

“Institutional Theory for Corporate Law: An Invitation”

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Reliance on agency-theoretic reasoning has led to substantial theoretical and empirical advances in company law scholarship, but the narrow focus on board-level actors and phenomena has disconnected the analysis of the company from the reality of the economic organisation it is meant to enable and support. We follow Oliver Williamson’s call for a “law, economics, and organization” approach, and build on Elinor Ostrom’s “institutional analysis and development” framework to propose a narrative model of the company in terms of nested levels of governance. We argue that our model works as a positive description of the law as it is, and puts us in a stronger position to evaluate the likely consequences of certain normative interventions, which we illustrate with some observations about ongoing debates in corporate governance.