ABSTRACT. The theory of corporations as moral persons was first advanced by Peter French some fifteen years ago. French persuasively argued that corporations, as persons, have moral responsibility in pretty much the same way that most human beings are said to have moral responsibility. One of the crucial features of French's argument has been his reliance on the idea that corporations are "intentional systems," that they have beliefs and desires just as humans do. But this feature of French's thought has been left largely undeveloped. Applying some philosophical ideas of Daniel Dennett, this article provides support for French's contention that corporations are intentional actors by analyzing what is meant by the term "intentional system," and showing why corporations should be thought of as, in many important ways, indistinguishable from humans.

The theory of corporations as moral persons was first advanced by Peter French some fifteen years ago. French persuasively argued that corporations, as persons, have moral responsibility in pretty much the same way that most human beings are said to have moral responsibility (1979, 1984). French's argument for corporations as moral persons has been attacked in numerous different ways over the years, but I think that there are avenues of defense for French's position that have not yet been fully explored. This article argues that French gets to the right conclusion -- that corporations are moral persons -- and offers support from heretofore untapped sources. In my argument I make liberal use of the work of Daniel Dennett, an innovative, if controversial, philosopher of mind. Dennett has not been used to support any theories with socio-political ramifications, but I see Dennett as providing crucial support for French's claims.

I. Corporations and intentions

French makes many arguments in support of his theory of corporations as moral persons, but perhaps the most crucial of these arguments needs more elucidation than it has so far received. This argument develops out of the claim that corporations are intentional systems; coherent actors that have intentions, beliefs, and desires just as do human beings. As French writes,

[t]o be the subject of an ascription of moral responsibility, to be a party in responsibility relationships, hence to be a moral person, the subject must be at minimum an intentional actor. If corporations are moral persons they will evidence a noneliminatable intentionality with regard to the things they do (1984, p. 38).

In other words, for French, the actions of a corporation are not reducible to a description of what human actors do on behalf of the corporation. Corporations have personalities, tendencies, blind spots, character flaws, character strengths, exceptional abilities, misconceptions, and dreams. These are attributes of the corporation and not simply a shorthand way of summing up the aggregation of characteristics of its employees. French makes this point clearly when he says:

For a corporation to be treated as a moral person, it must be the case that some events are describable in a way that makes certain sentences true:
sentences that say that some of the things a corporation does were intended by the corporation itself. That is not accomplished if attributing intentions to a corporation is only a shorthand way of attributing intentions to the biological persons who comprise, e.g., its board of directors. If that were to turn out to be the case, then on metaphysical if not logical grounds, there would be no real way to distinguish between corporations and crowds. I shall argue, however, that a Corporation’s Internal Decision Structure (its CID Structure) provides the requisite redescriptive device that licenses the predication of corporate intentionality (1984, p. 39).

French’s argument that corporations are intentional actors has been subjected to several varieties of criticism. The first form of criticism, usually more implied than argued, holds that we are misled into thinking that corporations are moral persons simply because of shorthand references in our language (Garrett, Pfeiffer). Here the complaint is a quasi-Wittgensteinian one that we have been seduced by our grammar, that we improperly ascribe a subjectivity to corporations simply because we use them as types of subject-actors in our language. We create a metaphysics out of an accident of metaphor.

A second type of criticism attacks French’s distinction between conglomerates and aggregates (Donaldson, 1982, Pfeiffer). French carefully devises criteria to distinguish between collections of individuals that may be ascribed moral responsibility and those that cannot. He says that conglomerates, or human collectivities eligible for moral personhood, must have: (1) an internal decision structure; (2) enforced standards of conduct; (3) defined roles by which power is wielded over others. Lynch mobs, riots, etc., are made up of human actors, and may be said to be human collectivities, but they hardly qualify as candidates for moral agents. But it seems to me that French puts too much stock in these criteria, and that they can be either supplemented or supplanted by more effective devices of evaluation. These supplemental evaluative devices will be explained in section III.

Patricia Werhane, in an effort to split the difference between French and his critics, effectively argues that corporations do not act and therefore cannot be moral persons (1985, 1988). Nonetheless, Werhane believes that “because collections of these individual actions on behalf of a corporation can create anonymous policies and practices no longer traceable to individuals, policies and practices which, in turn, generate corporate activities, I claim that corporations are collective secondary moral agents” (1988). Werhane seems to deny that corporations are intentional systems, a position counter to that held by French. Nevertheless, some critics go on to lump Werhane and French together, believing that they both reach the same flawed position from two different directions. As Jan Edward Garrett writes,

Both French and Werhane seem to locate the unassignable portion of corporate moral responsibility with the corporate practices or policies as such. Werhane has interpreted French as arguing that “because policies and practices that are the source of corporate action are themselves products of corporate intentional activities, the actions that result are not solely distributable to individuals” (p. 539).

And Garrett goes on to assert that “[t]he critic of UCMR [Unredistributable Corporate Moral Responsibility] need only insist that the individual moral responsibility for corporate action directly caused by collectively determined policies lies with individual actions further back in time, perhaps spread over many years” (pp. 359–540). But of course, one can insist away anything. By saying that UCMR disappears if we just look further back in a causal chain of events is unhelpful and unpersuasive. It does not dissolve the argument of UCMR to say that corporations are wholly comprised of small operations across time. As we shall see in our discussion of Thomas Donaldson, at root here is an effort to find a criterial distinction between persons and non-persons. Garrett thinks that reducing corporations to causal chains does away with the possibility that the corporation is a moral person. This argument is discussed at some length later in this essay.

The point Garrett makes anticipates and is related to a third type of criticism made against French. Thinkers who take up this argument see