

More Nearly Social Institutions: Legal Regulation and the Sociology of
Corporations.

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Abstract

Keywords: corporations, law, legal individualism, workplace deaths, asbestos.

Corporations are no longer simply a type of business structure; they are dominant social institutions. As institutions, corporations are archetypes of contemporary complex social organisation and should, therefore, be a central concern for sociology. Yet with few notable exceptions, sociologists have failed to address their increasingly dominant position in contemporary societies. In this thesis I argue the importance of a renewed sociological interest in corporations. This must acknowledge, but go beyond, the political-economic outcomes of corporations to address the profound consequences of the legal foundations of the corporate form. Corporations are created and regulated by legal doctrine; it is only with a legal mandate that corporations are able to act as employers, suppliers and investors. On this basis, I claim that any understanding of corporate dominance and its effects must commence with an appreciation of the laws that enable the corporation to exist and operate.

While contributing significantly to wealth creation, corporate dominance also increases the potential for harm to occur to individuals and communities who fall within a corporation's scope. The contemporary proliferation of industrial illnesses is a prime example of this and is examined through a case study of the operations of an Australian asbestos corporation, James Hardie. This case study is timely and unique in its specification of the link between corporate activity and law in contemporary society.

I argue that corporate activity such as that in the case study is enhanced and legitimated by the legal description of the corporation that assigns to it the capacities of a human individual through corporate legal personhood. Corporate personhood is examined as an example of the legal individualism endorsed in liberal common law countries. By exploring accounts of corporate structure, decision-making and work processes, I explain how the individualised description of the corporation is at odds with its collective realities; the largest and most successful corporations are collectives of human and monetary resources.

In light of this, I question the extent to which the effective regulation of corporations can be achieved within existing legal frameworks. Building upon research into workplace health and safety in the United Kingdom, the regulation of workplace deaths in Australia is examined to demonstrate the various approaches to regulating corporations and to identify their shortcomings. This is a striking example of the problems law faces in regulating corporations by virtue of its individualistic design.

The thesis concludes with an affirmation that sociology needs to grapple with issues of corporate activity and that an understanding of the legal basis of the corporation is the foundation of such studies.

Statement of Candidate

I certify that the work in this thesis entitled “**More Nearly Social Institutions: Legal Regulation and the Sociology of Corporations**” has not previously been submitted for a degree nor has it been submitted as part of requirements for a degree to any other university or institution other than Macquarie University. I also certify that the thesis is an original piece of research and it has been written by me. Any help and assistance that I have received in my research work and the preparation of the thesis itself have been appropriately acknowledged. In addition, I certify that all information sources and literature used are indicated in the thesis. The research presented in this thesis was approved by Macquarie University Ethics Review Committee, reference number: **HE28OCT2005-D04341** on **28 October 2005**.

Christina Jarron (30674042)

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