

Corporate Persons, Collective Responsibility, and the Literary Imagination

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Abstract

This essay examines the contributions of Lisa Siraganian's *Modernism and the Meaning of Corporate Persons* (2021) to our understanding of the historical development and philosophical underpinning of United States corporate law as well as to broader studies of law and literature. The first part of the essay considers Siraganian's analysis of problems related to corporate agency, intention, and responsibility. The second part considers the book's implications for other types of collective social entities. In particular, the essay reads Ida Fink's *The Table* (1970) and Charles Reznikoff's *Holocaust* (1975) through the lens of Siraganian's study, examining their treatment of the challenges posed by the collective nature of the Nazi genocide. The essay suggests that Siraganian's book not only offers strikingly new insights about modern literature, thought, and culture but also gives us the resources to think better about corporate accountability broadly conceived.

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In *Modernism and the Meaning of Corporate Persons*, Lisa Siraganian brilliantly examines the nature, meaning, and implications of corporate personhood. The book deftly shows the ways in which legal and philosophical discussions of collective agency and intention fueled literary experimentation in late nineteenth- and early twentieth-century America, while highlighting the ways in which writers used the resources of literature to explore vexing legal and philosophical questions. Grounded in legal history, jurisprudence, literary theory, philosophy, and visual art, as well as literature, the book is an interdisciplinary feast. Sophisticated yet lucid, nuanced, and precise, the book advances original claims about all the texts under examination. Siraganian's extensive knowledge and training has resulted in a remarkable contribution to both law-and-literature scholarship and modernist literary studies.

The book's chapters tell a timely and compelling story. Moving from discussions of corporate intention, speech, and consciousness in the first three chapters to socio-political matters in the final two chapters, the book explores a series of challenges raised by the legal fiction of corporate personhood. But the book's reach extends beyond the intersection of corporate law and American literature in the late nineteenth and early twentieth centuries. In this essay, I reflect upon the nature and significance of Siraganian's achievement. In the first part, I highlight the book's contributions to the study of law and literature, focusing on Siraganian's innovative approach to problems concerning corporate agency, intention,

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and responsibility. In the second part, I consider the book's implications for other types of collective social agents. In particular, I use Siraganian's insights to read two works that examine challenges to individual agency and responsibility in the aftermath of the Holocaust.

I. Corporate Agency and Responsibility in the Modern World

In the introduction to *Modernism and the Meaning of Corporate Persons*, Siraganian highlights the book's interventions in modernist literary studies. As she notes, the book takes its cue from modernism's obsession with meaning, intention, and impersonality, and it builds upon studies that attend to such questions. The book likewise extends recent efforts to broaden the modernist canon by examining both canonical and less-familiar texts. These are both important contributions, and the book adds considerably to our understanding of modernist literature. I focus here, however, on the book's contributions to law and literature. In particular, I wish to highlight two innovations of the study: its sustained attention to philosophical questions and its discussion of visual art. Siraganian's interdisciplinary methodology enables her to offer keen insights about corporate agency and responsibility in twentieth-century law, literature, and culture.

Siraganian's examination of the philosophical underpinning of corporate law is most welcome. Rarely do law-and-literature scholars consider such problems so deeply and convincingly. In each chapter, Siraganian places imaginative writers alongside legal thinkers, showing how novelists and poets take up questions concerning the nature, meaning, and implications of corporate personhood. The book's integration of philosophy with law and literature places it in the company of studies like Wai Chee Dimock's *Residues of Justice: Literature, Law, Philosophy* (1996), Lisa Rodensky's *The Crime in Mind: Criminal Responsibility and the Victorian Novel* (2003), and Daniel Stout's *Corporate Romanticism: Liberalism, Justice, and the Novel* (2016). Siraganian's turn to philosophy extends and revises this line of work in exciting ways. Dimock brings nineteenth-century American writers into dialogue with a wide range of thinkers—from Aristotle and Augustine to Locke and Luther to Noam Chomsky and John Rawls—in order to emphasize differences between the literary and the legal/philosophical domains. In Dimock's reading, imaginative writers put forward a conception of justice that is "sedimented out of the cognitive conundrums of a different tradition . . . carrying with it a different vocabulary, a different language with which to describe the world and what matters in that world"; as such, she argues, this conception "must stand as a supplement and corrective to any legal or philosophical propositions."¹ Siraganian, by contrast, considers the ways in which imaginative writers, jurists, and legal thinkers jointly work out pressing legal and philosophical questions. She manages to take in a host of thought—including moral and political philosophy, philosophy of law, and philosophy of intention and action—without losing the book's grounding in late nineteenth- and early to mid-twentieth-century law and literature. Indeed, Siraganian moves back and forth between the different sources and disciplinary traditions with astonishing ease. While she acknowledges important differences between the legal and the literary domains—especially in her brilliant

¹ Wai Chee Dimock, *Residues of Justice: Literature, Law, Philosophy* 9-10 (1996).

“Coda as Brief,” which uses the insights of contemporary literature to critique the U.S. Supreme Court’s reasoning in *Burwell v. Hobby Lobby Stores, Inc.* (2014)—she also highlights continuities and overlaps between them. In doing so, she offers a new way to think about the interplay between literature, law, and philosophy.

Siraganian also offers new ways to think about the nature of corporate personhood and related problems of agency, intention, and responsibility. Scholars of nineteenth- and early-twentieth-century literature have examined novelists’ representations of agency and intention as they relate to criminal responsibility and contractual liability. In *The Crime in Mind*, for example, Rodensky connects “the Victorian novel’s power to represent the interior life of its characters” with its ability to comment on the law’s definitions of criminal responsibility.² She argues that George Eliot’s fiction at once questions and affirms the idea that individuals need to intend the natural consequences of their actions in order to be held legally and morally responsible for them. Brook Thomas and Irene Tucker, for their part, have examined the mental element in contractual agreements. In their view, novelists such as William Dean Howells and Henry James emphasize the uncertainty and contingency of promises and contracts, highlighting problems with the new “will theory” of contract which valorized a true “meeting of minds” in one intention.³ These studies reveal important connections between legal and literary developments in late nineteenth-century Anglo-America while showing how novels can help us think through the circumstances warranting legal and moral responsibility. But the focus of these studies is on individual intentions located in individual minds or the external manifestations of those intentions. The studies thus overlook the complicating factors that inform judgments of criminal and civil liability for collective entities.

Stout’s *Corporate Romanticism*, by contrast, examines novelists’ responses to the rise of corporate persons, broadly conceived, in nineteenth-century Britain, highlighting the problems that collective entities pose for determinations of agency and responsibility. In particular, Stout considers challenges posed by the presence of “transcendent, suprapersonal entit[ies]” such as the aristocratic family and the “general will” of the nation, as well as by the “inherent multiplicity” of action.⁴ Far from serving as a “mouthpiece for liberal ideology,” Stout argues, nineteenth-century novels confront the “philosophical difficulty (and maybe the impossibility) of thinking about individual accountability in a collective world.”⁵ His study sheds light on a host of developments in philosophy, law, and science that put pressure on traditional conceptions of individual agency. In doing so, the

² Lisa Rodensky, *The Crime in Mind: Criminal Responsibility and the Victorian Novel* 7 (2003).

³ See Brook Thomas, *American Literary Realism and the Failed Promise of Contract* 25-52 (1997); Irene Tucker, *A Probable State: The Novel, the Contract, and the Jews* 128-81 (2000). I consider similar questions in connection with Eliot’s fiction. See Melissa J. Ganz, *Binding the Will: George Eliot and the Practice of Promising*, 75 Eng. Lit. Hist. 565 (2008).

⁴ Daniel M. Stout, *Corporate Romanticism: Liberalism, Justice, and the Novel* 3 (2016).

⁵ Id. at 11.

book helps us think through the complexities of moral judgment in an increasingly interconnected world.

Siraganian takes up similar questions but considers them in a more specific legal context. Her focus on the business corporation in modern American law and literature enables her to offer at once a focused and a wide-ranging examination of legal and philosophical problems related to collective personhood. In the first chapter, for example, Siraganian examines the tension between subjective and objective theories of contractual interpretation in Frank Norris's *The Octopus: A Story of California* (1901). As Siraganian astutely reads it, the novel tells the story of a kind of disputed contract or quasi-contract between a group of California farmers and P. and S.W. Railroad. In the late nineteenth century, treatise writers struggled to offer solutions to disputes arising from negotiations involving a sequential multiplicity of corporate agents. The practical problem lay in determining the corporation's intentions; the philosophical problem lay in reconciling such negotiations with the will theory of contract that idealized a meeting of minds in one intention. To resolve this dilemma, Oliver Wendell Holmes, Jr. developed a new corporate theory of contracts with a related theory of signification. According to this view, a corporation "means . . . the literal signs it generates in the world, intentionally or not, at any given moment."⁶ In Siraganian's reading, Norris's novel shows the value of Holmes's approach. The farmers' commitment to a meeting of minds leads them to make solemn pledges with different agents instead of protecting themselves with legally enforceable contracts. An attempt to dispense with appeals to subjective intention thus appears to be attractive. But Norris is wary about relying exclusively upon external signs of corporate intention because the railroad executives treat language itself as "literal, disposable, and potentially commodifiable," and they contribute to the proliferation of the corporation's debased writing and speech.⁷ As Siraganian suggests, Holmes's objective approach to contractual interpretation appears to solve one problem while exacerbating another.

In the fourth chapter, Siraganian considers a different aspect of corporate responsibility, turning now to corporations' limited liability for workplace accidents. The chapter includes a brilliant analysis of lawyer and poet Charles Reznikoff's *Testimony: The United States (1885-1915): Recitative* (1965-78). In this series of poems, Reznikoff reworks reports of state court opinions to offer a searing account of corporate negligence. In the process, Siraganian argues, Reznikoff creates a new poetic form. Siraganian astutely suggests that Reznikoff removes the legal framing from the opinions when he incorporates them into his poems in order to highlight the limits of the law's handling of liability. So, too, does he shift the focus from the individual (the particular source of the testimony) to the commons—the "collective ethos of the public domain"—in his "search for a structure that effectively eliminates

⁶ Lisa Siraganian, *Modernism and the Meaning of Corporate Persons* 74 (2021).

⁷ *Id.* at 76.

the need to adjudicate continually questions of guilt or innocence and negligence or conscientiousness.”⁸ “The poetry,” Siraganian argues, “sets its sights on a broader realm.”⁹ It is Reznikoff’s response to political philosophy’s demand that we choose the right way to organize a just society.

In the final chapter, Siraganian offers a devastating account of the law’s diverging treatment of corporate personhood and African American personhood. Although both conceptions of legal personhood owe their origins to the Fourteenth Amendment, Siraganian shows, they developed unevenly, with jurists expanding the rights of invisible and artificial corporate persons while withholding rights from formerly enslaved people. She offers subtle readings of George Schuyler’s *Black No More* (1931) and Ralph Ellison’s *Invisible Man* (1952) as satires on the law’s inconsistent treatment of personhood. In her astute reading, Schuyler shows that to be fully realized, African American legal personhood had to be routed through corporate and intellectual property laws. Schuyler exposes “legal formalism’s original Jim Crow hoax in weaving together corporate and racial theorizing” in a way that privileges corporate persons over the human persons whose rights the Fourteenth Amendment was supposed to protect.¹⁰ Siraganian’s analysis in this chapter has implications for the unequal distribution of corporate wealth in America and the lack of diversity on corporate boards today. The chapter also raises questions about corporations’ obligations to rectify the legacy of racism from which they profited. Here again, Siraganian offers an illuminating account of both practical and ethical questions related to the law’s recognition of corporate personhood.

Siraganian, however, does not only consider the work of jurists, philosophers, and imaginative writers. She also examines the contributions of visual artists, offering subtle readings of political cartoons, magazine illustrations, and documentary photographs. These analyses enrich and amplify her readings of the literary texts, providing vivid examples of the problems to which imaginative writers responded. One of Siraganian’s most striking discussions appears in Chapter One, which reads political cartoons and illustrations in late nineteenth-century newspapers and magazines alongside Norris’s *The Octopus*. Siraganian offers a subtle analysis of the cartoons’ representations of “the theoretical possibility of collective agency and how it might function treacherously in practice.”¹¹ In particular, she argues, the cartoons—which depict the corporation in the guise of “strange hybrid creatures,” including a “giant octopus, human colossus, beast, [and] monster”—illustrate the problems of willful blindness, deferral of knowledge, and moral hazard resulting from multiple agents.¹² But the images, in her astute reading, make clear that every corporate

⁸ Id. at 175.

⁹ Id.

¹⁰ Id. at 213.

¹¹ Id. at 50.

¹² Id. at 57.

executive need not see what the corporation is doing for his actions to count as intentional. The executives are all part of—and thus implicated in—the corporate “beast.”

In the fourth chapter, Siraganian offers a powerful reading of an illustration by Udo Keppler that evokes the limits of veil piercing as a strategy of corporate accountability. In the illustration, which appeared in a November 1910 issue of *Puck*, several corporate lawyers, lobbyists, and legislators cast a shadow of the corporate form on a wall in an effort to conceal the agency of the corporate executive, who sits comfortably in a chair. An angel of the Department of Justice raises her shield at the shadow but, as Siraganian explains, “swinging [a] battle axe at the shadow ‘INCORPORATION’ would be pointless, because hacking at a corporate veil does not harm its source.”¹³ “Attacking the substance of the shadow,” Siraganian observes, “will do nothing to stop those torchbearers, working away in the wings, from projecting another legal fiction tomorrow.”¹⁴ Hence, the illustration shows the need for broader remedies such as those imagined by Reznikoff.

Studies of law and literature do not usually bring together such a diverse array of textual and visual materials. Nor do they move so seamlessly from law and philosophy to fiction and poetry to political cartoons. Siraganian’s interdisciplinary method enables her to offer startlingly new insights about modern literature, thought, and culture while helping us better understand the nature and limits of corporate personhood. In doing so, Siraganian brilliantly raises the bar for law-and-literature scholarship.

II. Collective Agency and Responsibility after the Holocaust

The insights that *Modernism and the Meaning of Corporate Persons* offers are far-reaching. Indeed, the book lays the groundwork for studies on a host of topics that extend far beyond the modern business corporation. As Siraganian notes in her introduction, discussions of corporate personhood frame debates about the recognition of legal personhood for other non-natural entities, and thus have implications for animal rights, artificial intelligence, and environmental justice. At the same time, the study raises questions about the wills, intentions, and responsibilities of other collective social entities. The list of such entities is long and includes legislative bodies, labor unions, faculty committees, non-profits, athletic teams, and orchestras. It also includes violent social and political organizations. I focus here on collective entities that shaped the course of history in the twentieth century in particularly troubling ways: collective entities responsible for planning and carrying out the Holocaust.

Between 1945 and 1949, over the course of thirteen trials held before the International Military Tribunal in Nuremberg, Germany, the Allied Powers prosecuted close to two hundred individuals—including high-ranking political and military officers, lawyers, judges, doctors, and industrialists—as well as six Nazi organizations. More than a decade later, the Israelis prosecuted another high-ranking official, Adolph Eichmann, in Jerusalem.

¹³ Id. at 152.

¹⁴ Id.

These prosecutions rested upon new legal principles—including broad conspiracy liability—articulated in the Nuremberg Charter. However, the vast majority of individuals who participated in the atrocities were not brought to justice.¹⁵ German and Austrian courts, for their part, failed directly to address the mass murder of the Jews in the first decade after the war when the crimes were still fresh in people’s memories, the perpetrators relatively young and competent to stand trial, and the surviving witnesses still available.¹⁶ In later years, prosecutions in these countries relied upon ordinary criminal charges. As a result, the Allies’ “emphasis on ‘conspiracy’ and the division of labor in a system of collective violence” was lost.¹⁷

Imaginative writers struggled to conceptualize and respond to the legal and ethical challenges posed by state-sponsored genocide. In what follows, I offer brief readings of Ida Fink’s *The Table* (1970) and Reznikoff’s *Holocaust* (1975), focusing on their treatment of the interplay between individual and collective responsibility. Scholars have examined Reznikoff’s poem but have largely overlooked this aspect of the text; Fink’s play, for its part, has received little scholarly attention. Reading these works through the lens of Siraganian’s study helps us better understand the implications of the collective nature of the Nazi genocide.

Fink’s play examines the difficulties involved in bringing Nazi officers to justice in the aftermath of the Holocaust. Originally written for Israeli radio in 1970 and based on Fink’s work as an interpreter and a clerk of court during hearings of witnesses at the trials of Nazi criminals, *The Table* presents a series of excruciating exchanges between a prosecutor and four witnesses as he presses them to remember details of a “selection” (or “action”) held in a marketplace in Poland one winter day more than twenty-five years earlier. On that day, the Nazis rounded up the Jews, forced them to assemble in the public square, and then called them one by one, demanding that they present *Arbeitskarten* (work cards). The officers made split-second decisions as to who would go to the work camps and who would die. The Nazis also shot hundreds of people both inside and outside the square. After the passage of so much time, and given the traumatic nature of the experience, the witnesses understandingly cannot provide some of the details that would ordinarily be necessary to establish culpability in a court of law. But the murders committed by the Nazis were no

¹⁵ See Mary Fulbrook, *Reckonings: Legacies of Nazi Persecution and the Quest for Justice* 212-23, 282-87, 336 (2018); Nuremberg Trials, June 7, 2019 (<https://www.history.com/topics/world-war-ii/nuremberg-trials>). The Nuremberg Charter gave the International Military Tribunal jurisdiction to hear charges against persons who, acting either as individuals or as members of organizations, committed crimes against peace, war crimes, and crimes against humanity. In addition, the tribunal had jurisdiction to hear charges against “[l]eaders, organizers, instigators and accomplices [who] participat[ed] in the formulation or execution of a common plan or conspiracy” to commit any of the aforementioned crimes, in which case the individuals would be held “responsible for all acts performed by any persons in execution of such plan.” The fact that a defendant acted pursuant to orders of a superior did not absolve him from responsibility. See Charter of the International Military Tribunal arts. 6 & 8 (<https://avalon.law.yale.edu/imt/imtconst.asp>); Geoffrey Robertson, *Crimes Against Humanity* 239-53 (3d ed. 2006).

¹⁶ See Fulbrook, *supra* note 15, at 231-65.

¹⁷ *Id.* at 213.

ordinary murders. Fink explained that she wrote *The Table* to show the problems with “the laws that try genocide according to the code intended for trivial crimes.”¹⁸ She appears to have been particularly concerned about complications stemming from the scale and scope of the Nazis’ actions. In the play, Fink highlights the need to continue to develop new legal principles to respond to the atrocities. The form of the radio play is crucial to her message: Fink provides few details about the setting and identifies the witnesses simply by their gender and age; only the first and third witnesses are named. The play instead highlights the witnesses’ anguished voices and the prosecutor’s relentless questioning, which ends up traumatizing the survivors all over again.

These problems are evident in the prosecutor’s exchange with the first witness. Mr. Grumbach becomes upset when the prosecutor presses for information concerning the size and placement of a table that Mr. Grumbach has mentioned. “It’s been so many years . . .,” he laments, “[a]nd at a time like that, who was thinking about a table?”¹⁹ The prosecutor explains that “every detail is crucial.” “[I]t’s for a good purpose,” he insists, “that I’m tormenting you with such details.”²⁰ But Fink suggests that a focus on such details is misplaced. The problems with the prosecutor’s approach become further evident when he proceeds to question Mr. Grumbach about the murders that took place that day. Mr. Grumbach remembers the names of six Nazis who participated in the selection and indicates that there were “more than a dozen of them” present in the square. He identifies Kiper as the man who presided over the action; Kiper, Grumbach explains, “was the one in charge.”²¹ Kiper was also the one who brutally shot a mother and her ten-year-old child when the mother disobeyed Kiper’s command and ran after her daughter. The difficulty is that Mr. Grumbach did not see the pistol in Kiper’s hand and thus, the prosecutor suggests, it is possible that one of the other officers fired the shot. Still Grumbach “assert[s] with absolute confidence that the murderer of the mother and child was Kiper.”²² When asked whether he witnessed any other murders that day, Mr. Grumbach answers, “That day more than four hundred people were shot in the town. Another eight hundred at the cemetery.”²³ Although he did not see members of the Gestapo shoot specific individuals, he insists upon the Nazis’ responsibility. He concludes his testimony by observing, “It was a sunny, cold day. There was snow in the streets. The snow was red.”²⁴ The collective nature of the Nazi enterprise, Fink shows, threatens to hinder the prosecution and punishment of the individuals who carried out its murderous plans. But it would be a travesty not to hold any of the

¹⁸ See Ida Fink, *The Table*, Holocaust Theater Catalog (<https://htc.miami.edu/plays/table/>).

¹⁹ Ida Fink, *The Table*, in *A Scrap of Time and Other Stories* 140 (Madeline Levine & Francine Prose trans., 1995).

²⁰ *Id.*

²¹ *Id.* at 145.

²² *Id.* at 148.

²³ *Id.*

²⁴ *Id.* at 149.

SS officers responsible simply because the witnesses cannot definitively say which officers fired the shots. The image of the blood-stained snow serves as a vivid sign and symbol of the unimaginable horrors. Mr. Grumbach's account testifies to the collective nature of the action even as it impugns the behavior of specific individuals.

Subsequent exchanges reinforce this point. The second witness, a woman, struggles to identify all the officers involved even though she directly observed the shootings. The woman tells the prosecutor that she saw Kiper "rushing around like a wild man and shooting" into the crowd on the morning of the selection. She saw other officers—"Bendke, for example"—doing the same.²⁵ She avers that it was possible that they continued to shoot during the selection but she does not remember. She is likewise unable to provide the names of the victims and does not know which SS officer read the names from the list during the selection and decided who would live and who would die. The woman becomes distressed by the prosecutor's relentless questions:

At such a time, you know . . . at such a time, when you don't know . . . life or death. I didn't look at their faces. To me, they all had the same face. All of them! What difference does it make whether it was Kiper or Bendke or Hamm or Rosse? They were all there. There were ten or maybe fifteen of those murderers. They stood in a semi-circle, with their machine guns across their chests. What difference does it make which one? They all gave orders, they all shot! All of them!²⁶

For this witness, it is *as if* the officers were one person: they all acted in concert to carry out the Nazi agenda and are thus all culpable for the deaths. The prosecutor, by contrast, insists on identifying individual actors. "[Y]ou see," he explains, "we can only convict people if we can *prove* that they committed murder."²⁷ The play exposes the limits of such logic. The circumstances surrounding the murders, the distance of time, the failures of memory, and the psychological trauma that the witnesses experienced all exacerbate the ordinary challenges of assembling evidence in a criminal trial and necessitate a different approach.

Fink further underscores the need for new legal principles through the prosecutor's exchange with the third witness, who helped bury the town's victims. Unlike the previous witnesses, he believes that a high-ranking officer named Kuntze was in charge of the action, but he does not remember if Kuntze was in the square that day. Like the other witnesses, this man was present when the young woman—whom he identifies as Rosa Rubinstein—and her young daughter were murdered. Although he did not directly witness the shooting, he heard the shots and saw the bodies lying on the ground and the red stains in the snow. The man testifies to hundreds of other murders, as well. He states that four hundred and fifty people were killed in the town and house searches and eight hundred and forty people were shot in the cemetery that day, his wife among them. Still the prosecutor implores: "But you didn't see any murders with your own eyes? Can you say, 'I saw with my own eyes that

²⁵ Id. at 152.

²⁶ Id. at 153.

²⁷ Id.

this one or that one shot so-and-so or so-and-so?” The man replies, “I saw thirteen hundred victims. The mass grave was thirty meters long, three meters wide, five meters deep.”²⁸ The numbers speak for themselves. When murders are committed on such a large scale, Fink shows, it is impossible to establish definitive connections between all the perpetrators and their victims. The play shows the absurdity of applying ordinary legal standards of proof in this context.

The play instead underscores the need to focus on the larger picture and the abundance of evidence of the Nazis’ crimes. The table initially stands in for the kind of meaningless details that distract from this picture. The witnesses all give different testimony concerning the size and placement of the table, and one witness does not remember seeing a table in the square at all. They also disagree as to whether Kiper was sitting at or standing by the table. But they all saw him speak to Rosa and heard the shots fired and saw her body—and the many other bodies—in the blood-stained snow. The final words of the play underscore Kiper’s culpability as well as that of the other officers who participated in the action. The fourth and final witness explains that when she returned to the marketplace at the end of the day, she found it empty. “In the center of the square,” she recounts, “lying on its back with its legs in the air, was a small, broken table.”²⁹ The table, now personified, becomes another sign and symbol of the unimaginative horrors committed by the Nazis. “Broken” and immobile, the table too now bears witness to the crimes. The play ends without resolution but with an overwhelming sense of the officers’ moral and legal responsibility. Fink leaves her audience with a stark message concerning the dangers of losing sight of the human devastation wrought by the Nazis, as well as the urgent need to adapt the criminal law to respond to the frightening new form of state-sponsored genocide.

In *Holocaust* (1975), Reznikoff turns to poetry to work through similar problems. As in *Testimony*, in this poem, he draws upon actual legal cases, incorporating material now from a United States government publication entitled *Trials of War Criminals Before the Nuremberg Military Tribunals* (1949-53) as well as the records of the 1961 Eichmann trial. Reznikoff uses the resources of documentary poetry to evoke the trauma inflicted on the Jewish people, combining individual voices and testimonies into a collective witness statement. As in *Testimony*, in this poem Reznikoff leaves out the formal legal framing of the evidence, for he submits his own writing not to a legal tribunal but to the court of public opinion. Divided into twelve parts, the poem takes us through all phases of the Holocaust, from the Nazi invasion and deportations to the ghettos and massacres to the gas chambers and gas trucks to the work camps, mass graves, and marches. The poem records the horrors inflicted on old and young, men and women, and parents and children across Germany and Poland; it documents the unimaginable psychological cruelty and physical brutality exacted upon the Jewish people, culminating with accounts of rescue amidst the Nazis’ eventual defeat. Toward the end of the war, the poem reveals, the Nazis ordered Jews to dig up the

²⁸ Id. at 161.

²⁹ Id. at 165.

mass graves and to burn the bodies buried in them in an attempt to “hide traces of the . . . murders during the [previous] three years.”³⁰ But the poem subverts such efforts at concealment, testifying to the Nazis’ atrocities.

Rather than focusing on the experiences of one or two individuals, the poem evokes the suffering of the Jews as a whole. It moves from accounts of specific people (“One evening, a policeman came and told him—/he had come from Poland and had been in Germany almost thirty years—/told him and his family,/‘To the police station at once’”) to accounts of the collective (“All were taken to the town’s concert hall—Jews from all areas in town—”).³¹ Reznikoff uses third-person pronouns (“he,” “she,” “they”) and generic descriptions (“A Jew,” “the women,” “the children”) throughout the poem. In this way, he presents an epic portrait of mass murder and group suffering while underscoring the loss of individuality in the camps. Through this strategy, Reznikoff avoids the problems posed by first-person accounts. We encounter no uncertainties or difficulties of memory; there are no prosecutors undermining witnesses’ testimonies. The poem is objective, authoritative, and factual. The poetic form is uniquely suited to Reznikoff’s project. Reznikoff weaves the individual accounts into a larger whole while using line breaks, punctuation, and syntax to evoke the fragmentation and disruption of Jewish lives. With its understated tone and stark accounts of the Nazis’ relentless torture and murder, *Holocaust* foregrounds the collective anguish of the Jewish people. At the same time, the poem affirms victims’ voices, countering the Nazis’ efforts to strip the Jewish people of their humanity and personhood.

Reznikoff ultimately holds the Nazis both individually and collectively accountable for the atrocities. The poem does not name the perpetrators and, in many ways, it blurs them together. But it nonetheless records the words and actions of numerous individuals who, working together, carried out the Nazis’ agenda. The prosecutions at Nuremberg relied upon broad conspiracy liability. But the poem’s reach extends even further: it is not limited to the two hundred or so defendants brought before the International Military Tribunal; these individuals are not the only ones on trial. The poem calls attention to all the people who participated in the genocide and who followed the Nazis’ commands. All those who marched in lockstep and carried out the orders—as well as those who simply looked away—are implicated. Through his sweeping account of the destruction of the Jews, Reznikoff affirms the responsibility of the Nazis and their collaborators while underscoring the need to ensure that such atrocities never happen again.

The state-sponsored genocide that Fink and Reznikoff depict, of course, seems far removed from the corporate malfeasance that Siraganian considers in her study. But the legal and ethical questions raised by these texts are, in many ways, connected. For, as Siraganian emphasizes, collective social entities pose unique challenges to legal and moral responsibility, and imaginative literature can help us think better about them. Fink and Reznikoff use the resources, respectively, of the radio play and the documentary poem to offer

³⁰ Charles Reznikoff, *Holocaust* 59 (2007).

³¹ *Id.* at 3.

stark reminders—all too relevant today—of the horrific actions of which social and political groups are capable, as well as the need to hold perpetrators both individually and collectively accountable. Siraganian's book, with its incisive analysis of the interplay between individual and collective wills and intentions, invites further consideration not only of the nature and development of the business corporation but also of a range of other collective entities. The study likewise underscores the need to examine the implications of both the recognition and the denial of legal personhood. Siraganian ultimately offers those of us working in law and literature a rich account of the legal fiction of corporate personhood in twentieth-century America as well as a host of methodological innovations and a set of vital research questions.