

## THE CORPORATE CRIMINAL

Why corporations must be abolished

[STEVE TOMBS AND DAVID WHYTE](#)

Review by Rich Florentino [THE CASE FOR IDEALISM](#)

The authors are, respectively, a Professor of Criminology and a Professor of Socio-legal Studies, each with long-term interests in corporate power and corporate crimes. They both have had their careers in the UK so their writing basically concerns the corporations in that nation. But, as the UK preceded the US in much of the history of corporate development their insights apply to our situation as well vis-a-vis corporate law, power and harms.

Their subtitle, overstates the case to a certain degree. It's not that corporations should be abolished but that they should be drastically restructured from their current form, built by capitalists with the State support at every step, such that their the continual production of harms are in their very DNA – not the least of which is the vast growth of income inequality.

The book starts by acknowledging the accepted wisdom of government and much of the population that the corporation is the single best way to produce and distribute goods and services in a modern society. Other works state this as such, “Capitalism - there is no alternative.” Sad to say but this is the ideology that has been promulgated and entrenched by the neo-liberal philosophy of the freedom of capital, i.e., the freedom of the wealthiest to seek maximum returns essentially wherever, whenever and however they choose.

The bulk of the book details the history of pooling private capital under means established by government to accomplish societal ends. Early on such entities were constructed as partnerships to provide a specific 'good', such as, perhaps, university buildings or a canal. Though not specifically covered, the discovery of the New World enabled Spain and Portugal to garner massive amounts of gold and silver from the previously unexploited lands. England had possessions in Asia, but most importantly for this story, also on the east coast of North America.

Virginia was founded by a Crown grant of monopoly, to the Virginia Company in 1607 as was Massachusetts via the Massachusetts Bay Company. These ventures were structured as partnerships. For more far flung and riskier operations, the Crown formed the British East India Company as a joint-stock company and the concept of limited liability was encoded in law.

The raw materials from the colonies and their new markets made manufacturing in the home country profitable if enough cheap labor could be provided. That was solved by the government once again; common areas in the country side were 'enclosed' and declared under private ownership destroying the self-sufficient rural economy. Farmers and yeoman were compelled to seek employment in the new hellish factories, working long hours and near subsistence wages in hazardous conditions side by side with their children in many cases. The most egregious working conditions were handled with specific laws but none touched the right of “owners”, otherwise, to run their facilities to maximize profit.

Harms outside those legislated against were difficult or distasteful to pursue. The 'honorable' members of the judiciary did not vigorously prosecute the harms caused by 'reputable' owners, both being of the same class. This lenience regarding criminality as well as limited monetary liability comprised the 'corporate veil' that



shields corporate management and owners from accountability that faces individuals in society.

In recent times, shareholders have grown to number in the thousands for many companies and millions in the country as a whole. Generally, these multitudes are now only concerned with the returns on their investments and not company operations per se. The legal fiduciary responsibility was established by law to ensure that management knew their purpose was shareholder benefit and not self-dealing. This concept has been further entrenched in the last few decades by giving management huge quantities of stock options to make sure their interests are indeed aligned with the shareholders. Predictably managers now give highest priority to short term gains at the expense of any other concerns.

The authors, wanting to leave no doubt, then re-emphasize that the growth of these monstrous entities are NOT due to the play of impersonal 'scientific' laws of economics: NO, they are entirely the result of the full cooperation of the State and capitalists at every step of the way. AND they are designed, piece by piece, to maximize and protect the accumulation of capital – pure and simple – accomplished in summary by limited monetary liability, practical indemnity from criminality, the responsibility, and now the irresistible incentive, to maximize profits with little or no concern for consequences. With this array of characteristics, regulation or incentivization of their behavior is overwhelmingly difficult.

Perhaps the saddest aspect of the story is that this status quo is now widely accepted. Conventional wisdom has it that corporation is indispensable for the economic well-being of society and that government 'interference' to mitigate harms are in fact always unsuccessful. As such, many people believe that less regulation and increasing privatization of government services is the answer.

The authors do not shrink from offering the only logical conclusions that can be drawn from their rather disheartening analysis. They realize that neither corporation nor government are the problem but it is the long-term nexus of the two, and that this will not unravel on its own.

They rightly bestow praise on the efforts of so many that fight against corporate harms and limit, at least, in specific areas the otherwise free reign of corporate power. Organized labor is, of course, mentioned, as are community movements, local activists and even whistle-blowers. But the authors do make clear such efforts are necessarily fragmented and often confined to 'single issue' efforts. Each does improve matters for many fellow citizens and neighbors, but such actions do not, and cannot, fundamentally diminish the continued dominance of corporate power. Thus new harms will continue to appear in the future.

The authors close with a call not for organization or even overall planning or strategizing. No, they make the case for *idealism* as the 'secret ingredient' in the one great fight for freedom from corporate power. As they advise, the first thing we must reject is the notion that idealism cannot also be pragmatic. Our demands and our actions must be achievable yet at the same time *unabashedly idealistic*.

Reform movements often require high ideals to achieve lasting change; without such overarching ideals or grand visions, separate actions are likely to lapse into self-satisfaction without any progress towards abolishing corporate dominance and its unending trail of damages once and for all.

One of their closing calls sums it up beautifully, "If we cannot even imagine a world without the corporation, we will never inhabit a world without the corporation." Note the call is addressed to "we", plural. As they point out, "The imagination doesn't exist purely in the individual mind; it also exists between people as a result of their attempts to work out how to live and work together."

As I read this, I hear a call to democracy, a new, restored democracy without the impossible burden of ensuring corporate profits as the primary function of society. Imagine that, indeed.