
Tools and Marriages

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A RESPONSE TO Abraham Singer (2013), “What is the Best Way to Argue Against the Profit-Maximization Principle?”, *Bus Ethics J Rev* 1(12): 76–81, <http://doi.org/10.12747/bejr2013.01.12>

ABSTRACT

Singer thinks that my argument does not give adequate consideration to the role that markets play in Jensen’s work. The problem with this objection is that Singer considers only the perspective of those who transact with corporations, not the perspective of those who participate in them. I think that there is actually less distance between my view and Singer’s view than it may seem. In a sense, I share Singer’s “political view” of the corporation, but I conceive of the corporation as a legal institution, rather than an extension of the state or a concession provided by the state.

SINGER IS RIGHT that, like him, I reject both profit maximization and stakeholder theory as accounts of the morality of corporations and corporate life. I will say something about a better alternative later on. But first I want to discuss an important objection that Singer raises. To refresh your memory, here is the gist of my argument.

Suppose that someone tells Abraham Singer to maximize his income and minimize his expenditures. By all evidence, Singer is a talented guy, and I’m sure that there are more lucrative things that he could do with his time than write about business ethics, so the require-

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ment to maximize his income would probably require him to get out of the business ethics game. Maybe his most lucrative option is becoming a doctor, in which case the requirement would imply that he has to go to medical school and become a doctor.

It may be true that doing something more lucrative would actually help more people in the world: being a doctor would mean developing a skill that helps people, and since many of these people can pay for the service, Singer would be making more money and helping more people if he became a doctor. But the fact that practicing medicine would be better from the standpoint of social welfare does not settle the issue. Abraham Singer, like the rest of us, is allowed to pursue whatever ends he chooses for himself (within certain boundaries), even if these are not optimal from the standpoint of aggregate welfare. He does not have to treat himself merely as a tool for the advancement of the social good.

What is true for Singer would also be true for Singer and his friends, if they decided to form a business ethics think-tank together. They are each free to pursue whatever ends they choose for themselves (within certain boundaries), so they are also free to form an association together to jointly pursue their self-selected ends. Even if it turns out that, from the perspective of aggregate welfare, the best course of action would be for Singer and his friends to pursue some other objective – e.g., becoming doctors and opening a for-profit hospital – they are not required to turn their think-tank into a hospital. They are not required to treat themselves as mere instruments for the advancement of aggregate welfare.

The problem with the efficiency argument for profit maximization (EAPM), as I understand it, is that it *does not provide any account of the personal sphere*, that is, the sphere within which people are permitted to pursue their own ends, whether or not these ends are optimal from the standpoint of aggregate welfare. The EAPM simply assumes that if profit maximization is the optimal course of action for corporations to pursue, then everyone involved in corporations must orient their activities in such a way that their activities maximize profits. There is no acknowledgment that Singer and his friends may have the right to keep going with their think-tank, even if this is not the best route to maximizing social welfare.

The objection Singer raises to my argument is that it does not give adequate consideration to the role that markets play in Jensen's work. On Jensen's view, corporations are supposed to maximize profits within the framework of a market system. All transactions in a market system are (ideally) voluntary, so if individuals transact with the corporation, they must be doing so because the corporation's activities help them to achieve their own, freely chosen objectives. It follows that there is no need for Jensen to provide an account of the personal sphere: corporate profit maximization actually helps people to achieve their own objectives, so there is no tension between profit maximization and personal freedom. As Singer (2013: 79) puts it, since the rationale for profit maximization according to the EAPM is

to maintain competitive markets that are [Pareto] efficient, it is not clear precisely why [a requirement to maximize profits] restricts personal freedom; only if the transactions are voluntary will the result be efficient.

The problem with the objection is that Singer considers only the perspective of those who *transact* with corporations, not the perspective of those who *participate* in corporations. For people who transact with corporations – e.g. customers and suppliers – a requirement on corporations to maximize profits would actually advance their ends because it would force corporations to find ways to help them do what they want to do. But there are also people who participate in corporations—i.e., those who work in corporations, manage corporations or want to set up a corporation. For these people, a requirement on corporations to maximize profits actually undermines their freedom because it would prevent them from orienting their activities towards other objectives besides maximizing profits.

Singer basically concedes the point in his paper, though he does not seem to appreciate fully the significance of what he is saying. He says (Singer 2013: 80, my emphasis):

By asking corporations to maximize value, Jensen mainly wants to allow as many *other* people as possible in the economy to be able to achieve their good ends as well.

This is exactly right. A requirement to maximize profits serves, on Jensen's view, to maximize the contribution that the corporation makes to helping everyone in society to achieve their ends. But in doing so, Jensen essentially treats all those who participate in actual corporations as mere instruments for the attainment of everyone's

objectives. This represents a constraint on the personal sphere, the sphere in which people can pursue their own objectives, regardless of whether pursuing these objectives also helps other people to achieve their objectives.

At one point, Singer offers a helpful suggestion for how the defender of the EAPM might draw the boundaries of the personal sphere. Maybe we can draw the boundary by drawing a distinction between different types of corporations.

[W]hat do you do if you have social concerns other than value-maximization? Simple: don't form a corporation or, as we generally do, form a different type of corporation. (Singer 2013: 80)

The idea is that everyone has at least two options. You can form a business corporation, in which case you are required to maximize profits because this would maximize aggregate welfare. Or if you don't want to maximize profits, then you can form a different type of corporation, a nonprofit perhaps, and pursue your own ends through this association.

Singer's suggestion is very intuitive, and many people will gravitate towards something like it. But what I want to stress is that *it is not obvious how this suggestion is consistent with the welfare consequentialist premises of Jensen's argument*. Allowing people the freedom to set up a corporation that is not profit maximizing would give them the freedom to pursue other types of objectives through the corporation. But why should we think that people have this freedom?

For the welfare consequentialist, the answer must be that allowing them this freedom would ultimately serve to promote aggregate welfare. But, as I argue in the article, it is a complicated question whether providing people with this freedom would be best from the standpoint of aggregate welfare. There are, after all, other possibilities. Maybe all corporations and associations should be profit maximizing, in which case people would be free to pursue their self-chosen ends only as individual consumers of goods? Or maybe it should be open for any corporation to pursue any objectives, in which case no corporation would be subject to a meaningful requirement to maximize profits? I am not advocating these alternatives; my point is simply that the welfare consequentialist has to explain why these options are not better from the standpoint of aggregate welfare. To the best of my knowledge, no one has seriously tried to work out the costs

and benefits of these different ways of drawing the boundaries of the personal sphere.

Singer says some things about value maximization, capital markets, and prices that seem a little mixed up to me, but I am not going to try to sort it out here; instead, I want to focus on a more important issue that he raises at the end of his paper.

Singer rightly says that on my view, the corporation is “composed of private people pursuing privately-determined aims.” But he thinks that there is a problem with this approach:

If we take the corporation to be a purely private matter then it follows that private individuals enter into these relationships for their own reasons; in terms of public intervention, this would imply a strong presumption against interference. (Singer 2013: 80)

Singer thinks it is a mistake to see the corporation as “a private space, resistant to the demands of social welfare.” His alternative is to see the corporation “as either an extension or concession of government used for and constrained by concerns for social welfare.” This “political view” of the corporation is “a more viable theoretical account of why we should reduce the emphasis on profit” (Singer 2013: 81).

I can see where Singer is coming from, and I appreciate his raising the point. But I think that there is actually less distance between my view and his view than it may seem. An analogy will help to explain.

Marriage is many things, but whatever else it is, it is also a legal institution: the laws provide people with the power to enter into a legal marriage with one another. Marriages are clearly part of the “private sphere” in the sense that you do not have to marry someone just because it would serve aggregate welfare to do so. Moreover, you do not have to run your married life so as to maximize the spread between your joint income and your joint expenses; the objectives of your married life are (within broad constraints) whatever you want them to be.

Nonetheless, it is also clear that marriage laws must structure the institution in ways that are sensitive to social and political considerations. For instance, marriage laws will determine how to assign

custody of children in the case of a divorce. These laws must be drawn up so that the practice of creating and dissolving marriages does not, on the whole, tend to damage the legitimate interests of children, parents, and the rest of the community. Much the same can be said of other aspects of marriage law, including laws that cover the division of property, taxation and the power to make important medical decisions.

My view of the corporation is that it is a legal institution like marriage. People have the power to form corporations with one another. These corporations belong to the private sphere, in the sense that people are not required to form or operate these organizations so as to maximize profits or further any other specific objectives. Nonetheless, corporate law must structure the institution in ways that are sensitive to various social and political considerations, including the legitimate interests of investors, employees, managers, consumers and others parties. For example, bankruptcy law must create an ordering of claims on the liquidated assets of a corporation such that the practice of creating and dissolving corporations does not, on the whole, damage the interests of various groups in society. Much the same can be said of other aspects of corporate laws, including laws that structure corporate governance and corporate taxation.

In a sense, then, I share Singer's "political view" of the corporation. But rather than conceive of the corporation as an extension of the state or as a concession provided by the state to particular associations, I think of the corporation as a legal institution. As such, the law of corporations will be subject to an array of social and political demands, even if particular corporations formed under these laws will not have to aim directly at the satisfaction of these ideals.

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REFERENCES

- Singer, A. 2013. "What is the Best Way to Argue Against the Profit-Maximization Principle?". *Bus Ethics J Rev* 1(12): 76–81, <http://doi.org/10.12747/bejr2013.01.12>