Reining in Big Tech Corporations: Why Platform Governance Requires Structural Regulation

Law Working Paper N° 928/2026
May 2026

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University of Auckland and ECGI

ECGI Working Paper Series in Law

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Abstract

This paper argues that modern corporations, particularly Big Tech Platform Corporations (BTPCs), should be understood not as private contractual arrangements but as artificial legal entities created and empowered by States. Through incorporation, corporations receive State-like attributes including perpetual existence, legal personhood, capital lock-in, and entity shielding, enabling them to accumulate and organise capital across time and space. The paper introduces the concepts of “Recursive Capital” and “Capital-Constituting Corporations” to explain how BTPCs extend beyond market participation to shape the very conditions under which economic activity becomes capitalisable. Drawing historical parallels with the English East India Company and Gilded Age monopolies, the paper contends that BTPCs now exercise infrastructural and governance power comparable to semi-sovereign actors. Existing antitrust and contractual theories are therefore inadequate. The paper concludes that platform governance requires structural regulation and a reassertion of democratic oversight to recalibrate the delegated powers States have granted corporations.

Keywords: Legal personhood, Platform governance, Structural regulation, Recursive capital ,Capital-Constituting Corporations, Entity shielding

JEL Classifications: K22, L12, L41, G34, P16, D85

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Introduction

Dex Hunter-Torricke believes that artificial intelligence is a rapidly unfolding disaster. Lots of people think that; however, Hunter-Torricke is unique in that he is a poacher turned gamekeeper. Previously, he worked in communications for Google, Mark Zuckerberg, and Elon Musk. Hunter-Torricke's prediction is that we are sleepwalking into a future in which an elite class lives in luxury while the majority languish.[1] The cover story of *The Economist* recently asked if a 'handful of men [should] be entrusted with the world's most potent technology'.[2]

Big Tech corporations own and control AI systems. Clearly, Hunter-Torricke's elite class will be made up of people who, in turn, own and control Big Tech Platform Corporations (BTPCs). That is a *consequence* of the growing wealth and power of those BTPCs, an inevitable outcome that has been hiding in plain sight for some time. The 2019 frontrunner for the Democratic nomination, Senator Elizabeth Warren, focused her campaign on the State taking control of big corporations. Warren was pushing for history to repeat itself. At least twice before, corporations had dominated the world, before eventually being reined in by States.[3]

Biden won the nomination and the Presidency. In his 2025 farewell address, Biden warned Americans of 'an oligarchy taking shape in America of extreme wealth, power, and influence'.[4] Now we have Trump working hand in glove with those oligarchs. To date, history has not repeated itself — with a reining in by the State. But when Biden and others focus on the excesses and overreach of the oligarchs of our new Gilded Age and the robber barons of the first, they risk missing the point. These vastly enriched Tech bros and robber barons are a *consequence* of the growth in wealth, power, and influence of corporations. Rather than the State controlling BTPCs, the converse is true: BTPCs increasingly influence and even control decision-making by States. Past regulatory responses to corporate excesses have been to rein in and regulate corporations.[5]

Correctly understood, the process of incorporation creates an entity that has all the key attributes of a State. Combined with a locked-in capital fund purposed to grow financial value over time — their Foundation Capital — all corporations have the potential to grow not just in

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1 Mark Sellman, 'World is on AI path to disaster, former Google executive warns' (*The Times*, 18 February 2026) <http://thetimes.com/uk/technology-uk/article/ai-path-disaster-google-warning-v73709j57>.

2 'America wakes up to AI's dangerous power' (*The Economist*, 16 April 2026) <https://www.economist.com/leaders/2026/04/16/america-wakes-up-to-ais-dangerous-power>.

3 See the text to n 61–63.

4 The Biden White House 'President Biden Delivers a Farewell Address to the Nation' (*YouTube*, 15 January 2025) 7:45–8:00 <https://www.youtube.com/watch?v=5YgfNi9VGco>.

5 Examples include the breaking up of AT&T, the introduction of antitrust law in the Gilded Age, and State control of the English East India Company.

value but in power and span of control to the extent that they can rival or even outstrip the States that birthed them. The key features of corporations, bestowed by States through the incorporation process, include the potential to exist in perpetuity beyond the lifespan of any human, even an augmented tech billionaire. The incorporation process separates investment capital from investors, but incentivises and protects those investors by granting them shares that they can sell on secondary markets. On incorporation, corporations have a governance architecture that allows shareholders to remain rationally passive, knowing that directors and management are legally obligated to act in the interests of the shareholders as the owners of the Foundation Capital they have invested in the corporation. The potential inherent in the legal form bestowed by the State to use that Foundation Capital to scale is limitless. The potential also extends to growing through acquiring or birthing subsidiary layers of capital that expand the corporation's reach, termed in this paper 'Recursive Capital'. Being able to use Recursive Capital, capital that owns other capital, is an attribute unique to the corporation as a legal form made possible by States, that makes rapid scaling and extension of reach possible.

BTPCs organise markets, define monetisation pathways, and coordinate entire investment ecosystems. Another attribute shared only with States is that the corporation has the latent potential to transform from a vehicle for capital accumulation into an institutional engine of capital constitution. As such, the corporation is capable of boundary expansion by occupying physical and virtual domains where new forms of capital can emerge. We are witnessing this phenomenon with the BTPCs. For example, human experience captured as data can be used to predict behaviour.[6] That data is sold to marketers, meaning that our own experience as humans has become a new form of capital. Space, the final frontier, is another new territory that corporations are enclosing and converting into capital for the benefit of shareholders. Corporations are equipped by States to transform previously unvalued domains into capital. BTPCs have become what is termed in this paper 'Capital-Constituting Corporations'.

These concepts are expanded on in the paper. Section 1 sets out why correctly understanding what corporations are matters. Section 2 focuses on why shareholder primacy is based on a faulty prevailing understanding that modern corporations are, in their inception, essentially private rather than State-constituted and based on either people associated together or people contracting with each other. That fundamental misunderstanding may contribute to why we do not act to rein in BTPCs. Sections 3 and 4 focus on two key and under-recognised attributes of the corporation: that it is an artificial legal person created by the State and that it locks in capital that the corporation uses to become an entity. Understanding the business corporation in this way helps explain how certain firms — most visibly BTPCs as large digital platforms — accumulate and exercise economic power that extends well beyond ordinary contractual exchange. By situating today's dominant Big Tech platform corporations (BTPCs) within the history of previous waves of corporate concentration later constrained by States, we can better assess both the sources of their power and the conditions under which it may again be reshaped. Section 5, therefore, briefly discusses the trajectory of the English East India Company and the

6 Shoshana Zuboff, *The Age of Surveillance capitalism: The Fight for a Human Future at the New Frontier of Power* (PublicAffairs, 2019)

Gilded Age Corporations, suggesting that each grew by identifying and constituting new forms of capital.

Section 6 outlines how leading commentators have framed issues around BTPCs, identifying that they create and control all aspects of multi-layered virtual infrastructures. Section 7 builds on that work by making a key point for the paper: a central feature of the platform economy that is a direct consequence of it being controlled by corporations. BTPCs shape not only competitive outcomes, but the conditions under which economic activity becomes capitalizable in the first place. Like States, corporations themselves have the latent capacity to generate new forms of capital by becoming Capital-Constituting Corporations — BTPCs have reached that level of development. Section 7 concludes.

1 Why understanding corporations matters

Corporations have attributes akin to States. Contemporary understanding of the nature of corporations is woefully inaccurate. It has prevented us from seeing what is hiding in plain sight: that corporations themselves are not primarily passive nexuses of, or for, contracts owned and controlled by human individuals — instead, they can potentially control us. Their governance architecture mandates that boards of directors, as decision-making bodies of people, are legally obligated to act in the corporation's interests; a form of constraint on directors.[7] Corporations will actively seek out opportunities to acquire and grow value as they operate in the world. Corporations are empowered to be engines of capital generation. Unlike purely private law organisational forms, corporations can have Recursive Capital, capital that itself owns capital, enabling an ongoing, self-reinforcing expansion of value.[8] Corporations can become Capital-Constituting where they create, determine, and control new forms of capital.

Corporations are not passive. They will seek to influence or even control States and people to ensure regulatory and market conditions favourable to their operations. Instead of accepting regulation to curb the scope and span of their activities, BTPCs see States as potential partners or adopters of their technology, evidence that they have developed to become akin to States. Where BTPCs operate essential digital infrastructure, they set the rules that shape market participation.

The chief beneficiaries of corporate activities are shareholders, leading to ever-increasing inequality between the have-nots and the haves who own shares either directly or indirectly. The wealth inequality that flows from share ownership has been recognised.[9] Less recognised is that shareholder wealth is a *consequence* of corporate wealth, with States advantaging corporations in markets by giving corporations State-like attributes not granted to individuals

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7 Christian List and Philip Pettit, 'Group Agency: The Possibility, Design, and Status of Corporate Agents' (OUP 2011); Susan Watson, 'Viewing Artificial Persons in the AI Age Through the Lens of History' in Andrew Godwin, Pey Woan Lee and Rosemary Teele Langford (eds), *Technology and Corporate Law: How Innovation Shapes Corporate Activity* (Edward Elgar 2021) 21–41.

8 Trusts can hold recursive capital by, for example, owning shares, but they do not generate recursion endogenously.

9 Thomas Piketty, Capital in the 21st Century (Arthur Goldhammer tr, Harvard University Press 2014).

or other market participants. Democratic States are obligated to serve our interests as citizens. We, the people, risk ceding control over our lives and our futures to BTPCs; artificial entities that are hardwired to act in their own interests, rather than our interests.

A foundational fallacy prevails that may contribute to our inaction: that corporations are private property constituted by people in their private capacities. States, therefore, have no presumptive moral mandate to intervene in their private activities. Law-and-Economics scholars, who currently dominate the discourse on corporations, view corporations as contractual with the inference that corporations are inherently passive, with people, as market participants, being the primary players. But corporations are not passive; they actively operate in the world, and they can expand by generating Recursive Capital, constituting new forms of capital.

Corporations actively and successfully lobby Governments to prevent legislation unfavourable to them from being passed. Milton Friedman, the fall guy for those critical of corporations, famously emphasised that the primary responsibility of managers and directors is to conduct the business in accordance with shareholders' desires in order to 'make as much money as possible' while remaining compliant with legal rules and customs.[10] Friedman clearly considered that shareholders were owners and managers, and directors were their agents. But Friedman did not argue that the assumed private property rights of shareholders should trump all other considerations. He also said that it was a proper use of regulation to force companies to comply with the 'rules of the game'.[11] Friedman's fundamental error may therefore not be his statements around business corporations and profit so much as his perhaps naïve belief, based on his implicit understanding of corporations, that corporations will passively allow themselves to be regulated to behave well. Friedman, like many Law-and-Economics adherents,[12] 'looks through' the legal form of the corporation to the human actors behind and around it, viewing its legal personhood as insignificant.[13]

Organisational law is now widely recognised as essential for the operation of corporations.[14] A core argument in this paper is that the prior process of incorporation does more. It creates an artificial legal person with attributes and capacities, including 'entity' status under the law, allowing it to set its own internal rules that can become akin to laws for those who interact with it, as people do with BTPC marketplaces. Even though they operate in the private world, corporations themselves are not, therefore, in their inception private. Modern business corporations are created by States through the process set out in general incorporation statutes. As *persona ficta* or artificial legal persons, they share many attributes with the States that birth

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10 Milton Friedman 'The Social Responsibility of Business Is to Increase Its Profits' *The New York Times Magazine* (13 September 1970).

11 Milton Friedman, *Capitalism and Freedom* (University of Chicago Press 1982) 133, though Friedman did have a narrower view of such rules as requiring corporations to 'engage in open and free competition, without deception or fraud'.

12 Michael C Jensen and William H Meckling, 'Theory of the Firm: Managerial behavior, agency costs and ownership structure' (1976) Journal of Financial Economics 3, 305.

13 Jensen and Meckling (n 12).

14 Henry Hansmann and Reiner Kraakman, 'The Essential Role of Organizational Law' (2000) 110 Yale LJ 387.

them. Both States and corporations are designed to organise collective action over time. Both can own property, enter into contracts, sue and be sued, have perpetual succession, and act through agents. Both have the potential to exist in perpetuity. Both offer complete entity partitioning of institutional assets from people. In addition, corporations have the latent potential to develop Recursive Capital and to become Capital-Constitutive Corporations. BTPCs are the latest and most extreme manifestation of this phenomenon.

The next two sections of the paper expand on two key attributes of the corporation: legal personhood and entity partitioning.

2 Legal personhood

2.1 Significance of the source of legal personhood

The law treating business corporations as legal persons makes it possible for them to contract like natural persons. Corporate personhood could be derived from the people who comprise the corporate entity, with that entity then recognised by the law. Or corporate personhood could be bestowed by the State as part of the incorporation process, with that artificial person then becoming an entity. Alternatively, corporate personhood could be no more than a convenient legal fiction bundling together either parties or attributes with no underlying entity.

The source of the legal personhood of modern corporations does not affect its ability to contract. However, its source is of primary significance to corporate law, determining the extent of separation of the corporation and its capital from shareholders, and, therefore, the strength of entity shielding and capital lock-in offered by the modern corporate form. This is discussed in the next section. It also indicates if the State itself, through incorporation, is the direct source of the key attributes of the corporation, or whether these are acquired from shareholders associated together contractually or through organisational law.

In a 1904 Parliamentary speech, Arthur Balfour, Prime Minister of England, described trade unions as corporations. A lawyer on the opposition benches called out that trade unions are not corporations. Balfour responded, ‘I am talking English, not law’. The great English legal historian Frederick William Maitland suspected that accomplished debater Balfour had anticipated the interruption, ‘as a great deal was packed into the reply’.[15] Lord Balfour was clearly aware of the contemporary debate around corporateness and legal personality.

Business corporations are but one type of corporation. If we talk about Balfour’s English corporation, any corporation (including trade unions) must derive its ‘corporateness’ from the natural persons who comprise the entity (Recognised Legal Personhood). For any business corporation, that would presumably mean that corporateness is based on the shareholders at any time.[16] Diagram A shows Recognised Legal Personhood and the corporation as a real entity.

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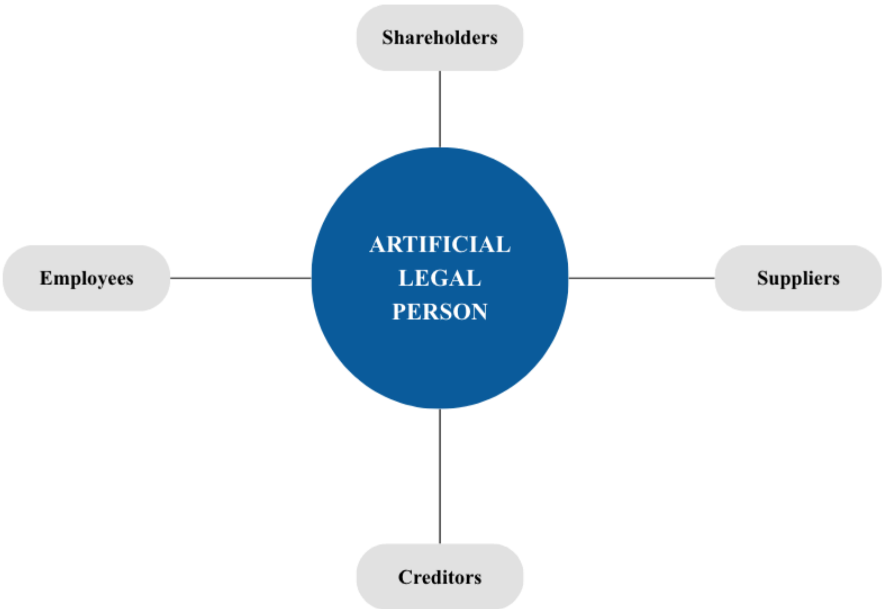
15 Frederic William Maitland, ‘Moral Personality and Legal Personality’ (1905) 6 J Society of Comparative Legislation 192–200.

16 An alternative argument is that corporateness should be based on employees at any time, as they are the individuals who activate the corporation as it operates in the world.

Diagram A: Real Entity

Alternatively, the corporation is a separate legal entity from shareholders, with the State itself the creator of the entity and the source of its corporate personhood. Diagram B shows Artificial Legal Personhood and the corporation as a *persona ficta* or artificial entity.

Diagram B: *Persona Ficta*



Legal personhood is of primary significance if it is based on an underlying entity. The contractual conceptions in diagrams C and D attach minimal significance to legal personhood because there is no underlying entity. Diagram C shows a nexus of contracts, with the contracting shareholders treated as a legal person under the law.

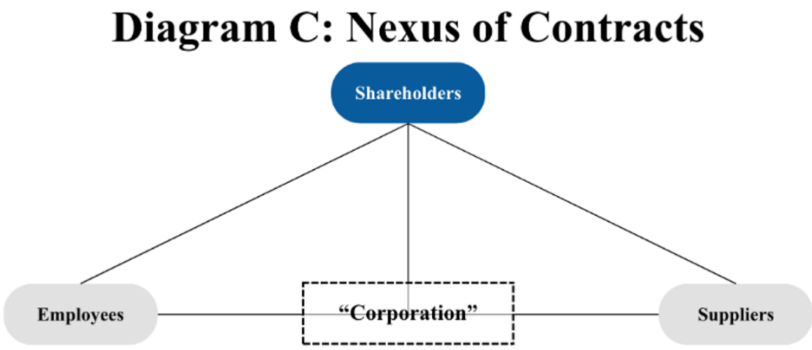
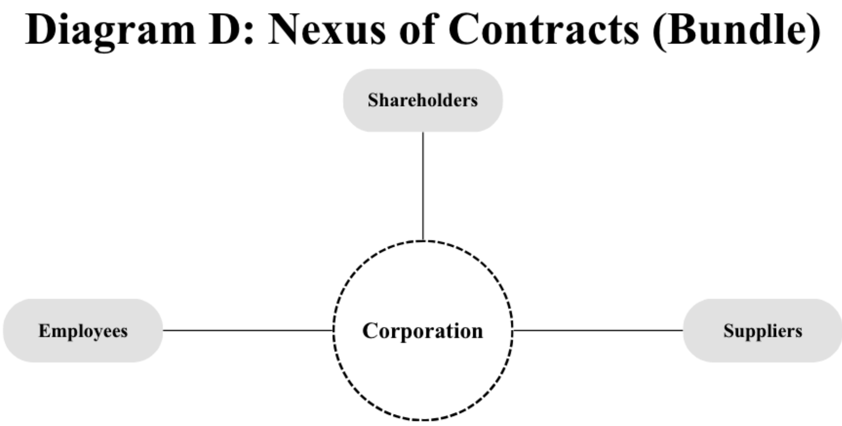


Diagram D (below) shows the legal person as a nexus for contracts with that nexus bundling together attributes. The next sections expand on these concepts in more depth.



2.2 Recognised legal personhood

Associational ideas of legal personhood are based on arguments that 'the real and social existence of a group makes it a legal person'. It is a real entity. As such, the corporation is not created by the law but is pre-legal or extra-legal.[17] Even though the law did not create the corporation, Gierke argued that the law was bound to recognise its existence.[18]

The general incorporation statutes of the mid-19th century required an association of shareholders.[19] But Courts separating the corporation's capital from shareholders to protect creditors primarily as a consequence of statutory limited liability[20] meant that by the end of the 19th Century, a modern company was functionally no longer based on an association of

17. Ron Harris, 'The Transplantation of the Legal Discourse on Corporate Legal Personality Theories: From German Codification to British Political Pluralism and American Big Business' (2006) 63 Wash & Lee L Rev 1421, 1424; Martin Petrin, 'Reconceptualising the Theory of the Firm—From Nature to Function' (2013) 118 Penn St L Rev 1, 6.
18. See Michae J Phillips, 'Reappraising the Real Entity Theory of the Corporation' (1994) 21 Flordia St U L Rev 1061; Ron Harris, Industrializing English Law: Entrepreneurship and Business Organization, 1720-1844 (CUP 2004); Harris (n 17) 1424; Petrin (n 17) 6–8.
19 Companies Act 1862 (UK) (25 & 26 Vict c 89), s 6 required a minimum of seven or more persons to associate together for a lawful purpose to form an incorporated company.
20 *Trevor v Whitworth* (1887) 12 App Cas 409 (HL). The House of Lords enshrined that capital cannot be returned to shareholders except through a formal, legally sanctioned reduction.

shareholders.[21] In the United Kingdom, in *Salomon v Salomon & Co Ltd*, the House of Lords clarified that complying with the statutory requirements for incorporation was all that was required for valid incorporation.[22] The consistent application of the law since that date,[23] across the world, has made it clear that for the juridical personhood of the company to be upheld, an association of natural persons as shareholders either at or following incorporation is not required. Diagram A illustrates, therefore, an historical version of the business corporation.[24]

2.3 Artificial legal personhood

Artificial legal persons are created by and therefore owe their existence to the State in some way. In the 1612 *Case of Sutton's Hospital,* where the concept was transplanted into the common law,[25] Coke CJ stated that 'the incorporation cannot be created without the King'.[26] Those corporations could exist in the abstract.

Until the enactment of the general incorporation statutes in the mid-nineteenth century, all corporations owed their existence to a concession by the State, in the form of a charter or other statutory instrument. Not all corporations were business corporations. Chartered business corporations with permanent capital first emerged in 1657. That capital made it possible for these corporations to operate in the world and become entities. A key argument in this paper is that modern corporations are artificial legal entities.

2.4 The contractual concepts

Recognised Legal Personhood (Diagram A) and Artificial Legal Personhood (Diagram B) draw on pre-existing and longstanding concepts of legal personhood of corporations.[27] By the late 19th century, a new concept had emerged. The focus was on shareholders as contracting parties. Those shareholders were treated *as if* they were a legal person for the purposes of the law (Diagram C). The difference to Diagram A is that the contracting parties are not associated together as part of an entity. Shareholders' relationships are contractual. As FW Maitland said: 'Contract, that greediest of legal categories, which once wanted to devour the State, resents being told that it cannot painlessly digest even a joint-stock company'.[28]

The Contractual Conception gained traction. Roger Scruton writes how the belief that a company as a composite person '"should be regarded as nothing more than the union of the members at a given time" has been the gut-reaction of liberal thinkers ever since'.[29] The starting

21 Susan Watson, 'How the Company Became an Entity: A New Understanding of Corporate Law' [2015] JBL 120.

22 *Salomon v Salomon & Co Ltd* [1897] AC 22 (HL)

23 *BTI 2014 LLC v Sequana* [2022] UKSC 25, [2024] AC 211.

24 Even though non-business corporations and other legal persons may be Recognised Legal Persons.

25 Maximilian Koessler, 'The Person in Imagination or Persona Ficta of the Corporation' (1949) 9 La L Rev 435, 441.

26 *The Case of Sutton's Hospital* (1612) 77 ER 960, 964–65.

27 Susan Watson, *The Making of the Modern Company* (Bloomsbury Publishing 2022).

28 Otto Gierke, *Political Theories of the Middle Ages* (Frederick William Maitland tr, CUP 1900), xxiv-xxv.

29 Roger Scruton and John Finnis, 'Corporate Persons' (1989) 63 *Proceedings of the Aristotelian Society, Supplementary Volumes* 239, 246 (citations omitted).

point for conventional law and economics is to conceive of the firm, including the modern company, as a nexus of contracts.[30] Corporate law, therefore, becomes a specialist branch of contract law.[31] To Easterbrook and Fischel, the modern company is an outcome of private ordering.[32] The focus is consequently wholly on the contractual relationships between corporate participants. For that reason, Easterbrook and Fischel[33] necessarily attach minimal importance to corporate legal personhood in the modern corporation and consequently to the nature of the corporation. They classify the corporation as a financing device that is not otherwise distinctive,[34] describing legal identity allowing a corporation to have a name in which it may sue and be sued conveniently: an 'it' just as business trusts are an 'it'.[35] To Easterbrook and Fischel, '[t]he "personhood" of a corporation is therefore a matter of convenience rather than reality'.[36]

A related contractual conception treats the corporation as a legal person as a nexus *for* contracts, as seen in Diagram D. These commentators also attach minimal significance to corporate personhood for a different reason. There is no underlying entity. Separate legal personality is a 'convenient heuristic formula'[37] bundling together core attributes (entity shielding, authority to transact, procedures for legal action) so that the corporation can contract.

2.5 The significance of legal personhood

Hansmann and Kraakman favour the nexus *for* contracts conception with legal personhood acquired from organisational law rather than contractually[38] or from the State itself on incorporation. But even though they put it first on their list of the core characteristics of a company,[39] Hansmann and Kraakmann do not consider legal personality to be a necessary precondition for any of the other characteristics.[40] Legal personality, they (among others) argue, is efficient but not particularly special: a common-law partnership that legally lacks legal personality can enjoy each foundational characteristic.[41]

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30 Frank H Easterbrook and Daniel R Fischel, *The Economic Structure of Corporate Law* (Harvard UP 1991).

31 See the discussion in John Armour and Michael J Whincop 'The Proprietary Foundations of Corporate Law' (2007) 27 OJLS 429.

32 Michael C Jensen and William H Meckling, 'Theory of the Firm: Managerial Behaviour, Agency Costs, and Ownership Structure' (1976) 3 Journal of Financial Economics 305; Frank H Easterbrook and Daniel R Fischel, 'The Corporate Contract' (1989) 89 Colum L Rev 1416; Oliver Williamson, 'Transaction Cost Economics' in Richard Schmalensee and Robert Willig (eds), *Handbook of Industrial Organization*, (Elsevier 1989) vol 1; Oliver Hart, *Firms, Contracts, and Financial Structure* (OUP 1995).

33 Easterbrook and Fischel (n 32); Easterbrook and Fischel (n 30).

34 Easterbrook and Fischel (n 30) 10.

35 Easterbrook and Fischel (n 30) 11.

36 Easterbrook and Fischel (n 30)12.

37 Kraakman and others (n 37) 8.

38 Hansmann and Kraakman (n 14) 440.

39 Hansmann and Kraakman (n 14) 390.

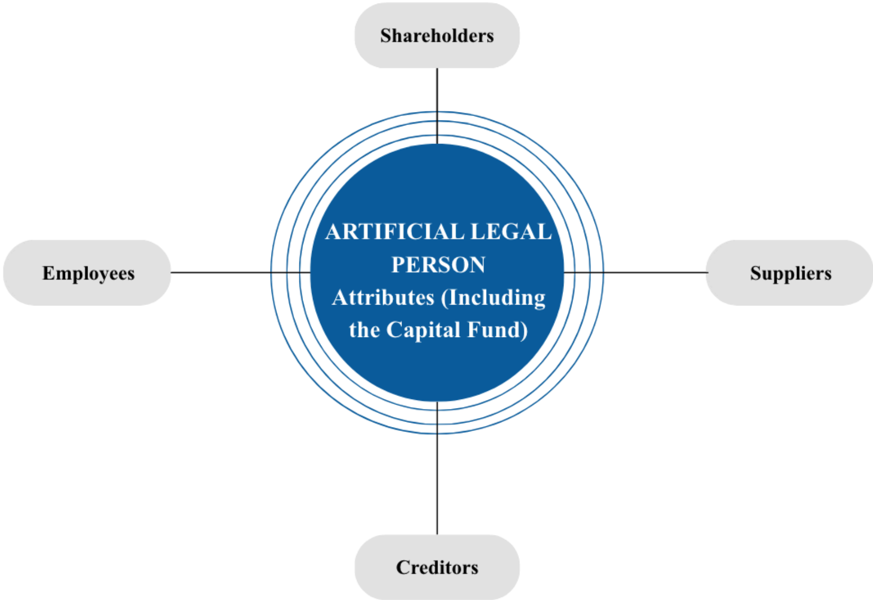
40 Hansmann and Kraakman (n 14) 393.

41 John Armour and others, 'What is Corporate Law' in John Armour and Luca Enriques (eds), *The Anatomy of Corporate Law: A Comparative and Functional Approach* (3rd edn, OUP 2017) 8 fn 27. These authors cite *Burnes v Pennell* (1849) 9 ER 1181, 1191. However, in 1849, the House of Lords was comparing the contractual deed of settlement company form with that of a partnership. The House of Lords did not

Most scholars in the law-and-economics tradition, therefore, view the corporation as contractual, with corporate personality or personhood as just a convenient heuristic that does not denote an underlying entity. This understanding can be challenged. Easterbrook and Fischel do not acknowledge a key fact: that no amount of contracting can create a legal person, other aspects of law must be involved in some way. The modern corporation cannot just be a nexus of contracts.

The Nexus for Contracts conception in Diagram D resembles the *persona ficta* conception in Diagram B, but without an underlying active entity developing after incorporation. Hansmann and Kraakman, alongside Armour and others, identify that the nexus of legal personhood encompasses corporate attributes. They also recognise the significance of organisational law in partitioning corporate capital from shareholders, but they do not distinguish incorporation law from other organisational law. It is suggested that the attributes bestowed as part of the incorporation process — including locked-in capital in the legal person[42] — facilitate the corporation becoming an active entity. Diagram E illustrates this:

Diagram E: *Persona Ficta* + Capital Fund



In their work, Hansmann and Kraakman draw on the civil law concept of patrimony to identify the demarcation of a pool of assets in the company with the company as owner in law of the assets that are distinct from shareholders' assets.[43]

consider the incorporated form. See also Laura Macgregor, 'Partnerships and Legal Personality: Cautionary Tales from Scotland' (2020) 20 JCLS 237, setting out the disadvantages of partnerships with legal personality experienced in Scotland.

42 Margaret Blair 'What Locking in Capital: What Corporate Law Achieved by Business Organizers in the Nineteenth Century' (2003) 51 UCLA L Rev 387.

43 Kraakman and others (n 37) 5 fn 12: The authors are careful to qualify their use of the term 'owner' when describing shareholders, stating: 'We use the term "owners" simply to refer to the group who have the

> Creditors' rights are an important consideration in determining the presence (or consequences) of a separate fund, and the presence of a separate fund is commonly considered an aspect of the much-disputed concept of a juridical person. However, the presence of a separate fund does not necessarily indicate a distinct juridical person.[44]

Thus, while recognising the essential nature of organisational law in separating the fund from shareholders, Hansmann and Kraakman attach minimal significance to the artificial legal person that partitions the fund from the moment of incorporation and is granted key attributes from that moment. They do not consider how their insights on the separate fund might relate to the modern company as a legal person and contracting party in its own right. From the moment of incorporation, that legal person can contract. That legal person has property rights in a fund initially contributed by the investing shareholders, which becomes the Foundation Capital of the corporation. Corporate personhood is centrally important for the separation of the fund from shareholders; therefore, it is of primary importance in explaining the entity nature of the corporation.[45]

Legal personhood matters, therefore, beyond being a convenient mechanism to allow corporations to operate as transacting persons. It matters for the separation of corporate capital. Locking in capital facilitates the growth of value over time. As Lord Sumption SCJ said:[46]

> The separate personality and property of a company is sometimes described as a fiction, and in a sense it is. But the fiction is the whole foundation of English company and insolvency law. As Robert Goff LJ once observed, in this domain 'we are concerned not with economics but with law. The distinction between the two is, in law, fundamental': Bank of Tokyo Ltd v Karoon (Note) [1987] AC 45, 64. He could justly have added that it is not just legally but economically fundamental, since limited companies have been the principal unit of commercial life for more than a Century.

On incorporation, a company acquires key attributes, including perpetual succession, the ability to transact, and the ability to enclose value, which are State-like in their nature. It also has a governance architecture and the right to set its own rules in its constitution or a similar document. Hansmann and Kraakman's assertion that organisational law bestows corporate attributes may miss that the attributes come with incorporation, the creation of the corporation

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entitlement to control the firm's assets'. In explaining what is meant by property rights, Armour and Whincop highlight that participants' entitlements to control are protected not just against other participants but against third parties generally: John Armour and Michael J Whincop, 'The Proprietary Foundation of Corporate Law' (2007) 27 OJLS 429.

44 Henry Hansmann, Reinier Kraakman, and Richard Squire, 'Law and the Rise of the Firm' (2006) 119 HLR 1135, 1338 fn 9.

45 Additionally, if modern corporations were essentially contractual, they would operate with contractual cascades. While Hansmann and Kraakman wonder why they do not, they do not acknowledge that legal personhood provides a simple explanation for the modern company being the single central actor, see Hansmann and Kraakman (n 14) 391.

46 *Prest v Petrodel Resources Ltd* [2013] UKSC 34, [2013] 2 AC 415, [8].

by the State. General incorporation statutes provide two things: a mechanism, through the incorporation process, for corporations to be created as artificial legal persons with key attributes, including the capacity to separate shareholder capital as Foundation Capital from investing shareholders, and, together with other organisational law, also regulate the operation of corporations after incorporation.

3 Entity partitioning

Locking in and partitioning value have long been seen as advantages of the business corporation. Ernst Freund, in 1897,[47] was perhaps the first modern scholar to recognise that the corporate form secures property from outsiders and from insider defection.[48] In 2003, Margaret Blair argued that the critical advantage of the corporate form is 'the ability to *commit* capital, once amassed, for extended periods – for decades and even centuries'.[49] In fact, capital can be committed in perpetuity.

Hansmann and Kraakman identify the separation between the firm's assets and the personal assets of the firm's owners and managers as the core defining characteristic of a legal entity.[50] Entity shielding gives company creditors priority over shareholders' creditors. Capital lock-in also protects company assets from shareholders' creditors.[51]

Entity shielding and asset partitioning are facilitated by the separation of the capital contributed by investing shareholders from those shareholders — a primary attribute of the corporation. The contention in this paper is that the modern corporation provides complete entity shielding through the artificial legal person created by the State on incorporation. The artificial legal person is the lock-in mechanism for the capital, attributes, and resulting entity, rather than a convenient but insignificant legal fiction.

The extent of a corporation's entity shielding is significant. The nature of the corporation's personhood will determine how completely the entity is separated from its shareholders. Hansmann and Kraakman identify three forms of entity shielding. Weak form entity shielding grants firm creditors priority over the personal creditors of contributors in the division of firm assets, meaning that the personal creditors of contributors of capital may levy only on firm assets if the firm creditors have been paid in full. Partnerships have weak-form entity shielding, meaning that the firm's (partnership's) creditors have priority over the personal creditors of the partners.[52]

Strong form entity shielding adds a rule of liquidation protection, which restricts the ability of both the contributors of capital and their personal creditors to force the payout of a contributor's

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47 Ernst Freund, *The Legal Nature of Corporation* (University of Chicago Press, 1897).

48 David Gindis, 'Ernst Freund as Precursor of the Rational Study of Corporate Law' (2020) 16 Journal of Institutional Economics 597, 615–16.

49 Margaret M Blair, 'Locking in Capital: What Corporate Law Achieved for Business Organizers in the Nineteenth Century' (2003) UCLA L Rev 387, 390.

50 Hansmann and Kraakman (n 14) 393: '[E]stablishing this separation is the principal role that organizational law plays in the organization of enterprise'.

51 Kraakman and others (n 37) 6.

52 Hansmann, Kraakman, and Squire (n 44) 1337–38.

share of the firm's net assets. Hansmann and Kraakman categorise the modern corporation as an example of strong entity shielding, as corporate creditors enjoy a prior claim to the corporation's assets. Corporate creditors are also protected from attempts by shareholders or personal creditors to liquidate those assets.

Modern corporations, it is suggested, have complete entity shielding. Complete entity shielding means that non-firm creditors of shareholders cannot make any claim on the firm's assets. While, in theory, non-firm creditors could do this by lifting the corporate veil, veil piercing is exceptionally rare and can usually be explained away as another form of liability; evidence that corporations provide complete entity shielding.[53] Non-firm creditors cannot make any claim on the firm's assets, nor can they force liquidation while the company exists as a legal person. Only if the company is placed into liquidation either by creditors of the firm or shareholders of the firm, and its status as a legal person and separate legal entity ends, can personal creditors make claims on the company's assets. At that time, the value of the assets of the company will be realised and crystallised. But, while it exists, the company provides complete entity shielding.

Legal personhood, therefore, matters because it is the mechanism that separates and keeps the entity and its capital from shareholders and shareholders' creditors. If the corporate personhood of the company is a mere convenient heuristic, as posited in contractual theories, it would be more readily displaced through veil piercing, and shareholders would be made liable to the creditors of the corporation more often. But Courts consistently uphold the separate legal entity of the modern company.

The next section of the paper briefly looks back at two historical periods in which Capital Constituting Corporations generated capital and power for their controllers and shareholders. In Section 5, it moves to a discussion of BTPCs as Capital-Constituting Corporations.

4 The English East India Company and the Gilded Age corporations

4.1 The English East India Company

By 1657, the English East India Company (EEIC) had all the attributes of a modern business corporation. Two key legal forms were combined.

The first was the Contractual Joint Stock Company (CJSC). CJSCs were not incorporated. They were established for private ventures, such as Francis Drake's privateering for Elizabeth I. Participants put in money, assets such as ships, goods, or, in the case of sailors, their own labour as part of the Stock. At the end of the voyage or venture, the Stock was divided into pre-agreed shares. As a legal form, the CJSC resembled the nexus of contract form in Diagram C above. A key difference was that the Stock or Capital Fund was separated for accounting but not legal

53 Robert B Thompson, 'Piercing the Corporate Veil: An Empirical Study' (1991) 76 Cornell L Rev 1036, 1047–48, 1055–56 discussing an observed "total absence of piercing in public corporations"; *Prest* (n 46) [27].

purposes from investing shareholders. So, like partnerships, CJSCs had weak form entity shielding.

The EEIC was also a *persona ficta* (or artificial legal person) corporation created through a charter as a concession of the State. Coke CJ, in the *Case of Sutton's Hospital*, introduced the concept into the common law in 1612.[54] The basis of the case brought was that the Corporation did not validly exist, as there was nothing corporeal upon which it could base its existence.[55] Coke CJ's significant contribution to the common law was to determine that corporations could exist in the abstract as artificial legal persons or *persona ficta*.

Until 1657, the EEIC, as a *persona ficta* corporation, operated with a series of Joint Stock Funds that members of the EEIC could choose to invest capital in. In essence, the EEIC was a shell within which the terminating Joint Stock Funds were nested. This changed in 1657 when Cromwell granted the EEIC a charter with permanent capital. That permanent capital was separated from investing shareholders in the EEIC as a *persona ficta*.

And the rest is history. As the world's first modern corporation,[56] the East India Company experienced an economic boom over the next three decades, outstripping its rival Dutch and Portuguese India Companies and vastly enriching its shareholders and controllers.[57] The Company was granted State-like powers, including the right to make laws in the territories where it held monopoly trading rights. By 1765, it had also acquired *diwani* — the right to collect taxes in India.[58] As Adam Smith identified, at that point, most of the Company's revenues now resulted from activities that were not related to foreign trade:[59] 'Smith recognized that the East India Company was not paradigmatic of joint-stock business organization; he objected to the deflection of company activities from productive trade to unproductive wealth transfer'.[60] This was not surprising, given that the EEIC had been granted State-like powers over a territory from which it derived forms of value. The EEIC had become a Capital-Constituting Corporation.

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54 *The Case of Sutton's Hospital* (n 26).

55 *The Case of Sutton's Hospital* (n 26) 961.

56 Some scholars argue that the Dutch East India Company ('the VOC') was the first modern corporation in 1612 when it was granted permanent capital. But the VOC did not separate the Corporate Fund in the corporation from shareholders through double-entry bookkeeping, so it did not have lock-in and complete entity shielding. See Giuseppe Dari-Mattiaci and others, The Emergence of the Corporate Form (2017) 333 J L Economics & Organization 195, 219; cf the discussion in Watson (n 27) 37–50.

57 Watson (n 27) 37–50. Between 1657 and 1691, proprietors received dividends of 840% on their original investment, Watson (n 27) 240; KN Chaudhuri, *The Trading World of Asia and the English East India Company: 1660–1760* (Cambridge University Press, 1978) 49.

58 In the next six years the English East India Company would collect over £20 million, generating a surplus of £4 million, a substantial sum at the time, Watson (n 27) 77; Nick Robins, *The Corporation that Changed the World: How the East India Company Shaped the Modern Multinational* (Pluto Press, 2nd edn, 2012) 51.

59 Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (RH Campbell and AS Skinner eds, Clarendon Press 1976) 750.

60 Gary M Anderson and Robert D Tollinson, Adam Smith's Analysis of Joint Stock Companies (1982) 90 J Pol Econ 1237, 1251.

4.2 The Corporations of the Gilded Age

In the late nineteenth-century United States, the re-emergence of the modern corporate form through general incorporation led to the rapid rise of management corporations containing hierarchies of salaried executives.[61] Shareholders were no longer engaged in management, separating ownership from control.[62] By 1890, three-quarters of the wealth of the United States was controlled by corporations.[63] Like the EEIC and the BTPCs, Gilded Age corporations controlled key infrastructure such as railroads and oil. They were Capital-Constituting: creating, controlling, and deriving value from new forms of capital. That growth was eventually reined in legislatively and the corporations broken up by the State through the 1890 Sherman Act, the first antitrust (competition) law.

5 Big tech platform corporations

BTPCs operate across three layers simultaneously — as market participants, as infrastructure providers, and as organisers of the rules that shape market participation. In industrial capitalism, a factory was owned by a corporation, and it produced goods. In informational capitalism, a corporation owns a platform, produces, and governs markets. It is a marketplace regulator and an information gatekeeper, and it owns quasi-public infrastructure. These aspects place it closer to the two major historical overreaches of capitalism discussed above. In both cases, the corporate overreach led to State intervention.

Lina Khan reframed the debate on unfair competition as it applies to BTPCs. As Khan explains, 'the consumer welfare standard', with its focus on low prices, does not capture how Amazon and other BTPCs capture and entrench power. BTPCs undercut rivals and control key infrastructure. Khan has persuasively argued that current United States antitrust law is outdated and targets the wrong harm.[64] Amazon has been able to avoid regulators acting by offering low prices. Khan's point is that even when prices are low, dominant digital platforms can harm the competitive process by leveraging market power to exclude rivals and control entire ecosystems. Examples are marketplace infrastructure, delivery services, or seller data. Khan suggests that the law should look at how dominance affects the competitive process itself. She also suggests applying public-utility-type regulation to digital platforms.

Shoshana Zuboff identifies that BTPCs have captured human experience as data that can be used to predict behaviour and sold to marketers.[65] More disturbingly, that data can be used to

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61 William W Bratton, 'The New Economic Theory of the Firm: Critical Perspectives from History' (1989) 41 Stan L Rev 1471, 1475, 1487.

62 Adolf A Berle and Gardiner C Means, *The Modern Corporation and Private Property* (Special edn, Routledge 1968).

63 Morton J Horwitz, '*Santa Clara* Revisited: The Development of Corporate Theory' (1986) 88 W VA L Rev 180, citing Seymour D Thompson, Commentaries on the Law of Private Corporations VI, vol 1 (1st edn, Bancroft-Whitney Co 1895).

64 Lina M Khan, 'Amazon's Antitrust Paradox' (2017) 126 Yale LJ 710, 746–55.

65 Shoshana Zuboff, *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power* (PublicAffairs 2019) 9.

influence and even shape us, a process Zuboff calls behavioural surplus extraction, in which data beyond what is needed to provide a service is used to generate profit.[66] Her key insight is that this new instrumentation power is not classic monopoly power or sovereignty, meaning that BTPCs have become systems that modify behaviour rather than just observe it.[67]

Zuboff argues that surveillance capitalism should be outlawed as a business model with no behavioural data extraction permitted beyond what is needed to provide the service.[68] We should have decision rights over our own behaviour. Public law intervention is needed, including legislative prohibitions on surveillance-based business models enforced by States, regulatory frameworks that recognise knowledge asymmetries, and limits on BTPC's proprietary claims over data.[69]

Julie Cohen argues that a phase shift has occurred, and we are now in an age of information capitalism with information technologies, datafication, and BTPCs as central drivers of economic change.[70] We have moved from industrial modes of production to modes centred on information flows, data processing, and platform intermediaries. Cohen argues that law has not passively responded to the economic changes brought about by the information capitalism driven by the BTPCs. Law actively shapes and enables it through legal doctrines across property, contract, regulation, and infrastructure reconfigured to support data accumulation, platform control, and new forms of capital power.[71] Cohen does not see reform to privacy law or a focus on antitrust law as the solution to the harms wrought by BTPCs.[72] Instead, she argues for an institutional rebalancing between markets, State governance, and civil society through institutional redesign, democratic reassertion, and legal reconstruction of entitlements, rebuilding the institutional ecology.[73]

Contemporary debates about corporate power, therefore, remain largely framed in terms of market concentration, data accumulation, or the contractual relationships between BTPCs and users. These frames, however, do not explain a central feature of the platform economy that is a direct consequence of corporate control: BTPCs shape not only competitive outcomes but the conditions under which economic activity becomes capitalizable in the first place. BTPCs derive a durable advantage not only from scale or data, but from their role in organising the environment in which economic value is grown. BTPCs create ecosystems, define pathways to monetisation, stabilise expectations, and generate new asset classes. The key point in this paper is that it is the corporate form itself — an artificial legal person combined with a locked-in capital that made the dominance of BTPCs inevitable once they became Capital-Constituting

66 See Zuboff (n 65) 41, 44–48.

67 Zuboff (n 65) 204–05.

68 Zuboff (n 65) 187.

69 Zuboff (n 65) 109–10, 262–63.

70 Julie E Cohen, *Between Truth and Power: The Legal Constructions of Informational Capitalism* (OUP 2019) 15–16.

71 Cohen (n 70) 8–9.

72 Cohen (n 70) 43–44, 66–67, 176–76,

73 Cohen (n 70) 269–71.

Corporations. Like the EEIC and the corporations of the Gilded Age, they have used key attributes granted by States through incorporation, including the ability to make the rules over the infrastructural domains, here virtual, that they control, and the right to lock in capital for as long as they exist as legal persons to develop into entities that can acquire capital and generate new forms of capital.

6 The Significance of the Nature of the Modern Corporation to Big Tech Platform Corporations

In summary, the modern business corporation is an active entity in its own right rather than being contractually based on participants as a nexus of contracts or on its attributes as a nexus for contracts. It is no longer based on an association of persons that, as an entity, is a Recognised Legal Person. Instead, upon incorporation, the modern business corporation is an artificial legal person that bundles together key attributes, including capital lock-in. Those attributes, akin to those of States and not available to private legal forms, are granted by States through State-mandated incorporation processes. The primary significance of legal personhood is that it provides the entity with perpetual capital lock-in. No private legal forms offer 'entity' status, in the sense that property can be held in the name of the entity, rather than in the name of associated individuals. Capital is legally separated from shareholders in the entity, making the modern corporation a fundamentally different legal form from sole traders and partnerships, a point often forgotten when companies are seen as sitting on a spectrum of business forms that includes partnerships.[74]

The separated capital is a critical component of the modern company. It is more than the initial cash subscriptions of shareholders as Foundation Capital. It captures value created when the company uses the Foundation Capital to operate in the world and become an entity. The Foundation Capital is permanent in the sense that shareholders or their creditors have no right, per se, to withdraw their subscribed capital or make a claim on assets acquired by the company while the *corporate person* is extant. For that reason, using Hansmann and Kraakman's categorisations, the business corporation offers complete entity shielding.

Corporations are created by States and, through incorporation, granted State-like attributes and powers that are not available to private legal forms like partnerships. They can expand through ownership of Recursive Capital and develop into Capital Constituting Corporations. Historically, this occurred with the EEIC and the corporations of the Gilded Age, and unquestionably, we are witnessing it again with the BTPCs.

Katharina Pistor showed that wealth is created not just by markets but by the law, in particular private law, that 'codes' assets as capital.[75] BTPCs have benefited from this coding, as Julie Cohen, among others, explains. Pistor does not, however, focus on how the inherent attributes

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74 As Francis Gower pointed out in 1979, 'The concept of capital is of fundamental importance to a proper understanding of company law in general, and in particular to an appreciation of the distinction between individual traders and partnerships on the one hand and incorporated limited liability companies on the other'. LCB Gower, *Principles of Modern Company Law* (4th edn, Stevens 1979) 214.

75 Katharina Pistor, *The Code of Capital: How the Law Creates Wealth and Inequality* (Princeton University Press 2019).

of corporations mean that some corporations do not merely accumulate capital, they themselves organise the processes through which capital is created. BTPCs make visible a longstanding latent feature of the corporate form, as seen in the EEIC and Gilded Age corporations. Corporations have the latent potential to cross physical and virtual frontiers and constitute new forms of capital.

7 Conclusion

The concession concept of the corporation fell out of favour once people could exercise the right to incorporate through a process set out in a general incorporation statute. But States, when they permit corporations to be created, *concede* to the artificial legal person powers and attributes shared only with States. For that reason, the infrastructural drift of corporations into public governance space should not be surprising. These semi-sovereign actors with complete entity partitioning of capital are empowered to acquire territorial control, both real and virtual, rule-making power, and infrastructure dominance. The EEIC did this at a time when everyone understood the corporation as a concession of the State, with the State eventually taking back control. In the Gilded Age, the Sherman Act broke up the corporations that controlled key infrastructure and had accumulated vast wealth. In our second Gilded Age, BTPCs not only control key infrastructure but have developed to the point where they, rather than the law, determine the very nature of capital.

BTPCs bring into stark view the nature of modern corporations. The modern business corporation, correctly understood as a creation of the State, is itself an institutional technology or system designed to outlast governments and has the inherent potential to operate as a semi-sovereign governance machine. Regulation by States is therefore entirely legitimised, becoming a recalibration of delegated authority. Rather than the State intruding on private property, it is redefining the scope of a privilege it created. If corporate personhood is understood as a State-enabled institutional form rather than a contractual aggregation, regulatory intervention can be seen as a specification of that institutional privilege rather than an external intrusion.

As this paper has shown, incorporation and the granting of legal personhood allow complete entity shielding, perpetual existence, and organisational autonomy. The corporation is constituted to actively shape the environment in which it operates in its own favour, including market-organising power. The corporation is not a passive nexus; it is an actor. BTPCs demonstrate how powerfully corporations can shape not just the law but also the political environment, society and even the way we behave in our daily lives. Milton Friedman's primary fallacy was not around the purpose of the corporate form to create value for itself and therefore its controllers and shareholders; it was not recognising that its attributes would empower the corporation to shape the world to accommodate that end.

Rearticulating the constitutional relationship between States and corporations could take many forms. Granting or continuation of corporate privileges could be made conditional on public-law-style governance obligations built into corporate law. BTPCs could be licensed by States with statutory conditions attached to continued operation. The Whanganui River in New

Zealand was designated a legal person by the State as a legal mechanism to enable polycentric governance. Similarly, governance rights regarding BTPCs could be granted to those affected by the entity, with the public regulator and the State as backups. It could even be argued that, correctly understood, those people who engage with an entity virtually on a platform become part of that entity and should have rights in the same way that the citizens of a State have rights in and against the State.

The entity conception of the corporation set out in this paper highlights its character as a durable institutional actor capable of coordinating complex economic activity over time. The digital platforms operated by BTPCs intensify these features by enabling corporations not only to participate in markets but also to organise the conditions for others' participation. This helps explain why platform advantages tend to persist and why regulatory responses must address institutional conflicts inherent in platform governance rather than isolated instances of conduct. Those people who interact most closely with the BTPCs, both as employees and as users, might legitimately claim that their interests should be taken into account.

The theoretical shrinkage of corporations to contractual aggregations rather than artificial persons in their own right has obscured their potential for institutional power. Platform governance exposes the falsity of minimalist contractual corporate theory. The corporation has always been capable of institutional sovereignty, with the latent potential of the form realised with BTPCs. That potential was hiding in plain sight, misunderstood by us, because we failed to learn the lessons of history. BTPCs are more like the English East India Company with delegated authority over a territory, virtual rather than actual, than they are like a company manufacturing steel.

Why do people not, through democratic States, take steps to rein in BTPCs? An explanation for inaction might be a reluctance to tinker with the legal form described once by a President of Columbia University as the 'greatest social discovery of modern times'.[76] The invention of the modern business corporation and the increase in the overall standard of living across the world are inexorably linked. Like that other great legal fiction, money, our shared acceptance that corporations exist allows them to operate across the world and over time, coordinating people, resources, and activities in a way that no individual or group of people could. As this chapter shows, they can also constitute capital from what was previously unrecognised value. Business, at its best, is about creating markets for ideas that solve our problems. If those ideas are formed and developed through innovation and entrepreneurship, corporations are the tools that bring them to life at scale.

Corporations should serve us, though. Presently, the value is unequally shared, and the argument that they provide employment is weakening as AI advances. The top one per cent of global wealth holders own nearly 40 per cent of all personal wealth, while the bottom half owns only two per cent;[77] almost all that wealth is derived from BTPCs. AI owned by corporations will replace people's jobs, primarily a layer of white-collar workers who may not easily find

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76 Nicolas Murray Butler, 'Politics and Business' (Speech at the Annual banquet of the Chamber of Commerce of the State of New York, New York, 1911).

77 Ricardo Gómez-Carrera and others, *World Inequality Report 2026* (World Inequality Lab 2026) 41.

new work. In February 2026, Jack Dorsey, the X (formerly Twitter) founder, cut 4,000 of the 10,000-person workforce at his Tech company Block, saying AI had ‘changed what it means to build and run a company’.[78] We may face a future of Universal Basic Incomes for people, but how will they be funded? Famously, BTPCs resist paying tax.[79]

The AI tsunami is upon us,[80] rendered potent by the corporations that enclose innovation. How can we continue to harness the potency of the corporate form while reining in the excesses? This grand challenge requires us to operate beyond polarised polemics. So that we do not render ‘mankind’s greatest social discovery’ impotent, we must apply a scalpel, not a sledgehammer. The re-balance may require a re-visioning of the corporation so it becomes less State-like and more like the private contractual form it is erroneously believed to be. For example, limited liability for shareholders could be restricted to parties with whom the corporation can contract. Corporations can cause social and environmental harm, with those harmed unable to contract to protect their interests. Involuntary creditors and tort victims would be able to pursue shareholders, forcing corporations to rebalance for risk.[81] For BTPCs, the social harm they cause should not be protected through free speech shibboleths.

We live in a second Gilded Age driven by the BTPCs, with, again, resulting wealth inequality and excessive corporate power. The veil must fall from our eyes. Only when we understand what modern corporations really are and what they can become, once we recognise that these amorphous entities impact and even control our lives, can we regain agency. Capitalism is both one of humanity’s greatest inventions, the greatest source of prosperity the world has ever seen, and a menace on the verge of destroying our planet and destabilising society.[82] BTPCs are the latest and most potent manifestation. Engaging with that paradox compels us to reimagine capitalism’s primary tool, the modern company. Corporations have been likened to Frankenstein’s monster.[83] They are artificial persons created by man. Just as we make them, we can unmake them, or reform and re-form them in a way that serves us all rather than just the gilded few.

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78 Daily Telegraph UK February 28 2026.

79 eg, *The Silicon Six and their Enduring Global Tax Gap* (Fair Tax Foundation 2025).

80 Chris Liddell, ‘Warning for New Zealand: Don’t miss the AI tsunami – Anthropic director Chris Liddell’ *New Zealand Herald* (7 April 2026) https://www.nzherald.co.nz/ accessed 30 April 2026.

81 See Henry Hansmann and Reinier Kraakman, ‘Toward Unlimited Shareholder Liability for Corporate Torts’ (1991) 100 Yale LJ 1879, 1882–83.

82 Rebecca Henderson, *Reimagining Capitalism in a World on Fire* (PublicAffairs 2020) 7.

83 John H Farrar ‘Frankenstein Incorporated or Fool’s Parliament? Revisiting the Concept of the Corporation in Corporate Governance’ (1998) 10 Bond LR 142, 143, referring to Maurice I Wormser, *Frankenstein, Incorporated* (Whittlesey House 1931).

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