Do Corporations Have Souls?

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Today is Palm Sunday in the Christian calendar, and tomorrow night begins the feast of Passover in the Jewish calendar. Both have to do with liberation. Passover celebrates the successful effort by God, acting through Moses, to get the children of Israel out of slavery in Egypt. Palm Sunday celebrates the expectations of a crowd in Jerusalem in about the year 30 of the common era that Jesus of Nazareth would throw off the yoke of Roman oppression from the Jews as Moses had done centuries earlier. By the end of the week those hopes for secular liberation would be dashed at the foot of the cross.

Those two poles, hope and despair, have vied with each other ever since. Sometimes it seems like Pharaoh has won. Sometimes it feels like Moses has won. Sometimes it feels like Caesar has won, and sometimes it feels like Jesus has won.

It felt like Pharaoh won a big round in January, when a 5-member majority of the United States Supreme Court decreed that the right to free speech of corporations overrides a federal statue which limited corporate electioneering close to an election. The field is now wide open for corporations, who do not vote and cannot hold office, who may be controlled entirely by foreign interests, to wield unlimited influence in US elections. Since we as citizens must rely on government to check the power of corporations, it is a pretty helpless feeling to have the highest court in the land rule that corporations have an unlimited right to influence elections and get the government they want. The fox is truly guarding the henhouse.

Many people are outraged by this decision, and most of the commentary on it to date has centered quite properly on the civil liberties aspect and the practical ways in which corporations exercise influence. I want to take a different tack. I want to look at it theologically and ask, what is the theological status of a corporation?

For by the First Principle of this denomination, we covenant to respect the inherent worth and dignity of "every person." This derives, among other sources, from Jesus' great commandment to love your neighbor as yourself. Our Universalist heritage says that every person means every person, that no one is beyond the reach of God's redeeming love. In classic Universalist thinking, Hitler went to heaven along with Stalin and Pol Pot and Saddam Hussein – and Pharaoh.

Part of the inherent worth and dignity that I accord to all persons is the right to speak. I don't want government abridging the right to speak of speakers with whom I might disagree or

with whom someone else may disagree. To me the absolute language of the First Amendment – Congress shall make no law abridging freedom of speech – is right in line with my ethical principles as a Universalist.

But it causes me great discomfort to find myself allied with Clarence Thomas and Antonin Scalia, whose vision of society is quite different from mine. So I want to look here to see if corporations are persons with essential worth and dignity.

There is no doubt that the law considers corporations as persons. This is sometime referred to as a legal fiction. Corporations didn't exist in the days of Caesar or Pharaoh – they arose in the last few centuries. They were originally derived from medieval guilds, and in the age of European explorations and colonization, they were government-chartered ways of raising money for large risky expeditions. Thus we sit today in the Commonwealth of Massachusetts, but this entity was originally a corporation, the Massachusetts Bay Company. The most important thing that William Bradford and his buddies did in setting up that corporation was to get the right to have corporate meetings outside of England and this allowed them to develop free of the control of the home country, and this culture of self-governance eventually blossomed in the American Revolution.

So not all corporations are bad. I came of age in the Sixties counterculture and have a visceral dislike of large business corporations. I have never drawn a paycheck or a legal fee from one; yet I recognize their utility and recognize that many of you spent your lives in the corporate world. I have heard the assertion, and find it very scary if it is true, that five media corporations control all the information most Americans receive. Corporations dominate our economic life and to an increasing extent our cultural and political existence.

I recognize the there are many different types of corporations, and a few weeks ago, I mentioned Daniel Webster's arguments in the US Supreme Court on behalf of Dartmouth College, the first case to hold that corporations had constitutional rights. Webster won the argument by appealing to emotion, saying that Dartmouth was "just a little college, but there are those who love it." I went on to say that our little church here is, among other things, a corporation and there are those who love it.

We can love a corporation, but the theological question for today is, what are corporations in themselves: do they have souls?

Mary Oliver asks
Is the soul solid, like iron?
Or is it tender and breakable, like
the wings of a moth in the beak of the owl?
Who has it, and who doesn't?

Though expressed in Oliver's whimsical way, which many of us have come to love, this

is a theological question. Who has a soul and who doesn't?

This question may seem very abstract, but it is really a way of asking what are the boundaries of ethical behavior. There are many definitions of soul, but for purposes of this discussion, I am going to treat soul as a shorthand for personhood, that which we recognize as persons. We treat differently, and should treat differently, those entities who have some degree of recognized personhood from those who do not.

For example, one way we do this is with names. Children who grow up on farms learn that they can name their pets and try to protect their lives and mourn them when they die. They don't name the animals which are raised for slaughter. When we name an animal, we grant it some degree of personhood, and if we are then going to kill it and eat it, that begins to feel like murder.

I have long been convinced that the issue in abortion is not at what point life begins but at what point a fetus should be recognized as a person. Personhood is what we want to respect and preserve. And at the end of life, the decision whether to withdraw artificial life support might be governed by whether the patient's cognitive functions have so far gone that he or she might no longer be called a person.

As I said, we covenant in our first principle to respect the inherent worth and dignity of every "person." What does that term include? Does it include your dog, who might be your best friend in all the world? We certainly care about our pets – some of you have handed up concerns about the health of your pets and no doubt have lit candles for them.

We might get some insight from considering machines. In the field of artificial intelligence, there is something called the Turing test, named after Alan Turing, a British mathematician. The Turing test assumes you are in a room and you're dealing with an unknown agent on the other side of a wall, with whom you can interact verbally and ask any question you want. The Turing test proposes that we will have achieved artificial intelligence when we can have a machine that is so smart that the human dealing with it can't tell whether or not she's dealing with a machine. When I was in Divinity School I visited the artificial intelligence lab at MIT and met some of its robots. The robots were being taught to program themselves and to learn to navigate around a room. I also met the lab's resident theologian, Anna Foerst. Why does a computer lab have a resident theologian? To ask the theological questions arising from the work of the lab, such as: If we create a machine that satisfies the Turing test, if we create an artificial consciousness, would we baptize it? If the machine is capable of conscious reflection and thought, would it be murder to turn it off?

Here the mind balks, and for good reason. We have an easier time ascribing personhood to any living being than to something which humans have created. There is a basic distinction between things which are born and things which are made. This was recognized in the Council

of Nicea in 325 C.E., when the debate between the Arians and the Athanasians was whether the second person of the Trinity, the *logos* which was incarnated in Jesus during his lifetime, had existed from all eternity alongside God the Father and the Holy Spirit, or had come into being at a later time, and whether the logos was the offspring of God the father or was made by him as part of the creation of the rest of the universe. The Athanasians won the debate, and the key words inserted into the Nicene Creed say that Christ was "begotten, not made." Now this is admittedly patriarchal language; in the scheme of reproduction, the man begets and the woman bears or births. Whether considered from the male or female point of view. reproduction is a fundamental characteristic of life, and I think it is an essential prerequisite of personhood.

The fictional imagination plays with the idea of a human-made object acquiring personhood. Pinnochio and the original myth of Pygmalion are examples of made objects magically acquiring personhood and the disastrous results in each case seem to affirm that this is a boundary which should not be crossed.

This distinction between the artificial and the natural, between the made and the born or begotten, is important when considering the theological status of corporations, because they are made by people, not by God or nature. A corporation is entirely a creature of human intention. To make a corporation, you just get some forms and file them with the Secretary of State and pay a fee. It's a lot less messy than making a baby, and a lot less fun. For example, on July 30, 1987, a charter was filed with Massachusetts Secretary of State for a corporation called the Chatham Unitarian Universalist Fellowship, Inc., whose name was later changed to Unitarian Universalist Meeting House; it is file number 042974289 of the corporate records of the Commonwealth.

So that's the first theological distinction between a corporation and a human being: corporations are made, not begotten or born. The second distinction is equally momentous: people have to die, while corporations don't. A corporation once created lives on until it gets dissolved, merges or is acquired by another corporation. In classical religion, the most fundamental distinction is between mortals and immortals, between the plants, animals and humans who all have to die, and the gods who don't. Corporations are more like the gods. It is the fact of death which makes us living people. It is the recognition of death which makes us religious people. Corporations are never made to confront their mortality because they have none.

A third factor separating the corporation from the human is that corporations have an intention, a purpose, which is expressed in their charters. This purpose is the very reason for the existence of the corporation. As religious people, we are often in quest of the purpose of our lives; some of the most profound questions we ask ourselves are why we are here. But no one hands us a piece of paper when we are born to say, here's what you are put here to do, don't

stray from this document or you will get sued by the shareholders.

And that brings a fourth and very fundamental point of theological distinction: corporations can be and most are, owned. Granted, through most of human history society accepted that human beings could be owned, too, and slavery still persist in parts of the world, but the world consensus is that humans should not own one another. Behind this feeling about slavery is the notion that human life and human freedom are gifts from God or from the natural order and that it is arrogance and idolatry for one human being to assert an absolute right to control or own another.

Yet it does not give anyone moral qualms for an owner to assert the right to control corporation. A corporation is subject to the will of its managers, directors and ultimately stockholders. And to be owned is to be subject to being bought and sold. And corporations are bought and sold every day.

Which brings us to a fifth distinction, the question of identity. Three weeks ago I preached on the phrase "be who you are," and pointed out that there were three schools of thought – Buddhism, postmodernism and evolutionary theory – which questioned whether there was any such thing as enduring personal identity. But whatever your views on that, it is clear that corporate identity is always up for grabs. How many of you remember Esso signs dotting the landscape? How many of you bank with a bank which has retained the same name for ten years or more? In the private, for-profit sector, corporations are bought and sold, merge and dissolve and rename themselves with dizzying speed.

There is a core of a human being that remains with him or her from birth to death, expressed usually in the name. But a corporation can undergo a complete change; some of you may have worked for corporations which were bought out or merged with other corporations and you know that though the transaction may look great on paper, when it comes to merging two ways of doing things, you run into trouble.

A sixth distinction is what I would call intersubjectivity, the ability to recognize another and to empathize with him or her, to recognize a kinship. A professor of mine used to say that all religion springs from the recognition that the other is in some sense like me. Evolution has given humans and animals the ability to read each others faces, tones of voice and body language, to intuit their internal states. Martin Buber talks about a relationship with God as an I-Thou relationship, but that is also a description of our relation to other human beings at its best.

But when we regard a corporation, generally we feel no human heartbeat. We don't identify them as like me. We rarely use the second person pronouns in addressing a corporate entity. We have an I-it relationship with most corporations.

I could go on, but the list of distinctions between human beings and corporations is long enough. To recap, corporations are made, not begotten or born as are humans and other living

things. Unlike all humans and most other living things, corporations have no death. They are intentionally created with a specified purpose, whereas humans have no given purpose. They can be and usually are owned by other persons who control them. They are subject to changing their identity as they are bought, sold, merged, divested, dismembered and dissolved. And we don't have an I-thou relationship with most of them.

What this amounts to is saying that, while the legal fiction accords to corporations some of the aspects of personhood, such as the right to hold property, to sue and be sued and to engage in business, as a religious matter I don't think we need to recognize corporations as persons. We do not have to accord them inherent worth and dignity. And we can tolerate some restrictions on their right to participate in our democratic processes.

Now that is not to say that as a policy matter we can or should give corporations no right to speak. I still believe that the market place of ideas is enriched by hearing from everyone. But wealthy corporations carry a very big megaphone, and that can drown out other worthy voices. Corporations are not part of the electorate.

When we have town meeting in Chatham, we are not compelled to listen to a speaker who is a resident of Harwich. We may invite her to speak, but because she does not vote, we are not required to hear her. A corporation does not vote, and we can properly limit the speech of a corporation around an election the way we would limit the speech of any other nonvoter.

Now I don't want you to leave thinking that we can just kick all corporations around. Corporations provide a vital service in our economy and culture. There are corporations that we have come to love, such as this Meeting House, and that are the locus of the love of individuals and the conduit for that love to take action in the world. Covenanted communities such as this are very important theologically in our movement, and their importance is not diminished by the fact that they are organized legally as corporations.

But corporations generally differ very substantially from human beings and we can support efforts to fix the Supreme Court decision without doing violence to our First Principle. Amen.

Readings

Letter from Thomas Jefferson to Tom Logan (Nov. 12, 1816), in 12 The Works of Thomas Jefferson 42, 44 (P. Ford ed. 1905) ("I hope we shall . . . crush in [its] birth the aristocracy of our monied corporations which dare already to challenge our government to a trial of strength and

bid defiance to the laws of our country").

Citizens United, Kennedy opinion for the Court
"By suppressing the speech of manifold corporations, both for-profit and nonprofit, the Government prevents their voices and viewpoints from reaching the public and advising voters on which persons or entities are hostile to their interests. Factions will necessarily form in our Republic, but the remedy of "destroying the liberty" of some factions is "worse than the disease." ... Factions should be checked by permitting them all to speak, ... and by entrusting the people to judge what is true and what is false." 558 U. S. 39 (2010)

Citizens United, Justice Stevens dissent

"In the context of election to public office, the distinction between corporate and human speakers is significant. Although they make enormous contributions to our society, corporations are not actually members of it. They cannot vote or run for office. Because they may be managed and controlled by nonresidents, their interests may conflict in fundamental respects with the interests of eligible voters. The financial resources, legal structure, and instrumental orientation of corporations raise legitimate concerns about their role in the electoral process. Our lawmakers have a compelling constitutional basis, if not also a democratic duty, to take measures designed to guard against the potentially deleterious effects of corporate spending in local and national races. " 558 U. S. __ (2010) Opinion of Steven, J at p. 2)

Some Questions You Might Ask by Mary Oliver

Is the soul solid, like iron?
Or is it tender and breakable, like
the wings of a moth in the beak of the owl?
Who has it, and who doesn't?
I keep looking around me.
The face of the moose is as sad
as the face of Jesus.
The swan opens her white wings slowly.
In the fall, the black bear carries leaves into the darkness.
One question leads to another.
Does it have a shape? Like an iceberg?

Like the eye of a hummingbird?
Does it have one lung, like the snake and the scallop?
Why should I have it, and not the anteater
who loves her children?
Why should I have it, and not the camel?
Come to think of it, what about the maple trees?
What about the blue iris?
What about all the little stones, sitting alone in the moonlight?
What about roses, and lemons, and their shining leaves?
What about the grass?