

Reflections: "The Inherent Worth and Dignity of Every Corporation?!"

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August 17, 2014

As Unitarian Universalists, our first principle is, "The inherent worth and dignity of every person." Many UUs deem it our most important principle, and it underpins most of our other tenets, including our belief in universal love and the essential goodness of humanity -- notwithstanding the evil in the world.

As you can tell from the title of my reflections and the cover of your Order of Service, the topic this morning is corporate personhood. The question is: Just because the U.S. Supreme Court says corporations are persons, are we required by our first principle to recognize their inherent worth and dignity? As you might guess, my answer is a resounding no!

Our reading this morning talked about evil -- so I want to make it clear up front that I believe there are many good corporations, mostly smaller ones, and my remarks are not directed toward them.

On the other hand, I contend that much of the evil in our world -- from environmental degradation to unconscionably low wages -- is a direct result of the way many large corporations conduct their business, including their push to be treated as corporate persons.

In telling you why I believe corporations should not be treated as persons, I will start with the concept of personhood, which is really a metaphor encompassing a bundle of characteristics most people think of when they consider what it means to be a person -- a human being.

Then I will briefly sketch the history of how corporations have come to be treated in at least some respects as persons.

After that I'll introduce another metaphor -- the corporation as psychopath -- and discuss how that leads to corporate behavior that is antithetical to virtually all of our UU principles.

Finally, I will consider some ways we might work ourselves out of this fine mess corporations have gotten us into.

Personhood is a concept that has been much debated for centuries by theologians, philosophers and legislators, but I think we all have a common sense understanding of what it means.

We understand that to be a person means that we are born, we live, and we die. Our stories are written as we live -- all first drafts, no rewrites. Along the way we laugh, we cry. We love. We enjoy life and nature. We experience pain and pleasure. We make and appreciate art, music and dance. We are social creatures who need interaction with others. We experience individual consciousness.

And although UUs generally don't believe in the soul as an entity that survives death, I think most of us conceive of the soul as the essence of who we are as individuals, and if we speak of saving souls, we mean some positive transformation of that essence.

Also, we sense transcendence -- that is, we apprehend something greater than us, whether we call it God or simply stand in awe of the sheer vastness, beauty and complexity of the universe and our small part in it.

All these qualities, and more, make us human -- and thus deserving of inherent worth and dignity.

When we think of personhood in this way, it is quite clear that corporations don't fit the bill. Their "birth," if you can call it that, consists of filing papers with the Secretary of State. And though we might say some unsuccessful corporations "die," their death is in no way akin to ours.

Moreover, in theory a successful corporation can continue to exist forever -- a feat likely never to be accomplished by humans.

Corporations don't laugh, cry, love, enjoy life and nature, appreciate art, or experience pain and pleasure. Corporations have no souls.

I could go on, but it seems unnecessary because it's clearly absurd to speak of corporations as persons equivalent to human beings. Advocating for corporate personhood leads to the absurdity that corporate raiders who chop up corporations and sell off the parts would have to be considered ax murderers. And as one of my favorite Occupy Wall Street posters said, "I'll believe corporations are people when Texas executes one."

Despite the absurdities of corporate personhood, the highest court in our land is increasingly endowing corporations with rights formerly understood to belong only to humans.

In the 2010 *Citizens United* case, the Supreme Court said corporations have free speech rights and thus cannot be limited in their contributions to political campaigns, so long as the money is not given directly to politicians, their campaigns or their parties.

In the recent *Hobby Lobby* case, the court said that the religious beliefs of owners of closely held corporations can trump the contraceptive coverage requirements of the Affordable Care Act. This decision means that the government cannot compel Hobby Lobby's owners to violate their religious beliefs, but the owners can violate the religious beliefs of their workers.

How have we come to this pass? The short, quick answer is that the Supreme Court now has five very conservative justices -- Roberts, Alito, Scalia, Thomas and Kennedy -- who have consistently favored corporate over individual rights. But the current situation should also be seen as the result of 150 years of aggressive litigation by corporations to overcome limits on their powers.

The founders of our nation were deeply suspicious of corporations. The Boston Tea Party was mostly a protest against the largest corporation of the day, the Dutch East India Company, and the tea monopoly awarded to it by the British Crown.

In the early years of our Republic, the only corporations allowed by the federal and state governments were for public purposes like building canals and transportation systems, and they operated under strict restraints.

In the first half of the 1800s, as the Industrial Revolution ramped up, states increasingly allowed the chartering of business corporations with fewer restraints. They did so to promote economic growth by allowing investors to fund corporations and risk only their investments but not their personal assets. In other words, corporate stockholders have limited liability.

However, it was still clear that corporations did not have the legal status and rights of "natural persons," the term used by the law to describe human beings.

Instead, the law referred to corporations as "artificial persons," a category that also included churches and trusts. This category was intended to allow these so-called artificial persons to exercise very circumscribed rights, including the rights to sue in court, to own property, and to enter into and enforce contracts.

Ironically, language in the 14th Amendment to the U.S. Constitution has been used by corporations to argue that they are entitled to the same rights as natural persons. Adopted in

1868, the 14th Amendment was intended to grant equal protection of the law to African Americans.

While Section 1 of the amendment begins by referring to "all persons born or naturalized in the United States, the last clause of the section says that no state can deprive any person of life, liberty or property without due process of law or deprive any person of equal protection of the law.

Given the intent of the amendment, its framers certainly didn't imagine that corporations would seize upon that last clause to argue that they are persons entitled to due process and equal protection -- but seize upon it they did, arguing that because the word "person" was not qualified, it must refer to both natural and artificial persons.

The mega corporations of the day -- the railroads -- led the charge to persuade the courts that corporations should be deemed persons under the 14th Amendment.

They finally succeeded -- sort of -- in the 1886 case of *Santa Clara County v. Southern Pacific Railroad*. I say "sort of" because legal scholars now agree that the case did not actually recognize corporate personhood. Rather there was merely a reference in a headnote -- not a part of the decision itself -- to an opinion expressed by the chief justice during argument of the case to the effect that corporations were entitled to 14th Amendment protections.

Nevertheless, the Santa Clara case has been cited ever since by corporate advocates as recognizing corporate personhood, and, sadly, too many courts have gone along.

Notwithstanding this early success by corporations, the floodgates didn't really begin to open for corporate personhood until the 1970s. Well into the 1960s corporations were widely viewed as owing something to the community that provided them with the economic ecosystem in which they grew and thrived. Legally, no statutes require that companies be run to maximize profits or stock prices, so corporations that put stockholders first do so by choice.

But the idea of maximizing stockholder value took hold in the 1970s after publication of an article by free-market economist Milton Friedman, who argued that the sole social responsibility of corporations is to maximize profits and stock prices, and that anything else was "unadulterated socialism."

Thereafter a number of free-market and libertarian think tanks were formed to promote this idea. The results, as we've witnessed, have been massive layoffs, de-industrialization, off-shoring, decreased wages, the decline of unions, and the impoverishment of the middle and working classes.

Also in the 1970s corporations had their first clear big legal successes in gaining person-like rights. In 1976 the U.S. Supreme Court ruled in *Buckley v. Valeo* that financial contributions to candidates and political parties are equal to speech, thus nullifying laws that outright prohibited corporate political contributions. In another case the same year, the Supreme Court ruled that advertising is free speech. The following year, the court overturned state restrictions on corporate spending on political referenda.

And now we have the *Citizens United* and *Hobby Lobby* cases. The latter is particularly worrisome because it also amounts to another serious breach in the wall of separation between church and state.

As I contemplated where we now find ourselves, I was reminded of the remark by historians Will and Ariel Durant in *The Lessons of History* about life being competition. They said, "Animals eat one another without qualm; civilized men consume one another by due process of law."

So, now that corporations have been deemed persons who can exercise religious rights, take a moment to welcome those corporations sitting among us this morning. But beware -- before you get too friendly, you should know that they are probably psychopaths!

If you think that sounds extreme, you should watch "The Corporation," a 2004 documentary that demonstrates how modern corporations are so driven by self-interest and financial greed that they fit the personality profile of a psychopath -- and thus care not a whit how their actions affect the interests of workers, society and the environment.

Let's take a look at the psychopathic personality profile and see how it fits corporations.

First, psychopaths have a callous unconcern for the feelings of others.

Second, they are incapable of maintaining enduring relationships.

Third, they demonstrate reckless disregard for the safety of others.

Fourth, they are deceitful and engage in repeating lying and conning others for profit.

Fifth, they are incapable of experiencing guilt.

That all seems to fit corporations like a glove.

But there's also a sixth characteristic of psychopaths that fits corporations particularly well. They do not conform to social norms for lawful behavior. If the chance of getting caught and the penalty are less than the cost of compliance, it's thought of as a "business decision." That is, legal penalties are viewed as just another cost of doing business.

On the human level, respect for the inherent worth and dignity of all persons should lead us to enforce limitations on the behavior of psychopathic individuals to avoid harm to other people -- and that goes quadruple for corporations with their far greater capacity for harm.

Now let's consider how corporations as they are presently constituted impact on some of our other principles.

We believe in justice, equity and compassion in human relations. Needless to say, the profit motive trumps these values every time.

We call for a free and responsible search for truth and meaning -- but corporations lie or tell half-truths all the time to sell their goods and services, and they often conceal the truth. Think of General Motors covering up ignition switch flaws that caused many deaths.

We advocate for the use of the democratic process. Corporations actually fear democracy, which is why they spend so much time and money trying to undermine it with obscenely large political contributions and highly paid lobbyists.

We envision world community with peace, liberty, and justice for all. However, the profit-seeking imperative overrides such niceties, resulting in such things as sweatshops full of ill-paid quasi-slaves and support for authoritarian governments.

Finally, we respect the interdependent web of all existence of which we are a part. Suffice to say, most corporations don't give a hoot about the environment. Just one example -- energy companies are rushing to pull more and more fossil fuels out of the ground, worsening mankind's headlong plunge toward the existential disaster of global warming.

The amount of known extractable fossil fuel in the ground is almost five times the amount we can safely burn and remain under a global temperature increase of 2 degrees Celsius, beyond which scientists believe that civilization cannot survive in recognizable form. To preserve an inhabitable planet, we somehow need to prevent the world's most profitable corporations from extracting and selling fossil fuel worth an estimated \$20 trillion.

So how can we work ourselves out of this fine mess corporations and their aiders and abettors have gotten us into?

What is needed is a foundational change in the definition of the relationship between living human beings and the nonliving legal fictions we call corporations. Only when corporations are again legally subordinate to those who authorized them -- humans and the governments representing them -- will true change be possible.

This is unlikely to start at the national level. It needs to bubble up from the local level. Like the battle against evil in general, it will take time, and it may never be finished, but we need to get started.

For starters, we can advocate for local ordinances denying or rescinding corporate personhood, as has been done in a few locations. I can provide website links to model ordinances for this purpose. Find a council person to introduce it, or do it with an initiative petition.

[Website links: www.thomhartmann.com and www.celdf.org]

We should support state legislators who will resist corporate personhood by promoting appropriate legislation and constitutional amendments. This is important because corporate charters are issued and controlled by the states. The statutes should define when corporate charters can be revoked for bad corporate behavior.

Another good statutory change would be to follow the lead of a few states and allow a new type of corporate charter for what are known as "benefit corporations," which allow corporations to be managed for the benefit of all stakeholders -- employees and customers included, not just stockholders.

We should also promote the worker-owned cooperative model for starting and running businesses. When workers run their own businesses, they put more into them. They stay on jobs longer and are more productive and happy. And they're paid better.

Ultimately, challenges to corporate personhood that bubble up from the local and state levels will reach the U.S. Supreme Court, and hopefully by then the composition of the court will have changed so that the challenges will succeed.

On a personal level, whenever possible, we should avoid patronizing chain stores that squash locally owned businesses and send their profits to far away corporate headquarters (and even overseas!). Instead, patronize local businesses and banks, and avoid the mall and the big box stores. Local businesses tend to pay better, keep profits in the community, and are more sensitive and responsive to local issues.

Ending corporate personhood is not a panacea, but it's a huge first step toward diminishing the unhealthy impact corporations have on our society. When states, counties, townships and communities can once again define and control corporate behavior, they will be able to encourage local entrepreneurial activity, allowing people to start and run small businesses without worrying that a giant chain will come along and crush them.

And corporations won't be able to intimidate local politicians by suing them for violations of the very civil rights laws that were first enacted to protect real persons -- human beings.

For humanity is the ultimate truth and value we must protect. We live, we die. We laugh, we cry. We love, and we mourn the loss of loved ones. We humans are the ones entitled to exercise free speech, to exercise religious rights. To say that soul-less corporations also have these rights denigrates the inherent worth and dignity of human beings because it elevates non-living fictitious entities to the same level as us.

It is up to us, the real people, to change the law and culture so that psychopathic corporations don't continue running amuck and in the process destroy humanity and the world in which we live.