

Title: The Ontology of Corporations

Abstract:

Most of the recent literature on corporate responsibility does not focus on a problem that is at the heart of that discussion; namely, whether corporations exist over and above the individuals that compose them. Moreover, many of the federal sentencing guidelines for corporations rest on the assumption that corporations are the kind of entity that can be morally culpable. I argue that we must first determine the ontological status of corporations before exploring their capacity for moral agency. Simply put, if corporations do not meet the requisite ontological criteria, then they cannot meet the requisite moral criteria. Using basic principles of composition, I argue that collectives, in the form of corporations, do not exist over and above the individuals and relations that compose them. Furthermore, I propose that even if one grants corporations some kind of abstract social existence, they still fail to meet the conditions for moral agency. If my arguments are sound, then the assumption that corporations can bear moral responsibility is seriously misguided, and the lines of the debate must be redrawn.

Section one details what we can expect, as philosophers, to gain from putting ontology before agency. Specifically, I explain how a theory of composition can help us adjudicate whether corporations exist - as social entities or otherwise. In the case at hand, we want to know how to individuate a corporation. In doing so, we are asking the same question ontologists ask about any number of things. In general, these are all questions about composite entities, and whether these composite things exist *over and above* the collection of their component parts. To ask under what conditions corporations exist is simply to ask what the criterion of composition is for corporations. I discuss three principles of composition for material objects: *contact*, *fastening*, and *bonding*. Of course,

none of these principles is sufficient for the composition of corporations as distinct entities, since corporations, if they exist, are not material objects.

Section two considers whether corporations are a kind of abstract social entity. Presumably, this would be a kind of entity that exists whenever the appropriate persons, relations, and other organizational abstracta are structured in a particular way. Some scholars point to cases in law or society in general, whereby corporations are referred to *as if* they exist as an independent social entity. From there, they claim the existence of such entities is required to make sense of ordinary speech. However, this tactic is not convincing, since many concepts have questionable ontological status (e.g., the average number of children per U.S. household).

Moreover, whether the law treats corporations as persons for purposes of legal culpability does not entail the further ontological claim that corporations *qua* social entities exist. If that were the case, then we should have to admit that a distinct entity is created whenever a new corporation emerges. However, do we really believe a new entity was created when, say, *Betty Crocker* became incorporated? This does not seem to be like other cases of creation, especially those involving the creation of a moral agent. For example, it is unclear how the creation of a corporation is in any way similar to the creation of a human child.

One reason ethicists care about the composition of corporations is because they believe that if they are collective entities, then they are also moral agents. In section three I assume (for *reductio*) that corporations are a kind of social entity, and proceed with the further question of whether such entities could ever qualify as moral agents. Traditionally, moral agency is a topic that has been widely discussed, complete with necessary and sufficient conditions on such agency. Some of these conditions are: intentionality,

rationality, unity of consciousness, and free will. If corporations are the kind of composite thing that could succeed in meeting some of these conditions, then they might also count as moral agents

But it doesn't seem that corporations can fulfill the requirements needed for moral agency, even if they have internal decision-making procedures that are rational, or exhibit a kind of intentionality. Consider a thought-experiment based on Ned Block's "China Brain" (1992), which questions whether the citizens of China could ever be organized in such a way as to replicate a human brain – something with mental states, like rationality or intentionality:

Suppose that we give each of the one billion citizens of China (analogous to the one billion neurons in our brain) a phone. Then, we give them some instructions, like "if you receive a call from number 723-6332, hang up, and then dial 296-5544". Or even, "if you receive a call from 723-6332, raise your right arm". If each person represents a neuron in the human brain, performing similar functional roles as neurons do, they are collectively and functionally equivalent to a human brain. Moreover, consider what happens if these instructions result in physical actions, and the collection of Chinese citizens are coordinated to act as an individual moral agent might act. According to functionalism, this system would be a moral agent. However, it is entirely unintuitive that the so-called "China-brain" is anything like a moral agent, even though it may appear to be functionally equivalent to one.

This thought experiment illuminates how our concept of moral agency entails something more than just appearing to have consciousness or appearing to act as a unit: *moral agency requires a unified subject*. A corporation, even if its members are in constant communication, does not have the complexity necessary to attain the self-conscious moral

reflection we expect of moral agents. This is why corporations as collective moral agents do not exist. Moreover, even if they did exist, they would be a poor candidate for moral agency. Although it may prove more difficult to determine moral culpability amongst individuals, tractability is no indicator of veracity. I conclude that we must not hold fast to any doctrine whose claims rely on the ontological status of corporations and suggest some alternatives that will give us corporate responsibility without collectivity.