



David S. Allen. *Democracy, Inc. The Press and Law in the Corporate Rationalization of the Public Sphere*. Urbana and Chicago: University of Illinois Press, 2005. xi + 200 pp. \$30.00 (cloth), ISBN 978-0-252-02975-2.

Reviewed by Arthur L. Morin (Fort Hays State University)

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A Champion of the Public Sphere

Discourse democracy requires a public sphere—opportunities and places for people to meet as citizens who hope to exercise a genuine voice, to genuinely listen to others, and to discuss matters of public concern, with the intent of finding what they have in common, and then, either directly or through public agents, acting upon that common sense. Allen’s lament is that we need discourse democracy but do not have it. “Corporate rationalization” (p. 2) is blamed for the absence of discourse democracy.

For Allen, “corporate rationalization” has two related meanings. One definition is a bundle or complex of values and beliefs that give rise to certain kinds of processes and structures, which includes but is not limited to: efficiency as opposed to justice; “scientific reasoning” (p. 2); individualism; the importance of winning; and the importance of expertise. This “voice” is achieved primarily through the market. The second definition is the particular form that this bundle of values and beliefs has taken—namely, the corporation. Corporations, by their very existence, are advocates of corporate rationalization. Additionally, corporations intentionally champion these values and beliefs. The rise of the corporate form is in part due to the impact that this bundle of values and beliefs has had on American culture and society: corporations are a manifestation, and a particularly successful reification, of this bundle of values (and others such as hierarchy, division of labor, and specialization, which are organizational articulations of expertise—Allen is aware of this). Allen focuses his analysis specifically on the law and the media for three reasons: first, both are what could be called keystone sectors of the society because of their effect on the public sphere; second, because they clearly illustrate the effect of “corporate rationalization”; and third, because of the manner in which the two have intersected in American politics.

In chapter 1 Allen weaves together several strands that helped create the tapestry that became “corporate

rationalization.” Allen points out that legislatures moved from chartering corporations on an ad hoc basis to passing legislation that provided general rules for incorporation. The Supreme Court moved from recognizing “contract clause protection” (p. 17) to recognizing “corporate personhood” (p. 18). Corporations began assuming not just narrow economic roles, but roles as providers of recreation and culture. Atomization—present in both Taylorism and Fordism—helped create an environment where individualism, rather than collective action, was encouraged. From Allen’s point of view, corporations were able to adopt and adapt where necessary or advantageous.

The professionalization of initiative movements is another of Allen’s examples of the corporate rationalization of politics. The Supreme Court has, as Allen notes, recognized the rights of corporations to speak out on policy issues. Allen points out that looking at First Amendment rights from an individualistic perspective, as the Court has done, underestimates and undervalues the importance of understanding the First Amendment from a community point of view. Encompassing human activity within the boundaries of corporate rationalism places a primary value on rationalization, which in corporations is achieved through bureaucratization, specialization, and the division of labor. Corporations are not created for the purpose of fostering democracy within their workplaces.

The importance of community is undervalued in another way, according to Allen: quasi-public spaces have been removed from the public sphere. Allen implicitly defines places where groups of people tend to congregate as public places, which—he thinks—should be more rather than less open to expression of differing viewpoints. Allen points out that mall owners are given the right to articulate and control the use and meaning of the space on and within the mall site. The public is not allowed to use the space to create its own meaning;

it is enticed to “buy into” the specific meaning and relation the owner or manager wishes to impose on the space. This pushes the social experience of the mall from a political/community experience to an economic, “imposed meaning” experience. Allen believes that the public sphere is further adumbrated by the Court’s application of property rights and public interest to public parks, roadside rest stops, and parades—where those who control the property get to impose meaning on how it is used, thus cutting off alternative points of view.

Property rights and the market place are highly valued in American culture and politics. Allen essentially argues that the metaphor of the marketplace has become a metaphor that is applied to all aspects of our society. From Allen’s perspective the market is about getting and winning. What is needed, instead, is space in which individuals who genuinely want to make community meaning and hear how others would articulate community meaning can gather. For Allen, discourse democracy is predicated upon the belief that individuals participating in such a gathering can reach a general agreement about specific and general ideas of the means and ends of the community. This sense of agreement would then be conveyed to the political sector, which would undertake the responsibility of authoritative implementation of the will of the people.

The idea that any citizen can and ought to participate in the public sphere appeals to the American sense of equality and democracy, both of which to some degree are in tension with professionalization. The impetus toward and the practice of professionalism in journalism has, Allen argues, turned the press into watchdogs, stewards, and spokespersons for the public. The press became an institutional counterbalance to the power of government, but one consequence Allen sees is that the public was and is treated as spectators of the press-government conflict. Allen concludes that both the press and the public are removed from the public sphere: the press because it tells rather than participates in the creating of meaning, the public because it watches.

Allen argues that the ways in which the law was professionalized also weakened the public sphere. Increased professionalization, the effort to regularize and rationalize the law, and the importance of efficiency, moved the law toward “management” and away from the public sphere. Additionally, corporations became important actors in the law, both as a way to provide legal representation and as a target for legal action.

This brings us back to the history of the legal rights of corporations. According to Allen, until the emergence

of social-regulatory law, the rights of corporations were at least in part protected by focusing on the property right of corporations. While property rights are still recognized by the courts, the relative importance of First Amendment rights has increased. Returning to the idea of “corporate personhood”: an important element in the evolution of constitutional law regarding corporations is the notion that corporations are legal individuals. Just as you and I have constitutional rights, so also do corporations *qua* individuals. The problem, of course, is that corporations have access to much greater wealth than either you or me, so corporations become unequal players in society and politics. Allen considers four possible solutions and recommends that more rights be granted to organizations that are not profit-oriented and are not oriented toward separating out or differentiating individuals but serve a public sphere purpose.

Allen argues that the law and the media intersected in a way that worked against the public sphere. One aspect of his argument here is his examination of “privilege cases” (the notion that a newsperson can protect his or her source). Allen builds an examination of “privilege cases” (p. 84) in criminal law at the appellate court level over a 106-year period leading to the 1972 Supreme Court case *Branzburg v. Hayes*. Whether subsequent cases followed the “management model” or the “press model” (p. 94), the result was the same: courts saw an inactive public (Allen even argues that the Court essentially insisted on an inactive public) and argued over which institution—the courts or the press—best served the people. As a result, the role of the public *qua* primary actor is marginalized.

What to do? Allen provides several suggestions, including the following. First, reduce the power of large corporations by taking your business to local merchants. Second, reduce the impetus toward standardization and efficiency by making sure you talk to a person when you call a business on the phone. Third, within the area of constitutional law, shift emphasis from negative rights to positive rights. Fourth, redefine the mission of the press: the press should create, facilitate, and protect the public sphere. Fifth, increase diversity of content in the media. Sixth, “democratize public spaces” (p. 158) but not malls, because of the economic purpose for which malls are created. And seventh, citizens should “tolerate the types of expression that seek understanding and hope to engage in reasoned discourse” (p. 159). Allen would also like to see the current corporate form eliminated, though he believes that the pursuit of this option is not realistic in today’s world.

What I find a bit paradoxical is that when in the last

chapter Allen provides several suggestions, he first considers recommendations for the institutional actors and dedicates much more space to that than he does to addressing citizen responsibility. This strikes me as paradoxical because it effectively places more responsibility on institutions—when what he is hoping for is a public sphere relatively if not completely free of unequal power relations.

In my view, Allen's analysis places just a bit too much of the blame for corporate rationalization on corporations when, it seems to me, more of the blame needs to rest on the individuals and the society who have placed such importance on the bundle of values. This is a matter of degree, to be sure—but if determining causality is important, then it would also seem important to discern how much of the impetus toward “corporate rationalization” is due to corporations and how much is due to the importance of the bundle of values and beliefs to society and individuals in it. Certainly both are involved, but—to reiterate my complaint—it seems to me that Allen puts a bit too much emphasis on the former.

I do not mean to underestimate the influence of corporations on public policy. We could add to Allen's critique by pointing to corporate-sponsored and corporate-friendly law firms ostensibly working in the public interest; and corporate-sponsored and corporate-friendly citizen groups.[1] The foregoing list is of course not exhaustive; clearly corporations exert influence.

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Allen's analysis falls short in another way as well. In order to get a fair view of the impact of “corporate rationalization” on the public sphere, we should compare its impact with the impact of other, countervailing (bundles of) values and beliefs. Based solely on Allen's analysis, we gain an insufficient glimpse of how other values and beliefs have offset or run counter to the impact of corporate rationalization.

One matter is very clear: much of the social, cultural, and political impetus in the contemporary American scene is to pull people apart, to be concerned with winning, and to take an individualistic approach to life. Thus, Allen's desire to find ways for us to engage in discourse in order to find what we have in common is not only understandable, it is laudable. From an optimistic viewpoint, perhaps we are in the very early stages of an effort to re-establish or strengthen the public sphere, as illustrated by e-democracy and other efforts. And perhaps each of us can take the small step of every day finding what we have in common with those around us, and through “small talk” begin to build and strengthen the public sphere.

Note

[1]. David C. Korten. *When Corporations Rule the World*, 2nd ed. (San Francisco: Berrett-Koehler Publishers, Inc. and Bloomfield, Connecticut: Kumarian Press, Inc., 2001), pp. 144-147.