



Seminar

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Constitutional Democracy and the Corporation: From Republican Liberty to Oligarchy

Tuesday, 3 November 2020, 2:15 p.m.

Due to the precautions imposed by the current Corona pandemic, the Thunberg Hall will be closed to the public until further notice.

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<https://uu-se.zoom.us/j/63998794447>

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ABOUT DAVID CIEPLEY

David Ciepley is an Associate Fellow of the Institute for Advanced Studies in Culture at the University of Virginia, and publishes in the fields of democratic theory, liberal theory, and corporate theory. In 2001, he received his PhD in the Committee on Social Thought at the University of Chicago and, after a series of postdoctoral positions, served as Assistant and then Associate Professor of Political Science at the University of Denver, from 2007 to 2019. He has held a variety of national and international fellowships, including at McGill University in Montreal as a Fulbright Scholar, at the Institute for Advanced Study at Princeton, and at the Center for Advanced Study in the Behavioral Sciences at Stanford.

He is the author of *Liberalism in the Shadow of Totalitarianism* (2006); “Beyond Public and Private: Toward a Political Theory of the Corporation” (*APSR* 2013); and “Is the U.S. Government a Corporation? The Corporate Origins of Modern Constitutionalism” (*APSR* 2017). His current book project, *Constitutional Democracy and the Corporation*, explores whether a corporate economy is, or can be made, compatible with constitutional democracy. Towards this end, it reconstructs the common corporate origins of modern constitutional democracy and the business corporation, relates their changing relations over time, and explores politically viable alternatives to the stockholder-dominated corporation, which is proving incompatible with constitutional democracy.

ABSTRACT

In this lecture, I will present a new analytical, historical, and normative framework for understanding business corporations and will address the question of whether a corporate economy can be made compatible with constitutional democracy.

The business corporation and the constitutional republic are twins, both arising out of England’s first “corporate empire” (the one arising in the Indies, the other in North America). They use the same legal device for augmenting collective power, namely, they dedicate property to a purpose in perpetuity by placing it in the hands of an undying legal entity. And both place this property under the control of a constitutional (chartered) government. More, each receives its charter and governing authority from the same ultimate authorizer—historically, the king; today, the people, or “state.”

The rise of a corporate economy thus creates an enormous opportunity for the public authority to implement control structures that bend the economy towards the common good. But this possibility is blocked by an influential Anglo myth that *stockholders own* the corporation, which implies that all power and all benefits should lie with them. This mythology, I will show, traces back to the peculiar parentage of the English East India Company. The 19th century added the myth that business corporations are wholly private associations created by contract. Combined, these myths square the corporation ideologically with market liberalism, but at the price of setting it crosswise to constitutional democracy. Treating corporations as wholly private exempts them from any duty to the public, or accountability to the public, or even publicity to the public, and, in the US in particular, endows them with a raft of constitutional rights, including electioneering rights. This loosens the public authority’s grip on the corporation and tightens the corporation’s grip on the public authority. Meanwhile, treating the stockholders as *owners* is responsible for transforming the corporation from a little republic into an imperial oligarchy, in which one group (the stockholders) elects a government over another group (the workers) for the purpose of labor extraction. Furthermore, as stockholders become short-term speculators, they extract profits as quickly as they can, leading to underinvestment in the firm and its workers, rising economic inequality, and rising workplace coercion. Concomitantly, competitive strategy necessarily shifts, from a high R&D, high skill, high quality, high wage path, to a low R&D, low skill, low quality, low wage path. And this path leads employers abroad, further depressing domestic wages. The corporate multinational then leverages the mobility of capital to force a “race to the bottom” in wage rates, labor protections, environmental regulations, and corporate tax rates. The corporation, originally embraced to advance public ends, now increasingly thwarts them. And in the blow-back, liberal democracy itself is imperiled. On grounds both of theory and performance, corporate governance needs to be rethought, with consideration given to viable “republican” and “mix constitutional” alternatives to the authoritarian, stockholder-dominated corporation.