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## opinion

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### HUMAN RIGHTS, CORPORATE RESPONSIBILITY

**Gordon Samuels**

*This speech was given by the Governor of New South Wales in the Great Hall at the University of Sydney in May 2000 when launching the new book edited by Stuart Rees and Shelley Wright, **Human Rights, Corporate Responsibility: a Dialogue**, Pluto Press, Sydney, 2000.*

In my view this is an important book which deals vigorously and thoroughly with a significant subject matter, and which I found challenging and stimulating. It is a collection of essays which explore the relationship, or the absence of relationship, between the maintenance of human rights and the activities of "the corporation". I put "the corporation" in quotation marks, and I will come back and explain why in a moment.

The book is said to be "a dialogue". Indeed, this description forms part of its title. It is certainly a discussion; but I doubt whether it can be called an exchange of ideas (which is one view of a dialogue) because most of the ideas advanced derive from the same side of the argument. There is no question raised of the legitimacy of the human rights discussed, which are primarily those which relate to standards of employment and protection of the environment, or concern women or indigenous people. The issue focuses upon the extent to which the "corporation" rejects the responsibility to protect and promote those rights, and the means by which this neglect can be overcome.

I put "the corporation" in quotation marks earlier, because it seemed to me necessary to appreciate exactly what it was that the contributors (I can synthesise a number of arguments to this extent) mean when they speak of the corporation and attribute particular characteristics to it. They recognise the basic corporate features of a structure upon which law has conferred an independent legal personality, separate from the individual personalities of its members, whose liability for the debts of

the corporation is limited. But of much more significance to the argument is that the corporation is solely formed and conducted for the purpose of doing business and making money.

Now, this definition of corporation would turn up BHP, News Corporation, the corner store and the local laundry. All of them possess the formal indicia of incorporation, and all of them are dedicated to making money for their shareholders. The difference is in the nature of the corporate business, its size, power and style. There is more than a faint whiff of brimstone and sulphur in these pages which is sufficient to suggest that it is the devil corporation whose transactions and misdeeds we are to contemplate. Some of you may recall an American folksong popular in earlier times of industrial unrest in the United States called "Fifteen Tons", a reference to a daily production darg -

"Fifteen tons and what do you get?  
Another day older and deeper in debt.  
St Peter, don't you call me 'cos I can't go.  
I owe my soul to the company store."

It is that kind of corporation, conjuring up visions of Pinkerton's men breaking picket lines, whose failure to acknowledge human rights presents the more dramatic problems (and examples) under discussion here. The corner store too may well be an unreliable adherent to the principles of the Universal Declaration of Human Rights. But the omissions of its directors and proprietors are trivial. Not so the conduct of a corporation of great wealth, power and influence whose operating contexts will differ immensely in the degree of restraint which can be exercised over its activities. The book offers some well-known and depressing examples of the exploitation by powerful international corporations of the inadequate controls imposed in Third World countries. We have had no experience of that kind in Australia. But in a lesser degree, we are not unfamiliar here with the reduction of services justified by a large corporation's expressed need to save costs.

The essence of the argument, developed in different ways by the various contributors, is that an entity whose sole purpose is the maximisation of profit must of necessity be excluded from the comity of the civil society.

The citizens of the civil society will treat one another decently, influenced by a complex of values rather than impelled by one purpose. But the corporate non-citizen is immune to all influences but the desire for profit.

The argument is put at its most rigorous by advancing the proposition that corporations "are not endowed with moral standards, a sense of right and wrong or a conscience"; and there is a powerful quotation from other sources, one of which asserts that "corporations do not have feelings or morals. All their acts are in service to profit ... All other considerations are secondary, including the welfare of the community, the happiness of workers, the health of the planet, and even the general prosperity ..."

Hence what has been described as "this collection of paperwork called a corporation" is immune to feelings of shame or remorse or, it is said, to any emotion; save it seems to an insatiable propensity for greed.

It might be objected that these assertions fail to appreciate the reality of the corporate structure. They seem to reify what they acknowledge to be a fiction, by attributing to the corporation certain inherent and inseparable attributes. But this tends to ignore the role of directors and managers. The corporate shell can be filled by a variety of contents (including doctrines) and fired in almost any direction. A corporation may in law be guilty of malice, and its board of directors, and thus the corporation, threatened and cajoled. It may indeed be devoted to highly moral or religious purposes. It is true that directors are bound to use their best endeavours to maximise profit. But they also face personal penalties if they permit or procure their corporation to pollute or otherwise damage the environment.

The debate is highly subjective. But a corporation is not required to be morally neutral – Birch & Glazebrook's contribution "Doing business – doing culture" shows why not. It may be that corporations who sponsor the arts are exercising techniques of good marketing, rather than a spiritual or aesthetic conversion by a majority of the Board. That shows, at least, that the corporation is sensitive to public opinion. David Hoare asserted in a speech made shortly after his appointment to the chair of the Australian Graduate School of Management that a corporation ought to have a social conscience. I think that a careful perusal of this valuable

book will explain why. It does credit to the significance of its subject matter. All will not accept all its assessments. But the desirability of a shift from the constraints of the traditional corporate profit motive to a serious acceptance of social responsibility can hardly be denied.

I think that this dialogue deserves to be heard.



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