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## BOOK REVIEW

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**Joel Bakan's, *The Corporation – The Pathological Pursuit of Profit and Power*. Free Press - Constable & Robinson, 2004, 2005.**

Reviewed by

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In 2004, a powerful documentary hit the screens in Europe and America. “The Corporation” was its name, and it was an impressive all-out attack on for-profit corporations. At the same time, the book by the same name appeared, through the Free Press in the USA and Constable and Robinson in the UK. Its writer, Joel Bakan, was the same professor of law, who was the main writer for the film. Its content, a quite original and rather persuasive argumentation for a more strict state regulation of this institution, which dominates the market, and, as some along with Bakan would say, also our lives.

“The Corporation” is a book about the history of this institution, about its main characteristics today, the way it acts and the effects it has on people. It is also a book about the idea of corporate social responsibility. It is mainly addressed to the general public, not only the academics, and is accordingly written in a simple enough and straightforward manner. It shares with the film many of its examples of corporate malpractice, as well as its provocative character. However it stands on its own, through solid analysis and argument not to be found in the film.

Following a short Introduction, the book is divided in six chapters, entitled “The Corporation’s Rise to Dominance”, “Business as Usual”, “The Externalizing Machine”, “Democracy Ltd.”, “Corporations Unlimited” and “Reckoning”. It contains extensive Notes divided by chapter, a rather large (for a book addressed to the public) “Selected Bibliography” and an Index. In its second, revised and expanded edition by Constable and Robinson, there is also an appendix, with Noam Chomsky’s interview to Marc Achbar.<sup>1</sup>

In the Introduction, the key premise is put forth, that the corporation is an institution, whose legally defined mandate is to pursue its own self-interest. And that the author’s argument is that the corporation is accordingly a pathological institution and a dangerous possessor of great power.

In Ch.1 the history of this institution is traced, from the 18th century when the corporate form was quite exceptional and allowed solely as a means to carry out particular large projects for the public interest, to our days when it appears to dominate our economies and societies. Emphasis is placed on the key characteristics of limited liability and management control, and on the relatively modern idea that the corporation is by law a person, who may even enjoy certain human rights. Also on the fact that economic scandals related to corporations are not something new, but have always been part and parcel of the corporate form of doing business. The emergence, in the beginnings of the 20th century, of the idea of corporate social responsibility, is presented as a response by corporations to the people’s fears of the size and power that corporations came to amass, and to the concomitant demand of stricter government regulation of them.

In Ch.2 Bakan examines the idea of corporate social responsibility. He presents a variety of examples and views, and decides that, because of the fact that corporate management is by law required to primarily care for the stockholders’ profit, not much is to be expected from corporate social responsibility. He stresses the distinction between the people who run corporations on the one hand and who, at least in their private lives, may be good, moral people with the best of intentions, and the corporation itself on the other. The latter, being designed to be singularly self-interested and unable to feel concern for others, is strikingly shown to possess a number of traits that would suffice to characterize a human being as a psychopath.

In Ch.3 Bakan takes up the economic idea of externalities (i.e. effects of transactions on third parties) and argues that the corporations’ tendency to

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<sup>1</sup> Marc Achbar was heavily involved in the direction, production, cinematography, and, secondarily, writing of the film.

externalize costs is at the root of many of the world's social and environmental problems. He presents interesting examples, of cost-benefit analysis in the car industry where passengers' safety is concerned, of sweatshop labour in the clothing industry, and, interestingly enough, of the disregard of maintenance and safety regulations in the petrol industry (focusing on BP, long before the recent environmental disaster). He argues that unlawfulness in the corporate activity is systemic, and results a) from the amoral character of the institution, and, b) from failure of the regulatory system, because of lax regulations and ineffective enforcement.

In Ch.4 the corporations' involvement in politics, in a constant effort to remove government regulations that limit their freedom, is tackled. Following an interesting reminder of a clumsy attempt, in the USA, at the time of Franklin Roosevelt and his New Deal, to overthrow the President, Bakan goes on to talk about lobbying today and its success in effecting deregulation. He presents the corporate world's ideas that business and government should be partners, and that accordingly lobbying has a positive role to play, in helping the decision makers be aware of the issues, and in working with them to create solutions that are beneficial for everyone concerned, society and corporations alike. He then goes on to emphatically refute these ideas, by arguing that a democratic government cannot, or anyway should not be a corporations' equal partner. And that *"no one would seriously suggest that individuals should regulate themselves, that laws against murder, assault and theft are unnecessary because people are socially responsible. Yet oddly, we are asked to believe that corporate persons ... should be left free to govern themselves."*<sup>2</sup>

In Ch.5 our attention is directed to the fact that today practically all economic activity has come to be carried on under the corporate form, and that even the public sphere is gradually admitting of corporate exploitation, through privatization of institutions and outsourcing of activities until recently thought to be inherently public. The education market is singled out as a huge business opportunity. Bakan argues against the ideology of privatization, which seeks to exploit the motive of profit for the public good, saying that it rests upon a distorted conception of human nature. He then goes on to talk apprehensively about society's commercialization, indicating the corporations' use of advertising to manipulate children, their enclosure of public space and a view of a world dominated by undercover marketing.

Finally, in Ch.6, a solid argumentation is carried on against deregulation and for greater government control of corporate activity. The ideas of corporate social responsibility, consumer democracy and shareholder democracy are not

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<sup>2</sup> At the end of ch.4.

entirely dismissed, but are shown to be rather insufficient substitutes of government control. Government regulations, Bakan says, reflect decisions made by an institution whose purpose (unlike the corporation's) is to promote public interest and to reflect the people's will. Although costs are created by regulations and benefits derived by their removal, through deregulation these same costs will tend to appear elsewhere. Regulations are designed to force corporations to internalize costs, that they would otherwise externalize onto their environment. Bakan believes that the corporations today are not too strong to be subjected to government control, because the state's power has not been reduced, only redistributed. Quoting American Legal Realist ideas, he reminds us that "*bargaining power exists only because of government protection of the property rights bargained*", and argues accordingly that while the role of the state in protecting citizens from corporations has diminished, its role on the other hand in protecting the corporations from citizens has expanded. He also reminds us that the dominant idea behind the creation of the corporate institution was how to better serve the public interest, and that, therefore, the concept of the public good remains the ultimate measure of the corporation's institutional worth and legitimacy.

Certain rather obvious points of critique can be addressed to some of the views presented in this book. First one might say that cost-benefit analysis in relation to safety (against which analysis Bakan vehemently argues in Ch.3), is not evil, but quite useful in deciding what costs are reasonable and which dangers should be accepted as part of life. To this of course Bakan could reply that the problem is not cost-benefit analysis itself, but the fact that cost-benefit analysis is all that the corporation understands, when it comes to taking people's safety into account, or indeed to complying with the law. Secondly, it is a fact that the book was written before the current economic crisis, which has now shifted from banks' toxic assets to state debt. Perhaps even Bakan would be less optimistic today about the possibility of the state to effectively regulate corporations. Thirdly, not everyone would agree that state intervention is not an evil itself. However, between two bureaucratic institutions, one of which is designed to promote public interest, while the other is designed to care only for profit, it is certainly hard to decide to opt for the latter.

Still, I would be inclined to say, that perhaps there is sometimes too much emphasis in the book on the corporation's legal makeup, which does not supposedly allow for action towards what is good. Accordingly, the dynamic character of the organization, which can, given time, change (and corporate social responsibility ideas are, with all their faults, also indications of one possibility of change), is perhaps disregarded.

Having said all this, the fact remains that Bakan's book is lucid, compelling, well argued, and deeply disturbing. At times it might make a serious scholar somewhat impatient, with its less than scholarly style, which allows sometimes for oversimplifications. Nevertheless, it is not only an engaging read, but also a fundamental addition to any bibliography for a course on business ethics, or corporate social responsibility. And it also includes certain quite insightful passages, like the following:

*"The idea that some areas of life are too precious, vulnerable, sacred or important for the public interest to be subject to commercial exploitation seems to be losing its influence. Indeed, the very notion that there is a public interest, a common good that transcends our individual self-interest, is slipping away. Increasingly, we are told, commercial potential is the measure of all value, corporations should be free to exploit anything and anyone for profit, and human beings are creatures of pure self-interest and materialistic desire. These are the elements of an emerging order that may prove to be as dangerous as any fundamentalism that history has produced. For in a world where anything or anyone can be owned, manipulated, and exploited for profit, everything and everyone will eventually be."*<sup>3</sup>

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<sup>3</sup> At the end of ch.5.