

Interrogating Peter French's Notion of Corporate Moral Agency

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Abstract

This paper attempts a critique of Peter French's notion of Corporate Moral Agency. In response to the debate between methodological collectivism and individualism on whether collective agents are appropriate targets of praise and blame, French asserts that corporate collectives possess internal decision-making processes, standards of conduct, and utilise well defined roles delineating subordinate and superior positions. By virtue of these attributes, corporate collectives are proper agents of moral attributions, over and above their constituent component parts. This assertion conveys the erroneous notion that corporate entities, through the possession of corporate internal decision structures, are moral agents. Utilising the conceptual analysis method of research, this paper contributes to the debate on corporate moral agency by interrogating French's arguments. While acknowledging French's contributions to the debate, it argues that French's arguments for corporate moral agency elicit diverse problematiques and cannot be upheld as a viable theory for attributions of moral responsibility for corporate faults.

Keywords: Collectivism, Corporate criminal liability, Corporate internal decision structure, Moral agency, Peter French.

1. Introduction

Efforts to accurately allocate moral responsibility are contingent on a singular fact – the agents identified as responsible agents are agents to whom responsibility ascriptions for moral faults can be made. Such agents are regarded as moral agents, and are deemed

morally liable for faults/harm on the basis of their satisfying the basic conditions for moral agency. In the debate on corporate moral agency, proponents of corporate moral agency assert that corporate entities can, and do satisfy necessary conditions for moral agency, and are therefore moral agents in their own rights, over and above their constituent members. This position is premised on methodological collectivism, the theory that asserts that a collective is a social object which exists as a distinct entity, a whole which is mereologically more than the sum of its parts.

For Peter French, corporations, as formal collectives, are not only real entities, distinct from their component human members; they are also moral agents on their own worth.¹ For him, a moral agent is one with the capacity to act intentionally, after deliberate rational reflection, and to respond to external events. More importantly, intentionality is a sufficient condition for moral agency, and this condition is fulfilled in the corporation by its Corporate Internal Decision structure (CIDs). Through this structure, individual decisions are synthesised into corporate decisions. These decisions are such that they cannot be traced back to any individual member of the corporation and are intentional decisions taken to implement corporate policies. Responsibility for such decisions becomes the sole prerogative of the corporation; therefore, corporations are moral agents who can be held responsible for corporate actions.²

This paper seeks to interrogate French's notion of corporate moral agency. First, it shall elucidate French's notion of corporate moral agency as an offshoot of moral collectivism, a form of methodological collectivism. Second, it shall respond to French's arguments in order to highlight the challenges they pose to the notion of individual responsibility in particular, and social justice in general.

¹ See Peter French, "The Corporation as a Moral Person," *American Philosophical Quarterly* 16, no. 3 (1979), 215; *War and moral dissonance* (Cambridge: Cambridge University Press, 2011), 221; "Corporate Moral Agency," In *Wiley Encyclopedia of Management*, edited by C. L. Cooper, 1-3 (New Jersey: John Wiley & Sons, Ltd, 2015).

² French, "The Corporation as a Moral Person," 215.

2. Moral Collectivism

Moral collectivism, an offshoot of methodological collectivism, is a theory that views groups as basic units of moral concern. Using the methodological collective's theory of collectives existing over and above their component individual parts as a foundational premise,³ moral collectivism attempts a holistic response to the question of whether collectives, as existing phenomena, can be held morally responsible for their actions.

As a theory, moral collectivism holds that individual humans are determined by the group they belong to because they are constrained by the limits imposed by the group in their quest for satisfaction.⁴ Constraints imposed by the group include moral norms through which society controls human action. Such constraints, or social facts, as Emile Durkheim calls them, are independent of the individual's consciousness, and they also exert a causal influence on the individual.⁵

Adherents of moral collectivism often assert, in agreement with methodological collectivists, that the usage of collective terms imply that collectives exist as entities. In this way, they argue that collectives exist in reality, and their very existence affects the existence of other existents. As real entities, their actions affect society, and thus, they should be held as agents who are morally responsible for their actions. Anthony Quinton, a proponent of this view holds that collectives, as real entities, are moral agents. The moral code of a collective evolves from special groups within the collective whose duty is to ensure that these morals are observed.⁶ Such moral codes are derived from the very nature of the collective, and can therefore be regarded in this sense as pre-given. It is this morality that serves as the glue for a society, holding the people of a particular society together. Implicit in this assertion is the identification of the collective's moral status. The collective, in

³ Anthony Quinton, "Social Objects," *Proceedings of the Aristotelian Society* 7 (1976), 4.

⁴ Emile Durkheim, *The Rules of Sociological Method* Trans W. D. Hall, (New York: Macmillan, 1895), 52.

⁵ Durkheim, *The Rules of Sociological Method*, 52.

⁶ Durkheim, *The Rules of Sociological Method*.

this sense, is viewed as an entity whose moral worth/standing is higher than the individual's, given that the very norms that guide individual conduct originates from it.⁷

To the moral collectivist therefore, collectives are entities that can, and should be held morally responsible for actions occasioned by them. Moral responsibility is attributed to entities whose choices and actions are blameworthy or praiseworthy. Such entities are termed moral agents, which the moral collective notion of the corporation holds that corporations are.

3. Peter French on Corporate Moral Agency

Corporate moral agency (CMA) is the view that corporations are not only real entities, distinct from their component human members; they are also moral agents on their own worth. It is an implicit assumption in Business Ethics which entails that the corporation is a proper target of moral responsibility as an entity that is distinct from its members. An offshoot of methodological collectivism, it contends that corporate entities can satisfy the necessary conditions for attributions of moral agency, and therefore, qualify as moral agents, over and above their component human members. Asserting the corporate entity as a moral agent is also archetypally proffered to justify the imposition of corporate criminal liability, a form of criminal liability imposed on corporate entities, since criminal sanctions can only be applied to morally responsible agents.

French contends that the corporation is a moral agent on the basis of its legal reality and its fulfilment of the necessary conditions for moral agency. Foundational to his theory is his distinction between two types of collectives; i) aggregate and ii) conglomerate collectives.⁸ An aggregate collective, also referred to as a 'face-to-face' collective, is one where a change in the membership will always imply a change in the identity of such

⁷ Quinton, "Social Objects," 13.

⁸ French, "The Corporation as a Moral Person," 210-11.

collective.⁹ The nature of aggregate collectives is such that the collective is defined by the combined identities of its members. This explains why any change in the membership of an aggregate collective necessarily implies a change in the identity of the collective. In essence, a change in the membership of an aggregate collective implies that aggregate collective 'A', which experiences a change of membership, is no longer 'A', but 'B', or any other name which captures the combined identities of its members. Collectives which qualify as aggregate collectives include neighbours, crowds, mobs and gangs. Aggregate collectives are also characterised by their lack of structure. They are aggregates that exist only for particular short-term purposes, aggregated only by a common interest or behavioural stimuli, where members who act are not regarded as acting on behalf of the collective.

Conglomerate collectives, on the other hand, are groups of people organised such that the group cannot be defined simply as a collection of the identities of the composing members. They entail varying membership such that any change in the membership of a conglomerate does not necessarily entail a change in the identity of the conglomerate. Examples of conglomerates include schools, political parties, corporations, and armies, and all collectives that are duly recognised by the law as corporate collectives.

Conglomerate collectives differ from aggregate collectives in three ways, namely: they possess internal decision-making and organisational procedures, they have internal standards of conduct which are enforced more strictly than external standards of conduct and they utilise well defined roles played by certain members of the conglomerate in which these members exercise some form of authority over other members.¹⁰ Aggregate collectives do not possess these three significant characteristics, and are subject to change with any change in their membership.

⁹ See French, *Collective and Corporate Responsibility*, 5. See also Raimo Tuomela, "Collective action, Supervenience and Constitution," *Synthese* 80, No. 2 (1989), 244.

¹⁰ See French, "The Corporation as a Moral Person"; "Types of Collectives and Responsibility" In *The Routledge Handbook of Collective Responsibility* edited by Saba Bazargan-Forward and Deborah Tollefsen, (New York: Routledge, 2020), 13-16.

These two factors bar them from admittance into the ‘moral actors’ group, to which conglomerate collectives are admitted.

These three characteristics reveal conglomerate collectives as intentional agents, with intentions that are significantly different from those of its members. Intentionality is found in the corporation’s Corporate Internal Decision structure (CIDs), which allows for a description of conglomerate functions as intentional acts.¹¹ The CIDs is a system of rules, procedures, roles, and standards of conduct, through which composing individuals of a corporation arrive at decisions which serve as corporate policies. It is also responsible for the carrying out of such policies, which allows for such policies and actions to be attributed to the corporation, thus allowing for corporate moral responsibility. It comprises of two elements, an organogram and the corporate policy. An organogram is an organisation’s responsibility flow chart which specifies which office is responsible for what role, while the corporate policy is made of corporate decision rules.

Moral agency is typically attributed to entities which fulfil certain conditions. These conditions include: rationality, freewill/autonomy, moral consciousness, intentionality, and reciprocity. Among these conditions, French places emphasis on intentionality as the most important condition for attributing moral agency. As defined by French, intentionality is a necessary and sufficient condition for moral agency.¹² This is so because it is a condition which serves as an evaluative concept utilised for evaluating actions in order to ascertain their worth. Such evaluation is necessary for purposes of responsibility ascriptions. Actions are judged based on the intentions behind them, and thus, the morality of an action is, to a large extent, dependent on the intention of the actor. Corporations exhibit intentionality through their CID structure through which individual intentions are synthesised into collective, corporate intentions, which bear little or no resemblance to the initial individual intentions.¹³

¹¹ French, “The Corporation as a Moral Person,” 212.

¹² French, “The Corporation as a Moral Person,” 211-215.

¹³ French, “The Corporation as a Moral Person,” 212.

For French, intentionality is only one of the three necessary capacities of corporate collectives-as-moral actors, albeit a sufficient condition. These three capacities are:

- a. The capacity to act intentionally. This capacity can be found in the CID structure through which individual intentions and actions are subordinated and synthesised into corporate intentions and acts, and this capacity proves that conglomerate collectives are moral agents, given that moral agents are 'davidsonian' agents, that is, agents to whom intentions can be attributed irreducibly.
- b. The capacity for rational reflection, through which rational decisions are made and reflected upon, and
- c. The capacity to respond to external events and situations and to review already held intentions in the light of these responses.¹⁴

Through the corporate CIDs, individual decisions are translated, synthesised, and ultimately presented as corporate decisions. It is through this structure that the intentions of individual members of the corporations are synthesised into collective, corporate intentions, which bear little or resemblance to the initial individual intentions. These corporate decisions are such that they cannot be traced back to any individual member of the corporation. Responsibility for such decisions, therefore, becomes the sole prerogative of the corporation. These decisions, and actions taken based on them, can therefore, be termed as intentional; as such actions are taken in order to implement the corporate policies. The conglomerate, can therefore, be seen as an intentional agent who exhibits its intentionality through its CID structure, and is therefore, on the basis of its intentionality, a moral agent.

French's justification of corporate moral agency rests not only on the distinction between types of collectives, or on satisfying the sufficient condition for moral agency, but also on the legal reality of conglomerate collectives. He argues that the legal reality of the corporation as an example of a conglomerate collective is

¹⁴ Peter A. French, *Corporate Ethics* (California: Harcourt Brace College Publishers, 1995), 10-12.

indubitable. The fact that corporations are legal agents, forms the basis of French's ascription of metaphysical reality to corporations. For him, "(T)he organisation is clearly a person in the legal sense, and legal personhood must imply metaphysical personhood, since it is impossible to create anything in law which does not exist in some prior sense – the law cannot create its own subject."¹⁵ Expatiating on this notion, he identifies the three notions of personhood as legal, metaphysical, and moral. For him, legal existence implies metaphysical existence. As legal persons, corporations exist ontologically. By virtue of the corporation's existence in these two spheres, they have certain legal rights. Among these are rights that are typically ascribed to humans. This is especially important, given the legal system's recognition of the corporation as a legal person. This recognition guarantees that corporations are accorded similar legal rights as humans, and this should be one of the many reasons why corporations should also be accorded the same moral rights as individual persons.

4. Criminal Liability

If corporations are rights holders as argued above, what happens when they infringe on the rights of other individuals and entities, and run afoul of the law? Are they liable to the same punishment meted out by judicial officers, or is there a separate way of penalising the corporation? How can a mindless entity be found guilty of entertaining criminal intents or how is punishment imposed on something that lacks a corporeal body? This was not a problem in the early days of corporate charters and incorporation, as the early corporations were small in size. Then, it was easy to identify the particular individual(s) responsible for corporate crime, with the general assumption that such individuals committed crimes while operating outside of institutional frameworks. However, the contemporary age of conglomerate institutions, with corporations employing thousands of people in their workforce, has made such attributions difficult if not

¹⁵ French, *Collective and Corporate Responsibility*, 146.

impossible. Thus, the espousal of corporate criminal liability can be seen as an attempt at resolving this difficulty.

Legal liability is of two types – Criminal and Civil. Criminal liability implies the presence of both *actus reus* (actual criminal act), and *mens rea* (criminal intent).¹⁶ *Actus reus* is the physical element of the crime, that is, 'the observable doing' or bringing about, either by actual commission, or lack of prevention through omission of an action. *Mens rea*, 'with criminal intention', implies that the act is performed, or omitted intentionally with deliberate purpose. Civil liability, as opposed to criminal liability, is often the liability incurred by an individual against another individual. The burden of proof that the prosecutor has suffered a loss is measured on a probability basis, as against criminal cases where proof must be obtained beyond reasonable doubt. The penalties for civil cases are imposed fines.

In corporate criminal liability, corporate *mens rea* is established through the principle of identification. This principle is known in law as the tort doctrine of *respondeat superior*, or vicarious liability.¹⁷ It is premised on the view that the acts and intentions of the individuals occupying controlling roles in the corporation are the actual acts and intentions of the corporation. Whatever crime is committed by these personalities is committed by the corporation personally. Such personalities are viewed as the controlling mind and personality of the corporation. The corporation is thus, akin to the human body, with a brain and control centre; the directors and managers function as the brain, while other members of the corporation function as the different parts of the body which are controlled by the brain.

For French, corporations are legal persons and as such can be held criminally liable for crimes committed by virtue of their structure. However, since corporations do not possess a physical body that can be imprisoned where necessary, or undergo capital

¹⁶ (include first name) Anon, The difference between Criminal and Civil Liability. Retrieved April 8, 2015, from http://www.rsc.org/images/2_Difference_tcm18-17644.pdf.

¹⁷ Philip A. Lacovara and David P. Nicoli, "Vicarious Criminal Liability of Organisations: RICO As An Example of a Flawed Principle in Practice," *St. John's Law Review* 64 (1990), 729.

punishment, he proposes that corporations should be punished using the Hester Prynne sanction.¹⁸ The Hester Prynne sanction is a court ordered publication of a corporation's misdeeds, to be paid for by the corporation itself. In this way it is hoped that the shame generated by such adverse publicity would fulfil two functions: deter from future criminal actions and ensure that the offender receives his/her/its due desert. Corporations are typically averse to adverse publicity, and with this court mandated adverse publicity, the corporation is held in contempt by society, and must act in "positive, creative, possibly even heroic ways"¹⁹ to regain its worth in society. The Hester Prynne sanction therefore, especially because of the force it derives from the concept of shame, is a sanction that should prove particularly effective in corporate criminal cases.

For French, even though the criminal legal system is based on guilt, where guilt is a form of debt which requires repayment or restoration; shame, which is a more primitive notion of guilt, should take centre stage in the evaluation of any behaviour that is below expectation. It is this feeling that should be invoked in corporations who perform criminal acts. As a feeling, shame is both public and private. Public in the way the offender thinks he/it appears to others, and private in the way the offender views him/her/itself. It invokes a feeling of unworthiness, inferiority and inadequacy, as opposed to guilt, which induces confession. It also requires actions that would re-establish the trust and worth that have been lost through shameful actions.

5. Interrogating French's Corporate Moral Agency

While there is much that is positive about French's approach, his picture of the corporate collective seems oversimplified. First, the distinction, between aggregate and conglomerate collectives, is not

¹⁸ Peter A. French, Van E. Langley and Manuel Velasquez, "The Hester Prynne Sanction [with Commentaries]," *Business & Professional Ethics Journal* 4, No. 2 (1985), 23.

¹⁹ French, *et al*, "The Hester Prynne Sanction," 23.

tenable.²⁰ Aggregate collectives can also possess the three distinct characteristics as enumerated by French, even if only at a rudimentary level. The analogy of a group of neighbours who watched passively while one of them was murdered presents evidence to show cases where aggregate collectives have also exhibited these three distinguishing characteristics.²¹ In this analogy, there might have been a rudimentary decision procedure at work. One of the neighbours might have been the designated neighbourhood leader to whom all others looked for any sign to intervene. The absence of any such sign does not imply the absence of a decision procedure; rather it might actually signify an assent to the assault.

Decision procedure structures also do not necessarily imply written orders. Such structures also develop spontaneously among groups of people, even if such people are aggregated only for a short time and have no strong binding relationships. In this particular instance, an enforced standard of conduct could also be applicable. Here, each person in the apartment complex could adjust their behaviour to suit the apartment manager or a fellow neighbour because of various reasons, including respect or fear. Thus, it can be argued that there is a standard of conduct whose enforcement might be subtle, but cannot be denied.

Aggregate collectives could also have roles fulfilled by persons, who, by virtue of such roles, exercise a level of authority in the aggregate. The designated neighbourhood leader for example, is a role filled by a person, who, by virtue of that role, exercises authority in varying degrees over the populace in the neighbourhood. Aggregates, like the analogy given, often have common goals as well. Such goals are held by most, if not all, members of the aggregate, and the activities of the aggregate are tailored towards the achievement of these commonly held goals. An example of this is the rioting crowd, composed of people who have aggregated for a particular purpose, either to protest for, or

²⁰ Raymond S. Pfeiffer, "The Central Distinction in the Theory of Corporate Moral Personhood," *Journal of Business Ethics* 9, no. 6 (1990), 473, 475.

²¹ Pfeiffer, "The Central Distinction in the Theory of Corporate Moral Personhood," 475.

against. The purpose for which this group has been aggregated can, therefore, be identified as the goal held in common by the members of the group.

French's membership criterion as the fundamental distinction between aggregates and conglomerate collectives is also problematic.²² That a corporation retains its name over time does not imply that its identity does not change with a large enough change in membership. Empirical evidence abounds to show that so-called conglomerates experience a change in their identity once they experience extensive personnel changes. Such changes might be in form of adopting practices which differ qualitatively from those previously obtainable. Thus, French's identification of a membership criterion as the crucial distinction between aggregate and conglomerate collectives falls short of its mark.

From the above, there is no clear method of differentiating between aggregates and conglomerates, as there is no fixed way of determining which collective qualifies as a conglomerate and which as an aggregate. The difference between aggregates and conglomerates as postulated by French is, therefore, not one of kind, but rather, one of degree, in structure, purpose, and cohesion. Most collectives; aggregates and conglomerates alike, share French's three distinctive characteristics to certain degrees. If these three characteristics determine ontological existence and moral relevance, the onus is on French to define the sufficient degree to which a collective must possess these characteristics before they can be termed real entities. There is simply no proof; rational or empirical, to support the argument that some collectives are real entities by virtue of certain characteristics, while others are not.

Also, French's idea of the CID structure seems to assume that the CID structure will always synthesise individual decisions into corporate ones. This seems to imply that the true decision-making power of every corporate collective lies in the synthesis of the decisions of the different human members of the collective. Since a look inside any existing corporate collective shows that this

²² Pfeiffer, "The Central Distinction in the Theory of Corporate Moral Personhood," 476.

assumption is not always true, what kind of decisions are those decisions which arise outside of the CID structure, personal or corporate?

Managers of corporations often make decisions which do not conform to the organogram.²³ If these decisions are termed corporate decisions, then French needs to represent his notion of corporate intentionality to reflect the fact that corporate decisions could be made on areas that have no bearing on corporate goals. Corporate intentionality seems harder to identify in this regards, as evidenced by the above scenario, where corporate decisions are made outside of the structure that French identifies as responsible for turning individual decisions to corporate ones. The corporation's character authorises the corporation to take any action so long as such actions fall within its purview, and so long as such actions are lawful. This implies that technically, it is impossible to describe an unlawful act as a corporate act since corporations are not allowed to perform such unlawful acts.

Since there is evidence to show that certain decisions emanate from managers which have no bearing on the corporation's affairs, then it suggests that corporate decisions as a whole might well be decisions made solely by the management boards of such corporations. Responsibility for such decisions should therefore rest on the shoulders of the persons from whom the decisions originated. While corporate decisions can be regarded as social decisions which convey corporate intentions, as social decisions, they are the decisions of individuals in the corporation which have been synthesised into collective ones. This in no way denies that such intentions were generated by individuals who accommodated other points of view to arrive at a consensual agreement.

Furthermore, the position that the morality of actions is to a large extent dependent on the intentionality of the actor, is also difficult to sustain in the light of Daniel Dennett's explication of intentional systems. For Dennett, an intentional system is a system whose behaviour can be explained and predicted by relying on ascriptions to the system of beliefs and desires adopted by the

²³ John R. Danley, "Corporate Moral Agency: The Case for Anthropological Bigotry," *Bowling Green Studies in Applied Philosophy* 2, (1980): 140-149.

system.²⁴ Intentionality in this sense is more of the stance adopted towards a system, a mode of predicting future behaviour based on perceived beliefs and desires. For example, the prediction that a plant will grow in a certain direction because it seeks sunshine and desires to move away from the shade in the hope that it will find sunlight. In this example, the plant ‘intends’ to search out sunlight, but while it can be identified as a low grade intentional agent, its intentionality is not considered sufficient for attributions of moral agency. Adopting French’s ‘intentionality as a sufficient condition’ is, therefore, likely to the absurd position of attributing moral agency to all entities that evince evidence of intentional behaviour; these include, humans, animals, plants, social and artificial objects alike.

If we grant that corporate entities are moral agents, and are therefore, appropriate subjects of criminal liability, the challenge of determining how corporations are punished such that the corporate veil is pierced and the imposed punishment is borne by guilty parties remains. French’s Hester Prynne sanction, with its emphasis on shaming the offending corporation, is undermined by its downgrading of the importance of monetary sanctions against offending firms.²⁵ The Hester Prynne mode of corporate punishment is non-monetary, and it is imposed by the government. This renders it ineffective, as it ignores the importance of monetary sanctions, and its implementation is often delayed by the bureaucratic processes it has to undergo. The Modified Vendetta Sanction²⁶ has been proposed as a more effective sanction primarily due to the fact that its sanctions are enforced devoid of the cumbersome delays of bureaucracy. However, both sanction methods; the Hester Prynne and its proposed replacement, the Modified Vendetta retain unjust methods of attributing liability for corporate crime. Their measures end with both the innocent and guilty parties bearing equal degrees of the punishments meted out,

²⁴ Daniel Dennett, “Conditions of Personhood,” In *Identities of Persons* edited by Amelia Rorty (England: University of California Press, 1976), 179.

²⁵ Shannon Ship, “Modified Vendetta as a Method of Punishing Corporations,” *Journal of Business Ethics* 6 (1987), 606.

²⁶ Ship, “Modified Vendetta as a Method of Punishing Corporations,” 603ff.

and they do not guard against an offending corporation's escape from punishment by incorporating itself under another name. Such measures are also based on the assumption that the media and the non-governmental organisations tasked with the adverse publicity and organised boycotts respectively, would effectively apply such sanctions. In this way, they disregard the fact that such media bodies or non-governmental organisations might be indebted to the offending corporation, in which case, the sanctions will not be applied. Such sanctions also hardly do justice to the crime committed, and are normally viewed as ineffective and unequal to human incarceration.

Finally, French's position that the collective's legal existence implies ontological existence cannot be upheld. While it is a truism that corporate collectives exist as legal persons in the contemplation of the law, they exist as such only because it is more convenient for the law to view them as such, and not because such collectives are actual legal persons. Numerous examples abound of cases in which the corporation is referred to as an entity, existing only in contemplation of law, just as numerous examples abound to state explicitly otherwise.²⁷ Even where it is granted that the corporation is a legal entity, it must be noted that judicial creation is not actual creation. Thus, agreeing that corporations exist ontologically because of their legal personhood seems problematic for methodological/moral collectivists.

6. Conclusion

In summary methodological/moral collectivism is fundamentally faulty with its identification of the corporation as a distinct entity over and above its component individual members. Collectives are by nature, aggregations of individual parts. This nature is denied if we accept the collectivist's argument that a corporate collective is an existing entity distinct from its component parts. A collective exists by virtue of its composite parts, and it would be

²⁷ See Chief Justice Marshall in *Trustees of Dartmouth College v. Woodward*, 17 U.S. 4 Wheat. 518. 636. 1819 and *Citizens United v. FEC* 2010 494 U. S. 652 where corporations were granted constitutional rights of free speech, privacy, and even the right to contribute to political campaigns.

contradictory to the collective's nature to argue that the collective exists distinct from, and despite its nature.

If corporations as collectives exist because of their composite individual members, corporate actions are actions performed on behalf of the collective whole by some of the component members of the corporation. This implies that where such corporate acts result into harm, especially where there is evidence of culpable wrongdoing, individual members of the corporation who occasioned such harm should also be liable for their actions in bringing about the harm. The individual responsibility for corporate harm is often neglected by collectivists like French in their bid to ensure that the corporation's responsibility for corporate fault is upheld. That is why the collectivist concept of corporate criminal liability results into imposition of punishment or sanctions on the erring corporation. It ultimately results into injustice where these sanctions and punishments are redistributed to innocent members of the corporation and the public in the form of reduction in salaries and allowances, and increase in product prices respectively.