

Follow the Money: Inside the Black Box of the Corporation

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8. Follow the Money: Inside the Black Box of the Corporation

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In this paper, Whyte illustrates how the edifice of the corporation acts as a black box – a relatively enclosed system of social relationships – by ensuring that the internal and external workings of the organisation are generally obscured from view. Whyte proposes that it is the researcher’s task to open the black box in ways that enable us to “see” beyond the boundaries that very structure imposes on our knowledge and to establish ways to “follow the money.”

Introduction

The business organisation – or corporation – is a hugely significant institution for organising social relationships and social life. Indeed, in this respect, the corporation¹ may well be the single most significant form of organisation. Most of us work for a profit-making corporation or are positioned at some point on a supply chain that has a profit-making corporation at its head. Most people in the UK live in a house that is owned or part owned by a financial corporation. Our food, water, energy, transport and communications systems are all controlled and provided by profit-making corporation. Almost all of the world’s wealth is processed through the edifice of a profit-making corporation. Yet, as an object of inquiry, from the outside, the corporation is an opaque structure. Finding ways of tracing what corporations and corporate structures do would thus open up a critical area of social organisation.

This contribution will show how the edifice of the corporation acts as a black box, a relatively enclosed system of social relationships. As it demonstrates, the corporation operates like a black box because it ensures the internal and external workings of the organisation are generally obscured from view. It is therefore the task of the researcher to open the black box in ways that enable us to “see” beyond the boundaries that very structure imposes on our knowledge and establish both systematised and “conjectural” ways to “follow the money,” the methodological focus in the discussion that follows.

The Corporation as “Black Box”

The abstract idea that the corporation is a singular entity or “person” for the purposes of financial transactions and for specifying its wider legal status is fundamental to the way that the corporation has been historically constructed (Johnson 2010), both in practice (in accounting, in employment practices, in commerce, etc.) and also in theoretical terms (in legal and political theory and in managerial science). Although the precise regulatory bases for “corporate personhood” have varied widely across time and across national jurisdictions, there are two aspects that are generally held in common in contemporary liberal democratic states. First, corporations are recognised in law as “entities” distinct from the people who own or control them; and second, they are able to conduct commercial functions as if they were individuals (most notably, to enter into commercial agreements as contracting parties).

The social creation of the “corporate person” has had one overriding purpose: to reduce the *financial* risks or liabilities of the individual members of the organisation. By creating a formally autonomous organisation – a corporation – individuals could be protected from liability for financial losses. The paths that led to incorporation have a long history. The neutralisation – or at least the diminution – of financial liabilities was a core principle behind combinations of wealth that existed for centuries before the principle of *limited liability* finally became fully established in law in the early 19th century but it was with its establishment that the corporation was given full

legal expression (Harris 2000). The creation of the corporate person also entailed another key advantage: it guaranteed secrecy, because it created the corporation as a kind of closed system, a “black box.” Bruno Latour’s commonly cited definition seeks to explain how the boundaries of our technological knowledge are socially constructed. In his formulation, he argues that “success” and “efficiency” are the drivers of “blackboxing”:

“When a machine runs efficiently, when a matter of fact is settled, one need focus only on its inputs and outputs and not on its internal complexity. Thus, paradoxically, the more science and technology succeed, the more opaque and obscure they become.” (Latour 1999, 304)

In other words, the more smoothly something works in the socio-technical domain, the less it needs to be understood. This is a paradox: as a closed system gets “better” or more efficient, the process by which outputs are produced is less knowable and less amenable to being known.

The black boxed form that the corporation adopts is similar. Inputs and outputs are visible, but the ways in which the corporation processes those inputs and produces its outputs have become more and more unknowable as they have become more and more complex and hidden. The corporation is an opaque system. Yet this is not exactly Latour’s black box; the corporate black box has not arisen from dynamic relationship between opacity and “efficiency” or “success.” Rather, the corporation has been very deliberately designed as a black box where opacity is not a by-product but is one of the chief goals.

Entity Accounting and the Black Box

In the discipline of accounting, the concept of the “entity” provides a starting point for conceptualising the problem of “knowing” when it comes to corporate inputs and outputs. “Entity theory” provided a break from the conceptual bases of the earlier “proprietary theory,” where no fundamental distinction is drawn between a legal entity and its owners or shareholders (Soujanen 1954), that until then guided the discipline. The basis of this break was that, in the commercial world, individuals would no longer be the primary object of accounting in the context of business but “entities” instead. Entity accounting enabled the business organisation, or corporation, to become the accounting object for the purposes of mapping its inputs and outputs, and assessing its overall financial performance, stability and so on.

Kurunmäki (1999, 219-220) has usefully summarised this process:

“The concept of an accounting or economic entity presupposes a more or less common agreement that something concrete, bounded and whole exists, and that accounting numbers are capable of reflecting that objective [thing] ... To define an economic entity is thus to create and construct, to make and mould rather than merely reflect ... Yet the making of an accounting entity is a political process with potentially significant implications. The boundaries which delineate an organisation as an economic unit separate from other organisations are not as clear-cut, natural or fixed as the accounting entity assumption implies. The actors who identify entities and define their limits are many and varied, and may speak on behalf of legal, economic, social, political, aesthetic and professional interests.”

The process of creating an accounting entity thus creates its object for a particular purpose. And the making and moulding of the entity always has consequences for how a range of differing interests in the organisation are positioned. As a consequence, entity accounting profoundly affects our capacity to “know” about organisations through accounting practice.

When a corporation is treated as an entity, its accounts become formally separated from those of shareholders, managers and other significant groups of individuals that comprise the corporation. In other words, entity theory allows accounting to be solely focused upon the revenue, expenditure, assets, future value and so on of the *corporation* in isolation from its owners, or major shareholders. This approach is taken regardless of the “type” of commercial organisation we are talking about: partnerships, unincorporated commercial organisations, and incorporated privately owned and publicly traded corporations alike. The practice of treating the corporation as an entity in accounting probably became commonplace as the profession established itself at the beginning of the 19th century (Hines 1989). The accounting “entity” takes on a particularly significant role, however, in capitalist economies at the end of the 19th and beginning of the 20th century. The organisational dualism that Ireland (2017) has described as operating between functioning capitalists (executives) and money capitalists (those that invest as passive rentier shareholders) rested on entity accounting. That is, the accounts of the entity were separated from the accounts of individual *functioning* and *money* capitalists. In this way, treating the corporation as an entity for accounting purposes has very significant implications for how we account for the beneficiaries of the organisation: as soon as we treat the accounts of the corporation as entirely distinct from the accounts of the owners of the corporation, the income and the assets of the corporation become wholly separate from the income and assets of the individual (Husband 1954).

The development of these corporate accounting procedures in the 20th century laid the ground for flexible ways of accounting that at best make it difficult to fully comprehend what is going on and to follow the money to those that ultimately benefit from what the corporation is doing. At worst, corporate black boxing completely obscures who owns what, who earns what and indeed how we can recognise and “know” the social costs of asset ownership and revenue generation through business organisations. It is that process which anyone who seeks to open up any given corporate black box must come to terms with.

Inside the Box

The process of hiding “things” using the black box is broadly organised around two axes. First, there is the process of hiding the real social and financial relationships between people *inside* the box; and second there are the processes that enable assets and money to be distributed *within* the box. The black box thus has a dual purpose: to mask relationships between people and to mask the way that wealth is distributed as a result of constituting it.

In order to do this as effectively (and so non-recoverably) as possible, the corporation is typically disaggregated into a number of smaller separate sub-entities (subsidiaries and sister companies); the relationship it has with those sub-entities can be manipulated through changing the accounting relationship. Indeed, different forms of corporation may be used to manipulate those relationships. A key advantage is that the nuts and bolts of corporate operations (for example, asset ownership, the control of financial flows and the structuring of liabilities) can be distributed across the corporation’s sub-entities. This process at the same time makes it difficult to define in law exactly which part of the corporate structure is responsible for particular operations. This process of masking both individual and corporate responsibility within the box is an effect known to lawyers as “the corporate veil.”

The formation of long chains of ownership identity operating through multiple jurisdictions is the dominant form through which surpluses from the, for example, the extractive and agricultural industries flow from the Global South (Mikler 2018). Multiple personhood across nationality enables corporations to repatriate profits in any number of jurisdictions (Demsetz and Lehn 1985). They can cross borders freely and may use their multiple nationalities to exploit different regulatory

jurisdictions through practices such as “tax shopping” and “transfer pricing” (Bartelsman and Beetsma 2003). Holding multiple nationalities is also used to mask responsibility for causing harms (Bernat and Whyte 2017), because it effectively allows a multitude of “corporate veils” to be placed between subsidiary corporations. It is the complex relationship between those chains of discreet entities that enables legal requirements to be avoided or evaded and activities to be masked. When things go wrong, under circumstances that might trigger financial liabilities, the corporate black box makes it difficult to see individual beneficiaries and therefore makes it difficult to identify those individuals that might be held liable. The chain of command is similarly obscured by the corporate black box. Moreover, the creation of complex structures “inside the box” has, with a few scattered exceptions, generally prevented communities or workers from seeking compensation for workplace atrocities and environmental harms (Anderson 2001). Tax liabilities are also commonly diminished when corporations establish multiple identities that use secrecy jurisdictions (also known as “tax havens”) to mask the origin of their revenues (Shaxson 2012). And, as has been noted, the purpose of “tax havens,” aka “secrecy jurisdictions,” is precisely this: to amplify the masking capacities of the black box in ways that make it almost impossible to see both the real social relationships and the flows of money hidden inside the box.

Being Systematic

So how do we look inside the black box? How do we unmask the relationships between people and unmask the way that wealth is distributed inside it? Depending on what the researcher is looking for, the process of looking inside the black box begins by using registers of incorporation that most legal jurisdictions require to be public. Those registers (in the UK, the public database held at Companies House) can be used to map basic information about the corporate structure and its financial flows. In most liberal democracies, it is possible to conduct a mapping process using a mix of the following: registers of incorporation, corporate annual reports and accounts (there is a legal requirement in most jurisdictions to publish basic accounts and details of significant shareholder, directors’ remuneration and so on), and investor’s reports.

While difficulties will be thrown up in any context where the targets of investigation have been set up to elude investigation, researchers who investigate private companies have developed systematic ways of doing so (e.g., Whittell 2014). The work of investigation typically starts by extracting basic data from corporation’s public website and published accounts. If this is connected to a public limited corporation, that is, if it is a corporation that derives its capital base from shares traded on a stock market, then more detailed information still can be recovered from the full accounts published by Companies House including information on directors, information on parent companies and subsidiaries, and information on controlling parties. This exercise normally yields enough data to:

1. Map the entities within the corporate structure, and establish the parent-subsidary relationship between each of them;
2. Establish the formal “ownership” of key activities/assets/revenues;
3. Scrutinise revenue flows between entities;
4. Establish the individuals with the most power in the management structure;
5. Identify inter-locking directorships within the corporate structure across different corporate structures;
6. Establish the significant owners and shareholders of the corporation, and how this ownership pattern manifests across the corporate structure.

This mapping process is not easy and requires at the least a basic understanding of accounting practice and a working knowledge of corporate reporting rules. Even where investigators possess

these core competencies, however, the ready availability of the key information needed to undertake this type of analysis is far from guaranteed. In many jurisdictions, there will be a basic foundation of source material to build on, like that indicated above. Nonetheless, this varies depending on the disclosure rules of each state.

There are other resources investigators can draw on, however. Statutory reporting data is usefully stored and analysed in secondary databases, such as the Financial Analysis Made Easy database (“[Fame](#)”) to which most universities have access. Fame scrapes data from a range of public sources to enable corporate profiles to be generated quickly. One thing that Fame helpfully does is produce organisational charts of parent and subsidiary relationships across the corporate structure. Beyond resources like Fame, databases produced for the purposes of market reports and investors reports such as Bloomberg Terminal provide a deeper level of analysis of the performance of particular corporations, and includes access to some third party investor reports. The problem is that those databases are not public, and unless an investigator is based in a university which subscribes to them, they will be prohibitively expensive to access. There is a harsh irony in the fact that researchers seeking the data necessary to follow the money are likely to face a paywall sooner or later.

There are other bodies of state-disclosed data that researchers can draw upon systematically. If a corporation or its officers have been prosecuted for regulatory offences, then there are a series of places that details relating to the corporate structure and its beneficiaries may be found. Those include prosecution registers, records of pre-prosecution actions by regulators or court records. If a corporation or its officers have been sued in a civil case, then this might also reveal key details about the corporate structure.

One example of how such information was identified and used successfully comes from the attempt to identify the ultimate owners of oil that leaked from the sinking of the Prestige oil tanker off the coast of Galicia, Spain, in November 2002. The Prestige disaster was perhaps the worst in Europe’s history. In the immediate aftermath of the case, it was not clear either who owned the tanker or who owned the oil. In this case, a legal researcher, Robin Hansen (2008), used a series of previous court hearings, unrelated to the tanker disaster, in which Crown Resources Inc., the reported owners of the Prestige, has been cited to map the corporate structure. Once this corporation had been identified, other company sources, such as the annual report and accounts, were used by Hansen to supplement the court revelations. Hansen’s investigation found that the oil tanker was indeed chartered by the Swiss company, Crown Resources Inc., and they were also the owner of the cargo. It was this corporation that had ostensibly given the instruction to the vessel to sail for Gibraltar where it was to wait for new instructions. It was on the way to this destination that the ship began to break up. Crown Resources Inc. was itself owned by a holding company based in Luxemburg (“Crown Luxemburg A.G.”), that was owned by a holding trust, based in Gibraltar (“CTF Holdings Ltd.”), in turn owned by another trust based in Liechtenstein (“Crown Finance Foundation”). This trust was owned by Alpha Group, one of Russia’s largest investment fund groups with major interests in commercial and investment banking, asset management, insurance, retail trade, water utilities, and a wide range of other investments. Alpha Group is therefore the real owner of the oil carried by the Prestige. Using different companies located in several jurisdictions made the attribution of liability difficult, however, precisely as intended. The countries outside Russia involved in this secondary chain of ownership (Switzerland, Luxemburg, Gibraltar and Liechtenstein) are all tax havens, and are known for their protection of commercial secrecy.

Using details about the corporate structure uncovered by Hansen, it was possible to establish (by following the money trail from sources in the financial press, and from limited public information

on the Crown group of companies) that the various assets of Crown Resources Inc. were sold off in separate parts following the disaster. Those parts were then restructured around new enterprises, “Energy Resources” and “Commodities Trading Company,” both based in Switzerland. This strategy enabled the real owners to distance themselves further from the Prestige disaster, avoid accusations of wrongdoing, and ultimately continue trading in exactly the same way as before (Catalán Deus 2003, 224-225).

The key problem revealed in this case is the creative way that secrecy jurisdictions are used to render the black box impermeable. In this case it was not possible to follow the money in a great deal of detail. In the end, figures relating to the gross value of Crown Resource Inc’s assets were obtained by a German investigative journalist after establishing some detail about the sell-off noted above. However, despite this, investigators were never able to determine precisely *who* benefited from Crown’s activities or the *value* that accrued to them.

Occasionally we do get to see inside the black box even when it has been carefully constructed and fortified in secrecy jurisdictions. Perhaps the most famous of those moments have come in the past decade with the disclosure of the Offshore Leaks, the Panama Papers, the Paradise Papers and, being reported on at the time of writing, the [Pandora Papers](#). Important as those leaks are, however, they are always highly selective, and whilst they may reveal some systemic processes, at most they only open the box in a small minority of cases. What is more, to make anything of these records is a major investigative undertaking in itself. Smoking guns are rare and just having access to previously secret corporate data will not in itself resolve the difficulties investigators face.

Sniffing Out Class Power

In social science, the limits of systematic inquiry may be a more significant methodological article of faith than we are normally led to believe. As Ginzburg (1980, 27) has pointed out:

“In a social structure of ever-increasing complexity like that of advanced capitalism, befogged by ideological murk, any claim to systematic knowledge appears as a flight of foolish fancy. To acknowledge this is not to abandon the idea of totality. On the contrary; the existence of a deep connection which explains superficial phenomena can be confirmed when it is acknowledged that direct knowledge of such a connection is impossible. Reality is opaque; but there are certain points – clues, signs – which allow us to decipher it.”

For Ginzburg, the “conjectural paradigm,” an ancient form of knowledge construction that is more natural to human inquiry than “experimental science,” allows for deeply contextualised observation to guide the pursuit of knowledge. Conjectural knowledge is constructed using techniques outside the ivory tower, techniques that do not need endless quantifiable verification or “proof” according to the standards of a particular academic discipline. Conjectural knowledge is based on familiarity with the sort of fine detail that is often ignored by generalising science. Thus, Ginzburg argues, this more widely held, popular form of knowledge may represent a more useful approach to social science research, since it is based on observation, experience, and a much longer term understanding of what we can generalise about than more putatively scientific or experimental approaches.

This is not to say that any research project into something as concrete as the social and economic relationships established in and around corporations could ever be done by conjecture alone. But, certainly, conjecture plays a very significant role: a particular form of conjecture that is critical of power, and that bases its investigations on its critical analysis.

This is really how we read corporate accounts and court transcripts and annual reports: we look for the detail that might take us in a particular direction in our inquiry. We come across things in reading those accounts that are, conjecturally, telling. Let us take two examples of this. First, we might read a particular company's accounts and see that dividend payments to shareholders were much higher than expected. The narrative detail explaining this rise in dividends would not necessarily be included in the annual report, or in the annual accounts. Second, we might notice that a significant part of a corporation with a majority, tycoon shareholder, is owned by a holding company with a director who shares the same family name as the tycoon shareholder. But the limits of restricting a method of inquiry to those sources alone is obvious. The trail can end quickly inside the black box if our inquiry is delimited to its boundaries.

But what are the conditions that enable those observations to be made more significant? Why might those things become significant in the context of an inquiry into the corporate structure. A more basic question concerns how the researcher can even know if those trails are worth following up. Can these clues, these telling details, be usefully understood beyond the black box, by using a more conjectural approach? This is where researchers need to draw upon less formal, less systematised ways of working which involve determining how progress might be made. This all seems a bit mysterious and lacking rigour, flaky even. Yet our decisions to follow Ginzberg's invocation to seek the detail need not be flaky or mysterious.

In fact, it was exactly the kinds of loose details noted above which ended up being unpicked by researchers in order to investigate possible financial misconduct in Philip Green's Arcadia empire. These were details that may have been left uninvestigated had there not been a long-standing suspicion about Green's business methods. And had part of the empire not collapsed in 2015, it is much less likely that journalists would have seen any reason to go back to the accounts and sniff out the trail.

In the Arcadia case, some investigative groundwork had been done some 12 years before. In 2003, the Guardian newspaper commissioned a chartered accountant to scrutinize BHS's published accounts, one of Arcadia's holdings. That investigation resulted in a front-page exposé revealing that BHS was being systematically over-valued in a process that allows us to understand the forms of asset stripping that were to take place in the years to come. In 2015, the widely reported data leak from HSBC's Swiss private bank revealed to financial journalists details of an Arcadia shareholder who had withdrawn £2.25 million in cash from HSBC's Geneva office in September 2005. The original source of the money was revealed to be a bank account in Monaco held in the name of Philip Green's wife Tina Green (Shah 2017).

This was the smoking gun that led journalists – including the Sunday Times' Oliver Shah, who won business journalist of the year in the 2017 Press Awards for his investigation of Philip Green's sale of BHS – to unfold two important stories about the Green empire: first, that exactly the same type of complex corporate structure described earlier in this paper had facilitated financial flows from employees' pension schemes into the business (and ultimately ending up as dividend payments to the Greens and a small number of other large shareholders); and second that Tina Green was the owner of all of the shares in a corporation called Taveta Investments, which in turn owned all of the shares in Arcadia Group. Subsequent investigations, using published accounts, were able to identify a total of £2bn dividend payments made to Tina Green via this route.

This diversion into the work of investigative journalism raises questions about how far the techniques of investigative social researchers differ from investigative journalists (Gans 2018). One important difference for our purposes is the ontological approach typically adopted by the former. At a very micro level, social scientists are trained to recognise power as a dynamic in their

relationship with research subjects, and are trained to be sensitive to unequal power relations between human beings. If a researcher is sensitive to the ways that *class* power – understood in here as the systematic ways in which a group of people who share common economic interests, based on their social position, are able to collectively promote those common interests and goals – works at the level of the corporation, then this may be one aide to deciding whether to follow up “the slightest trace” of something that seems to be significant.

On the other hand, the reason that business journalists might be well equipped to sniff out the detail is that they know something about how power works in the world they investigate; they know the habitus of the business class. “Insider” knowledge of the culture underpins the ability to deploy the conjectural knowledge needed to investigate the business world. And this is something that social scientists rarely have. There are important exceptions (for example Ho 2009), but researchers must try to understand something of the worlds they are researching. When it comes to the corporation, this is what many of us do. We follow the money not merely based on what is objectively verifiable and observable but based upon what we know of the corporate world, based that is on our long-held understanding of what corporations do and why they do it. In a world that is largely hidden from view, this needs a great deal of conjecture, as Ginzburg (*ibid.*, 13) might put it, “to sniff, to observe, to give meaning and context to the slightest trace.”

Moreover, as this discussion has shown, a conjectural approach is made possible by two conditions. First, there needs to be a *motivation* to follow a particular lead. The social interest in, and the significance of, the cases referred to in this paper (the Prestige oil disaster and the collapse of BHS) gave investigators good reason to devote time to sniffing out the detail. Second, there needs to be a *capacity* to work in a conjectural way. In the case of Hansen’s piecing together of court records, he needed to know not just where to look, but how to look and what to look for in case files. The journalists who followed the money as it passed through the Green empire also relied on a deep appreciation of the culture of the industry and the leads provided by insiders as guides. Those are not methods that are easily systematised.

Conclusion

The work of reconstructing the social relationships inside the corporate black box and accurately following the money is a task that is always dependent upon how well the money and the relationships have been hidden. For this reason, we have to conclude rather negatively, that a systematised methodology for researching the black box of the corporation is not always going to do what researchers need to do: to get close to the trail and “follow the money.”

This problem is, quite literally, a structural one. The primary purpose of creating the corporation as a “person” in law and as an “entity” in accounting was to shield investors from full exposure to liability, thus providing incentives to invest and grow the economy (Whyte 2020). A central part of the same mechanism has been the creation of a black box that protects both investors, and those with significant control in the corporation from scrutiny.

Of course, as researchers, we need to use the information that is publicly available to us as systematically as possible. And yet, this is a problem when that publicly available information distorts and distracts us from our quest for knowledge. The boundaries of knowledge that determine what we see inside the box is constructed in and by the rules and practices guaranteed by state institutions, and by the disclosures made within the bounds of those rules and practices by corporations themselves. Our raw materials in corporate research projects are not only incomplete, this incompleteness is determined *by* the objects of our research: corporations themselves. Thus, by definition, this is a form of research that can never be *fully* systematised. Yes,

there are systems in place (Whittell 2014) but those systems are always highly bounded in terms of the knowledge claims we can produce and the conclusions we can come to. The institutional architecture of the post-19th century corporation – in particular its construction through law and accounting practice – is designed to lead us away from the scent of anything suspicious. Neither the systematic nor the conjectural are, or ever could be, separate methods then. In order to understand what is inside the box, we always need to make our investigative way using both.

Notes

¹ For the purposes of this paper, the ‘corporation’ falls into a number of categories: business organisations that are privately owned by a small number of powerful owners, companies with shares that are bought and sold on “public” stock markets, limited liability partnerships, trusts and so on. The characteristic that unites what is described here as the ‘corporation’ is that they are organisations established as independent entities with the primary aim of making a profit for a group of owners, members or shareholders.

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