup>v</sup> Ciepley, "Beyond Public and Private."

<sup>vi</sup> Pettigrew, "Corporate Constitutionalism," 487-501.

<sup>vii</sup> Horwitz, "The East India Trade," 1-18.

<sup>viii</sup> Simpson, *White Collar Crime*, 309-331.

<sup>ix</sup> Klaus, *Forging Capitalism*.

<sup>x</sup> Leap, *Dishonest Dollars*, 194.

<sup>xi</sup> Friedrichs, *State Crime*, 314; Shover, *White Collar Crime*, 133-158.

<sup>xii</sup> Geis, *How Greed Started the Dominoes Falling*; Leap, *Dishonest Dollars*, 193.

<sup>xiii</sup> Simpson, *White Collar Crime*, 316.

<sup>xiv</sup> Vandenberg, *Order Without Social Norms*.

<sup>xv</sup> Knights, *Representation and Misrepresentation*, 5; Zaret, *Origins of Democratic Culture*, 266;

Keirn, *Parliament, Legislation, and the Regulation of the English Textile Industries*, 17

<sup>xvi</sup> Appleby, *Economic Thought and Ideology*; Finkelstein, *Harmony and the Balance*; Hont, *Jealousy of Trade*; Stern and Wennerlind, *Mercantilism Reimagined*.

<sup>xvii</sup> Hirschman, *Passions and Interests*, 58-62

<sup>xviii</sup> Stern 'Companies: Monopoly, Sovereignty, and the East Indies', in *Mercantilism Reimagined*; Withington, *Politics of Commonwealth*

<sup>xix</sup> Van Meersbergen 'Dutch and English Approaches to Cross-Cultural Trade in Mughal India and the Problem of Trust', 69-87

<sup>xx</sup> *An Act for Prevention of Frauds and Perjuries*, 1678.

<sup>xxi</sup> Edward Misselde, *Circle of Commerce*, 62

<sup>xxii</sup> Hakluyt, *The Principal Navigations*, Vol. 2.

<sup>xxiii</sup> Malynes, *Consuetudo, vel lex mercatoria*, 4, 6.

<sup>xxiv</sup> Parker, *Of a free trade*, 18.

<sup>xxv</sup> 'Answer of Sir Ellias Lelighton', 542-543.

<sup>xxvi</sup> Parker, *Of a free trade*, 18.

<sup>xxvii</sup> Humphrey Morice Papers, Mar. 25, 1709; Jones and Ville, "Theory and Evidence," 925-926;

Scott, *Constitution and Finance*, 21-32; Galenson, *Traders, Planters, and Slaves*, 146-150; Carlos and Nicholas, "Theory and History," 916-924; Davies, *Royal African Company*, 120-152, 346-349.

<sup>xxviii</sup> Smith, *Book 5, Ch. 1, Part 3*, 255.

<sup>xxix</sup> Furber, *John Company at Work*; 1976; Lach and Kley, *Asia in the Making of Europe*; Kling, Pearson, and Furber, *The Age of Partnership*; Hasan, 'Conflict and Collaboration in Anglo-Mughal Trade'

<sup>xxx</sup> Erikson, *Between Monopoly and Free Trade*, 5-6, 59. See also Hejeebu, "Contract Enforcement," 506. See also Rönnbäck, Klas, 'Transaction costs of early modern multinational enterprise and Norton, Matthew, 'Principal Agent Relations and the Decline of the Royal African Company'

<sup>xxxi</sup> *English Reports*, [1673], 64-67.

<sup>xxxii</sup> Coleman, *The Economy of England*, 133, 137; Davis, *English Overseas Trade*, 36; Pettigrew, "Constitutional Change in England."

<sup>xxxiii</sup> Pollexfen, *Arguments of Learned Counsel*

<sup>xxxiv</sup> *Humbly Offered against Establishing, by Act of Parliament, THE East-India TRADE, IN A COMPANY, with a JOINT-STOCK, EXCLUSIVE Of Others, the Subjects of England*

<sup>xxxv</sup> *Some Remarks on the Present State*, 6; *Reasons humbly offered against*, 3.

<sup>xxxvi</sup> Scott, *The Constitution and Finance*, i. 340; ii. 155; Pettigrew and Stein, "Public Rivalry".

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<sup>xxxvii</sup> *East India Company, By-laws.*

<sup>xxxviii</sup> *Statutes of the Realm* (London, 1820), VII, 393–397 (Rot. Parl. 9 Gul. III, c. 26, 5, n. 2)

<sup>xxxix</sup> Davenant, *Reflections*, 92-93.

<sup>xl</sup> Davenant, *Reflections*, 195; Bleau, *Letter*, 2; *Mr. Phipps's Speech* 4; Gould, *Barbaric Traffic*, 152; Harris, *Sick Economies*.

<sup>xli</sup> *That the Trade to Affrica*, 2.

<sup>xlii</sup> This sort of depiction of relations with non-European peoples was posturing because the commercially-minded investors and officials within the companies understood that English companies could only trade if their non-European (non-Christian) hosts permitted them to.

<sup>xliii</sup> *The East-India-trade*, 18.

<sup>xliv</sup> BL Add. MS 22185, f. 27, 3.

<sup>xlv</sup> Coke, *Reflections upon the East-Indy and Royal African Companies* (1695), 23-4. See also [Anon.], *Certain considerations relating to the Royal African Company of England* (1680), 1; see also Anon., *The Reasons humbly Offered to Consideration why Incorporating the Whole Trade of the Woollen Manufactures of this Kingdom [etc]* (1662), 2

<sup>xlvi</sup> *Letter to a Member of Parliament*, 3.

<sup>xlvii</sup> *Reasons for making void and annulling those fraudulent usurious contracts*,

<sup>xlviii</sup> David Chan Smith, 'The Hudson's Bay Company, Social Legitimacy, and the Political Economy of Eighteenth Century Empire'

<sup>xlix</sup> Postlethwayt, *Britain's Commercial Interest Explained*, vol. 1, 431

<sup>l</sup> *THE ROYAL AFRICAN*, 46