

A Commentary on Joel Bakan's "The Corporation, The Pathological Pursuit of Profit and Power"

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Joel Bakan's book, *The Corporation*, appeared in 2004, along with a film by the same title done in collaboration with the author. In the aftermath of several scandalous US corporate bankruptcies, both book and film found receptive audiences wanting an explanation of the failures that went beyond the claim of a few 'bad apples.' Bakan provided an appealing argument: "the corporation is a pathological institution," he wrote, "a dangerous possessor of the great power it wields over people and societies." He hoped "by revealing the institutional imperatives common to all corporations and their implications for society... to provide a crucial and missing link in people's attempts to understand and do something about some of the most pressing issues of our time" (2). The book, however, is as much a failure to provide an understanding of the corporation, as it is a statement on the lack of a popular and critical explanation from the left.

In Chapter One, Bakan addresses the question of how corporations came to control and dominate almost all aspects of our lives. The answer is a mix of historical facts and romance. The power of the corporation, begins the argument, lies in "its capacity to combine the capital, and thus the economic power, of unlimited numbers of people. Joint-stock companies emerged in the 16th century..." (8). There is little to debate here: the corporate form emerged with the growing accumulation of capital and the consequent need to have a structure that reflected this accumulation and its continuous expansion. But the meaning of the rise of the corporation is not drawn out: the emergence of the corporation represented the increasing concentration of the means of production and labour, that is the socializing of the productive forces, albeit within the capitalist mode of production. It was the transformation of individual private property into capital—ever more powerful collective forms. Related to this concentration was the growing need for the separation of ownership and management; capital was no longer individual but now aggregated, and since ownership increasingly took the form of disparate shares, no share or group of shares carried the sole right to manage.

Although the industrial revolution completed the dominance of corporate capital over all spheres of economic reproduction, Bakan points to what then was a continuing barrier to corporate expansion—the question of liability. With the coming of legislated 'limited

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liability' the way was cleared for the rapid growth of corporate capital: "with the risks of investment in stocks now removed, at least in terms of how much money investors might be forced to lose, the way was cleared for broad popular participation in stock markets and for investors to diversify their holdings" (13).

To finish the making of the capitalist corporation it remained to be defined in law as an entity in its own right, allowing it "like a real person, to conduct business in its own name, acquire assets, employ workers, pay taxes, and go to court to assert its rights and defend its actions" (16). The timing and form of this legal confirmation varied from nation to nation, but by the 19th century the corporation was legally ensconced as such an entity—and in the US (and Canada), as a 'person.' Although Bakan generalizes from the American context, this part of the argument is accurate enough, yet it would be a mistake to understand this sanction as more than the legal recognition of an existing reality, giving collective capital a legal form, or as more than the logical outcome of a system of private property.

The corporation as legal entity is simply the extension of the individual person as legal entity because the latter is considered in law to be the personification of private property, not a human being. Criminal law, for instance, protects private property against transgressions by individuals as embodiments of private property; civil law defines all parties to a dispute as incarnations of private property. There is no place in either form of law for love, affection, artistry, dignity, altruism, compassion, or any other human characteristic. In law, all of these human characteristics are reduced to their putative quantifiable monetary values. The so-called 'natural person' in law is just as much a juristic concept as the corporation; both are understood as private property incarnate. A quantifiable property qualification for the possession of civil and political rights has mostly disappeared today, but that simply reflects the fact that the overwhelming majority of citizens have become workers possessing only their ability to work. This does not change the fact that capital, here human capital, remains at the heart of the possession of civil and political rights.

There is a difference between the individual and the corporation, however; the corporation is an entity that represents organized, accumulated capital, while the individual represents personal capital. Armed with the rights of the 'person,' the corporation as pooled wealth not only possesses the powers of socialized means of production, giving it ascendancy over all other forms of capital and labour, but also operates for the sole benefit of its shareholders and managers. It is this power of collective over individual capital that is confirmed in granting the rights of individual private property to collective private property. The resulting superior legal powers for corporations is a consequence of existing superiority in the economic realm—a fact not acknowledged by Bakan and others who

seek to limit the legal rights of corporations.

Capitalism is a system of corporate capital; it is a mode of production reproduced as private property in aggregated form; it is not a market of small farmers, manufacturers, and merchants—of petty commodity production and exchange. The corporation is not an aberration, as implied by Bakan, but the logical outgrowth of private property in individual form. Corporate capitalism, moreover, can only come into being by destroying its premise, pre-capitalist private property, by aggregating the previously dispersed means of production and labour-power.

Our author has grasped this legal formalization by the wrong end, as if the law gave birth to the corporation and as if legal recognition of the corporation were a merely political act and, furthermore, an act that can be reversed. This view of the matter is the major thrust of the book's entire argument—that corporations are creations of government and what governments do, they can repeal.

In part, this argument rests on a certain romantic take on the early corporate charters of the 16th and 17th centuries. Bakan states that by legislating corporations as 'persons' in the nineteenth century, "[g]one was the centuries-old 'grant theory', which had conceived of corporations as instruments of government policy and as dependent upon government bodies to create them and enable them to function" (16). In a narrow literal sense this statement is true, but it is far from the whole story. All the early European chartered companies were largely ways of rewarding court favorites, sycophants, and nobility, or as a way of raising revenues or advancing other private interests of these incipient nations. Aside from trading, these companies plundered and pillaged (often each other), some engaged in slave trade and open piracy, and often they were given near sovereign powers over the territory granted to them. In some cases, the charters included obligations for state authorities, including the military, to assist the company wherever required—effectively subordinating state agencies to the corporation. Colossal profits and 'national' advancement at the expense (and destruction) of indigenous peoples and other European states and companies were the objectives. True, they were 'instruments of government policy' and 'dependent upon government bodies to create them,' but the governments were largely absolute monarchies not democracies, whose interest in revenue streams were served by the rapaciousness and corruption of these chartered companies. The absolutist state was responding to and promoting a logical growth in the nature of private property, its aggregation; this socialized capital was the only way of overcoming the serious limits to the development of the productive forces presented by pre-capitalist petty commodity production.

That capital in its collective form, a corporation, should acquire a juristic personality is

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hardly odd. The legal history of collective entities is long and does not begin with the 19th century corporate arrogation of the rights of the individual in the US. Indeed, because those individual rights belong to the 'person' as the embodiment of private property, it would be entirely natural that the corporation as the embodiment of collective capital would claim and adopt them. The point is that the power that seems to be founded in the rights sanctioned by the state actually originates in the power of private property, in individual or collective capital, and not from the formal rights themselves. Legislated rights are the social legitimization of pre-existing power relations.

If in the past governments controlled the corporation, now, runs the argument, the reverse is happening. As corporate power grew and expanded internationally in the 1980s and 1990s, Bakan notes, there evolved a set of institutions at the global level that overrode the power of the national state. Of these, the WTO "evolved into a powerful, secretive, and corporate-influenced overseer of government's mandate to protect citizens and the environment from corporate harms" (23). He stresses the point: "Over its relatively short life, the WTO has become a significant fetter on nations' abilities to protect their citizens from corporate misdeeds." The argument is stretched further: "Corporations now *govern* [Bakan's emphasis] society, perhaps more than governments themselves do" (25). On these pages, the author outlines a view of democracy thwarted, of government as the protector and representative of citizens now subordinated to the demands of corporations.

Such an idea is merely asserted. But a cursory glance at the history of the governments of industrial nations does not confirm such a view. In fact, throughout the history of the development of modern democracy the owners and managers of capital were often key ministers of the state, and this remains common today. Bakan has not understood that the role of the state in a capitalist system is to protect the nature and operation of the system. And capitalism is a system of corporations, not of petty commodity producers or so many individual citizens. For this reason, the state can hardly refuse, within limits, to grant charters to corporations, or extend civil rights to them, or end limited liability, or create barriers to their growth. In fact, to do so would return us to a pre-capitalist age of horses and buggies and individual producers. Far from wanting to protect its citizens and the environment, the capitalist state in a global era faces at least three significant dilemmas: to maintain the conditions for capital accumulation and yet curb the power of global monopolies which threatens to make much of its role redundant; to maintain a modicum of national sovereignty when a global economy demands subordination to rules and regulations increasingly determined at the global level; and, in the face of these changes, to conserve its legitimacy as 'democracy' when implicitly or explicitly the citizenry increasingly understands differently.

In the second chapter Bakan makes two points: corporations are not responsible to anyone

or anything beyond their shareholders, and this selfish and irresponsible behaviour can be diagnosed as "psychopathic" (28). The first issue, the fact that corporations are socially irresponsible, is an important point to expose, but he argues the case from a legal point of view: "Law dictates what their directors and managers do, what they cannot do and they must do. ... [I]t compels executives to prioritize the interests of their companies and shareholders above all others and forbids them from being socially responsible – at least genuinely so" (35). He continues: "Corporate social responsibility is thus illegal – at least when it is genuine." And further: "...the law, in its current form, actually inhibits executives and corporations from being socially responsible" (37).

The argument is a straightforward explication of existing law, but it raises a very important question that Bakan fails to deal with—the responsibility of those managing the corporations. In fact, he implies that the legal mandate of corporations absolves management of responsibility, that "the people who run corporations are, for the most part, good people, moral people.... Despite their personal qualities and ambitions, however, their duty as corporate executives is clear: they must always put their corporation's best interest first and not act out of concern for anyone or anything else..." (50).

Since World War II, however, it can no longer be argued or implied that individuals who are part of organizations that commit crimes are free from responsibility. The Nuremberg and Tokyo Tribunals firmly established in international law individual responsibility for acts committed by governments, political parties, military units, prisons, and even corporations. It is for this reason that several officials of I.G. Farben were imprisoned after the war and Chile's General Pinochet, amongst a host of other political leaders and military personnel, have been indicted in several jurisdictions for crimes committed by organizations over which they held leadership positions. Similarly, some jurisdictions do make corporate officials criminally liable for the actions of their companies. Yet, even where the law has not moved in this direction, it would seem incumbent on those aware of corporate crimes and legal precedents for holding officials liable to make the case for individual responsibility for corporate social and environmental damage. Bakan, however, circumvents the question and implies that because the corporation is legally bound to put its own interests first those who make the decisions are not responsible. An extremely significant issue in the analysis of corporate behaviour has been omitted, but then if he had addressed this issue, his main thesis would not be arguable.

This thesis appears in the second part of this chapter; it is that corporations are 'persons' in law and the law obliges them to act in ways that can be characterized as psychopathic; the individuals who run corporations, however, are merely doing their job and are not responsible for what the corporation does. Citing a psychologist, Bakan says of business executives: "many of the attitudes [they] adopt and the actions they execute when acting

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as corporate operatives can be characterized as psychopathic. [But] they are not psychopathic...because they can function normally outside the corporation—"they go home, they have a warm and loving relationship with their families, and they love their children, they love their wife and in fact their friends are friends rather than things to be used." Business people," Bakan consoles, "should therefore take some comfort from their ability to compartmentalize the contradictory moral demands of their corporate and noncorporate lives..." (56).

Aside from absolving those who manage corporations from individual responsibility, Bakan's argument reveals some notable conceptual confusion. To analyze economic relations as psychiatric problems constitutes no small leap in logic. To suggest that the corporation defined as a 'person' in law can be analyzed as a person in psychiatric terms takes us beyond an analysis of what the corporation really is—namely, a form of collective or socialized capital—and therefore misses the nature of corporate control and capitalism. Instead, we are treated to a simplistic analysis by analogy to a psychiatric disorder rather than a political and economic analysis of the elemental institutional form of capitalism. To call corporations psychopathic may appear to provide an explanation for their behaviour, but on the contrary, it obscures an analysis that would increase a genuine understanding of them and assist in resisting their negative effects. The social irresponsibility of corporations has nothing to do with the law or psychiatric deviance, but with the nature of corporations as accumulated capital; the law merely sanctions the essential character of private property in corporate form.

In this comparison, the author implies that the legal definition of a 'person' is valid as a partial definition of a human being. But the 'person' in law is a market representation of the individual and is merely a depiction of human beings as private property personified. The concept of a human being as opposed to a legal 'person' is best not left to lawyers or psychiatrists to define. To find that humans in capitalist society are selfish and materialistic is simply to say that the characteristics of the system constitute the mold that fashions its members. To say that this is what human beings are in essence, is to confuse the particularities of an age and system for the universal. There is nothing natural in the law's use of 'natural person' to refer to the basic unit of a system of private property.

The perspective throughout the argument here is preeminently a legal perspective, and the law takes as its premise the solitary individual. This is market-based law after all—there is no such thing as law as such; there are only laws specific to historical moments and particular societies. Perhaps what makes his comparison as compelling as it seems is the fact that both psychiatry and law ground their theory and practice in the same premises (the individual as personified private property and alienated social relations) as capitalist society—the system that gave rise to both.

Chapter Three continues the pattern set in the first two: it reveals an important aspect of the corporation that is often not seen or understood, but then it provides an analysis that steers us away from grasping the nature of the problem. Here the issue is that "the corporation's built-in compulsion to externalize its costs [that] is at the root of many of the world's social and environmental ills" (61). 'Externalities' are all those costs that are accounted for indirectly in environmental degradation or in a debased standard of living; to put it another way, all those costs in production, transportation, usage, and disposal that are borne indirectly and unequally by everyone but for the benefit for those who own the means of production and distribution.

Bakan makes the point clearly and forcefully over several pages. "A corporation," he says, citing a businessman "tends to be more profitable to the extent it can make other people pay the bills for the impact on society" (70). He continues: "the corporation...is deliberately programmed...to externalize costs without regard for the harm it may cause to people, communities, and the natural environment" (73). The point he is making is clear enough, but he does not take the analysis any farther; he does not examine externalities as a way of redistributing wealth – as another way of increasing the profits for some at the expense of all others, by shifting the costs of production, retailing, use, and disposal from one class to another. An important part of the understanding of externalities requires a class analysis.

There are other problems with his analysis of externalities, especially when they involve breaking the law. Following a long list of corporate indictments, he writes: "the corporation's unique structure is largely to blame for the fact that illegalities are endemic in the corporate world" (79). Here, the structure of the corporation, its legislated limited liability and legally defined psychopathic nature, is blamed for endemic corporate law-breaking. Corporations treat the law as merely one variable amongst others in a psychopathic calculation for self-advancement. He writes: "For a corporation, compliance with the law, like everything else, is a matter of costs and benefits" (79). Bakan summarizes his argument in saying: "The irony in all of this is that the corporation's mandate to pursue its own self-interest, itself a product of the law, actually propels corporations to break the law" (80).

Here again is the legal perspective: the law created the corporation but oddly enough defined it in a way to oblige it to break the law. The logic here is somewhat puzzling, and the problem begins in the notion that the law gave birth to the corporation. If this were the case, the content of the law would remain unaccounted for. If it were, moreover, within the power of law-makers why create an organization that is destined to break the law? Only for lawyers is the law an independent variable; only for them does the legal structure

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appear to be everything. Nowhere does Bakan introduce an analysis of the nature of law in itself or of capital. In reality, it is the historical development of accumulated capital that gives rise to its legal form; the law is always a formalization of pre-existing relations, and incorporation is state legitimization of certain economic relations. If the corporation breaks certain laws, it is because those laws constitute barriers to the corporation's drive to accumulate at the expense of the rest of society. Law-breaking is not a function of its alleged "psychopathic contempt for legal constraints" (79). It is the action of this economic entity whose very nature is to accumulate at all costs, that knows itself to be the essence of the system and therefore knows it can break laws with relative impunity because its existence is the existence of the system itself.

Bakan has taken the legal form of collective capital, the corporation, and made it into the object of analysis. He has not analyzed the content of that form, socialized capital and its need to accumulate. For this reason, he cannot see the underlying reasons for the depredations of capital except to assert that the corporation is a psychopathic 'person.' And he has not understood that the law cannot be the starting point of analysis because it is merely the formalized reflection of prevailing or contested power relations within civil society.

The implication of Bakan's analysis of the corporation is that it allows him to 'solve' the problem of corporate 'psychopathic' behaviour by advocating a change in the law. This leads him down the road of social democracy—of believing in the political system that accompanies the development of capitalism, of thinking that the corporation can be reformed or that liberal democracy really is democracy that can be employed to rein in the corporations. If one understands the corporation as collective capital and the structural heart of capitalism, however, it is unlikely that laws can be changed to control the corporation in any significant way—that is, in a way that might create barriers to private capital accumulation. For that a different property system is needed.

In Chapter Four, Bakan points to a negative and often unseen aspect of corporate activity, but again the analysis that accompanies the critical insight is so fraught with problems that the significance of the insight is diminished and the possibilities for action are highly circumscribed. The subject here is how corporations manipulate government by means of the financing of elections, lobbying for a range of legal changes, and demanding budget cuts to agencies that oversee regulations. If corporations, moreover, have serious doubts about the direction of government, Bakan suggests they would not hesitate to overthrow legitimate governments and, by way of example, points to a 1930s planned coup d'état in the US.

It is, of course, valuable to outline the relations that corporations have with government

and to make the exposure available to a wide readership, but the problem comes with how Bakan explains these actions by corporations. Here, for instance, are the opening lines of the chapter:

As institutional psychopaths, corporations are wont to remove obstacles that get into their way. Regulations that limit their freedom to exploit people and the natural environment are such obstacles, and corporations have fought, with considerable success over the last twenty years, to remove them. Through lobbying, political contributions, and sophisticated public relations campaigns, they and their leaders have turned the political system and much public opinion against regulation. The law's ability to protect people and the environment from corporate harm has suffered as a result (85).

First, it is the corporation as 'institutional psychopaths' whose anti-social nature that is made the issue; it is not the corporation as socialized capital that must accumulate and 'remove obstacles' to do so. In Bakan's eyes we are not dealing with the nature of capitalism itself, but with a psychological aberration.

Second, if it is an aberration that we are dealing with, then it is not the system as a whole that needs changing but only one part of it. Aside from the corporate sector the nature of the rest of our system is not called into question, and so we must assume it to be a system with independent and sometimes abnormal parts. The corporate sector that needs changing, moreover, can presumably be changed without changing other parts and, as we shall see in the final chapter, by employing the democratic process that he argues corporations have seemingly corrupted.

Third, the author reveals a view of the law that suggests that at one time it did protect people and the environment and that the purpose of the law was to do that. This benign view of the law does not correspond well with history or any critical assessment of the nature of law. As the formalization of the balance of contested power in a given period, the law may carry protective measures for the people and the environment, but only to the degree that these measures can be defended by the social forces that demand them. Where the power of corporations is not contested or difficult to contest or imposed on a people or nation, the law carries no protection for the people or the environment. Neither the law nor regulations exist 'to protect the people' if the hand of the state has not been forced by social forces opposing corporate control.

The chapter ends with the assertion that democratic government once acted to protect its citizens and to provide them with "sovereignty over the corporations," but today "corporations stand next to, rather than under, democratic governments" (108). Bakan's view of democracy is clearly out of line with even cursory knowledge of the history of

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government in the capitalist world; no system ever gave rise to a form of government that reflected anything but the broad prevailing property relations, and under capitalism this means that government has always been the government of corporations and it cannot be any other. If it appears that the state has legislated protection for its citizens against the actions of corporations it is because of the balance of certain dynamic forces at a given historical moment. The idea of popular sovereignty in capitalist societies has only been just that, an idea; if it were a reality we would live in a socialist system.

Chapter Five is concerned with the increasing privatization of the public sector, the expansion of for-profit corporations into the public domain. For the most part, the chapter marshals evidence showing the degree to which private companies have invaded this sphere: from the educational system, to non-profit festivals, to advertising aimed at children, to public media, to the town centre, to urban streets and neighbourhoods. Bakan summarizes with the observation that "the very notion that there is a public interest, a common good that transcends our individual self-interest, is slipping away," and "we are told [that] corporations should be free to exploit anything and anyone for profit, and human beings are creatures of pure self-interest and materialistic desire" (138).

Here again valuable points are made about the for-profit corporate drive to accumulate, but this time instead of a problematic explanation there is no explanation. We are left with short descriptions of corporate 'enclosures' of the public arena, with no sense of why other than that these incursions fulfill the free enterprise model of society in the eyes of its promoters. The lack of an explanation likely stems from the fact that Bakan's characterization of the corporation as a psychopath offers no insight, other than the notion of greed, into why the increased corporate attention to the public sector.

If he had instead portrayed the corporation as accumulated capital or socialized means of production that by nature must continue to accumulate, he would have had a ready explanation along the following lines. In principle, capital sees the state ownership, even when it appears to hold no promise for profit-making, as the diversion or exclusion of a part of the national product from productive use by private enterprise. Moreover, capital knows that many of the state social services are paid for by deductions from wages and salaries and profits which constitute a vast national 'social surplus' which remains by and large 'uncapitalized.' Given dramatic changes in the last several decades in technology, global markets, corporate size, the declining rationale for the nation-state, amongst other things, the drive to accumulate has increased and made these substantial amounts of public capital the subject of increasing demands to be made available for private exploitation.

In the final chapter Bakan reiterates his argument and gives the reader general prescriptions for what action to take. Here again the critical reader has to distinguish

between what is useful in the book and what is problematic. In this chapter, it is between the strategy he recommends and the analysis that lies behind it.

He begins asserting that by the middle of the twentieth century Western governments had moved "to protect their citizens from neglect by the market and from exploitation by corporations." However, "by the end of the century, the corporation had become the world's dominant institution" (139). The first point is clearly a reference to the coming of the Keynesian welfare state; but instead of explaining the conjunction of forces that pressed governments to act—demobilized troops, the memory of the 1930s, the threat of socialism, the wartime government economic intervention and postwar reconstruction, the organized working class struggle, de-colonization, and so on—he gives sole credit to governments, as if they were benevolent entities genuinely responsive to and interested in the welfare of their citizens. The second point is a reference to the coming of global corporations operating within global or regional economic regimes, as if only as global corporations they have become dominant. But the corporation became the dominant institution when capitalism as a system was established during the industrial revolution; the governments of capitalist nations necessarily reflected their demands as preeminent. The rise of the modern nation-state in the 19th and 20th centuries is entirely a by-product of the growth of the corporate sector, and it is this sector that defines the character of the nation and gives meaning to state activities.

Arguing that corporations have only latterly become dominant, Bakan asks, "What do we do now about, and with, the corporation?" (140) In order to curb corporate irresponsibility, he outlines the corporate case for fiduciary capitalism with less government intrusion and more reliance on the market mechanisms, such as consumer democracy (let buyers buy responsibly) and shareholder democracy (reliance on 'insider' demands for responsible management). Rightly dismissing these suggestions for greater corporate responsibility as ineffective and undemocratic, Bakan makes the case for a renewal of the political process whereby the people can control the corporations through democratic means. He argues that "[g]overnment regulation, unlike market-based solutions, combines authority, capacity, and democratic legitimacy to protect citizens from corporate misdeeds. Through it, governments can pursue social values – such as democracy, social justice, citizens' health and welfare, environmental integrity, cultural identity – that lie beyond the narrow goals of self-interest and wealth maximizations that dictate the behaviour of corporations and markets" (149).

It is true to say that through political means a people or a class can determine social policies beneficial to all. But the problem with his argument is that the government he portrays is assumed to be controlled by the people or at least genuinely responding to certain needs of the people. There is no examination of how governments actually do deal

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with the issues he mentions above. There is no analysis of the welfare state as a system of compromise based on a balance of social forces, or of liberal democracy as a product of capitalism, as a form of rule corresponding to a particular stage in the growth of capital. Capital established its own system of government with a foundation in private property (constitutional monarchies and modern republics) only when it became sufficiently aggregated and united to challenge the political rule of earlier property systems, such as feudal monarchies, principalities, or ecclesiastical states. Political voice, moreover, was originally contingent on quantifiable private holdings, reflecting the nature of its economic base; gradually this property qualification was reduced, ultimately resting simply on property in the form of one's ability to work. Universal suffrage includes all citizens not as human beings but as 'free' individual embodiments of private property, albeit for the most part as human capital, in a system of corporate capital. This is the economic foundation of liberal democracy. It is not a political form that actually reflects human needs, and it is not one that stands outside the property boundaries of capitalism. If it does protect its citizens and the environment, it does so only to the degree necessary to maintain political and social legitimacy and stability in the face of countervailing forces.

In Bakan's eyes not only is government benign, but it is also understood as the creator of the corporation. He asserts that "the corporation depends entirely on government for its existence and is therefore always, at least in theory, within government's control" (153), and that "[w]ithout the state, the corporation is nothing. Literally nothing" (154). Such a view suggests that the state is the starting point of the corporation, of accumulated capital, but this is self-evidently not the case. The state legitimizes the corporation, it provides its formal mandate, and it may even provide some of the capital and police and military protection, but it is not the initiator or the architect. On the contrary, it is in the nature of capital itself to accumulate and to create aggregated units, but as an aggregate what it needs is a legal form to provide it status in law. This last part is the only side that Bakan, from a legal perspective, perceives. In reality, neither the modern state nor the corporation can exist without the other; both the modern state and the corporation demand each other; neither is anything without the other. The system, after all, is comprised principally of a state that oversees corporate capitalist relations including labour supply. If we are searching for which of these two components, the state or corporations, is historically prior, then, the record is more than clear: the history and structure of the modern state are products of the development of particular national corporate capitals. This priority comes into the open in any examination of bourgeois revolutions; the corporation, accumulated capital, constituted the origin of the modern state. Capital had outgrown the political form that belonged to an earlier mode of production, absolute monarchies, and set about constituting new forms of government that reflected its principles of private property.

Capital continuously accumulates, however, and in time outgrows its first political shell,

the national state, that was its creation. Increasing global capital accumulation has led to the establishment of global and regional quasi-state structures and agencies that provide the same legitimacy or formal status and rules and regulations for corporations cutting across national boundaries. Bakan sees globalization, not as a continuation of capital accumulation at the global level with demands for new political and economic forms, but merely as processes that "have diminished the state's capacity to protect the public interest... and have strengthened its power to promote corporations' interests and facilitate their profit-seeking missions." (154) More and more, we find the state "protecting corporations from citizens." The solution to this predicament, he writes, is to 'remake the corporation." (160).

The idea that the corporation can be remade rests on a romanticized view of pre-modern state behaviour, not to mention a rather charitable vision of the corporation. The corporation was "originally conceived as a public institution whose purpose was to serve national interests and advance the public good." He then goes on to mention the Hudson's Bay and the East India Companies as "chartered by the crown to run state monopolies in the colonies of England's empire" (153). History texts tell us otherwise; these two companies were not 'state monopolies' but private monopolies for private gain, albeit sanctioned—chartered and supported—by the state. To associate them with the advancement of the public good is best left for analysis to humorists or, better, to those who were colonized. His vision of the early corporation is of something that never was.

According to Bakan, these benign corporations were changed by "nineteenth century judges and legislators who refashioned the corporation into a self-interested institution" (156). "The modern for-profit corporation, programmed solely to advance the private interests of its owners, differs profoundly from these earlier versions of the institution" (153). Unfortunately for our author, his first chapter details the scandalous and amoral actions of some of these 'earlier versions;' aggregated private capital has always been the same, regardless of the nature of the state that sanctioned it. What changed in the nineteenth century was the kind of state that did the sanctioning (a capitalist state not an absolute monarchy) and the arrival of industrial capitalism, which completed the subordination of social reproduction to capital and greatly increased the number and size of units of aggregated capital.

At this point, Bakan introduces the last part of his argument: if corporations have always been "a product of public policy, a creation of the state" (153), then it is possible through the use of democratic action to return corporations to what they once were. He appeals to the reader: "the time has come to use that power, not only by activating charter revocation laws but also, more generally, by subjecting corporations to robust democratic controls." And reiterating earlier arguments, he says that the corporation is "a state-created tool for

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advancing social and economic policy. As such, it has only one institutional purpose: to serve the public interest.... We must work to ensure that that is what corporations do" (158).

There are many problems here. First, aside from some questionable assertions, he has not made the case that private corporations ever served the public interest. Second, he has not defined the public interest—which might be more difficult than he imagines in a society divided by class, gender, ethnicity, and religion, among many other factors. Third, he has not made the case that the state creates corporations; history would suggest the opposite. Fourth, he has not made the case that liberal democracy in fact works to give voice and power to the people. Fifth, the use of revocation laws will not change the private character of the corporation; they simply provide the means to control to their egregious malfeasance. Sixth, he makes no distinctions between public and private corporations, between big and small, between national and global, between corporations in different sectors of the economy, between national and global economies, between national states and global quasi-state institutions. For him, the corporation is undifferentiated and non-economic—it is a 'psychopathic institution' that must "be made to respect and promote the public interest" (158).

To do this Bakan calls for a return to an imagined re-vitalized social democracy. "The challenge for now is to find ways to control the corporation – to subject it to democratic constraints and protect citizens from its dangerous tendencies ... Improving the legitimacy, effectiveness, and accountability of government regulation is currently the best, or at least the most realistic, strategy for doing this" (161). He is suggesting that the people can make corporations responsible through existing parliamentary means. But 'democratic controls' do not change the nature of the corporation; even under such control they remain agents of organized private capital representing the interests of some at the expense of others. The moment that they operate solely for the public good, circumscribed by more public/democratic control, is the moment that they cease to be corporations in the capitalist sense. At this point, it would not be a system of private property but one of socialized property whose purpose and goal would be the public good. Bakan appears to want to force aggregated private property to act as if it were socialized property controlled by the people.

To achieve this goal he presents several pages of what he refers to as general prescriptions. They comprise by and large a set of social democratic reforms. Although at one time they seemed eminently reasonable, they now appear as ambitious goals or even unachievable demands. In this age of neo-liberalism characterized by widespread state attacks on liberal democratic rights, they now seem even radical.

They also appear, however, as anachronistic—as policies from a past era and a social movement that is no longer viable. They seem to be a throwback to a time and analysis that no longer apply; and even in their heyday, it must be remembered, they were never fully realized. For critics of the system, the main alternative at present may be to struggle for these policies within national political institutions, but to persist in believing in these institutions as if they continued to be vital and possessed a future is to obstruct an analysis of the contemporary global corporation, the subordinated national state, and establishment of global quasi-state agencies with pre-eminent supra-national powers. The limits of his recommended course of action can only be understood if one has a fundamentally different analysis from that found in this book.

Bakan's book (and the film) certainly raises the profile of the corporation. It identifies it as a powerful social actor, points to its irresponsible nature, looks at the unequal legal protections that the corporation enjoys and at its production of 'externalities.' It also exposes the normalcy of corporate law-breaking and the corrupting influence of corporations on government, and the corporate usurpation of the public sector. But the analysis of why corporations do all this and how they arrived in this position is little less than confusion. To label the corporation a psychopath rests on several conceptual errors with respect to the corporation itself, and to capitalism, the 'person,' the state, democracy, law, psychiatry, and the relations between all of these. The prescriptions for what to do given his diagnosis, moreover, are all within the realm of social democratic policies that imply a past age with its own political and economic conditions long gone.

The question for the critical reader is what position to take on a book or film (or other form of communication) that strikes a chord with the public, reaches many people, points critically to a central agent in a system of oppression and exploitation, and yet, at the same time, provides a confused analysis that prevents genuine comprehension and that encourages the reader to see the present order as acceptable in its fundamentals, to grasp the main problem as reining in the corporations through state regulation, and to aspire for change within the existing national relations of power. Criticism, constructive criticism, and a more pro-active role in popular analysis are the obvious responses. If nothing else, the acclaim for the book and film tells us that there is a palpable need for popular critiques of corporate capital accumulation and neo-liberal policies, and for strategies to confront them—and that we have failed to provide them.