

# Why Corporations Are Not People, And The Unsavory Consequences of Pretending That They Are

by Mike Hoy, 2005

## A Challenge to “Libertarians”

Libertarianism is a philosophy based on individual rights. It recognizes that the individual is the fundamental unit of society, and that society is better off if individual people can act in their own benefit. *Laissez faire* economics (literally “hands off” – meaning the government) is derived from individual rights. Free individuals making whatever voluntary exchanges they want with each other will result in a free and prosperous society. Individual freedom is the basis of the United States of America. It is what our “Founding Fathers” risked their lives, their fortunes, and their sacred honor, to create.



### **Libertarianism is a philosophy based on individual rights.**

But what happens if *groups* of people, i.e., collectivist entities, form together for the purpose of getting the government to grant unearned special privileges to them? How will this affect the marketplace? Well, this has actually happened in America, and the result is that these collectivist entities with their government-bestowed privileges have taken over our economy, in some particular cases to the benefit of some particular individuals, but to the overall detriment to individuals in general. These collectivist entities are known as “corporations,” and it is initially puzzling as to why they are lionized by “Libertarians”, who proclaim themselves the defenders of *individual* rights.

By deliberately obscuring the boundaries between individuals and corporations, “Libertarians” have caused themselves to treat corporations as if they *were* individuals, thereby assisting in the corporate takeover of America, and the McDonaldisation of practically everything and practically everyplace, all over the globe—“Globalization.”

### **Plainly put, corporations are anti-American. They are anti-individual. The word “corporation” does not appear in the U.S. Constitution.**

Plainly put, corporations are anti-American. They are anti-individual. The word “corporation” does not appear in the U.S. Constitution. Large institutions of all kinds (both government and business) were suspect in colonial and early America. In fact, the Boston Tea Party was not a protest against taxes, but direct action taken against the East India Company, which represented the commercial interests of the British elite.

It was not until 1886, after a series of cases brought by lawyers representing the expanding railroad interests, that the Supreme Court ruled that corporations were “persons” and entitled to the same rights (actually more) granted to *individual people* under the Bill of Rights. This sinister ruling, discussed by Thom Hartmann in his book *Unequal Protection: The Rise of Corporate Dominance and The Theft of Human Rights [1]* has led to the corporate dominance of the individual – a thoroughly un-American state of affairs. As Hartmann points out, the largest trans-national corporations fill a role today that has historically been filled by kings. They control most of the world's wealth and exert power over the lives of most of the world's citizens. And they pretty much own the U.S. government: the revolving door between corporate boardrooms and the top echelons of all recent administrations is no secret.

## **Why are “Libertarians”, self-styled promoters of *individual* rights and interests, such mindless boosters of corporations?**

But why, then, are “Libertarians”, self-styled promoters of individual rights and interests, such mindless boosters of corporations? Why in the world do “Libertarians” vehemently insist that corporations are *market* entities, when even a cursory examination of the matter reveals that they are actually *government* entities?

I’ll say it again: corporations are not *market* entities – they are *government* entities. This was proven by the libertarian/objectivist Robert Hessen in his ironically titled book *In Defense of The Corporation* [2]. This is a very funny book, because he states in his prologue: “In this book, the belief that corporations require government permission to exist and that they are the recipients of special privileges will be challenged. I will present an alternative known as the ‘inherence theory’: i.e., corporations are created and sustained entirely by exercise of individual rights, specifically freedom of association and freedom of contract”.

Now, the essential distinguishing characteristic of the corporate form of enterprise is limited liability for torts. If Hessen (or anybody else) is going to show that corporations are contractual entities, he is going to have to demonstrate that limited liability for torts can be fully accounted for as resulting from voluntary agreements between consenting individuals. Here is where Hessen then proves the exact opposite of what he said he was going to prove. He openly admits that limited liability for torts cannot be a part of the market order! He says:

“Thus far, the inherence theory – the idea that corporate features are created by contract – has been applied to entity status, perpetual duration, and limited liability for debts. But how can limited liability for torts be explained by a contractual theory, since tort victims do not consent to limit their claims to the assets of the corporation? Surely, limited liability for torts would seem to be a state-created privilege”.

“How, if at all, can limited liability for torts be integrated into a *contractual* theory of corporations? The answer is that it can’t... either limited liability for torts is a state-created privilege or it is contractual (which it obviously is not)”.

So there, by the time the guy is only on page 19, he has already admitted that he cannot do what he said he was going to do: show that corporations are the result of voluntary agreements between individuals. He then adds: “Regardless of one’s view about limited liability for torts, the whole issue is irrelevant to giant corporations, which either carry substantial liability insurance or possess sizable net assets from which claims can be paid”. (You know, like Enron.)

So after admitting in the first 19 pages *In Defense of The Corporation* that the essential distinguishing characteristic of corporations (limited liability for torts) *cannot* result from market forces, he then red herrings away for another 120 pages or so, mostly bashing Ralph Nader (big deal). This book was praised by such libertarian/objectivist luminaries as F.A. Hayek, David Kelley and D.T. Armentano. It is not some obscure lunatic fringe screed that nobody ever heard of. Those are some libertarian heavy hitters there.

## **Managers of corporations have more in common, as a class, with government bureaucrats than they do with individual entrepreneurs.**

I wonder how many rank-and-file “Libertarians” are aware of this. Reading “Libertarian” propaganda indicates either that they are unaware of the statist nature of corporations, or are deliberately avoiding the issue. They *always* write as if corporations are the *same* as individuals. In fact, because of the separation of “ownership” and control, managers of corporations have more in common, as a class, with government bureaucrats than they do with individuals.

The corporate *form* of enterprise encourages short-term thinking. Instead of thinking how to preserve and maximize the benefits of the assets under their control for, say, the next thirty years, the corporate manager is concerned with beefing up the bookkeeping profits on a quarterly basis - just look at how many giant corporations in the last few years have had to “adjust” past “earnings”, and take “charges” against current “earnings” for manipulative accounting.

In their book *Natural Resources: Bureaucratic Myths and Environmental Management* [3], libertarians Richard L. Stroup and John Baden state:

“The appropriate focus in analyzing public sector behavior is the individual decision maker. It is the individual bureaucrat, the professional public servant, who makes most of the decisions about governmental operations”... “Salary, position in the bureaucracy, amount of discretionary budget control, workplace amenities, and office perquisites all contribute to the bureaucrat's well-being. If an agency is expanding its budget and authority, these components of the bureaucrat's welfare improve also. On the other hand, a decrease in the agency's size and budget are generally accompanied by fewer benefits to the bureaucrat. Thus, bureaucrats face strong incentives to increase their agencies' authority and areas of responsibility”.

*Exactly. Very well put.* That is why governments are so inefficient, and why the bigger the government, the more inefficient it is. *Excellent point, libertarians.*

But these highly educated libertarians fail to point out that exactly the same thing is true of corporate managers – and that if “the appropriate focus in analyzing public sector behavior is the individual decision maker”, then the appropriate focus in analyzing corporate behavior is the individual corporate bureaucrat – and he, like his government counterpart, faces strong incentives to thinking the short run.

Stroup and Baden say, “Unconstrained by the need to generate profits, bureaucrats may ignore or exaggerate the economic efficiency of the projects they administer”. True, but so is this: *Constrained by the need to generate the appearance of profits every quarter, corporate bureaucrats may ignore or exaggerate the economic efficiency of the projects they administer.* Precisely because they are entities which literally cannot exist without a special privilege granted by the government, virtually any criticism “Libertarians” make of government, could also be made of corporations – but “Libertarians” do not do this. Why?

**“Libertarians” stick the “Market” label on corporations and then respond to the label as if it were the thing.**

Well, “Libertarians” are obsessed with labels. The thing that distinguishes “Libertarian” analysis is their State/Market dichotomy. All the major “Libertarian” propaganda outlets are non-profit organizations. That is, they have gone to the government and asked to be exempt from the forces of the marketplace. You would think that a bunch of people who according to themselves understand economics and the marketplace better than anyone else on Earth would be able to manage to, say, publish a newsletter without losing money, but the “Libertarians” won't even have a go at it.

Since “Libertarians” avoid the marketplace like the plague, how, then, are they to be “for” the “Market” and “against” the “Government”? Answer: they sit on the sidelines and root for the “Market”, like fans rooting for a major league baseball team. Since the actual marketplace (food co-ops, mom & pop groceries, auto repair shops, etc.) isn't very glamorous, (you hardly ever see it on TV) “Libertarians” stick the “Market” label on prominent non-market entities (corporations) and then respond to the *label* as if it were the thing.

Thus, we see “Libertarians” rooting for corporations, and that is how they reconcile their State/Market dichotomy with reality. But, as Robert Hessen demonstrated in *In Defense of The Corporation*, corporations actually belong on the *government* side of that dichotomy. “Libertarian” followers have been taught numerous thought-stopping techniques by “Libertarian” leaders, so that anyone who attempts to discuss the non-market reality of corporations is slapped with a negative label (“anti-corporate”, “anti-trade”, etc.– there are lots), and then any questions raised by that person are literally *unthinkable* to “Libertarians”.

“Libertarian” leaders use an intellectual sleight-of-hand to get “Libertarian” followers to cheer for corporations. They present their pro-corporate (i.e., pro-government entity) blather *as if they are talking about individuals*. Let's look at a real-world example. Here is a blurb for the book *Why Globalization Works* by Martin Wolf from the Laissez Faire book catalog:

“The foes of international buying and selling don't like to admit that if it's bad for a New York grocer to trade with a Timbuktu grocer, it's also bad for the New Yorker to trade with a New Jerseyite. Or that the end-of-the-line of such anti-market logic requires you to survive on what you can grow in your backyard, without ever trading your turnips for your neighbor's corn”.

Notice the use of thought-stopping labels (“foes of ... buying and selling”, “anti-market”), and the false assumption that what is going on with “Globalization” is “a New York grocer” “trading with” “a Timbuktu grocer”. No particular person who allegedly holds these views is named. It is implied that everyone who questions whether “Globalization” is actually a good thing is such a dirty rotten busybody that he would try to stop you from “trading your turnips for your neighbor's corn”.

Now, I have read some books questioning “Globalization”, and I cannot recall a single author who is opposed to an *individual* in “New York” trading with any *individual* anywhere else. Since the questioners of “Globalization” have never made any statement even resembling this, why do “Libertarians” pull the wool over their own eyes and pretend that anyone who doesn't swallow “Globalization” as willingly as they do is against *individuals* trading with *individuals*?

As far as I can figure out, it is because they have been trained to insert the State/Market dichotomy into their minds as their fundamental grid for perceiving reality. All incoming signals from the outside universe must be filtered through the State/Market dichotomy, and the State/Market dichotomy of the “Libertarians” has been doctored so that corporations are on the “Market” side, when even prominent libertarians have confessed that they belong on the “State” side.

John Perkins' book *Confessions of an Economic Hit Man: The Inside Story of How America Built an Empire on Third-World Debt*, reveals what “Globalization” is really all about – and it ain't “a New York grocer” “trading” with another individual. The publisher's blurb for the book states that for years John Perkins “worked for an international consulting firm where his job was to convince underdeveloped countries to accept enormous loans, much larger than what was really needed, for infrastructure development – and to make sure that the development projects were then contracted to U.S. multinationals. Once these countries were saddled with huge debts, the American government and the international aid agencies allied with it were able, by dictating repayment terms, to essentially control their economies”. Gee, I don't see where “a New York grocer” figures into it, do you?

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And speaking of “the American government and *the international aid agencies allied with it*”, (my emphases), Martin Wolf, author of *Why Globalization Works* is described as “a former senior economist at the World Bank”. Contrary to “Libertarian”-spewed horseshit, “Globalization” is not Joe Doakes, “New York grocer” trading his turnips for the corn of Sam Smith, “Timbuktu grocer”.

It takes some heavy-duty thought-stopping and unending label-slapping to pretend that it is. If the “Libertarians” are so right about “Globalization”, and other people are so wrong, then why do they find it necessary to deliberately misrepresent opposing views? Why can't they deal with something somebody actually said, instead of pretending that anyone who questions their corporatation-promoting is against individual trade? And why are the “Libertarian” rank-and-file so eager to choke these falsehoods down?

It is long past time that “Libertarians” wake up and admit that corporations are not individual people, and that there is nothing in libertarianism that calls for pretending that they are, let alone preferring them over individuals.

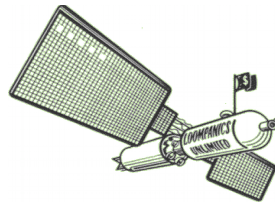
So, what is to be done? Damned if I know. I don't have any platform or program, except to honestly admit that corporations are not people, and that it is as insane to pretend they are as it is to pretend that a coat hanger is a vacuum cleaner. It is “Libertarians”, the self-styled defenders of individual rights who ought to be taking the lead in formulating “what is to be done”.

Most of the books pointing out the just plain *wrongness* of pretending that corporations are “persons” are written by people who are considered to be on the “Left” politically. And their “solutions” to corporate dominance of the individual are so naïve as to be almost frightening – they seem to honestly believe that somehow “government” (the same government that is *owned* by corporations) can pass laws that will restore corporations to whatever proper place they might have in a society based on individual rights. They seem to be blissfully(?) unaware of what the Marxist-oriented writer Gabriel Kolko demonstrated in his 1967 book *The Triumph of Conservatism* – that government regulatory bodies inevitably become controlled by the very industries that they are supposed to be “regulating”.

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So how about it, “Libertarians”?



- [1] *Unequal Protection: The Rise of Corporate Dominance and The Theft of Human Rights*, Thom Hartmann, Rodale Press, 2002.
- [2] *In Defense of The Corporation*, Robert Hessen, Hoover Institution, 1979.
- [3] *Natural Resources: Bureaucratic Myths and Environmental Management*, Richard L. Stroup, John Baden, Pacific Institute, 1983.
- [4] *Confessions of an Economic Hit Man: The Inside Story of How America Built an Empire on Third-World Debt*, John Perkins, Berrett-Koehler Publishers, 2004.