



Pathology, Power and Profits... in Paperback

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review of: J. Bakan (2004) *The Corporation: The Pathological Pursuit of Profit and Power*. London: Constable. (PB: pp. 229, £9.99, ISBN 1845290798)

Joel Bakan's *The Corporation* is an accessible and engaging critique of the corporation written for a non-specialist, mass audience. It has been published in the UK to coincide with the release of the multi-award-winning documentary of the same name in UK cinemas.

The central premise of *The Corporation* is that large corporations share a common, and deeply problematic, institutional form. Specifically they are legally constructed as 'persons' with their own identity and interests; they are mandated in law to relentlessly and selfishly pursue these interests; they externalise all costs and negative consequences that result; and they have none of the effective checks and balances, nor are they required to display anything corresponding to moral or social conscience that we require of their rather more corporeal/less corporate human cousins. Having constructed the figure of this anti-social corporate 'person', Bakan then utilises psychological discourse to diagnose the subject as 'pathological', if not 'psychotic'. This gives the book a simple hook that is used to good effect throughout. Having said this, I can't help thinking that Erich Fromm's use of these same concepts in *The Sane Society*, published in 1956, combined with his thoroughgoing appreciation of Marxism and Freudian psychoanalysis, presented a far richer critique overall. Where Bakan critiques one capitalist institution, and perhaps by so doing risks letting a number of other targets and the wider structures of capitalism off the hook, Fromm explored the reproduction of this pathology throughout a broad range of social, religious and economic aspects of capitalist society. Fromm's book, however, is not, regretfully, a current best seller, or therefore the subject of this review.

Returning to Bakan. In Chapter One, possibly the best chapter in the book, Bakan engagingly explores the construction of the pathological corporate personhood. He does this through an interesting summary of the rocky legal and social history of the rise of the corporation from the sixteenth century to the present day, concentrating mainly upon the UK and US context. Along the way he notes such items as Adam Smith's antipathy toward what he regarded as this scandal and corruption prone organisational form; the movement from explicit prohibition of corporations (The English parliament's Bubble

Act of 1720) to their promotion and widespread protection under the law (from 1825 onwards); and a series of landmark cases and statutes in the US and the UK that institutionalised, and protected, the corporation as the institutional form that we know (and loathe) today.

Following this opening, the remainder of the book's six chapters flesh out Bakan's initial premise. Chapter Two charts the corporation's 'normal' reproduction of deeply problematic acts. Chapter Three explores its externalisation/avoidance of costs or liability for such acts. Chapter Four highlights the limits of democratic control over the corporation and the corporation's increasing control over democratic institutions. Chapter Five documents the increasing corporate colonisation of public life. Finally, Chapter Six proposes some ways to constrain and correct the pathological corporate 'person' (more on this later). In these chapters Bakan supplies many interesting and varied examples of odious corporate practices. Some of these are already infamous (General Motor's cost-benefit analysis of the exploding Malibu car gas tank, for example) but many also new to this reader. Amongst the latter, some of my favourites include the interview with Marc Bary (corporate spy) who, amongst other nefarious acts, sets up phoney recruiting firms that lure corporate executives to fake job interviews only to surreptitiously debrief them on behalf of a competitor; a four page list of 42 of General Electric's major illegal acts between 1990 and 2001; and the botched attempt at imposing a corporate controlled fascist government in the US in the 1930's by some of the country's top business leaders.

In addition to these examples of shoddy corporate practices, Bakan also makes good use of interviews with the great and the (not-so-)good, a device favoured by other current popular critiques of corporations (e.g. Klein, 2001) as well as their ideological opponents – the writers of management guru texts. Bakan weaves throughout the text excerpts from his discussions with Noam Chomsky, Naomi Klein, and Michael Moore alongside anti-corporate activists, 'reformed' ex-CEOs, current CEOs (both those embracing and not embracing 'Corporate Social Responsibility') and leading figures from the pro-corporate right – including Washington lobbyists – heads of pro-corporate think tanks and Milton Friedman. All of the above are used to examine not only the book's basic premise, but also to make some pertinent critiques of a number of current attempts to soften the image of the corporation as irredeemably anti-social. Several chapters, for instance, have contributions to make to debates around Corporate Social Responsibility. The opening chapter notes the rise in interest in this topic not just in recent years but also at the end of the First World War and again in the 1930s. Both periods are characterised by a loss of public faith in the corporation's social contribution, resulting, as in our recent decades, in business leaders seeking to reassure the public that corporations could be trusted to manage their own affairs with a social conscience. Corporate Social Responsibility is also a major theme of Chapter Two where Bakan notes that there have been some valiant, and quite conceivably genuine, efforts by business leaders such as Tom Kline (Pfizer Inc.), William Ford, Jr. (Ford), or indeed Anita Roddick (Body Shop) to imbue their corporations with some social conscience. However, he argues again that the corporation's legally constructed mandate to pursue its own narrowly defined 'best interests' means that such efforts confront not only prevailing cultures in the corporate world, but also the legal constitution of the corporation. The author illustrates this last point well by referring to

the defining case law of *Dodge v. Ford Motor Co.* where John and Horace Dodge, two of Ford's major shareholders, used the courts to reverse Ford's decision to use profits to lower prices for customers rather than pay dividends to shareholders. As the judge in the case expressed his ruling, a corporation should not be run "for the merely incidental benefit of shareholders and for the primary purpose of benefiting others" (p. 36). This case, and the 'best interests of the corporation' principle that it has come to stand for since, Bakan argues, effectively renders the morality of individual corporate members, no matter how senior they may be and no matter how heartfelt their moral position, a largely irrelevant sideshow. Such sentiments, and efforts, will inevitably and ultimately be subordinated to the legally constituted dominant self-interest of the corporation. In making this point, Bakan, paradoxically, echoes his interviewee, Milton Friedman, who argues that the one and only social responsibility of corporations is to make profit. As Bakan phrases it, "Corporate Social Responsibility is thus illegal – at least when it is genuine" (p. 37). The difference between the two positions, of course, is that Friedman seems content whereas Bakan argues for changes to the economic and regulatory context to make the fiction of corporate social responsibility a fact.

Turning for a moment to the style of Bakan's text, for those coming to this book having previously read some of the other popular anti-corporate texts such as Klein (2001), Korten (2001), or Monbiot (2000), some feeling of familiarity, even repetition, may start to creep in. Bakan's book is written in a similar style, it takes on many of the same targets, and is written for the same non-specialist mass audience. (So, with regard to this last point, those primarily interested in pushing the conceptual boundaries of the field should perhaps look elsewhere to more theoretical – and less popular – texts). Nonetheless the book's accessibility, even familiarity, does serve to make the book potentially an excellent teaching resource that might help encourage a broad spectrum of students to engage more critically with corporate practices. But before this is interpreted as damning with faint praise, I feel that the book also makes a number of other contributions to the popular anti-corporate literature and may also give the Critical Management Studies field some things to think about.

First, the focus upon the legal constitution of the corporation is a useful and interesting addition that the author, a professor of law at the University of British Columbia, is ideally placed to bring to the popular anti-corporate genre. I found the discussion of the relevant statute and case law, both past and present, fascinating and a further reminder of how much of that most serious of games played between capital and labour (and the environment, the consumer, etc) is already rigged. In addition, a further interesting effect of Bakan's charting of the legal 'personhood' of the corporation is that it would now seem quite proper for us to talk of a corporation, rather than only the people who interact with it, as having 'interests'. While this is indeed a reification and anthropomorphizing of the corporation, it is a reification that merely seems to reflect the corporation's status in law.

Second, I think the book has something interesting to say about the way we represent others' voices in our critical academic texts. Bakan is unmistakably hyper-critical of the form and function of corporations, and this critique inevitably extends to those who run corporations or act as agents or apologists for them. However, his interviewees and the people named in his examples, who span the poles of pro and anti-corporate ideology,

are all treated in the text with a generosity and respect that, ultimately, seems to add to rather than diminish his overall critique. Bakan seems to have found a style of representation that allows him to explicitly problematise the agency of some of his subjects without using (abusing?) his authorial position to diminish their moral status. By not questioning the voracity of his subjects' espoused beliefs or intentions, Bakan's critique comes across as one that is not 'cheapened' by problematising individuals. It's quite possible that this representational form may be merely a legacy of Bakan's legal training – I assume that the cultivation of an air of decorum and respect to one's opposing council is generally expected in such contexts – but it did also speak to me of an ethical relationship towards the voices of respondents that our critical community might usefully reflect upon (Wray-Bliss 2004). As someone who slips into the polemical in my own work, and has started to notice some critical research on organisation tending toward a superior, even dismissive, attitude on the part of the author towards other academic and non-academic voices, I find Bakan's style (or ethics) both refreshing *and* effective.

Third, the book gives me pause for thought regarding the nature of the practical contribution of both Bakan's text and those doing critical management studies. Central to Bakan's critical project, as his last chapter (*Chapter Six*) makes clear, is a desire to contribute toward a change in the practices and constitution of corporations. *Chapter Six* is part hopeful rhetoric, part appraisal of a range of current attempts outside of the regulatory regime to call corporations to account, and part Bakan's own proposed remedies to the current malaise which focus upon regulatory mechanisms. Taking each of these in turn, the chapter's attempt at hopeful rhetoric, for me, was at times more aspirational than wholly persuasive, perhaps signaling that Bakan had done almost too good a job constructing the image of the monolithic pathological corporate entity in the previous chapters. Having said this, his review of the possibilities of calling corporations to account through anti-corporate protest (which he regards as a necessary complement to and catalyst for governmental regulation, but not a substitute for it), consumer/ shareholder democracy (limited efficacy and more importantly fundamentally undemocratic as no money equals no voice), non-governmental organisational pressure (helpful but not sufficient or sufficiently democratic) and corporate social responsibility (well intentioned, perhaps, but ineffectual) displays a critical but far from pessimistic mindset. Throughout his review of the above mechanisms Bakan consistently argues that, in the absence of a wished for, but unlikely, short term radical shift away from laissez-faire capitalism, state regulation of corporations must remain the principal means by which corporations should be brought to heel. He does not make this case ignorant of the current corporate stranglehold over governments but rather, it seems, out of a principled commitment to democratic means, which he understands as synonymous with legislative constraints on corporations formulated by democratically elected governments.

Toward the end of the chapter, Bakan proposes a number of general prescriptions for increasing this legislative control over corporations. Though each of these seemed eminently desirable they did also seem to me to be a bit of a wish list without a great deal of attention to how they may be practically achieved. For instance, under the heading 'Challenge International Neoliberalism' Bakan calls for Nations to

work together to shift the ideologies and practices of international institutions, such as the WTO, IMF and World Bank, away from market fundamentalism and its facilitation of deregulation and privatization. (p. 164)

Assuming that the reader both shares this goal and believes that such institutions can be redeemed (cf. Korten, 2001), Bakan still provides few clues of the necessary practical steps towards achieving this desired outcome. In all fairness, however, and to turn this critique back on ourselves, it doesn't seem that the critical organisational/ critical management studies community has yet offered much practical help in this regard either. And even if we shift attention from such global institutions to CMS's more familiar focus on challenging oppressive practices within work organisations, our field, while eminently capable of documenting and theorising such practices, has not seemed overly concerned to explore ways to practically challenge these. Whether the above is a fatal flaw of either Bakan's book or CMS I'm not sure, but it is, I feel, a limitation of both. Though in this respect, the fact that Bakan has constructed a bestseller that will reach so many readers does suggest that Bakan's book, like Klein's before it, will, despite its limitations, almost certainly have more influence on more readers than most CMS's texts put together (also Parker, 2002).

To some up, *The Corporation* is an accessible and interesting addition to the popular anti-corporate genre. While sharing a number of features, and examples, with previously published texts the book's central focus upon the legal constitution of the corporation makes this a useful incremental contribution. In addition, there are, as indicated above, a number of other stylistic and conceptual aspects to this book that gave this reader something to think about. I am already recommending this to students taking the Organisational Behaviour module I teach – to be read in conjunction with more theoretically explicit (and thereby probably less popular) critiques of management and organisation. And if the 'pathological' trope running throughout this book grabs these students, I'll probably encourage them to read Erich Fromm (1956) next.

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