

9 The Corporate Republic: Complex Organizations and Citizenship

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[T]he good citizen must have the knowledge and ability both to rule and be ruled. That is what we mean by the goodness of a citizen – understanding the governing of free men by free men (Aristotle, *The Politics*, III, 4).

The Corporate Republic

The twentieth century has been the century of the complex organization. The number of such organizations has risen at an explosive rate. Nowadays, more than half of the hundred largest economies in the world are not countries, but corporations.¹ Complex organizations have come to dominate the front pages of most serious newspapers and outnumber natural persons as participants in court cases (Coleman 1982, pp. 10–3; Bovens, 1998, pp. 14–5). They are strongly professionalized and bureaucratized; their size, complexity, and social importance is enormous (Coleman, 1990).

However, most contemporary political currents act as if we were still living in the nineteenth century. Many modern liberals, social democrats and communitarians still take the contrast between public and private, between government and market – with civil society as bogeyman or buffer in between – to be the central issue in political theory.² Many citizens, however, could not care less whether they lose their way in the bureaucratic corridors of the national health or of a private health-insurance company, of a state university or a private university, a social service or a private insurance board, a ministry or a multinational enterprise. From the point of view of social and political power, the antithesis between natural persons and corporate bodies, or between citizens and organizations, is nowadays at least as important as the antithesis between government and market.

Modern society is thus as much a republic of corporate bodies as it is a republic of citizens. What is more important, modern society is an asymmetrical

society, as there is a large imbalance of power between corporate actors and individual citizens (Coleman 1982, 1990; Bovens 1998). Complex organizations have laboratories and teams of researchers, they can afford to wage advertising campaigns, run extensive lobbies, and can resort to legal specialists and attorneys. Individual citizens usually have to fight for themselves. Complex organizations are, in the words of Marc Galanter (1974), 'repeatplayers' – they are frequently involved in the same sort of legal procedures and become adept in the field. Citizens usually are 'one-shooters'. Complex organizations have an unlimited life-span. Citizens are mortal.

One of the important issues for contemporary political thinkers ought therefore to be the rise and social dominance of complex organizations. What does citizenship mean in a world ruled by complex organizations? In this paper some possible answers to this question will be explored. In exploring them, I shall take as my point of departure an emphatically (neo-)republican, humanistic notion of citizenship. By that, I understand a notion of citizenship in which the political community of independent and free citizens is central. That implies a strong emphasis on the individual rights and claims of the citizen in relation to the government and on the citizen's independent power of judgment in personal and public affairs. Coupled to this is a strong emphasis on the public interest and on the participation of the citizen in public affairs and in the political debate. The republican view rests on the basic premise that citizens administer themselves. Modern authors such as Arendt (1958, 1965 and 1972), Sullivan (1982, 1995), Barber (1984), Ignatieff (1984), Van Gunsteren (1992), and Sandel (1996) plead for an actualization of the classical ideal of the *polis* and of the *vivere civile*. They plead for the conservation and restoration of the public domain, for room for what Arendt has called 'action': speaking and acting together on the basis of shared values and with an eye to public affairs. Politics is in that sense more than the promotion of personal or group interests, it is also '[a] way of living – as, namely, the way that human beings with variable but malleable natures and with competing but overlapping interests can contrive to live together communally not only to their mutual advantage but also to the advantage of their mutuality' (Barber 1984, p. 118).

How can we reconcile these classic ideals of citizenship with the reality of organizational dominance? What we need in fact is a revival of the political economy of citizenship (Sandel, 1996, p. 329). In this paper two possible reactions to the social dominance of complex organizations are explored: citizenship *of* complex organizations and citizenship *in* complex organizations. In the first case, the complex organization itself acquires a civic status; in the second, the civic status of natural persons within organizations is emphasized.

Citizenship of Complex Organizations

This strategy is inspired by corporate law and takes as its starting point the idea that ‘if you can’t beat them, let them join you’. Monasteries, parishes, churches, and guilds, and later also trading companies, foundations, associations, and corporations, have been treated over the centuries in a number of areas of law as if they were natural persons. Gradually these corporate bodies, first with regard to property and later also with regard to contracts and crimes, have acquired the same rights and duties as natural persons. One can decide to extend this personification to public law and to the sphere of politics. If in a number of areas of law we can, with relative ease, treat organizations as fully-fledged legal subjects, why should we not also be able to treat the same organizations as citizens in the political sphere? In various European legal systems steps in this direction have been taken. The explanatory statement attached to the revised version of the Dutch Constitution says, for example, of basic human rights that ‘[t]he proposed stipulations are aimed at bestowing rights and claims also on corporate bodies and on groups and organizations without corporate status in so far as to do so can be meaningful with regard to the nature of the relevant basic right’ (TK, 1975–1976, 13872, no. 3, p. 11). The German Constitution is even clearer on this point: ‘[T]he basic rights are also valid for corporate bodies, as far as they, given their nature, are applicable to them’ (Art. 19, paragraph 3). In the case law established by the European courts one also sees that, step by step, corporate bodies and (other) organizations are independently acquiring the protection of a number of basic rights. That is true, for example, of the right to a fair trial, the right to privacy, the freedom of worship, the freedom of association, and – above all – the freedom of expression (Finaly, 1991). In business too, and in particular on the fast growing terrain of ‘public affairs management’, one regularly and repeatedly comes across the idea of the company as citizen, for example in the form of a ‘corporate citizenship model’ (Peterse, 1990, pp. 34, 218–22).³

From a republican perspective a case can be made for this extension of the circle of citizens. After all, at the end of the day organizations keep the economy going and determine a large part of socioeconomic and political developments. Why should the old adage of the pioneers of the American independence struggle – ‘no taxation without representation’ – not also hold for them? In the nineteenth century, one could still insist that most big private organizations were represented in the political sphere by their owners, who were often at the same time their directors. Nowadays, however, there is little or no connection between property, management and political representation.

Most companies are managed by professional executives who are in paid employment. They have little in common with the Lockean 'freemen' who, cleansed by their experiences on their estate and without having to pay lip-service to others, could devote themselves in all freedom to the pursuit of politics. To begin with, the modern managers simply have no time for it. Would it therefore not be better to conceive of the corporate body itself as a 'freeman' and thus to open up the possibility for organizations to participate directly in the political debate?

The application of modern civic rights to organizations is, moreover, quite feasible. Marshall (1950) distinguished three categories of civic rights: civil, political and social. Most civil rights are not difficult to apply to organizations. Think of due process, the right of petition, the freedoms of speech, association, and assembly, the inviolability of the home and the right to privacy. Only a few civil rights are difficult to transpose to non-natural persons; they include, for example, the right to freedom of travel and to a passport and the right to equal eligibility for public service. National citizenship, an important condition for the exercise of nearly all civil rights, can also be a problem in the light of the increasing internationalization of companies. These objections need not, however, be insurmountable. In criminal and private law the equation of natural and corporate bodies has also been far from complete.

Awarding political rights to organizations is also quite easily conceivable. Passive suffrage could be realized by means of constructions of representation. One could, for example, give each corporation a certain number of votes, in proportion to the number of its personnel, to be exercised by the management, the executive council or the workers' council. In the case of active suffrage, one could institute comparable measures. Within a sort of semi-corporatistic structure one could, for example, reserve seats on representative bodies for representatives of organizations. An example of such constructions is the way in which voting is carried out in the contemporary Dutch Water Boards. Companies that are enrolled in a Chamber of Commerce in the region and that have company premises in the area of water conservancy have the right to vote in the elections for members of the general council. There is even the possibility to weigh the votes according to the scale of the organization.

The most difficult to realize are the social rights – but this is in fact also true for natural persons. Basic social rights, such as a right to social assistance, education and work, and the general right to self-fulfilment, are, by their very nature, not easy to apply to non-natural persons.

Corporate citizenship implies, moreover, not just rights but also duties. A number of important civic duties – obedience to the law and the duty to pay

taxes – already apply to corporate bodies. Citizenship can also mean, however, that private organizations can be addressed regarding their responsibilities to their fellow citizens. Companies can then no longer hide behind the division between the public and the private sector and in that way push off their responsibility for public affairs onto the government. Citizenship of organizations could offer an extra framework for environmental and social policy making. Such a framework would be more compelling than the noncommittal plea for ‘corporate social responsibility’, by means of which companies over the past few decades have been persuaded to cooperate. Citizenship for organizations would not only be a logical next step in the development of corporate law and an acknowledgement of the important social role of organizations, but would also represent a means by which a number of public goods could be produced or preserved.

The introduction of citizenship for organizations is thus quite feasible and is already taking place in some areas. Should we continue along such a path? Three important considerations speak against so doing. In the first place, one could above all object to the granting of the classic rights to freedom (Marshall’s civil rights) on the grounds that the reason for the granting of these rights to ordinary citizens in many respects does not hold for organizations. Generally speaking, one could say that they are directed toward the protection and the advancement of the autonomy of individuals in respect of government. That autonomy is due them above all on the grounds of their humanity. For that reason, we often speak of ‘human rights’. On the basis of such a legitimation of fundamental rights, often inspired by notions of natural law, it is easy to see why these rights should not be granted to corporate bodies and other organizations. After all, they are not people and they therefore cannot, any more than (for example) plants and animals, claim as such any right to individual autonomy.⁴ Which fundamental human values are at stake in the case of an independent freedom of speech for companies or an independent right to privacy for companies?⁵

Nor are complex organizations self-evidently eligible for the more procedural rights that have their roots above all in the tradition of the rule of law, such as for example, due process, the right to a fair and timely trial, no punishment without law, the right to legal aid and so on. These more procedural rights aim predominantly at setting limits to the inequality of power between government and individual citizens. Although they can easily be applied to corporate bodies, the reasons for doing so are less compelling than in the case of natural persons. Most companies, for example, are far more powerful than individual citizens and some are more powerful even than local or national

authorities. The turnover of General Motors is larger than the GNP of Denmark, Ford's is larger than South Africa's GNP and Toyota's returns are larger than Norway's GNP. The classic image of the lonely citizen who needs protection against the powerful judicial apparatus, the image that underlies many safeguards in criminal procedure, does not apply in many big environmental and fraud cases. In such cases, it is the relatively lonely public prosecutor who has to take on wealthy companies which, with the help of teams of specialists, can make optimal use of the guarantees that the criminal procedures and the rules of evidence offer (Stone, 1975; Vaughan, 1983; Fisse and French, 1985; Fisse and Braithwaite, 1993).

These observations bring us to a second objection. Would the recognition of civil rights for organizations be a solution for our problem of the asymmetrical republic? In a society in which the inequality of power is above all between organizations on the one hand and individual citizens on the other, the equal recognition of a number of fundamental rights to the strongest party, the organizations, could disturb the social balance of power even further. It would make intervention by the government on behalf of natural persons in economic affairs even more difficult than it already is (cf. Lindblom, 1977); and it might even, within the framework of the horizontal effect of basic rights, further weaken the formal position of natural persons in relation to corporate bodies.

This objection is even more applicable with regard to political rights. According a number of such rights to corporate bodies would, given the current inequality of power, further weaken the position and participation of the 'old' citizens, the natural persons. The individual citizen would be completely outflanked if complex organizations, with their wealth of information and resources and their repeatplaying skills and stamina, were to participate on a formally equal footing in the political arena. Here we are therefore confronted with the danger of the complex organization as a modern Leviathan.

Alongside these general philosophical objections, there are, in the third place, also a number of important practical objections. Which organizations are admitted to citizenship? Obviously, public organizations must under all circumstances be excluded from citizenship. After all, such organizations were called into being exclusively in order to assist citizens. If the servants themselves become citizens, who will then serve the citizens? Public organizations are the slaves of the modern polity. In the case of private organizations, the question arises as to what the minimum conditions are. A charter of incorporation cannot in itself suffice, for then every corner-shop owner who, for fiscal or other reasons, turned their company into a one-person

limited company would in so doing have doubled their citizenship. It would not be easy, however, to set a basic limit for admission to citizenship (number of personnel, turnover, social importance?). Even more difficult is the question of what to do with the growing number of multinational and transnational organizations. In which country should a multinational enterprise exercise its citizenship and what is the relationship, for example, between the citizenship of subsidiaries to that of the holding company? And what about the orientation toward the public interest in the case of actors whose principal concern is profit and who operate in a competitive situation? Even if their actual intention is to serve the public interest, many companies will because of the 'logic of collective action' feel themselves forced to give priority to the preservation of their own competitive position. Moreover, the internationalization of the business community also makes the recognition of citizenship at the national level not only impractical but in many respects even undesirable. After all, where do the loyalties of those transnational concerns lie and in how far does it make sense to address them regarding their national or even local civic duties?

From the point of view of liberal or (neo-)republican visions of citizenship, there is thus little reason to accord direct, primary citizenship to companies and other private organizations. The most they can be is secondary citizens (Schmitter, 1994). Corporate actors can emerge in the *polis* only in a disguised fashion, as wolves in sheep's clothing. In the words of the title of an article by Van Gunsteren (1987), 'companies are political monsters'. They do not fit within the classification schemes of liberal or republican thinking. Their place is in the private sphere, the sphere of contracts, torts and property. Political rights and political freedoms are reserved for natural persons, the authentic political beings.

Citizenship in Complex Organizations

A second reaction to the emergence of an asymmetrical republic could consist in making possible or facilitating the exercise of citizenship by natural persons within complex organizations. If organizations interfere in the lives of citizens, citizens must also have the opportunity to interfere in the life of organizations. This citizenship within organizations can take a number of very different forms, depending on what you define as community, as polity, and to whom you assign citizenship.

The first quadrant, ordinary citizenship in a *liberal democracy*, is not

Table 9.1 Citizenship in complex organizations

		Polity	
		State	Organization
Citizenship	Residents	liberal democracy	civic management
		1	2
		4	3
	Employees	employee citizenship	corporate democracy

important for us here. The second quadrant implies the most radical form of citizenship within organizations: alongside the state the organization is also understood as a polity. In the various forms of *civic management* of companies, it is the ordinary citizens and not (or not only) the managers of the organization who, in one form or another, have a say in important decisions of the organization. In the third quadrant, the organization is likewise understood as polity, but citizenship is on the other hand reserved for the employees of the company. Marshall (1950, p. 80) speaks anachronistically of industrial citizenship, but a better term is economic or *corporate democracy*. This quadrant accounts for many of the proposals and structures that give the members of a company more say in the policy of the company. In the fourth and final quadrant, the national citizenship of employees is the central issue. This will be referred to as *employee citizenship*. This notion emphasizes that functionaries even within the framework of their own organization remain members of the larger community of citizens – which is why it is legitimate that in working hours too they should pay attention to issues such as the preservation of the political community and the protection of their fellow citizens.⁶

Civic Management: Citizens as Managers

In Western countries, the activities of companies have enormous effects on the life of society. New products and technologies, shifting capital streams,

plant closures and mass sackings often have a greater influence on the structure of society than the efforts of governments (cf. Lindblom, 1977). Following Bozeman (1987), one could hold that all organizations, to greater or lesser extent, are public. Given this fact and given the republican viewpoint that citizens are deemed to administer themselves, why should one restrict the domain of citizenship to public organizations?⁷ Since companies have such a big influence on public life, citizens should for their part have a big influence on companies. Citizens should, directly or by way of representatives, have a say in important company decisions. The company is thus seen as a partial polity of which all citizens are residents.

Yet this is a problematic form of citizenship within companies. The objections to it are above all of a practical nature. After all, how will this civic management of companies take shape? The experiences in the former Eastern European states with *Volksbetriebe* (nationalized firms) were disastrous. But in the West, too, experiences with nationalization and state enterprise have been far from happy. Direct political interference in the management of companies often puts the wrong people in the right places because of the emergence of patronage and spoils systems. The involvement of public managers in the company is often small and the chance of irresponsible business decisions large because the public purse will cover for the private losses.

Perhaps public representatives can provide a workable compromise on this point. One could appoint one or several public commissioners or representatives in companies of a certain size. These have in the first place the task of promoting the general interest in the decision-making process. Stone (1975, pp. 152–73) has come up with a rather elaborate proposal for appointing General Public Directors, a sort of government commissioner, in the case of companies whose capital turnover exceeds a given indexed limit. Candidates for such posts are nominated by the government, but can be vetoed by a majority of votes cast by the other directors. Once appointed, they can, under certain conditions and with qualified majorities, again be removed by the board of directors. These public directors should not be civil servants but should have the same (business) background as the directors who serve in the big companies. They should function as the ‘public conscience’ of the organization and see that it keeps to the law, but they should also play an advisory role in the emergence or modification of legislation in their own sector. Alongside their ordinary role as member of the board, they should particularly look to the functioning of the internal information system and act as confidants for internal whistle-blowers. In order to be able to fulfil these

roles properly, the public directors should have at their disposal their own staff and a number of special powers; these would include free access to all committees and to all company data and documents, the right to overturn sackings or other disciplinary penalties that might result from people contacting them or their staff and the right to recommend bonuses for employees who have acted in the public interest. Finally, there should be a right of appeal to a judge or arbiter.

However, the experiences with public directors in the Netherlands suggest that functionaries of this sort are in a structurally difficult position. In practice, public directors are confronted with different rationalities and with vague, or mutually conflicting, responsibilities. Too much involvement with the organization can lead to an identification with the interests of the company; too much attention to the public cause can lead to an alienation from the organization and to a position of relative isolation. If they are appointed for long periods of time to the same company, which is necessary if they are to acquire reliable information and a proper insight into the enterprise, they will presumably regularly encounter conflicts of loyalty. Only strong characters will be able to withstand such schizophrenia-inducing conditions for any length of time (Glasz, 1991).

Hirst (1994, p. 151) has suggested appointing public representatives not to the executive board but to a special Supervisory Board. This Supervisory Board (consisting of one-third shareholders representatives, one-third employee representatives and one-third community representatives) would then appoint the Management Board charged with the operational running of the company. This would diminish the pull from operational responsibilities and might thereby alleviate the conflict of loyalties for the community representatives. Hirst also suggests that both boards should have a legal duty to 'consider and to give due regard to the interests of shareholders, employees, consumers, the community and the environment when making decisions' (1994, p. 151).

Corporate Democracy: The Organization as a Separate Polity

In the case of corporate democracy, the organization is understood not as a part of public life but as a separate polity; only its own employees acquire the rights and duties of citizenship. In such cases, we are therefore dealing exclusively with citizenship that is internal to the company. A serious case can be made for the introduction of this form of citizenship. An ordinary employee in a big enterprise in many respects resembles an inhabitant of a

nineteenth-century authoritarian state. The enterprise lays claim during working hours and sometimes even outside working hours to a large part of his activities and restricts many of his freedoms. S/he is 'subject to authority, he [sic] is part of a legal community in which many rules apply that can be unilaterally imposed on the part of the authority and in the emergence of which he as an individual had no part whatsoever' (van der Heijden, 1988, p. 21). Most complex organizations are hierarchies or oligarchies that are administered in an absolutely autocratic manner, while changes in the leadership usually take place on the basis of co-optation. The question then arises as to why the arguments that eventually led to the democratization of most Western states in the nineteenth and twentieth centuries are not equally valid in the case of large-scale modern enterprises. Why should employees, who are presently treated in the realm of public affairs as citizens capable of independent judgment, get no say in matters that concern their daily work?

The champions of this form of citizenship take this factual parallel between state and enterprise seriously and argue for a democratization of companies. One of the modern exponents of this current of thought is Robert Dahl (1985). He discusses two arguments for economic democracy that one constantly encounters in the discussions.⁸ In the first place, the argument of the favourable external effects: citizenship within companies would help maintain and improve the quality of citizenship in the public realm. It would increase the political skills and sense of community of citizens, raise the level of participation in the national administration, lessen social polarization and promote equality of income. Dahl himself admits (1985, pp. 94–110) that there are few indications that these positive external effects actually happen. Other studies are also negative on this point (Mellor et al., 1988, p. 146). Experiences in a number of companies with a large measure of workers' self-management provide little evidence of an increase in civic competence and participation.

Alongside this somewhat weak instrumental justification, Dahl also comes up with an intrinsic argument: '[I]f democracy is justified in governing the state, then it must also be justified in governing economic enterprises; and to say that it is not justified in governing economic enterprises is to imply that it is not justified in governing the state'. There is, according to Dahl, no difference in principle between big companies and (lower-level) government. The decisions of companies are *de facto* often just as binding on employees as are the decisions of government on citizens, while for most employees the exit-options are not significantly greater than for the residents of any municipality or state. 'Like a state, then, a firm can also be viewed as a political system in which relations of power exist between governments and the governed' (1985,

p. 115).

But, one could object, have the experiences with all sorts of productive associations not shown that democratization leads to the downfall of the company? After all, employees do not have the education and skills to lead a company; such tasks must be left to professional managers, directors, and shareholders. Moreover, joint management impairs the company's readiness for the fray, since painful decisions often get no majority or are delayed in various ways. In the business world, meritocracy and not democracy is the best form of government. According to Dahl, such an objection does not, however, detract from the principled parallel between government and enterprise. It is after all the same argument which, from Plato through to Pareto, has again and again been brought against the democratization of public administration. If one no longer accepts this elitist argument in the public sphere, why should one then accept it in principle for private organizations? Moreover, according to Dahl, research suggests that, unlike in the difficult circumstances of the nineteenth century, 'participation by workers in decision-making rarely leads to a decline of productivity; far more often it either has no effect or results in an increase in productivity' (1985, p. 133). After all, joint management does not automatically need to imply that each employee should have a full say in the daily administration of the enterprise. Oligarchization and a certain measure of meritocracy are inevitable in every modern democracy and in every big organization. Corporate democracy in bigger companies, just as in bigger public organizations, is often feasible only by means of representation, delegation and other devices. The role of the ordinary employee-citizen will therefore in practice be more comparable with that of a shareholder than of a manager. There is no reason to assume that the average employee, who if his company goes bankrupt loses not only his investment but his very means of livelihood, would not fulfil that role at least as carefully as the average shareholder (Dahl, 1985, pp. 116–33).

It is not possible on the basis of the available research into forms of economic democracy to say definitively whether Dahl is right on the point of practical feasibility, but the odds are against him. Most of the empirical literature in this field is by researchers who are at the very least sympathetic to producers' cooperatives, workers' self-management, and other forms of corporate democracy (Poole, 1986; Mellor et al., 1988; Lammers and Széll, 1989; Oakeshott, 1990). Nevertheless, they must all concede that the number of successful cooperatives has over the years been relatively small.⁹ Typical of this literature is the wishful conclusion, also reached by Dahl, that there is no reason to assume that cooperatives cannot work, that there is a great need

for non-capitalist forms of production and that, in coming years, things will certainly get better. However, they do not positively answer the question of whether cooperatives generally can cope with the competition from traditional companies.¹⁰

Here, however, it is important not only whether far-reaching forms of economic democracy *can* work, but also whether they *should* work. From the point of view of republican citizenship, there is at least one important objection that can be raised to the large-scale introduction of far-reaching forms of Dahl's economic democracy.¹¹ If one treats discrete organizations as small polities, one legitimates the emergence of states within the state. Employees acquire a double citizenship and, therewith, double loyalties. There is a chance that this will lead to a further atomization of society. If everybody, as a result of his or her work, is a member of a separate political community, who will have time left over for the collective, public affairs? Corporate democracy legitimates reasoning on the basis of sectoral interests and may as a result lead in the long run not to a strengthening but to a splintering of the political community.¹² Also, there is the real danger that the already substantial gap in economic, social and political resources between the employed and non-employed part of the citizenry will further widen. What arises is an image of society as 'a series of tight little islands, each evolving towards political self-sufficiency, each striving to absorb the individual members, each without any natural affiliations with a more comprehensive unity' (Wolin, 1960, p. 431).

Employee Citizenship: The Employee as Citizen of the State

Employee citizenship, on the other hand, might give less occasion to a splintering of the community of citizens. After all, it refers to ordinary, *company-external* citizenship whose sphere of operation is extended to the organization. The external effects of civic rights and duties are to the fore here. The idea is to promote the participation of employees in the public debate and to protect the interests of one's (fellow) citizens or of the political community as a whole. In a society dominated by complex organizations, the sphere of bureaucracy and the sphere of politics cannot remain entirely separate. The activities of corporations, laboratories and public agencies are, in the end, politically relevant activities. However, because of the politics of expertise (Fischer, 1990) ordinary citizens and politicians are often not able to fully comprehend and assess the nature and extent of the risks that flow from the organizational activities. Enabling all sorts of self-criticism and discussions from within organizations is vital to protect society from these

risks (Beck, 1992, p. 234). Employees and civil servants are therefore also treated as citizens, i.e. as members of the political community, with the rights and duties associated with that membership. This employee citizenship can take various forms.

In the first place, it can consist quite simply of an extension of the scope of a number of basic rights. Whereas most civil rights were originally intended to offer protection in the sphere of the vertical power relations between government and citizens, they must now also work horizontally in the relationship between private corporate bodies and employees. Alongside the freedom to strike, which they have long had, employees would also have to be able to claim from their employers the protection of other civil rights, such as the freedom of religion, the freedom of speech, the freedom of association and meeting, protection of the privacy of letters, telephone communication and e-mail. Companies permit themselves a number of infringements of the freedoms of individual employees that in most cases would be deemed inadmissible if the government were to practice them against citizens. Think of the obligation, on penalty of dismissal, to work on religious holidays, the imposition of bans on public speaking, the prohibition on membership of professional associations or of other legitimate organizations, the imposition of penalties without due process, or the uninvited opening of mail, listening to telephone conversations or spying on employees by means of video cameras (Ewing 1977, 1983; van der Heijden, 1988). Such an extension of the scope of a number of civil liberties is a legitimate and logical supplement to the catalogue of civil liberties recognized by the modern democratic state. The inequality of power between individual employees and complex organizations and the weak position of most employees on the labour market in practice minimizes their contractual freedom (van der Heijden, 1988, p. 22; Gersuny 1994). Most employees cannot afford to give up their jobs in order to regain complete command over their civil rights. *De facto* their position does not differ all that much from that of a citizen in an authoritarian state. Given the reason behind the classic civil liberties, a horizontal effect on complex organizations is therefore quite easy to defend.

However, employee citizenship consists of more than just the extension of a number of rights. It provides at the same time a basis for external responsibilities.¹³ Acknowledgement of the citizenship of employees and civil servants also implies that individual functionaries may and sometimes even must play a role in the preservation of the community of free and independent citizens (Burke 1986). That means on the one hand that functionaries, as citizens, can be held to account by their fellow citizens for their contribution to the activities

of their organization. The acknowledgement of the citizenship of employees implies that they, just like civil servants, police officers, and soldiers in the public sphere, can no longer so easily hide behind the orders of their superiors.

On the other hand, it also implies, as a complement to that external accountability, a legitimation of certain forms of 'civil disobedience' within working hours. If one wants functionaries to behave as responsible citizens, one must also provide them with the space in which to do so. Citizenship of functionaries implies that the democratic control of organizations need not always happen indirectly, by way of the top political levels or of the company management, but that in some circumstances a direct role is also set aside for lower functionaries. Some forms of employee disobedience, such as refusal to work or whistle-blowing, can be legitimate when important public interests are at stake. Possible grounds for employee disobedience are for example (the threat of) an evident violation of rules and regulations, a substantial and specific danger to public health, safety or the environment, a large-scale waste of public funds or, in the case of civil servants, a deliberate obstruction of democratic control.

These interests not only offer grounds for disobedience but also set emphatic limits to those grounds. Indiscretion and disloyalty are justifiable only when the rule of law or democratic control is thereby served. That means that a large number of forms of disloyal behaviour are not legitimate at all, such as, for example, thwarting your minister or parliament as a civil servant for party-political, personal or institutional reasons, or employees refusing to submit to examination by a judge. It also means that a functionary acts responsibly only when the control, and where necessary the correction, by public bodies of his or her own behaviour does not become impossible. This will, in most circumstances, mean that it can be demanded of the functionary that: a) his or her conduct takes place in the open; and b) s/he is prepared and in a position to answer for his or her behaviour on the basis of public considerations. Secretly leaking or selling confidential documents so as to make a policy change desired by a minister impossible in advance, or doing the same thing for reasons of personal gain, will hardly satisfy this demand. But refusing certain assignments on the basis of strictly personal, conscientious objections will also be difficult to reconcile with these demands.¹⁴

Citizenship and Complex Organizations

Of the different venues discussed here, employee citizenship, including limited

forms of employee civil disobedience, offers the most promising and feasible way of overcoming the antithesis between the ancient ideal of individual citizenship and the modern reality of organizational dominance in society. It opens up the most powerful actors in society for public scrutiny and political debate, without a further extension of the formal and informal powers of corporate actors, as would be the case with corporate citizenship. Neither does it give rise to a general and substantial reduction of the efficiency and effectiveness of complex organizations, as would civic management or corporate democracy. Last but not least, it directs the exercise of civic rights and duties towards the public domain and thus contributes to the central tenet of citizenship: 'the governing of free men by free men'.¹⁵

Notes

- 1 According to a study by S. Anderson and J. Kavanah of the American Institute for Policy Studies (quoted in *The Sun* in Baltimore).
- 2 With the exception of Wolin (1960, ch. 10), Dahl (1985), Schmitter (1994) and Sandel (1996).
- 3 Even Rawls makes room for 'associations (states, churches, or other corporate bodies)' in the negotiations in the 'original position' (1971, p. 146).
- 4 From a natural-law or creationist perspective on rights, plants and animals would have an even greater right to protection than organizations.
- 5 The individual employees, managers, owners and shareholders, given that they are people, do of course have these rights. In many cases, one might derive some rights for corporations from these individual rights. From the point of view of legal theory, however, that is a very different justification of organizational rights.
- 6 This employee citizenship must not be confused with 'organizational citizenship behaviour' (Organ, 1988). In the latter case, citizenship behaviour is viewed not in the political but in the social-psychological sense. It exclusively concerns the question of why some employees are more assiduous and altruistic than others. This is also called 'the good soldier syndrome': some employees are prepared to do more than their duty for the organization. It is therefore a question not of citizenship but of a sense of responsibility.
- 7 See for forms of civic administration within government bodies Fredrickson and Chandler (1984), Barber (1984, pp. 290–3); Wamsley et al. (1987); and Stivers (1990, pp. 99–103).
- 8 See for example the pleas of Louis Brandeis and Woodrow Wilson for industrial democracy in the early decades of the twentieth century (discussed by Sandel, 1996, pp. 211–6).
- 9 The only still successful large-scale cooperative is the Mondragon Group in the Basque Country – and this example crops up again and again in all the literature on the subject. However, the Mondragon companies have over the years developed such indirect forms of democracy and such orthodox management structures that it is very doubtful whether they can still be reckoned as genuine cooperatives (cf. Mellor et al., 1988, p. 174).
- 10 Recently introduced collaborative forms of corporate governance, in which employees own (part of the) stock seem to be more efficient than traditional, hierarchical forms of

corporate governance (Alcaly, 1997). However, these are basically management tools and not political forms of corporate democracy.

- 11 One can find the following objection in rudimentary form in Bonger (1936, p. 127) and very explicitly in the work of Wolin (1960, pp. 429–34).
- 12 A second objection of a more principled character is less convincing because of its essentialist character. Wolin (1960) and Stivers (1989) object to the idea of corporate democracy also on the grounds that such a politicization of daily life leads to a loss in meaning of the idea of politics. If everything is political, politics is nothing. This is in general a potent argument against tendencies to politicize everything. It is not clear, however, why the limits have already been reached. After all, in the case of corporate democracy personal life remains untouched. Moreover, this objection disregards the important political power of complex organizations in contemporary society.
- 13 See for similar reflections, mostly in the public sphere, Fleishman, Liebman and Moore (1981), Nielsen (1984), Burke (1986), Wamsley et al. (1987) and Cooper (1991).
- 14 See for an extensive legal and organizational analysis of several forms of employee civil disobedience, such as refusal to work and whistle-blowing, Bovens (1998, chs 9–11).
- 15 This article is based on a paper presented at the 24th Annual Meeting of the UK Association for Legal and Social Philosophy, Edinburgh, 3–5 April 1997. Minor parts of it are based on chapter 9 of my *The Quest for Responsibility: Accountability and Citizenship in Complex Organisations* (1998). An early version of the paper was published in H.R. van Gunsteren and P. den Hoed (1992), *Burgerschap in praktijken, WRR voorstudies en praktijken*, SDU: Den Haag.

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