Corporations in the Flow of Culture

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CONTENTS

INTRODUCTION

As an anthropologist, coming out of three decades of research among indigenous Brazilian populations, I naturally saw modern for-profit business corporations as tribes—the collective bearers of adaptive cultural know-how. They appeared to me to be the entities housing the culture needed to produce commodities, to trade commodities on the open market, or both. I was also, of course, aware of the legal concept of the corporation as fictive person capable of owning property and having

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standing in court cases, which I thought of as akin to the anthropological corporation insofar as both recognized the group as social actor.[1]

However, it came as something of a surprise that the existence of corporations—or, more properly, "firms"—posed an intellectual challenge for economists. I knew that Adam Smith was critical of the old joint stock companies, like the East India Company, for a variety of reasons.[2] But I hadn't understood that economists, who viewed the world in terms of individual rational actors engaged in market transactions, might regard corporations as a violation of market efficiency principles, which they evidently are—or at least were until Ronald Coase's classic 1937 paper *The Nature of the Firm*. It is his paper that brought together my anthropological understanding of corporations[3] as social groups carrying cultural know-how with the economic model of the firm.

Coase viewed the modern for-profit corporation as a challenge to the idea of the "invisible hand," although he seems not to have used Smith's famous phrase.[4] He noted: "It is often considered to be an objection to economic planning that it merely tries to do what is already done by the price mechanism."[5] Taking this view to its logical extreme, if price governs all interrelations among the factors of production, such as labor and equipment, there would seem to be no need for purposeful coordination. In Coase's words: "[I]f production is regulated by price movements, . . . well might we ask, why is there any organization . . . ?"[6] The answer he gives is that the firm exists to reduce transaction costs.[7]

Indeed, we can readily appreciate the absurdity of turning every aspect of labor involved in production into a commodity: "How much will

1. Anthropologists likely borrowed the notion of the corporation from the legal tradition, as reflected in the work of the nineteenth-century comparative jurist Henry Sumner Maine. *See* HENRY SUMNER MAINE, ANCIENT LAW: ITS CONNECTION TO THE EARLY HISTORY OF SOCIETY, AND ITS RELATION TO MODERN IDEAS (4th ed. 1906). However, there are some notable differences between the two conceptions, to which I will return at the end of this Article. Most significantly, an individual can set up multiple legal corporations as devices for owning property. Such fictive corporations are not social groups, nor are they (unlike their anthropological counterparts) the collective bearers of cultural know-how.

2. In particular, Smith viewed the British East India Company as oppressive, inhibiting of free trade, permitting bad conduct by its agents, and unable to reconcile its role as a sovereign power with its role as merchant. *See generally* ADAM SMITH, AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS (Mortimer J. Adler et al. eds., Encyclopædia Britannica 1994) (1776).

3. *See* Greg Urban & Kyung-Nan Koh, *Ethnographic Research on Modern Business Corporations*, 42 ANN. REV. ANTHROPOLOGY 139, 139–58 (2013).

4. *See* SMITH, *supra* note 2.

5. R.H. Coase, *The Nature of the Firm*, 4 ECONOMICA 386, 387 (1937).

6. *Id.* at 388.

7. In Coase's words: "The main reason why it is profitable to establish a firm would seem to be that there is a cost of using the price mechanism." *Id.* at 390.

you pay me if I flip this switch?"; "Write this report?"; "Answer this call?" If every detail of interaction involved in production were subject to negotiation, thereby incurring transaction costs, nothing would get done. Too much time would be spent transacting rather than doing. While market principles do in some measure operate inside firms, as Coase pointed out, the success of firms as for-profit enterprises depends to a considerable degree on removing day-to-day business from the sphere of commoditization and market transaction.[8]

Stated differently, the inner workings of a business enterprise must in some measure resemble those of a society. The enterprise is a social group through which noncommodified culture[9] gets passed, including its transmission to new members. Here, the insight of the economist and the anthropologist seem to converge. It is this convergence that forms the point of departure for this Article: modern for-profit corporations are formed and persist as social groups serving as holding environments for relatively noncommodified culture (including habits, skills, knowledge, values, and the like). That corporation-internal culture is transformed into commodities, which represent a form of culture that can be exchanged on open markets.

What I hope to do in this Article is situate the business corporation within the broader flow of culture. This in turn will enable me to claim that free-market exchange of commodities does not exist independently of the rest of culture, as if the economy constituted a self-contained system. There are good reasons why economists have viewed the economy this way. For one, the use of price as a characteristic of market-based transactions provides clear boundaries, indicating what is and what it not part of the economy. Additionally, price renders the economy analyzable from the perspective of supply and demand. For another, the efficient market hypothesis suggests a normative position; namely, even if the economy is not in reality independent, we should strive to free it from

8. *Id.* at 390–91.

9. The concept of culture used in this Article is more capacious than that with which some readers may be familiar. I take culture to be whatever is transmitted via social processes in which people (1) acquire knowledge, skills, practices, habits, values, stories, beliefs, and the like from other people; and (2) transmit what they have learned (both from others and from their own experience of the world) to others. Culture is thus a phenomenon of motion between people. The view of culture as the shared property of a social group (a people, a nation, a corporation, etc.) is one manifestation of the social transmission process, though here we should take note that contemporary anthropological views regard the sharing of culture within groups as problematic. Since culture circulates within communities, sharing of any given element may be only partial, with some people acquiring it and others not. The view here also is that more or less shared cultures develop quickly when new social groups (such as business enterprises) are formed; again, however, the sharing may be only partial and aspects of the culture may be contested.

external intervention because the price system produces maximal efficiency.

However, as I hope to show, the market relies upon the flow of noncommodified culture.[10] The forces that produce demand, and that enable supply and demand analyses, operate within culture more generally, even where price is not in evidence. The production of commodities themselves would not be possible without the flow of noncommodified culture. Furthermore, commodities, from this perspective, result from the transformation of noncommodified into commodified culture. Firms are the engines of this transformation. They take in freely available culture from their surroundings and tweak it in such a way as to produce value, thereby demanding a price that yields profit for the producer.

I. THE COMMODITY IS CONGEALED CULTURE

Although Marx had formulated the idea in earlier works, he referred to "use-value" in *Capital* as simply "the usefulness of a thing."[11] He continued: "It is therefore the physical body of the commodity itself, for instance iron, corn, a diamond, which is the use-value or useful thing."[12] To update Marx's formulation for the twenty-first century, I note two additional factors. First, commodities embody or carry culture. Both iron and corn, for example, are the products of cultural developments—the domestication of corn out of its wild ancestor, teosinte, about 8,700 years ago in what is today Mexico,[13] and the discovery of smelting techniques for the extraction of iron from the ores in which it is found, which, according to recent research, probably took place somewhere in the ancient Near East or adjacent areas as early as 7,000 years ago.[14] Even diamonds had to be culturally recognized, and the techniques for mining, cutting, and polishing learned through cultural processes. Commodities, in this sense, literally carry culture.

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10. This is by no means a new claim. Karl Polanyi noted this embedding more than a half century ago. *See* KARL POLANYI, THE GREAT TRANSFORMATION: THE POLITICAL AND ECONOMIC ORIGINS OF OUR TIME (2d ed. 2001). However, I use here a more dynamic view of culture, in which culture, like commodities, is in motion, flowing through the world. This enables me to link the concept of economic value to the flow of culture.

11. KARL MARX, CAPITAL: A CRITIQUE OF POLITICAL ECONOMY 126 (Ernest Mandel ed., Ben Fowkes trans., Penguin Classics 1990) (1867).

12. *Id.*

13. Dolores R. Piperno et al., *Starch Grain and Phytolith Evidence for Early Ninth Millennium B.P. Maize from the Central Balsas River Valley, Mexico*, 106 PROC. NAT'L ACAD. SCI. U.S. AM. 5019, 5019 (2009).

14. Benjamin W. Roberts, Christopher P. Thornton & Vincent C. Pigott, *Development of Metallurgy in Eurasia*, 83 ANTIQUITY 1012, 1014 Figure 1b (2009).

A second factor: the usefulness of a commodity is determined by its role within the ongoing culture in which it occurs. Corn is useful in contemporary social life because it figures as a known and regularly consumed food, and today also as a source of ethanol and numerous other products, including clothing, packaging materials, and disposable cups, plates, and cutlery. All of this is thanks to its role in ongoing cultural activity. The same can be said of iron and of diamond. Even the ornamental use of a diamond gives it value in contemporary life as linked to ideals of beauty and status. So much is use-value determined by the role of the commodity in cultural life that we might specify that use-value means *culturally-determined-use-value*—that is, its value in ongoing social life guided by specific cultural processes.

In his well-known paper,[15] anthropologist Igor Kopytoff describes the commodity form as part of the cultural biography of things. Of Kopytoff's work, Arjun Appadurai writes: "The idea of the commodity phase in the social life of a thing is a summary way to capture the central insight in Igor Kopytoff's important essay . . . , where certain things are seen as moving in and out of the commodity state."[16] From this point of view, commodities—when they are not being traded—are like other carriers of culture, not only as thing-like carriers (ceramic pots, automobiles), but also as more fleeting, evanescent carriers, like the sounds of a given stretch of speech or music or bodily movements as in dance.

Anthropologists have, in recent years, increasingly turned their attention to the key characteristic of all aspects of culture—that they are socially transmittable and socially learnable.[17] They can move from person to person, group to group, generation to generation over time and through space. What enables this motion is the feature on which Marx focused in describing use-value: the physical embodiment of the culture in things.[18] Again here, however, we need to update Marx, who thought about things in too literal a sense. The sounds of speech articulated at a given moment are things, however fleeting, and they too can enter a

15. Igor Kopytoff, *The Cultural Biography of Things: Commoditization as Process*, *in* THE SOCIAL LIFE OF THINGS: COMMODITIES IN CULTURAL PERSPECTIVE 64 (Arjun Appadurai ed., 1986).

16. Arjun Appadurai, *Introduction: Commodities and the Social Life of Value* to THE SOCIAL LIFE OF THINGS: COMMODITIES IN CULTURAL PERSPECTIVE, *supra* note 15, at 13.

17. Greg Urban, *A Method for Measuring the Motion of Culture*, 112 AM. ANTHROPOLOGIST 122, 122–39 (2010). Social learnability means that you can acquire the bit of culture through interacting with others, as, for example, when you listen to another tell a story and, by virtue of that interaction, become capable of telling it to someone else. Social transmission, correspondingly, occurs when, whether knowingly or not, you transmit some element of culture to another, as, for example, the story just mentioned.

18. MARX, *supra* note 11, at 126.

phase of commodity-hood as, for example, when a well-known speaker is paid to give a lecture or speech. So too are the words, sounds, and images contained in a movie. Indeed, the movie is itself a complex thing in one of its showings, to see which we might pay a price, for example, the entrance fee to a movie theater or the online viewing fee. Similarly, services of virtually any kind can become commodities. And so too, in the last two decades, can electronic traces transmitted through the internet become commodities, including the financial instruments that are so frequently traded today. While Marx did not have these modern insights at his disposal, my guess is that he would not have objected to using the term "culturally-determined-use-value" in place of "use-value."

But, of course, Marx's main concern in *Capital* was the relationship between exchange-value[19] and the role of the product in the cultural world outside the marketplace, its culturally-determined-use-value.[20] Marx reasoned that the organizer of a business enterprise pays for labor, and that it is the labor that produces the product.[21] Hence, his idea that the commodities are "quantities of *congealed labour-time*."[22] So the question for him became—and here I am simplifying—why doesn't the price equal the amount the capitalist has to pay for the labor? And his answer is that the capitalist tacks on "surplus value," above and beyond the cost of the labor that goes into production.[23] The German word for "surplus value" is *mehrwert*, "more value" or "value added." To simplify, the capitalist sells the commodity for more than it is worth, tacking on a price that exceeds production cost, thereby realizing a profit. Profit is effectively a rip-off of labor. It is the result of a kind of plunder.

Two important points are worth making here. First, Marx seems to give little or no credence to the entrepreneur as someone who adds value. In this regard, he resembles the economists against whom Coase argued. For those economists, planning and organizing add no value, so all of the organizing should be the outcome of market transactions. So why should there be a need for the capitalist[24] at all? Correspondingly, why is there a need for organization?

The second point, and the central one for my argument, the labor theory of value fails to account for the value added by the culture of the firm that produces the marketable commodity. I have already proposed

19. An exchange-value is the price a commodity can fetch in the marketplace.

20. MARX, *supra* note 11, at 126.

21. *Id.* at 128.

22. *Id.* at 130 (emphasis added).

23. *Id.* at 251.

24. And here I mean the capitalist specifically in the sense of an entrepreneur who gets a business going.

that commodities, such as iron and corn, are bearers of accumulated cultural know-how. But the corporation as an ongoing business enterprise is the bearer of additional culture (including know-how, skills, techniques, organizational practices and networks, values, rituals, and the like). That additional culture goes into the making of a commodity.

This is perhaps obviously the case with the manufacture of material commodities, like automobiles or computers, but it is true also of nonmaterial commodities like financial instruments. Anthropologist Gillian Tett describes the credit default swap,[25] a 1994 invention at a Boca Raton meeting of J.P. Morgan bankers, as a cultural invention, though apparently not a tangible one. Its deployment involved cultural know-how, including the culture that goes into the creation and maintenance of social networks.

Corporations as business enterprises contribute *mehrwert* by housing the culture of the enterprise that enables the transformation of noncommodified cultural flow into a commodified cultural flow, or that provides an added cultural tweak to an already commodified flow. The labor makes a contribution, in other words, only insofar as it contributes to the ongoing culturally organized processes inside the business firm. This does not give a full picture of the corporation in the flow of culture, but it does help to narrow the gap Marx saw between the wages of labor and the price of the commodity. The corporation carries the culture that the enterprise adds to noncommodified culture. It embeds that culture into the commodity, making the commodity not congealed labor, but more properly congealed culture. The culture of the corporation thus adds value.

II. CORPORATIONS CAPTURE NONCOMMODIFIED CULTURAL FLOW

For a business enterprise to make a profit from an existing flow of culture, it is not sufficient to simply add the culture of the firm to that flow. The flow must be captured so that the output can be controlled in some measure. If subsistence farmers are each growing corn for consumption, there is an existing flow of culture: both the cultural practices surrounding the consumption of corn, and those pertaining to its production—the existing know-how, skills, techniques, and the like necessary to successfully grow corn. People have interest in the product. They want to consume it as well as to use it for seeds. For someone to make a profit off growing corn as a commodity, they would have to add something to

25. *See generally* GILLIAN TETT, FOOL'S GOLD: THE INSIDE STORY OF J.P. MORGAN AND HOW WALL ST. GREED CORRUPTED ITS BOLD DREAM AND CREATED A FINANCIAL CATASTROPHE (2010).

the existing productive culture, like a new technique for growing corn that increased the yield. But that technique, if other farmers could easily copy it, would diffuse to all of the subsistence producers, making it impossible for the innovator to realize a profit by turning the corn into a commodity. To produce profit, the flow must be captured.

For example, Dr. Lawrence Coben, an archaeologist and Ph.D. in anthropology, already a successful businessman in the energy sector, turned his attention to the question of how to preserve archaeological sites and more recently founded a nonprofit organization called the Sustainable Preservation Initiative (SPI).[26] As someone who studied both economics and anthropology, and was and is a practitioner in each, Coben tried to find ways to bring the two together.

An idea crystallized in his mind while he was at an archaeological field site in Bolivia. While engaged in his own research, he observed that, at the site, tourists' cars would occasionally pull up and visitors would come to look. On top of the site, kids would be playing soccer and other local residents would be using it in their ongoing daily activities. The thought occurred to him that he could do something that would both help the community economically and also preserve the archaeological remains.

Coben proposed to members of the community that they should fence off the site and charge $10 to each nonlocal tourist who wanted to visit it. Some individuals in the community expressed their disbelief that anyone would pay $10 for this purpose. Coben notes that annual incomes in this area were in the low hundreds of dollars, so that $10 to see what they see for free every day seemed preposterous. The flow of culture to nonlocals had to that point been free, noncommodified. Coben proposed to commoditize the flow. If the tourists wanted to experience archaeologically accessible culture firsthand, they would have to pay. Members of the local community were in disbelief.

Coben proposed to pay for the fence that would enclose the area and to pay the initial $50 salary for someone to sit at the gate and collect the fees. As he described it, in the first week only a couple of cars arrived, then the next week more, and so forth. Before anyone fully appreciated it, the initial investments were paid off and the community began making money. Moreover, now the community had a motivation to maintain and preserve the site—hence, sustainable preservation.

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26. The descriptions of Coben's work hereinafter are drawn from conversations on various occasions. Interviews with Lawrence Coben, Ph.D. (most recent conducted Feb. 24, 2015).

Coben had helped to establish an organization that captured an existing flow of culture. The free cultural flow had been from the archaeological remains on the site to the out-of-town visitors. Now members of the community were organized to tap into that flow. The use-value produced *mehrwert*. The *mehrwert* was created by the organized business culture, including the staffing of the admission's post, maintenance of the fence, and the preservation of the site. The interest in the archaeological remains drove the pre-commodified cultural flow. The organizational culture of the local community, which Coben helped to create, converted the pre-commodified flow into a commodified one.

Another example will help drive home the general point. John Abele is the cofounder and former director of what is now the multibillion dollar medical robotics company, Boston Scientific Corporation.[27] Having graduated from Amherst College where he studied physics and philosophy, and after getting his first job selling specialized lighting, Abele took a position with Medi-Tech, a small company in Watertown, Massachusetts that produced medical devices. Before assuming leadership of the company, his role was "project manager." He was charged with developing the medical devices the company produced and selling them to doctors. As Abele describes it, the devices "were new and somewhat disruptive to the field—this was an elaborator business." He found himself "meeting fascinating people from all walks of life." "A lot of them," he recalls, "were the medical type, who also gave an enormous amount of their time to teach me. But I reciprocated and provided them with information they might never have had otherwise." Here we see the noncommodified flow of information through social relations.

Abele took what he learned from his interactions and used the information to refine existing devices and build better ones. The devices, as commodities, embodied this information, which Abele's company had effectively captured. The improved equipment helped medical professionals do a better job, and it also led to an increase in sales as interest in the products grew. This in turn led to the company expanding, eventually giving rise to a new incarnation to the Boston Scientific Corporation, which has since seized hold of a substantial share of the market for med-

27. The descriptions of Abele's life and work hereinafter are drawn from multiple sources including John Abele, Vice Chairman, FIRST Foundation, Presentation to University of Pennsylvania Anthropology of Corporations Class; Conversations with John Abele (multiple instances); *Boston Scientific's Beginning, Through John Abele's Eyes*, MEDCITY NEWS (June 9, 2010, 5:26 PM), http://medcitynews.com/2010/06/boston-scientifics-beginning-through-john-abeles-eyes/; and John Abele, Vice Chairman, FIRST Foundation, Presentations (other). The quotes, in particular, are entirely from the presentations.

ical robotic devices. As of this writing, Boston Scientific has a market capitalization of $22.51 billion.[28]

While this is not the place to summarize the various mechanisms of capture, I note the prominence of ideas of property, both tangible and intellectual, among them. Property was essential to Locke and other European philosophers, as well as to Marx in his formulation of capitalism. However, there are others, including de facto or tacit acceptance that capture has taken place (businesses in different sectors, for example); the maintenance of secrets (as in the purported secret formula for Coca-Cola); the building and maintaining of social networks (Microsoft with developers) between enterprises; and, especially, the commitment to invention and continual change and betterment such that other enterprises cannot keep up.

III. NONCOMMODIFIED CULTURAL FLOW OCCURS BETWEEN CORPORATIONS

From the point of view of economics, commodities flow not only from business firms to consumers but also between firms in business to business (B2B) commerce, which involves transaction costs. However, it is also important that much culture—such as technical know-how, skills, values, ritual practices, and the like pertaining to corporate internal activities—flows between corporations without the intermediary of commoditization.

A historical example is the assembly line method of production, which had been in use in the slaughterhouse and meatpacking industry in the latter third of the nineteenth century. A simplified story is that Henry Ford got the idea for the assembly line usage in the automobile industry from the meat companies.[29] The developments were, in fact, more complicated. Like so much of culture, the changes that led to the modern assembly line were incremental and cumulative, with some saltatory occur-

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28. *Boston Scientific Corporation (BSX)*, YAHOO FIN., http://finance.yahoo.com/q?s=BSX&ql=1 (last visited Sept. 19, 2015).

29. The story is not without truth. Henry Ford recounts: "[T]he idea [for the moving assembly line] came in a general way from the overhead trolley that the Chicago packers use in dressing meat." HENRY FORD, MY LIFE AND WORK: AN AUTOBIOGRAPHY OF HENRY FORD 81 (1922). One of the Ford Motor Company employees, William C. Klann, recalls going to visit the Swift & Co. meatpacking plant in Chicago: "They also killed pigs on conveyors at the Swift Company before Ford ever got them. I know that I went down to Chicago to the slaughterhouse myself. I came back and said, 'If they can kill pigs and cows that way, we can build cars that way and build motors that way.'" Interview by Owen W. Bombard with William C. Klann, Ford Company Employee (Sept. 1955), *available at* http://cdm15889.contentdm.oclc.org/cdm/ref/collection/p15889coll2/id/8167, at 22.

rences.[30] In the Olds plant in Lansing, Michigan, before the Ford Motor Company existed, workers put the "chassis on wooden platforms that had furniture casters underneath so they could be rolled from one work area to another."[31] Similar developments were taking place in other companies as well, including the E-M-F Company and the Brush Motor Car Company.[32] Workers from one company changed jobs, carrying the ideas, methods, and knowledge to other companies. Ford's corporation added a tweak—mechanization of the process of moving the line from station to station.[33] It wasn't long before other automobile manufacturers were copying the process, which had not itself been commodified.

The tweaking did not stop with mechanization of the assembly line at the Ford Motor Company, nor did the noncommodified movement of this cultural element between corporations. Indeed, the movement of this cultural element spread across political boundaries as the assembly line moved around the globe. Historian David Nye describes the overall process of flow and tweaking: the assembly line "developed rapidly between 1908 and 1913, more slowly from 1914 to 1930, and thereafter at a modest pace until the Japanese reinvented it after World War II and doubled its productivity."[34]

Noncommodified cultural flow between firms, however, is not simply or even primarily a matter of large-scale and visible cultural elements like the assembly line. It happens every day in innumerable ways, as ethnographic research documents. Michael Prentice, who studied a brand-consulting firm in South Korea he called Limelight, observed such continual borrowing and recirculation of documents "sourced from the Internet, provided from current clients, or pulled from the personal collections of employees themselves."[35] One process he dubs "converting," which involves transforming another company's document into one's own by erasing traces of its source. [36] In another process, which Prentice calls "modeling," two documents share a similar visual appearance and even wording, as in the appropriation of a PowerPoint slide.[37]

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30. DAVID E. NYE, AMERICA'S ASSEMBLY LINE 4 (2013).

31. *Id.* at 13.

32. *Id.*

33. *Id.* at 21.

34. *Id.* at 4. *See also* Mark A. Lemley, *The Myth of the Sole Inventor*, 110 MICH. L. REV. 709 (2012).

35. Michael M. Prentice, *Managing Intertextuality: Display and Discipline Across Documents at a Korean Firm*, 3 SIGNS & SOC'Y S70, S77 (2015).

36. *Id.* at S78.

37. *Id.* at S79.

Noncommodified, intercorporate flows shape the internal cultures of corporations that enable them to produce commodities. Because they incur little or no transaction costs, they are the intercorporate version of noncommodified intra-corporate cultural flow that resonates with Coase's conception of the reduction of transaction costs inside the firm. The crucial difference is that they occur between firms, as well as in firms. They lead us to ask a further question beyond that posed by Coase. If market mechanisms produce optimal efficiency, why aren't all intercorporate flows commodified?

We return to the broad insight from Polanyi[38] that markets are embedded within broader cultural milieu. Put in the terminology of this Article, marketplace transactions are one form of cultural flow—commodified flow. Commodified flow of culture would be impossible in the absence of noncommodified flow. It presupposes and depends upon noncommodified flow.

For economics, the intellectual problem posed by noncommodified, intercorporate cultural flow is analogous to the one Coase posed in regard to the firm,[39] but poses a greater challenge. Why does such noncommodified flow occur? The economic answer would be to reduce transaction costs. However, this makes little or no sense. Since a for-profit corporation has an interest in making profit, it should not want its culture to flow freely outside its confines. In fact, many corporations make legal claims to proprietary knowledge, develop non-compete clauses for employee contracts, and the like, all designed to prevent the free flow of culture between firms.[40] So why does it occur? One obvious answer is because it is virtually impossible to stop. Culture exists as culture because of its motion, and its tendency will be to move if there is interest in it unless something prevents that motion. The costs of preventing noncommodified, intercorporate cultural flow would be too high.

The problem for the economist is so great that they ask not why noncommodified flow occurs, but rather why there should be transaction costs in the first place. Why negotiate the flow of culture? The answer they give goes something like this: when the demand for some aspect of culture exceeds the current availability (i.e., supply), a resistance to its free flow appears. Therefore, the supplier can demand something in return for enabling the flow to occur. That something is referred to as the

38. *See* POLANYI, *supra* note 10.

39. Coase, *supra* note 5, at 388.

40. *See generally* ORLY LOBEL, TALENT WANTS TO BE FREE: WHY WE SHOULD LEARN TO LOVE LEAKS, RAIDS, AND FREE RIDING (2013).

price.[41] The economic answer, in turn, suggests for much of culture—indeed, the vast majority of it—supply is plentiful, or at least sufficient to meet all existing demand. Little or no resistance to the cultural flow occurs. Suppliers, therefore, cannot charge a price for it.

Economic reasoning highlights the need to grasp the forces that bring about and inhibit the flow of culture, something to which anthropologists have generally paid insufficient attention. The question of forces is one I will return to, as it is crucial to assessing the nature of the modern for-profit business corporation. What is lacking in the economic idea of the self-contained efficient market is the realization that the market is not self-contained; the market only exists because of the seemingly magical interchange that takes place between it and the broader noncommodified culture in which it is embedded. Corporations do not only reduce transaction costs. They take in noncommodified culture and emit its commodifed doppelganger, and a considerable portion of the noncommodified culture they take in comes from other business enterprises. Corporations are engines for the transformation of culture from one state into another.

IV. CORPORATIONS COPY PRODUCT AS WELL AS PROCESS

In noncommodified B2B cultural flow, some of what gets copied pertains to the production process. This is true of the assembly line.[42] It is true of borrowed document templates.[43] It is true of management techniques and structural arrangements, such as the replication of offices, like "chief executive officer," "chief financial officer," and "chief learning officer." It is true of uniforms or clothing styles, from the older suit-and-tie styles to contemporary informal "hoodie" dress common in Silicon Valley and, increasingly, elsewhere. It is even true of what are often called whole business "cultures," like Apple culture or the culture of Wall Street. All these exemplify cultural flows that enable production of marketable commodities.

However, copying is not confined to the culture that enables production. Copying—albeit often with tweaking, that is, introducing differences—also occurs in the product itself. The computer industry provides numerous examples, as in the recent spread of tablets such as the Apple iPad, the Samsung Galaxy, the Microsoft Surface, and others.

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41. This basic economic reasoning was already laid out by Adam Smith in 1776. *See* SMITH, *supra* note 2, at 64.

42. *See* discussion *supra* Part III.

43. *See* discussion *supra* Part III.

Considerable discussion also surrounds the development of a user-friendly interface on microcomputers involving icons and a mouse. The creation is usually credited to the Xerox corporation.[44] Xerox, however, does not seem to have capitalized on the interface as a marketable commodity, with lawsuits filed subsequently coming to naught.[45] There is some dispute over whether Apple corporation actually copied the interface from Xerox.[46] As in the case of the assembly line, most of our knowledge comes from oral histories and written recollections, and people have stakes in the narratives they tell. Nevertheless, the interface of the original Macintosh computer, which debuted in January of 1984, was available for further copying by others, most importantly by the Microsoft corporation. Microsoft incorporated the Macintosh-style interface into the Windows operating system and shipped the system in November of 1985.

In this instance, as in many others exemplifying the copying of product rather than production process, the copy typically involves a tweak—a modification or difference that makes the copy distinguishable from the original. The extent of copying that goes on, once one begins to study cultural patterns, is impressive. I noticed this in another study I did of changes in SUVs over time.[47] One aspect of that study concerned the grills of the vehicles which, in the auto industry, are considered the "face" or "signature" of the car.[48] At the time my research assistants and I did this study, I was not concerned with noncommodified, intercorporate cultural flow. My focus was on changes in the shape of the grill and headlights. I wanted to know whether those changes were easily detectable by the average person, and I wanted to determine whether claims that a particular vehicle model (resulting from a program revision) was "all new" had a basis in perceptible changes to the vehicle. We asked research subjects to look at and evaluate a series of paired photos of grills with their headlights. They responded to a question about each pair: were the two vehicles associated with the grills (a) same make and same year; (b) same make but different year; (c) different make but same

44. RANDALL E. STROSS, STEVE JOBS AND THE NEXT BIG THING 39–47 (1993).

45. *Id.* at 46.

46. Jef Raskin, *Holes in the Histories*, DIGIBARN COMPUTER MUSEUM, http://www.digibarn.com/friends/jef-raskin/writings/holes.html (last visited Nov. 24, 2015).

47. Greg Urban, Ernest Baskin & Kyung-Nan Koh, *"No Carry-Over Parts": Corporations and the Metaculture of Newness*, 32 SUOMEN ANTROPOLOGI: J. FINNISH ANTHROPOLOGICAL SOC'Y 5, 9 (2007).

48. *Id.* at 11.

year; (d) different make and different year?[49] We determined that the changes were, on average, detectable.[50]

Now, years later, I wondered whether companies borrowed even aesthetic characteristics of the face of the vehicle from one another. I thought companies would likely be attuned to overall aesthetic changes in their surrounds and, hence, to one another. To test this, while working on the present Article, I reanalyzed the data from the earlier grills test. This time, however, I looked at two questions: (1) how similar or different did subjects believe different makes of vehicles (Ford, Jeep, Chevy, and Nissan) of the same year (1994 and 2000, in this case) were from one another; and (2) how would that figure compare with the perceived similarity or difference between 1994 vehicles and those of a different make in the year 2000. If companies never borrowed from one another, we would expect the same year figures to be the same as the cross year figures. Companies would not be paying attention to one another, so it would make no difference whether we looked at similarities or differences within a given year or across half a dozen years. If they were paying attention to one another, however, we would expect them to move in lock step. I found the latter. On a scale of 1-4, where 1 is most similar (i.e., the two looked to be from the same make and same year) and 4 most different (they looked to be of a different make and different year), the cross-year figure produced an average of 3.38. The same-year figure for 1994 was 3.13. The same-year figure for 2000 was 3.06.[51]

Put in qualitative perceptual terms, the shift in grill shape (and, indeed, in overall automobile shape) showed similarities across the various makes over time. The grills and the vehicles themselves were going from more boxy and squared-off to more rounded and smooth. Everyone who was an adult in the 1990s can likely recall this change.

Readers could test these results themselves by searching for internet photos of two 1994 SUVs, such as Jeep Grand Cherokee and Ford Explorer, and then replicating the search for the same makes but in the 2014 model year. If I am correct, the 1994 vehicles should look more like one

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49. *Id.* at 12.

50. *Id.* at 14.

51. This is not the place to undertake full discussion of the reanalysis, which deserves a publication its own. It turned up the intriguing findings that subjects could recognize similarities between vehicles of the same make but different years to a greater extent than the overall cross-year figure would indicate. The perceived similarity between 1994 and 2000 vehicles produced by the same company (for example, the Jeep Grand Cherokee) averaged 2.98. Although it would require further research to substantiate, my intuition is that this is due to actual knowledge of the vehicle lines. The results reported above dealt only with perceived similarities/differences across company lines (for example, Jeep Grand Cherokee with Ford Explorer).

another than their 2014 counterparts. Similarly, the 2014 counterparts will look more like one another than their 1994 counterparts. This occurs despite the apparent continuities in the grills. Hence, culture must be flowing between the companies, such that they stay in lockstep with one another.

V. LAW TURNS A CORPORATION'S CULTURE INTO A COMMODITY

The extent of copying with modification between firms raises a further question: how do firms capture a flow of culture to make it into a commodity capable of commanding a price? In Coben's sustainable preservation project in Bolivia, the capturing involved erecting a fence around the archaeological site.[52] This enabled the local residents to control access to the site and charge admission.[53] Implicit in the example is the assumption that the local community members can control the access. What if people were to force their way onto the site, either by overpowering the guard at the gate or climbing over the fence? There would have to be some way to thwart such intrusions.

In a world without accepted laws governing conduct, the matter becomes a military one. Military force would be needed to thwart unwanted access. However, insofar as visitors to the site acknowledge the right of community members to fence it off, the capture of the cultural flow for purposes of commoditization occurs thanks to the law and to the existence of a governmental apparatus capable of enforcing it. This represents another intrusion of noncommodified cultural flow—in this case, legal culture—into the seemingly self-contained, autonomous market system.

The idea of fencing off applies in metaphorical ways to other aspects of capturing cultural flows. An enclosure takes place, for example, when a pharmaceutical company patents a new drug. Insofar as there is demand for the drug, which is itself the repository of cultural know-how, the drug can command a price. However, with access to modern laboratories, the drug can easily be reverse engineered, so that other companies would be able to produce it without going through the long and expensive period of development and testing. Presumably, those other companies could charge less.

Access to pharmaceuticals became a major national political issue in Brazil in the late 1990s during the AIDS epidemic.[54] In 1996, the Brazilian president "signed a law that made AIDS medication universally

52. *See* discussion *supra* Part II.

53. *See* discussion *supra* Part II.

54. *See* João Biehl, *The Activist State: Global Pharmaceuticals, AIDS, and Citizenship in Brazil*, 22 SOC. TEXT 105 (2004).

available to all registered HIV/AIDS cases."[55] The cost to the state, however, was prohibitive, so Brazil negotiated with foreign pharmaceutical companies to drastically reduce the cost of the medications. The threat that Brazil might authorize domestic manufacture outside patent agreements through reverse engineering greatly influenced these negotiations.[56] In fact, according to a 2001 interview, the director of the Brazilian state's main pharmaceutical company confirmed that the company "had already reverse-engineered two drugs that were under patent protection and that they 'are ready to go into production if the government deems it necessary.'"[57]

From the point of view of cultural flows, what is fascinating is the ease with which the cultural know-how that goes into a pharmaceutical (and, by analogy, other products) can be extracted by reverse engineering. In theory, that free intercorporate flow could lower prices. What prevents a freer flow is the law and the attendant threat of sanctions. Brazil countered this threat by threatening to jump the metaphorical fence built around the pharmaceuticals by patents and agreements. Brazil would suspend obedience to patent law in favor of coping with a national health crisis—a crisis that simultaneously loomed as a national economic crisis owing to the growing expense of imported pharmaceuticals.[58] Brazil in this instance, by threatening to jump the fence, turned itself into what Biehl called an "activist state."[59]

From the perspective of cultural flow, we might say that the "corporation," as construed within the law, is a conceptual fence built around a set of human activities. It is designed to control the outflow of culture to other companies, which contributes to its profit-making, or to the takeover by others of control of its internal cultural processes. To use a different metaphor, it is a kind of membrane, analogous to the layers of lipids and proteins that enclose a cell, which create a semipermeable boundary capable of regulating the relationship between the inside of the cell and the outer environment.

However, by sealing off the product to prevent others from replicating it, the legal corporation simultaneously seals off the culture of the firm and converts that culture into a marketable commodity. The corporation itself, of course, becomes a literal commodity when the corporation is publicly traded, so that its shares can be bought and sold. The ex-

55. *Id.* at 109.
56. *See id.*
57. *Id.* at 115.
58. *See id.* at 112.
59. *Id.* at 115.

change-value of the corporation as captured culture is thus equivalent to its market value in outstanding shares.

One might object that the corporation owns real property, and that the real property is not "culture." However, note that a corporation need not own any real property to have market value. It could rent all of the real property and equipment it needs for the production of its commodities. Yet, that company could still have a determinable market value as a commodity. Furthermore, property—whether real or intellectual—is itself a form of cultural capture. It is the capture of interest in the use of that property. Without broader social interest in the property, if no one wanted to use it, it would cease to be a potential commodity. It would command no price. The market value of a publicly traded corporation reflects the exchange-value of a firm's captured culture. The market value is the price of that captured culture.[60]

VI. CORPORATIONS HARNESS THE FORCE OF INTEREST

I want to turn finally to the concept of interest as a force. And here I have five points to make.

A first point: interest is not the only force (or class of force) affecting the motion of culture. Anthropologists have long understood culture not in terms of interest, but rather in terms of inertia.[61] Culture continues in motion because it has been in motion in the past, as when we acquire a mother tongue because it is the language spoken around us as children. The force of inertia (or more properly momentum), whether of this existential variety or habit, plays a key role in cultural motion.

However, inertial culture is subject to the disruption and decay due to entropic forces, yet another class of force that is at work on the motion of culture. Anthropologists have talked about this force in terms of cultural and linguistic "drift."[62] Linguistic drift results in the accumulation of small changes in speech over time. If speakers of the same language

60. While this is not the place to further develop the notion, I note that the buying and selling of corporations, as well as the exchanges of corporate debt, form part of a layer of cultural circulation. This layer of circulation exists only because of the layer of circulation of commodities that it is about—that is, the value placed on the corporation reflects the perceived value of the captured culture of the corporation. In some ways, therefore, such second level circulations are really part of metaculture—that is, culture that is about other culture. In this case, the meta-to-object relation is between the exchange-value of the corporation (as captured culture) and the exchange-values of commodities (as culture) the corporation produces.

61. GREG URBAN, METACULTURE: HOW CULTURE MOVES THROUGH THE WORLD 15 (2001).

62. *See* EDWARD SAPIR, LANGUAGE: AN INTRODUCTION TO THE STUDY OF SPEECH 157 (1921) (discussing linguistic drift); MELVILLE HERSKOVITS, MAN AND HIS WORKS: THE SCIENCE OF CULTURAL ANTHROPOLOGY 581–85 (1949) (discussing cultural drift).

are isolated from one another, for example by geographical separation preventing contact, the languages gradually diverge. After a couple of thousand years, the languages will become distinct and mutually unintelligible. Cultural drift operates similarly on nonlinguistic aspects of culture.

Still another kind of force is that produced by the circulation of reflective culture; that is, culture that is about other culture, or what I have called "metaculture."[63] For example, in response to the entropic forces that gnaw away at inertial culture, an idea might circulate about the need to preserve tradition. That idea, insofar as people accept it, might motivate them to pass on or replicate the received culture with greater precision than would be possible were inertia alone at work.

So to sum up, in my world view, four principle kinds of force are at work on the motion of culture: inertia, entropy, metaculture, and interest. But it is this last force that concerns me most in connection with corporations, commodities, and exchange-value. Interest in captured culture is what determines the exchange-value of that culture. As I have already indicated, price measures that interest.

A second point: interest is the force underlying the law of supply and demand. The law in microeconomics posits that an increase in demand without a corresponding increase in supply results in an increase in price. Similarly, a decrease in demand without a corresponding decrease in supply results in a decrease in price. Analogously, if demand remains constant and supply increases, the price drops; if demand remains constant and supply decreases, price goes up. Here "demand" could be replaced by the word "interest," in the sense I have been using it as a force impelling the motion or flow of culture.

A third point: not all culture moved by the force of interest is commodified. For example, certain personal names in the United States may become especially popular for a period of time. An interest develops in those names though the names are not converted directly into commodities. Words similarly may rise and fall in popularity if propelled by interest. One need only think of in-group marking words, for example, in my youth the word "groovy." While it had its origins in jazz subculture, it became popular and widely used in the 1960s, fading out and largely disappearing by the 1980s. The phenomenon of the "trending" hashtag in Twitter, Instagram, and Facebook—that is, the rise in use of that subject area designation—appears to be similarly driven by interest though there is no price directly attached to it.

63. URBAN, *supra* note 61.

A fourth point: if a flow of culture driven by interest can be captured, the captured flow can be commodified. Corporations are built around such captured flows. In fact, corporations are, we might say, engines for the transformation of noncommodified cultural flows into commodified flows. In the case of social media, like Twitter, such capture is achieved by tracking the usage patterns of individual users. People want to use the site, so they freely give away their usage patterns. Those patterns are then Twitter's property and can, in turn, be sold to advertisers. For example, if a user's patterns suggest an interest in tennis, Twitter can sell that information to someone who markets tennis equipment, enabling them to place ads through tweets that will make them visible to those users.

And a final, fifth point: the force of interest in specific elements of culture tends to be self-extinguishing, so that interest rises and then falls off again. However, the time scale for such rises and falls varies enormously with the particular kind of cultural element and its use-value within broader cultural processes. In the case of songs on the pop charts I have studied, the rise and fall is typically in weeks, as in the chart of one popular song shown in Figure 1:

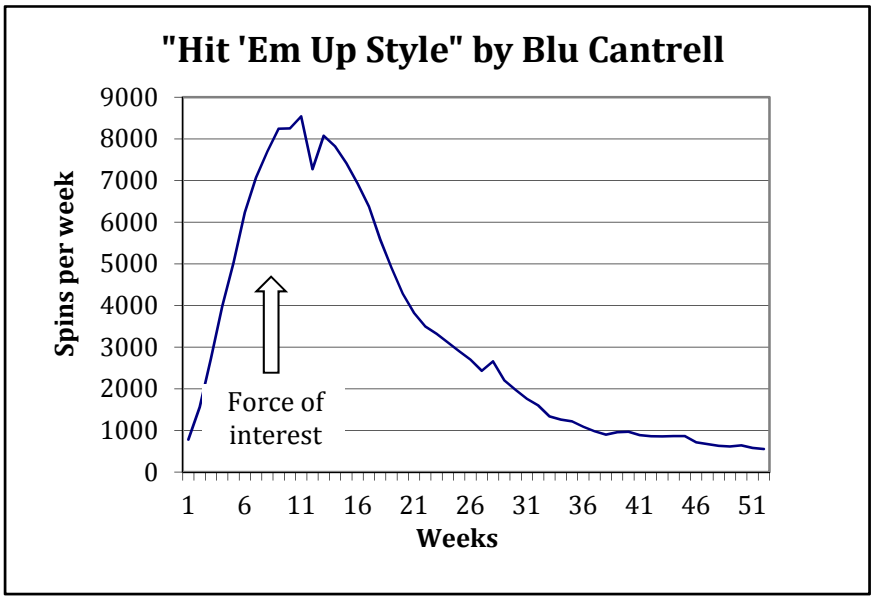

Figure 1: Graph showing the number of spins per week of one song on the pop chart. Each spin is one play of the song on one radio station in the United States. The chart shows the rise and fall of interest in the song over time, in this case, weeks.[64]

In the case of personal given names in the United States, the curves seem to take place over a timeline measured in years to decades. Figure 2 shows the chart of the name Jessica which, according to U.S. Social Security information, was the most popular girl's name during the 1990s. Prior to 1970, it did not make the list of the top 100 girl baby names in the United States. In 1970, it was the 98th most popular name. It gradually rose in popularity, achieving number one position in 1985. Its last year as number one was 1995, after which it began to decline in popularity, dropping to 92nd place in 2010. It was not among the top 100 in 2014.

64. Urban, *supra* note 17, at 133.

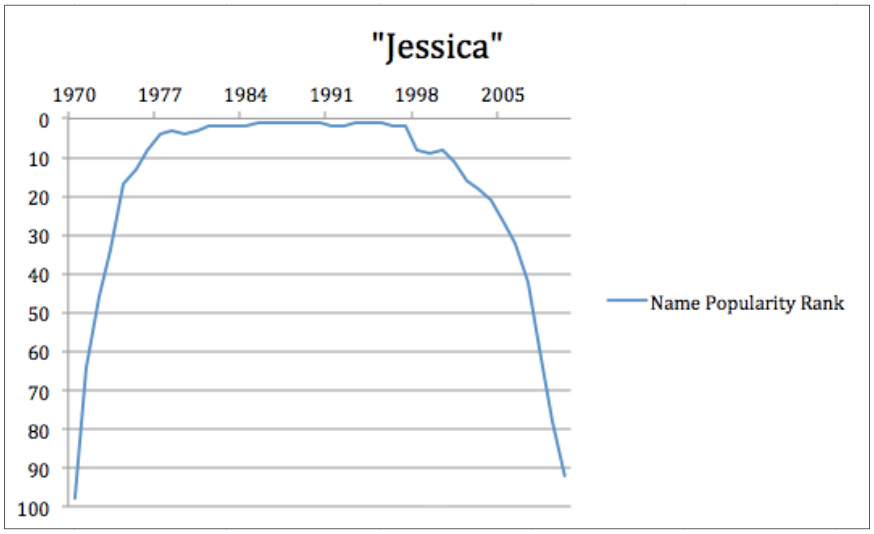

Figure 2: Popularity rank of one personal given name in the United States. The curve maps the rise and fall of interest in this name.[65]

In the case of world oil production, we probably have not yet seen the peak, and new methods of extraction like fracking are causing some analysts to revise their long-term estimates. Nevertheless, according to peak oil theory, production worldwide will peak this century and begin to decline, the trajectory of production marking a distinctive age of "hydro-carbon man."[66] Some of the scenarios are shown in Figure 3.

65. This chart was created from data found at *Popular Baby Names*, SOC. SEC. ADMIN., https://www.ssa.gov/OACT/babynames/index.html (last visited Nov. 24, 2015).

66. DANIEL YERGIN, THE PRIZE: THE EPIC QUEST FOR OIL, MONEY, AND POWER 523 (2008).

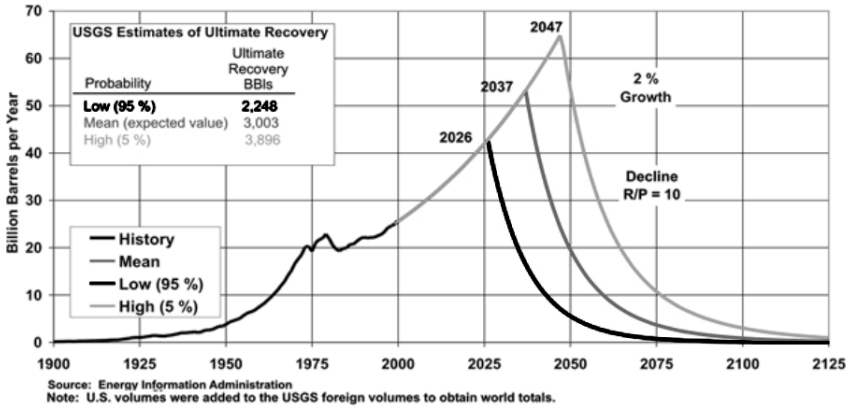

Figure 3: Past and projected future petroleum production, reflecting world-wide interest in this commodity. The rise in interest in oil is well-documented; its future decline is predicted.[67]

The chart does not track interest in oil, only the prevalence of oil in ongoing world cultural activities. The prediction is that the prevalence will decrease in the future. It is likely that, as alternative energy sources become more widely used, geologically extracted oil will hold less interest, though the exact mapping of interest or prevalence depends on innumerable factors that cannot be foreseen. Whether oil exhibits curves similar to those of songs and names over a longer period of time remains speculative, but we might note that, in terms of the general theory, interest in oil ought to decline as alternative energy sources come into prominence, with the broader cultural environment of use-values shifting. Of course, even if fossil fuels are completely eliminated from their role in energy production, alternative cultural uses might help to maintain or renew them. We are reminded here of what happened to whale oil during the nineteenth century, as it rose in prevalence and then was gradually eclipsed by the production of fossil fuel (see Figure 4).

67. John H. Wood et al., *Long-Term World Oil Supply Scenarios: The Future Is Neither as Bleak or Rosy as Some Assert*, ENERGY INFO. ADMIN. (Aug. 18, 2004), http://www.eia.gov/pub/oil_gas/petroleum/feature_articles/2004/worldoilsupply/pdf/itwos04.pdf.

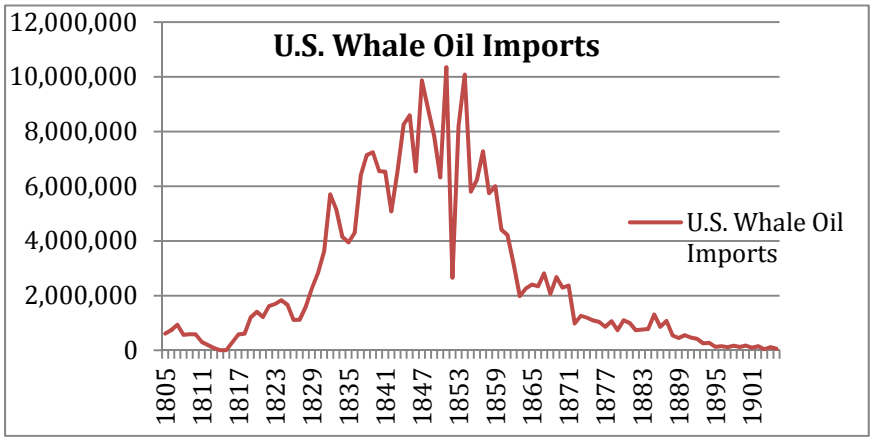

Figure 4: U.S. whale oil imports in gallons during the nineteenth century. Both the rise and the fall of interest in whale oil are documented. The timeline here spans a century.[68]

While petroleum exhibits a comparatively long-term interest curve (if such an interest curve indeed takes shape in the future), and songs on the pop charts show comparatively short-term interest curves, the new media trend curves can be much shorter, with trends emerging in minutes, hours, and days, and sometimes lasting not much longer.

VII. CORPORATIONS MAINTAIN CAPTURE BY TWEAKING

An entrepreneur desiring to capture freely flowing culture that is impelled by interest is on the lookout for signs of rising interest. As one restaurant entrepreneur described it, "I'm always trying to figure out what the next new concept will be. I've opened up about nine different restaurant concepts for different people. So I've always tried to just be looking around, see what's going on."[69] The force of interest is greatest in the early phases of the curves I have been describing. That is when significant profit can be made. However, the entrepreneur has to be sensitive to the possibility that the dissemination of culture has peaked and that interest is declining significantly. This is how the same restaurant entrepreneur described it: "Well what I saw more and more were famous-name chefs getting into it. And once that happens then you know you've missed the boat, because that means it's gone mainstream. Once

68. This chart was created from data found in WALTER S. TOWER, A HISTORY OF THE AMERICAN WHALE FISHERY (1907).

69. Interview by Abby Graham, Research Assistant, with Philadelphia-area Restaurateur (Apr. 8, 2015).

famous names start jumping on the bandwagon, you can't compete at that level."[70] Particularly relevant here is his sensitivity to the interest curve, figuring out when some aspect of the restaurant business is on the rise, making the entrepreneurial intervention possible, and, when it has peaked, making intervention at that time unlikely to succeed.

It is by no means only in the restaurant business that we find sensitivity to changes in interest. As mentioned earlier, SUV manufacturers periodically (typically 5–8 years) introduce program revisions, which result in significant changes to the vehicle, including the grill and headlights—the vehicle's "face."[71] In the case of the Jeep Grand Cherokee, three significant program revisions have occurred since the vehicle line was introduced in 1992. "All-new Jeep Grand Cherokees" appeared in 1999, 2005, and 2011.[72] Why? The answer is that companies are able to see or predict that the sales curve on their vehicle line is about to peak and turn down, as in the example of the Jeep Grand Cherokee during the 1990s illustrated in Figure 5 below. Companies count on program revisions—or "tweaks" to existing cultural flows—to rekindle interest. As Figure 5 shows, the tweak seems to have been accompanied by an increase in sales in the case of the Jeep Grand Cherokee. Having dropped substantially between 1996 and 1998, sales went up in 1999, when the "all-new Jeep Grand Cherokee" appeared. As the graph shows, these changes were independent of the overall trends in sales of SUVs.

70. *Id.*

71. Urban, Baskin & Koh, *supra* note 47, at 11.

72. *Jeep Grand Cherokee*, WIKIPEDIA, https://en.wikipedia.org/wiki/Jeep_Grand_Cherokee (last updated Oct. 3, 2015).

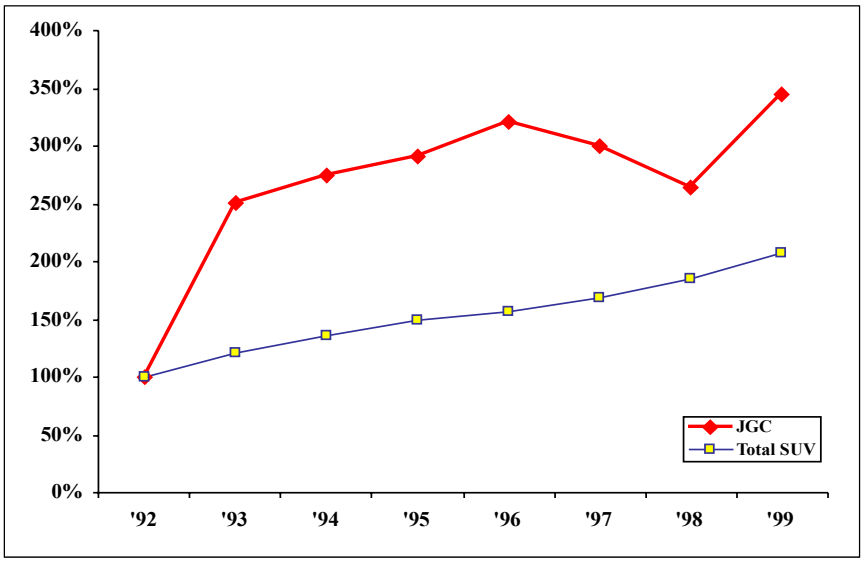

Figure 5: Sales of Jeep Grand Cherokee in relation to overall mid-range SUV sales; the "all new" Cherokee, the result of a significant program revision, was introduced in 1999, with a corresponding uptick in sales. Automobile manufacturers must be sensitive to rises and falls in interest over time, in this case, years.[73]

Capture is maintained not only by tweaks to the product, but also perpetuated by tweaks to the production process and, in particular, by those that enable a firm to sell the same or a comparable product more cheaply. On the one side, price responds to shifts in interest within consumer or use culture. On the other, it responds to shifts in production culture, as when Ford Motor Company introduced the moving assembly line. This enabled the company to sell its vehicles more cheaply than its competitors could, such that consumer interest shifted to its products. As would be anticipated from microeconomic principles, Ford came to dominate the market from 1915 until 1927 thanks to significant tweaks in its production culture, notably, as discussed earlier, the moving assembly line.[74]

Production cost reduction as a method for increasing sales—which are dampened by higher prices, increased by lower prices—is capable of

73. This chart was created from data found in AUTOMOTIVE NEWS: MARKET DATA BOOKS (Marketing Services Inc.) (using 1993–2015 books) and WARD'S MOTOR VEHICLES FACTS AND FIGURES (Ward's Communications) (using 1999–2014 books).

74. *See* discussion *supra* Part III.

acting, in turn, as a force that drives down wages. Observation of this process, in fact, led Marx to theorize exploitation of labor as the fundamental principle of the capitalist system.

However, as the Ford Motor Company discovered, reduction in production cost is not the only way to capture value. After GM reorganized under the leadership of Pierre S. du Pont and Alfred P. Sloan,[75] rather than lowering prices and offering only one color option like Ford, GM raised prices and introduced a variety of options, including color.[76] Moreover, around 1927, GM introduced the idea of an "annual model change," thus ushering in an era of planned obsolescence and perpetual tweaking.[77] As Figure 6 illustrates, GM overtook Ford in sales within a year and continued to dominate. Ford was forced to abandon its Model T and begin its own process of tweaking in order to keep up.

75. ALFRED D. CHANDLER, JR. & STEPHEN SALSBURY, PIERRE S. DU PONT AND THE MAKING OF THE MODERN CORPORATION: 1921 (1971); *see also* ARTHUR J. KUHN, GM PASSES FORD, 1918–1938: DESIGNING THE GENERAL MOTORS PERFORMANCE-CONTROL SYSTEM (1986).

76. Ford's celebrated quip was: "Any customer can have a car painted any colour that he wants so long as it is black." FORD, *supra* note 29, at 52.

77. *But see* Daniel M. G. Raff, *Making Cars and Making Money in the Interwar Automobile Industry: Economies of Scale and Scope and the Manufacturing Behind the Marketing*, 65 BUS. HIST. REV. 721 (1991) (discussing the relative importance of the annual model change to GM's success).

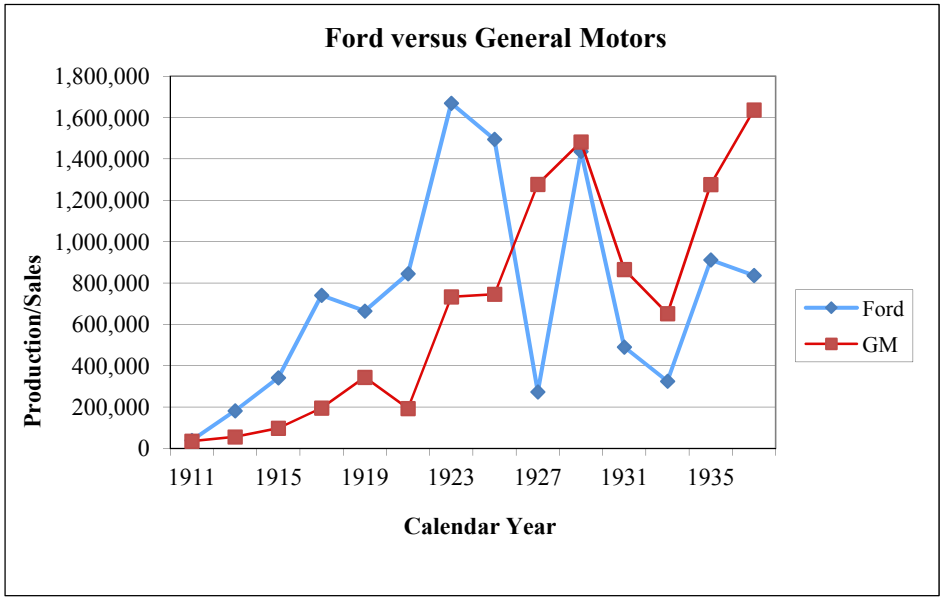

Figure 6: Ford had dominated the automobile market from 1918 until 1927, when GM introduced its policy of releasing new models every year. That year, GM surpassed Ford in sales. Figures from 1911–1921 represent production; 1923–1937 figures represent sales.[78]

At least in the case of the automobile industry, tweaking has been a means of maintaining capture for over one hundred years, and this seems to be true in many industries. The tweak in production is not the only way to maintain capture, as noted earlier. In banking, as well as businesses relying on brand loyalty, perpetuating social networks is critical, though this is often accompanied by tweaking, as in the case of the proliferation of financial instruments on Wall Street.[79] Of course, legal capture—through patent, copyright, trademark, license, etc.—is significant, especially in the United States. However, as I have argued, it can rarely, if ever, be the sole or even primary basis of maintenance of capture, since interest itself tends to shift over time. For a corporation to make a profit, it must pay attention to the vicissitudes of interest. The tweak is the principal way it responds to interest shifts.

78. This chart was created from data found in ALFRED D. CHANDLER, JR., GIANT ENTERPRISE: FORD, GENERAL MOTORS, AND THE AUTOMOBILE INDUSTRY 3 (1964).

79. *See* discussion *supra* Part I.

CONCLUSIONS

One principal conclusion of this paper is that modern for-profit corporations are engines for the transformation of noncommodified culture into commodities. Far from self-contained, the market depends upon noncommodified culture. Where a stream of culture flows freely thanks to existing interest in it, there is a potential for capturing that flow and making a profit. Insofar as production of the commodity out of noncommodified culture requires the efforts of a group, the corporation—in the anthropological sense of that term—is the principal means of capture. It not only takes from the broader culture but also from other corporations. In the latter case, it may borrow freely flowing culture but also engage in market transactions with those other firms. Figure 7 represents this process below.

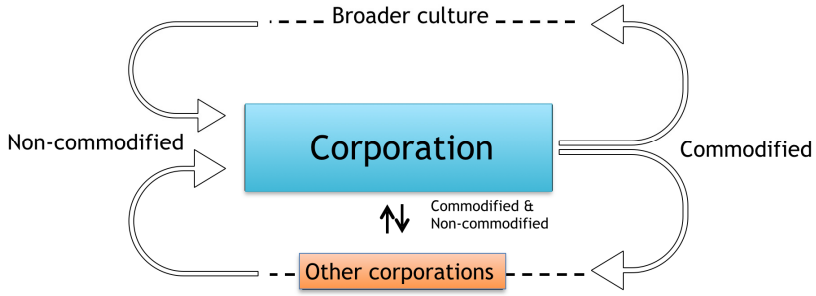

Figure 7: Model of corporations within the flow of culture, emphasizing noncommodified cultural inputs to commodified cultural outputs.

A second major conclusion of this paper is that the corporation as social group, that is, the anthropological corporation, is the bearer of a productive culture that makes possible the creation of commodities. It is not abstract labor-time, as Marx would have it, but human activity directed by a specific productive culture that results in the fabrication of commodities. Productive culture adds value to the factors of production (land, labor, and capital) and, indeed, it is what enables the creation of commodities. Without a productive culture, the factors would remain disorganized, inert, and incapable of producing commodities. The commodity, looked at in this way, is not so much congealed labor as it is congealed culture—the productive culture of the firm, as well as the culture of the broader social world out of which the corporation took shape. It is the result of know-how accumulated over short time frames (from

days to decades) characteristic of business corporations, and over the long-term periods (decades to millennia) characteristic of civilization.

In this regard, it is important to distinguish the anthropological corporation from the legal corporation. The former is a social group characterized by an at least somewhat distinctive culture. The latter is the paper corporation that exists by virtue of state recognition.[80] It is a metaphorical fence drawn around an anthropological corporation, with its productive culture. The primary effect of this metaphorical fence has been to turn the anthropological corporation into a commodity that can be bought and sold.

However, the legal corporate form is also used for purposes other than valuing the genuinely productive culture of the anthropological corporation, as in the case of the "shell corporation"—a legal entity used for business transactions, though it designates no productive culture in the sense of this Article. Shell corporations are best known for the abusive practices with which they are associated, such as money laundering and tax evasion. The legal corporation can also be used to group together genuine anthropological corporations that are not themselves intrinsically related, as in the case of the conglomerate, the social benefits of which are often not readily apparent. A third conclusion of this paper is thus that to adequately assess the role of corporations in society, we would be wise to distinguish between their legal and anthropological incarnations.

And, finally, a fourth conclusion: while the corporation resembles that traditional object of anthropological interest, the local community or tribe, with its characteristic culture and social activities, the modern for-profit corporation is a special and, in many ways, peculiar entity. It is a node in the broader flow of culture, a node into which freely flowing culture enters from the broader world, including the noncommodified culture of other corporations, along with commodities purchased from those other corporations; and out of which flows commodities, some of which, at least, have important use-values in the broader social world beyond the world of corporations.

It is true that the more we have learned about isolated communities, the more we have come to appreciate that they too participate in broader patterns of cultural motion. However, the modern for-profit corporation exists principally for the purpose of participating in that motion. The local community is concerned, first and foremost, not with the broader flow but with the survival and well-being of its members. In some cases

80. The legal corporation is what I would call a metacultural construct, the result of reflection upon culturally-guided social processes, where the reflection itself gets codified in language.

that survival may move the community to wall itself off from outside culture, as has happened in the case of many isolated indigenous communities when confronted by European expansion over the past more than five hundred years. Business corporations too become concerned with the survival and well-being of their members, whether construed narrowly as shareholders or more broadly as stakeholders. However, self-sufficiency is never an option. Businesses exist in order to participate in and contribute to the broader flow. Without that flow, they die. The flow of culture is what keeps them alive, and they in turn flourish, whatever harm they may do along the way, only if they keep that flow alive.[81]

81. Interestingly, as much recent anthropological research has shown, many tribal populations have been registering as legal corporations in order to flourish in a market-driven world. *See, e.g.*, JOHN L. COMAROFF & JEAN COMAROFF, ETHNICITY, INC. (2009).