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Organization Studies and the Legal Person

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Abstract: The social construction of legal persons developed in the Western world about one thousand years ago has historically influenced the construction of organizations, including monasteries, guilds, cities, universities, states, associations, and businesses. Yet the notion of legal person was not present in influential, early definitions of organizations; rather organizations were understood as systems of interacting physical persons. This understanding is problematic in several respects, whereas the notion of legal person helps to explain many fundamental characteristics of organizations. Furthermore, a definition of organizations inspired by the notion of legal person makes it easier to distinguish clearly among the three phenomena that constitute the main objects of organization studies: organizations, organizing, and the organized. A clearer distinction among three concepts has the potential to revive old questions and generate new questions for organizational research.

Keywords: legal person; definition of organization; actorhood; partial organization; organizing: the organized

Organizations, organizing, and the organized are the central concepts in the field of organization studies: a noun, a verb, and a participle that can be used as an adjective. Yet although the field has become a major scientific endeavour (as evidenced by the number of scholars, students, and publications that have emerged over the past 50 years), there is little agreement about the meaning of these fundamental concepts. What is more, they are seldom defined or discussed; rather, it is taken for granted in most texts that readers will understand the meaning of each of these terms in the same way the authors did. The term ‘organization’ can be and is used for referring to such entities as firms or associations, to the act of organizing, and to something organized – which is bound to lead to confusion if the authors do not specify the meaning they want to evoke. Similarly, spatial metaphors such as ‘in an organization’ or ‘organizational environment’ are frequently used but seldom explained precisely.

In recent years, some organization scholars have argued that the social phenomenon of organizations and the noun ‘organization’ have been gradually lost or

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dissolved in organization studies in favour of the verb ‘organizing’ or in favour of phenomena or concepts that are not organizational at all. The noun ‘organization’, the core concept of organization studies, should be reinstalled as the centre (du Gay 2020; Lopdrup-Hjorth 2015). But that project would demand careful definitions of the concept of organization and precise specifications of the characteristics of organizations in order to distinguish them from other social phenomena and render them worthy of special scientific inquiry – even worthy of a discipline of their own.

Although usually not defined, the terms ‘organization’ or ‘organizations’ are used ubiquitously in the field for referring to an entity in social life – an entity with a name, an entity that can take action, interact with others, and be responsible for its actions – a social fact (Searle 1995) of which people outside the academy are also aware. These are all characteristics of legal persons, entities that are abundant in contemporary society in the form of states, business corporations, associations, and foundations. Although they have occupied the most common empirical ground for organization studies, the idea of a legal person has played a remarkably modest role in discussions within the area (Veldman and Willmott 2022), especially in discussions about the meaning of the concept of organization. One reason may be that early, now-classic treatments of organizations avoided the concept of legal person when defining and describing them. Early authors wrote about organizations and gave examples of entities that they called organizations, but their understanding and definitions stand out in two ways: they were preoccupied with discussing physical (natural) persons rather than legal persons, and they confused the concept of organization with the concepts of organizing and the organized, generating consequences that extend to the present.

In this essay, I argue that it would be useful to distinguish more clearly among the concepts of organization, organizing, and the organized, and that the idea of the legal person can help us to define the concept of organization more clearly and separate this concept from the others. I begin by describing how the phenomenon of organization was defined in the highly influential works of Barnard (1938) and March and Simon (1958) and discuss some problems with their definitions. I then suggest how these authors’ understanding of organizations could have been different if they had taken legal persons rather than physical persons as the starting point for their analyses. The concept of a legal person would have provided solutions for some of the problems that their definition has created. What is more, it would have explained some fundamental properties of organizations. During the last few decades, the idea of legal person seems to have become even more relevant than it was 70 or 80 years ago. Even organizations with no such legal status are now constructed in a way similar to that of legal persons. This development provides an opportunity to define organization in a new way, as a legal-person-like entity. This concept of organization makes it easier to distinguish the concept of organization from the concepts of
organizing and the organized. Clearer definitions and distinctions of all three concepts have the potential to revive old questions and generate new questions for organizational research and render organization studies more relevant in the eyes of scholars from other disciplines.

1 The Legal Person and the Organization Theory Tradition

The social construction of the legal person is one of the most salient social innovations ever devised. It has had a profound impact on the development and present state of the western world. The idea builds on Roman law about entities called *universitas* (united, turned into one) and was revived in Europe about a thousand years ago during the high middle ages, when it came to be referred to as a *persona ficta* – a person other than physical persons but with similar characteristics and rights.

A legal person was and still is an imagined entity that is seen and treated in several respects as having the same capabilities in relation to others as does a physical person. It has a name, and it is possible to contact and address it. Like a physical person, a legal person can own property and sell and buy property. It can make contracts with other physical or legal persons. A legal person has a degree of autonomy and sovereignty – a jurisdiction in which it can set its own rules. It can be a party in court and is responsible for its own actions.

As early as the 11th century, the church began to construct some of its subunits as legal persons. For example, by seeing its monasteries not as collections of people, but as persons in their own right, it could distinguish the property of a monastery from the property of the monks and nuns inhabiting the premises. The monastery could receive donations and become rich, while the monks and nuns remained poor, in line with their calling.

By the 13th century, the concept of legal person had spread into many areas. Not only had monasteries, bishoprics, and other units of the church become legal persons; also universities, guilds, and towns came to be treated as separate entities and actors (Ciepley 2024). The idea of a legal person was also used for defining the concept of a state as a unit, with property that was separate from the property of the king – ‘the Crown’ and the king were not identical (Kantorowicz 1997). This understanding of states is still valid and serves as a basis for the present system of international relations.

Later, the idea of legal person spread to economic life via new forms for arranging long-distance trade, such as the one invented by the Dutch East India
Company in the late 17th century (Micklethwait and Wooldridge 2005). The modern business corporation (corporation is another word for legal person) was formed in the 19th century, revolutionizing capitalism by transferring the ownership of large resources from capitalists to legal persons (Ciepley 2013). Like physical or other legal persons, these corporations have no owners; they cannot be owned yet can be partly controlled via the ownership of a financial instrument, called ‘stock’, which gives the right to elect all or most of the members of the board of the corporation. The point of creating the legal form of the business corporation is often explained in terms of its effects on the physical persons, the capitalists, who are seen as having ‘limited liability’. They remain liable for their own debts but not, of course, for the debts of the corporation – a side effect of their having transferred ownership of property to the corporation. There was another effect that is key: the introduction of the idea of legal persons within the economic sphere allows legal persons to be active as sellers and buyers in markets, while still allowing ownership to provide power. But the important thing to own now is stock rather than physical assets.

Business corporations became common in the 19th century and are now ubiquitous. Independent of the mortality of individual capitalists, many of these corporations are able to concentrate large resources and keep them for long time. The 19th century also saw a great expansion of associations based upon social movements, such as unions, churches, and temperance associations. Such associations still form a substantial part of social life and are often treated as legal persons. Furthermore, many associations with members who are legal persons rather than individuals – meta-organizations – have been created, and those with international reach have increased in number substantially since World War II (Boli and Thomas 1999). Taken together, all these legal persons, particularly states and business corporations, own most of the resources on this earth and have long since passed virtually any physical person in wealth and power. Their effects on the life of physical persons is difficult to overestimate (Coleman 1982).

Given the immense number and salience of legal persons in contemporary western societies, one could expect that legal persons would have given rise to a social science discipline of their own. And that discipline could well have been the one that is now called organization studies. At least, one might expect that early writers on organizations would have integrated or at least commented on the existence of legal persons in some way, in their efforts to understand what an organization is or can be. But they did not. In fact, the early, fundamental work that came to define much of the field was all about physical rather than legal persons. And an understanding of organizations as comprising physical rather than legal persons remains dominant in organization studies. In spite of all the empirical studies of legal persons, and although organizational scholars have sometimes discussed the concept
of legal person (Meyer, Leixnering, and Veldman 2022b), this concept has had little impact on the way organizations are understood and defined.

It is common to identify early 20th century writers, such as Weber (1922/1947), Taylor (1911/1998), and Fayol (1918/1999), as pioneers of organization studies, but they were primarily interested in ‘organizing’ (the verb) and less interested in defining organization (the noun). The emphasis was on the way a bureaucracy works, how production should be organized, or how an industrial firm should be managed. Later, however, around the middle of the 20th century, organization as a noun was the topic of a pair of highly influential books by Chester Barnard ([1938] 1968) and James March and Herbert Simon (1958). These authors were pioneers in an attempt to understand organizations as entities, systematically analysing what an organization is and how it functions. Their fundamental ideas were shared by several subsequent authors and still influence the way organization is understood in the field.

1.1 Organization as Organizing Physical Persons

Concepts in social science have the purpose of specifying and delimiting phenomena under study and do not necessarily reflect concepts used in ordinary language or in the rest of society. But Barnard (1938) and March and Simon (1958) had a more empirical way of understanding their key concept. They began their books by giving examples of phenomena they called organizations. March and Simon mentioned The United States Steel Corporation, the Red Cross, the grocery store around the corner, and the New York State Government. They seemed to assume that the reader would easily recognize these phenomena, see the similarities among them, and be ready to assume an overall concept for them. March and Simon even dismissed attempts at definition because they were interested in empirical phenomena and believed that ‘the world has an uncomfortable way of not permitting itself to be fitted into clean classifications’. Yet they later came close to a definition when they specified what they considered to be the characteristics of organizations – characteristics similar to those included in Barnard’s earlier definitions and descriptions.

Although all or most of March and Simon’s examples constitute legal persons, all three authors’ understandings of organizations have three features that deviate from the idea of legal persons. (1) They understood organizations as groups of physical persons. (2) Although legal persons are defined on the basis of their capabilities in interaction with others, the authors defined organization on the basis of the inner qualities of that entity. (3) They specified these inner qualities as certain processes among people, which thereby constituted what could be understood as an organization.
The authors agreed on the idea that organizations are systems of physical persons and their interactions. Barnard’s simplest definition of an organization as ‘a system of cooperative activities of two or more persons’ (p. 65) is echoed in March and Simon’s description of organizations as ‘assemblages of interacting human beings’. These quotes also illustrate the authors’ agreement that processes are key aspects of anything that can be called organizations – that the physical persons involved are interacting. But interaction is not enough; to be organizational, the interaction must have certain characteristics.

For Barnard cooperation was central. In order to distinguish organizations from other forms of cooperation, he argued that interactions in organizations are formed by a common purpose. March and Simon added the notion of explicitness to their definition of organizations, arguing, for instance, that interacting individuals in organizations have other roles than do individuals in non-organization and that those roles ‘tend to be … defined in explicit and even written terms’ (p. 25). This idea lies close to the implicit core of their book: the notion that organizations make decisions and that understanding those decisions is key to understanding organizations (cf. March and Simon 1993, p. 2).

In short, these authors defined organizations as physical persons interacting with each other in certain specified ways. The notion of a legal person is barely mentioned and even less is it analysed. Furthermore, although they treated ‘organization’ as a noun, their description is very close to a verb. The noun gets its meaning from what people do.

The definitions in these two books do not seem to have been controversial. A few years later, in fact, Blau and Scott (1962) described ‘formal organizations’ as having been designed for coordinating many persons for a common purpose. And soon this concept of organization seems to have been taken for granted by influential authors: Etzioni (1961) handled the definition of organization in a footnote, and Perrow set out to analyse the situation in Complex Organizations: A Critical Essay (1972) without any definition. The idea of decisions as a core aspect of organizations created extensive interest, resulting in a large program of decision-making studies in the decades after March and Simon’s book was published. Luhmann (1978) even defined organization as an autonomous system of interrelated decisions. The notion of decision is key (although often taken for granted) in the specific and highly influential normative branch of organization studies: the field of management.

The definitions were echoed in later works and became part of a tradition. Twenty-five years after the release of Organizations, March and Simon published a new edition, in which they added a more explicit definition: ‘Organizations are systems of coordinated action among individuals and groups whose preferences, information, interests, or knowledge differ’ (March and Simon 1993, p. 3). And in 1981, Richard Scott undertook an ambitious textbook project intended to cover most of the knowledge
previously generated in the area of organization, - a book that has been followed by new editions for decades (Scott 1981). Scott used three definitions, fitting what he argued are the three main perspectives on organizations from Taylor and onwards. All three contained the core ideas that can be recognized from the classic authors: an emphasis on physical persons, the idea that organizations have goals, that interaction is ‘conscious’, and that organizations have a high degree of ‘formalization’ – through high goal specificity, for instance, or because ‘rules governing behaviour are precisely and explicitly formulated’.

2 Problems with the Traditional Definition

Although well established, a definition of organizations as a group of interacting physical persons is not without its problems and challenges, which have sometimes been analysed, handled, and even solved in one way or another. But mostly they are overlooked, because the concept of organization is taken for granted and not carefully defined. There are at least six such problems.

- The traditional definition makes it difficult to determine if there is an organization in the social landscape. In order to establish that a phenomenon can be subsumed under the concept of organization, the empirical researcher must select some people, observe their interactions, and determine if their interactions have the proper characteristics: are they based on common goals and explicit rules and decisions? Scholars interested in organizations meet an initial obstacle: finding an organization to study. Furthermore, convincing others that they have actually found one may not be a trivial thing (cf. Frankel 2022).

- Organizations seem to constitute a conspicuously unstable phenomenon: if the interaction ceases, the organization disappears – a problem that Chester Barnard observed. Do organizations exist at night when the employees have gone home, for example? And if they don’t, are they resurrected the next morning? Given his definition of organization, Barnard did not find any logical answer to this question but was forced merely to assume that organizations have a continuous life around the clock and longer (Barnard 1938, p. 80–81).

- Furthermore, it seems difficult and complicated to create an organization, to convince people to interact in the prescribed way. Attempts at creating an organization by this definition would often fail and it would take time before it would be possible to determine whether the attempt has succeeded. But all these complications, together with the instability of organizations, makes it difficult to understand how the present society, filled with organizations (Perrow 1991), could emerge, remain, and expand.
The traditional definition introduces another problem: it is not crystal clear how an organization differs from other forms of interaction among physical persons. The definition seems to cover a broad range of phenomena. What is the difference between an organization and a market, for example? Sellers and buyers interact in a market, and although they have different goals and interests in some respects, they also share common ones: that a transaction is made and that the market generally works as a scene for transactions. This is not far from March and Simon’s (1993) definition and Scott’s (1981) third definition of organizations as ‘systems of interdependent activities linking shifting coalitions of participants’, which in turn draws on Cyert and March’s (1963) descriptions of organizations as coalitions of persons with different interests. And most markets are, like organizations, characterized by explicit rules (Brunsson and Jutterström 2018).

Definitions of organizations that fail to recognize them as legal persons make it difficult for scholars to think of organizations as actors. In both social discourse and the law, most organizations are seen as entities that can do things (Czarniawska 1997). To denote an organization, people tend to use the pronoun ‘it’ rather than ‘they’. But in the classic definitions, it is only individuals who act. It seems that with that understanding, organizational actorhood can be, at most, a metaphor, describing an outcome that may arise when several people cooperate towards a common goal. Even though the classical authors show by example that they want to refer to what in general, outside academia, is called ‘an organization’, it is perhaps in this respect that they deviate most from one of the commonest ways the term is used – at least presently.

The traditional definition creates yet another problem: if organizations cannot act, they cannot interact to form another organization. Thus claims that a number of organizations have formed a meta-organization – an organization with other organizations as its members – cannot be taken seriously. If organizations cannot act, they can hardly be members of other organizations, at least not in any active sense. March and Simon (1958) avoided this problem by explaining that their book was not about ‘the diffuse and variable relations among organizations’ (p. 23). But for those interested in meta-organizations and draw on the traditional definition, the only solution seems to be to treat meta-organizations as industry associations, sport associations, and international government organizations, as if their members were interacting individuals. Many students of meta-organizations have followed that maxim by perceiving the secretariat of the meta-organization as the true organization and employees as its members, while treating the organizations claiming membership as some sort of environment of the secretariat organization (Barnett and Finnemore 2004; Marcussen 2002). But this viewpoint may make it difficult to analyse and understand
many key aspects of meta-organizations and excludes the organizational study of any meta-organization that lacks a secretariat (But for a different take on meta-organizations as a form for organizing organizations rather than individuals, see Ahrne and Brunsson (2005) or Berkowitz et al. (2022)).

The classic definition renders difficult any distinction between organizations and organizing. If organizing is a process and organization is defined by processes, the distinction becomes blurred or unclear. The classic scholars did not use or define a concept of organizing, but it is tempting to speculate that if they had, they would have referred to the same processes they viewed as constituting organizations. But that interpretation has a somewhat counterintuitive effect: there is no organizing outside of organizations. And as soon as organizing occurs, an organization exists. That would mean that social movements are organizations early in their inception – as soon as people start interacting and cooperating towards a common goal. And the notion in many social-movement studies that an organization is commonly created in a later phase (cf. den Hond, de Bakker, and Smith 2015) makes no sense. Similarly, families could not be organized without becoming organizations, and it would not be possible to distinguish the idea that society is organized from the idea that there is a society of organizations.

To conclude: if we want to keep the traditional definition of organization and want a concept of organizing that does not make all organizing equivalent to organization, we cannot simultaneously use the processes that the classic scholars thought were constitutive for organizations as a definition of organizing. We must find another definition of organization, organizing, or both. One candidate for another definition of organization could be something in line with and closer to the legal-person concept. How does the legal-person concept differ from the classic authors’ understanding of organizations?

### 3 Organizations as Legal Persons

The fact that neither Barnard nor March and Simon analysed the phenomenon of legal persons is somewhat surprising, given the basically empirical way they understood organizations and given the examples they used. In fact, one could have expected that March and Simon’s lead metaphor of the organization as a biological organism would have led them to perceive an organization as one person rather than several. But because they did not analyse the concept of the legal person, we cannot know why or how they saw the relationship between this construction and their understanding of organizations. What would have happened if these influential
authors had started their analysis with the phenomenon of legal persons rather than physical ones? At the extreme, they could even have started by defining the concept of organization as equivalent to a legal person. In a contra-factual historical mode, one can ask what effects that approach would have created. I have identified eight such consequences.

– One perhaps unexpected effect would be that the role of physical persons would have been clearer. The organization defined as a legal person consists of neither people nor their interactions. It is a person in its own right. But this person can have relationships with various physical persons. Fundamental to organizations understood in this way is not the relationships that people may have with each other, but the relationship they have with the organization as employees in a firm or as members in an association, for instance. Any relationships that employees or members have with each other are indirect; they are created by their relationship with the organization. They are expected to work for the organization – not for each other. Furthermore, in an organization defined as a legal person, employees or members need not interact with each other. In large associations, in fact, passive members are the rule rather than the exception. And in large firms, there may be many employees who interact extensively with customers in various parts of the world but almost never with other employees in their own firm. Yet no lack of interaction or possible lack of explicit goals or rules guiding these interactions would have challenged the notion that those associations or firms are organizations.

– Another effect of a legal-person approach would have been a clearer distinction between organization and environment. This distinction was part of the language of early writers and has since become a dominant metaphor in organization theory. But it is often unclear what should be counted as organization versus environment. So-called ‘members’ of the organization are often seen as the organization, and any other people and organizations are perceived as constituting the environment. But the idea is rendered awkward by the fact that an organizational affiliation is only part of a person’s life. With the legal-person definition, it is crystal clear what constitutes the organization, and if one wants to use the metaphor of environment, one can say that any organization has an extensive one indeed.

Whether physical or legal, all other persons are part of the environment of a legal person. The closest environment includes members (in the narrow meaning of the term) of associations, citizens of states, and employees connected to any type of legal person. Even though some physical persons represent the legal person on various occasions, they are not part of it. But of course employees, members, or citizens have different relationships with the legal person than customers do, for instance.
Rather than using the crude and unclear distinction between organization (or ‘members’) and environment, a legal-person definition of organization would have lent itself to a more exact specification of the various possible relationships between organizations and physical persons (and other organizations). And relationships should be distinguished from interactions. Just as employees or members do not necessarily interact with each other, an employee who is involved in interaction may leave the organization and continue to interact with the same people as a consultant. The change occurs in the relationship with the organization (from employee to provider), not necessarily in the patterns of interaction with other people.

A legal-person definition would make it easier to judge whether an organization actually exists. A legal person is created by a decision—a preformative decision. To claim convincingly that an organization exists, one must refer to that decision rather than demonstrate any particular interactions among particular people. Researchers interested in the study of organizations need not find and study various interactions among physical persons in order to find an object for study because legal persons have names and addresses. And they are addressable.

Because organizations defined as legal persons are created by decisions, organizations can pop up quickly; one does not have to wait for certain patterns of interaction to emerge or for more or less complicated work to establish those patterns. Barnard had already observed that most organizations are created by a decision made by one or a few individuals or by existing organizations. Sometimes there are two decisions, the second one consisting of confirmation by a state authority. There is normally no requirement of interaction among a group of people in order to obtain that licence. As Barnard also observed, the recruitment of members or employees often begins after the organization has been created.

A legal-person definition of organization would make it easier to distinguish organizations from other social forms. Goal-directed interactions among physical persons in a market, family, or social movement does not make them organizations; nor does it create any doubt in this matter.

It would become easier to include states in organization studies. March and Simon mentioned New York State as an example of an organization, but that example does not seem to have inspired many students of organizations. In organization studies, it is common to study parts of states in the form of various administrative units, but the study of states as a whole is rare. Yet states are both historically and presently legal persons. Perhaps they have not been included in organization studies simply because they have too many citizens to allow for the traditional definition that emphasizes interaction among people.
A legal-person definition would imply that organizations are entities rather than activities. Because the term ‘legal person’ is clearly a noun, it becomes easier to distinguish between organization as a noun and organizing as a verb. The extent to which interactions among people are connected to organizations would have become an empirical question – not part of the definition.

### 3.1 A Definition that Explains

What is more, defining organizations as legal persons would have made it possible to explain certain characteristics of organizations included in the traditional definitions or commonly referred to as typical for organizations.

- Legal persons differ from physical persons in that they cannot do anything completely on their own. They must be represented by physical persons. The legal person must be connected to physical persons, to at least one physical person. If we use a legal-person definition of organizations, it becomes clear that the observation that organizations are connected to people is not the essence of organizations but a consequence of how they are constructed.

- Legal persons do not do anything spontaneously or by reflex. One or several physical persons must decide what the legal person shall do. The fact that decisions are a key aspect of organizations, therefore, is neither a coincidence nor a defining factor. Rather, it is explained by their construction and is thus a necessary consequence of their existence. That communications by organizations are more explicit than are communications in other settings is a result of their being based upon decisions.

- The same is true for hierarchy. Organizations defined as legal persons require constitutions – decisions about how decisions shall be made. It must be decided who can make decisions and how they can be made.

- A legal-person definition of organization also provides an additional and simpler explanation of another common observation: that people in organizations are exchangeable. Thus an organization continues to exist although everyone connected to it has been exchanged for another person. The fact that most organizations develop routines and office positions is a common explanation, but the legal-person definition offers a more fundamental answer: because the existence of a legal person is not dependent upon interactions among physical persons, its existence is not threatened by changes in the physical persons to which it relates, their interactions, or whether there are routines or office positions. It is the creation of the legal person that has made possible the many, large-scale, long-lasting organizations independent of specific people typical of modernity (Ciepley 2020).
The legal-person definition also explains how organizations can control so-called collective resources: the resources are not collective at all; they are the property of the legal person. This aspect is sometimes misunderstood in popular discourse, especially in discussions of business corporations by people who believe that someone can own a corporation and its property. It is not the legal person that can be owned (that would deny it of personhood and thus extinguish it), but stocks that give the stockowners certain rights.

A legal-person definition of organization can explain the existence of financial accounting, thus having the potential of bringing theories of organization and accounting closer together. A striking element in the early definitions and descriptions of organizations is the lack of reference to accounting systems, in spite of the fact that accounting is a key activity in almost all organizations. It would have been interesting if the classical authors had brought accounting into their analysis, because then they could not have avoided discussing the presence of a legal person. Financial accounting is all about registering what property the legal person owns, what liabilities it has, and how that property and those liabilities are affected over time by transactions and by changes in how they are valued. Because of its connection to management accounting, financial accounting is also important for understanding control in most large organizations.

It becomes relatively easy to explain why organizations have purposes or goals. It is more of an empirical observation than something that is needed in a definition. It is not self-evident that anyone can create a legal person. This is a decision and a privilege that has to be accepted by some sort of sovereign entity. In modern times, this entity is normally a state (Ciepley 2013). And the sovereign entity is likely to demand a reason for extending the population in this way. Because it is normal to expect an intentional reason in a modern, strongly rationalized culture, the idea of a purpose lies close at hand. A decided purpose is not necessarily intended to coordinate individuals in an effective way, as the classical authors had it; rather it may be a prerequisite for creating an organization.

As argued previously, it is standard practice in public discourse to treat organizations as actors, yet organization theory has had problems in accepting or explaining this view. The fact that organizations can be actors became a hot issue late in the history of organization theory and has been treated as a specific, emergent characteristic of contemporary organizations (Meyer 2010; Meyer and Bromley 2013) or something that requires extensive explanatory efforts (King, Felin, and Whetten 2010). When defining organizations as legal persons, their capacity as actors exists from the start and needs no extensive explanation. Actorhood is part of the fundamental idea behind their construction. Because they can own, sell, and buy property, be parties in courts, be held legally liable and morally responsible, it is not astonishing that they can be ascribed other actions as well or that they can even be attributed statements and opinions. In
short, with a legal-person definition of organization, actorhood is an obvious and necessary ingredient.

- We can easily explain the puzzle that Barnard struggled with: do organizations **exist at night** when people are not interacting? In the legal-person perspective, the answer is simple: of course, they do, just as physical persons do. There is even room for arguing that organizations sleep; the term ‘dormant organizations’ has been used for organizations that are not active for long periods but can be awakened if someone takes the initiative (Dumez and Renou 2020).

4 **The Legal Person as Institution**

It is one thing to speculate what might have happened to organization studies had it started as studies of legal persons. It is another thing to consider whether the concept of legal persons could be used today for understanding organizations. After a thousand years or so, the idea that a firm or an association is a separate entity with characteristics like those of a legal person has spread far outside the legal system, and it can now be seen as a societal institution rather than a mere legal technicality. The existence of legal persons tends to be taken for granted; seeing firms, associations, or states in legal-person terms as autonomous actors is routine in common parlance and is seldom met with astonishment, bewilderment, or criticism, even though some of them may not be legal persons according to law (Czarniawska 1997; King, Felin, and Whetten 2010).

This image became manifest in a reform agenda in many countries during the last decades of last century, when public administration was transformed into sets of legal persons or entities with legal-person characteristics. A central component of the so-called new public management reforms was to change various departments of the public administration into legal persons by turning them into business corporations controlled by the state or local government or by outsourcing them to corporations under private control (Christensen and Pallesen 2001). Remaining departments were given such legal-person characteristics as autonomy, ownership-like capacity, and actorhood (Brunsson and Sahlin-Andersson 2000). The traditional view that state authorities were mere agents for a higher political level and that schools, universities, or hospitals were mainly arenas for work controlled by professionals was replaced by a view of these units as highly autonomous actors. State authorities, schools, or day-care units should not be centrally controlled by detailed rules, in the new view, but could be influenced by advice and standards. These units should make their own decisions, in developing their own purposes (often called goals or policies), for instance. They should control and be responsible for their own resources, and by introducing financial accounting systems, including a balance sheet, they were depicted as capable of owning property (although that was not legally the case). The
departments were seen as capable of acting in markets, particularly those recently created under the same reform agenda. They were also expected to relate or interact with each other, by competing, by cooperating, or by selling and buying, for instance.

Autonomy in the case of such professional arenas as universities meant that it was the universities that were to become autonomous, rather than the teachers and researchers that they employed (Wedlin and Pallas 2017). The sovereignty of the university increased; top administration obtained a more powerful role, were seen as the representatives of the university, and often spent much of their working life marketing, trying to reinforce the ‘trademark’ of the university and obtain high positions in various university ranking systems (Wedlin 2006). Universities could make contracts with central state authorities, were attributed responsibility, and were seen as competing with each other (Hasse and Krücken 2013; Musselin 1996).

At the same time or somewhat later, organizational scholars developed ideas and concepts about organizations that lay closer to the concept of legal person than did the traditional understanding. Czarniawska (1997) described a general understanding of organizations as ‘super-persons’, with many characteristics common to individual persons. In the organization-as-communication tradition, the organization has been understood as an entity with a name and with someone to speak for it – someone that emerges in communications (although not necessarily or usually in the communication of a decision) (Taylor 2011).

Other authors used the concept of organization for the same phenomenon. Brunsson and Sahlin-Andersson (2000) described the new public management reforms as a massive-scale construction of organizations, but not organizations in the traditional sense of a group of interacting people. The fact that departments, schools, and universities in the public sector employed people for cooperation towards a common goal was not a new phenomenon. What was new was the new legal-person-like capabilities that were now given to these entities.

Meyer and Bromley (2013) argued that there has been rapid growth during recent decades of what they called ‘formal organization’. Older social forms, such as bureaucracies, family firms, and professional and charitable associations have been transformed into something new. Their characterization of the new form is almost equivalent to the definition of a legal person: ‘Unlike the classic bureaucracy or firm that is obedient to an external sovereign or owner, the modern organization has sovereignty (and accountability) and makes decisions in light of its own purposes (Meyer and Bromley 2013, p. 377). Like contemporary individuals, these organizations are described as ‘actors’, which implies such characteristics as ‘autonomy, clarity of purpose, decision-making capacity and sovereignty, technical action capability, effective self-control … ’ (p. 377). In short and in the terms used here, the authors described how people increasingly understand organizations as being similar to legal persons, and they presumably describe an increase in the number of ‘legally legal’ persons as well.
The concepts of actor and actorhood are used not only for organizations, but also for individuals, which is a reminder of the fact that legal and physical persons are constructed in a similar way (Meyer and Jepperson 2000). The concepts have become particularly popular for describing organizations. Grothe-Hammer (2019, p. 325) even argued that ‘most scholars explicitly or implicitly build on the assumption that organizations have to be externally recognized as actors to become constituted as organizations’. It seems that the term ‘actor’ has even become so taken for granted that it is often left undefined in organizational analyses (Suddaby et al. 2010).

However, King, Felin, and Whetten (2010) made an ambitious analysis of what could be meant by seeing organizations as social actors similar to individuals and states. They argued that organizations can be considered actors because they have sovereignty, responsibility, and intentionality. Sovereignty implies the right to control its members within the limits of authority that is granted from the state or other ‘stakeholders’. Sovereignty, in turn, produces responsibility for the organization as such, not necessarily for its members (cf. Bovens 1998). These two notions echo the concept of a legal person. The assumption of intentionality was motivated by a reference to the institution of the individual, however, and refers to more internal characteristics of organizations. Just as an individual is capable of ‘deliberation, self-reflection and goal-directed action’, organizational intentionality refers to the organization’s ‘self-view’, its identity and goals.

4.1 A New Definition?

In conclusion, the social construction of the legal person seems well established in modern western societies. It has become institutionalized and is applied as well to organizations that are not legally defined as legal persons. Even Barnard argued that organizations could be expected to behave in the same way, whether they were incorporated or not. But this way of understanding organizations was probably not as pronounced at the time of the classical studies as it is now. In order to cover this new development, organizational scholars have invented new concepts or invoked or emphasized old ones, such as formal organization, actorhood, super-person, entity, or even organization. The concepts all introduce various aspects of the legal person, although most of their protagonists avoid using that term and do not acknowledge their common roots in this overarching concept. But the concepts that are used point towards a different and almost opposite understanding of organization than does the traditional one – an understanding that is more connected to legal persons than to physical persons.

This understanding of organizations may leave the field open for a further step – a step towards an explicit definition of organization based purely on the legal-person concept. Rather than defining an organization on the basis of certain forms of
interaction among individuals in a group, such a definition would be based solely on a certain set of capabilities attributed to an imagined entity. An organization would be defined as an entity that has the same capabilities as a legal person (but is not an individual). More specifically, an organization is a social construction that involves an entity – an ‘it’ rather than a ‘they’ – that has a name, is addressable, has autonomy and sovereignty, can act and interact with other actors, and can be attributed responsibility for its actions. According to this definition, those capabilities are not aspects of organizations (whether defined in some other way or left undefined); they are necessary and sufficient conditions for calling something an organization.

In contrast to the traditional understanding of organization, this definition includes no physical persons and is based on external capabilities rather than any ‘inner’ processes, such as coordination or interaction among people. It builds on the fundamental characteristics of legal persons, not on the common consequences of such fundamentals that I described above in Section 3.1, as their connection to people, decisions, hierarchy, or purposes.

Many of the contemporary organizations covered by this definition are, in fact, legal persons in the legal sense. But the definition also covers entities that do not have that legal status but that are constructed in a similar way. That group may have become larger during late modernity due to a cultural environment characterized by rationalization and globalization (Drori, Meyer, and Hwang 2006) and brought about by processes of more-or-less conscious imitation of legal persons, such as business corporations (Czarniawska 1985; Meyer, Leixnering, and Veldman 2022b) or by explicit reforms, as previously described.

Maybe such a ‘pure’ legal-person definition seems too radical and specialized for many students of organization. And like all definitions, it cannot be expected to fit all purposes and lines of inquiry. Different definitions introduce and facilitate different research agendas. One specific advantage of the legal-person definition is related to the concepts and phenomena of organization, organizing, and the organized that I referred to in the beginning of this essay. Rather than confusing these concepts as the classic authors did, the legal-person definition allows for clear distinctions among them. By clearly distinguishing among organization, organizing, and organized, each concept can be better understood, more precise, and therefore more useful - as described below.

5 Research Implications of a Legal Person Inspired Understanding of Organization

It is not only organizations that deserve their own specific research questions and research programs, as argued by du Gay (2020); organizing and the organized
deserve the same. The phenomena that these three concepts denote may be more loosely connected than the similarity in the terms suggest. If, when, and how they are empirically related is a salient area for inquiry. A clear distinction among the three concepts may be used for systemizing past research, for increasing attention and clarifying the role of some pertinent issues in organizational research, and even for finding new research questions.

5.1 Connections or Disconnections Among Organization, Organizing, and the Organized

The legal-person definition makes it possible, unproblematic, and highly relevant to look for organizing and organized social situations outside the context of organizations. But exactly how those situations can be analysed varies with how the concepts of organizing and organized, in turn, are defined.

It would be possible, for example, to use the traditional definition of organization as the definition of organizing, letting coordination and goal-oriented interaction denote organizing. Or one could use a more recent definition based on the core idea in the March and Simon (1958) book: that decisions are fundamental in organizations. Organizing could then be defined according to the so-called partial organization perspective as the communication of decisions to and for others, in particular decisions about membership, hierarchy, rules, monitoring, and sanctions (Ahrne and Brunsson 2011).

Either way, as indicated above, when scholars observe organizing, they need not describe this situation as an instance of organization. Organizing in the first, interactive, and coordinative sense may take place without any organization being created or referred to. And the same is true for organizing in the second sense – the communication of decisions to others. It is obvious that such decisions can be directed not only to people employed by or members of an organization, but also to other people or other organizations. Decisions about rules in the form of technical standards are made by standardization organizations, for example, but are directed to all relevant producers in the world. Decisions about monitoring in the form of certification procedures are directed to any organization that wants to demonstrate that it complies to a standard.

A similar reasoning can be applied to ‘the organized’. It is clear that social settings can be more or less organized whether tightly connected to one specific organization or not, whether ‘organized’ is taken to mean the result of coordinated interaction or of decisions. From the partial organization perspective, decided social orders can exist in a wider or different context than among people employed by or members of an organization. The high degree of global social order that exists
without a world state is an example. It is, to a large extent, an organized order, partly achieved by global standards. But organizing does not necessarily lead to a situation of being organized. Not all coordinative and goal-oriented interactions actually result in coordination or the achievement of goals. And because the communication of decisions is an attempt to make people do something, organizing may fail.

Another effect of a clear distinction among organization, organizing, and the organized is that the concept of organization becomes independent of the others. Because the legal-person definition does not include activities, such as interaction or decision-making, it opens for investigating the amount of organizing that occurs in relation to organizations and how organized such a situation is. One can find a situation of little organizing without questioning whether there is, in fact, an organization. It is possible to find organizations where no or very little organizing occurs and where one can find little or no organized order, or an order that is created mainly by other social forces – by societal institutions, for instance.

Although such conditions may make these organizations less interesting for scholars who are investigating organizing and the organized, such organizations are still relevant phenomena in the social world because of their external capabilities. Organizations strongly influence the functioning of modern society in many ways (Coleman 1982), and they often affect the lives of employees and members in ways that have little to do with organizing – by creating chances for non-organized interactions and relationships among people who would not have met otherwise, for example. In the perspective presented here, these effects constitute relevant topics for organizational research and should not be dismissed because they are not ‘organizational’. Furthermore, even weakly organized organizations provide a context that may become more organized over time, developments that could be explained on the basis of empirical research.

The distinction among organization, organizing, and the organized also gives rise to what should be one of the key questions for a discipline that addresses all three: how do conditions for and processes of organizing and the potential for creating an organized order differ between situations in which they are connected to a specific organization and situations in which they lack such a connection. It is not certain that creating an organization always constitutes the best way to produce an organized social situation (Czarniawska 2013), and the conditions for achieving the strongest organized orders are yet to be investigated. In the decades after the classical studies were published, many scholars demonstrated that the connection between organizations and the organized (whether understood as coordination or a decided order) can be loose indeed (e.g. Meyer and Rowan 1977; Pressman and Wildavsky 1974; Weick 1976). Organizations are no guarantee of the success of organizing in creating an organized order. Does organizing become easier and an organized situation more likely when connected to organizations, or do they become
more difficult? Or more specifically, what characteristics of organizations promote or hinder organizing and an organized situation? Using the partial organization perspective on organizing, for example, one could argue that the constitutions expected of organizations typically reduce the number of decision makers and decisions, thus reducing the possibility of organizing. On the other hand, such a restriction in organizing may result in more of an organized order than would exist in situations in which there was no such restriction but many competing organizers and many inconsistent organizing activities.

5.2 Why Are Organizations Created?

The legal-person definition of organizations introduces the possibility for investigating a wider range of explanations for the constructing of organizations than does the traditional definition. The question of why people organize becomes separate from the question of why they form organizations, and both are key questions for organizational research.

Of course, such a distinction does not preclude a connection between organizing and the forming of organizations. Creating an organization may be a first step towards assembling and organizing people, as when organizations are created by one person or organization and the employees or members to be organized are recruited as a second step. In other cases, organizations are formed as the result of previous organizing, as often happens in social movements when an initial spontaneous order becomes more organized and finally results in the creation of a large organization with both members and employees (den Hond, de Bakker, and Smith 2015). Or an organization may emerge from communications within a group of interacting people who begin interacting or communicating with others outside their group (Taylor 2011).

But a wish or a need to organize or to create more of an organized order does not necessarily lead people to form an organization; they may prefer other ways of organizing and creating an organized order. And a wish to create an organization may not be related to a need for organizing or for an organized order.

Rather, it is likely that a decision to form an organization is motivated by its external capabilities. A group of people can facilitate contacts with others by creating one name and one address rather than merely offering the addresses of all its members. They may want to relate to one actor that can own property and act on markets. And by constructing an organization, one adds an actor that can be attributed responsibility and may thereby dilute the responsibility of the physical persons involved. Or the main purpose may be to distinguish some people from
others by connecting them to an organization that can obtain high status or a great deal of attention.

Claims for creating an organization also come from people or organizations outside the core group of people. These external entities may want to interact with or relate to one actor rather than many, with a corporate actor rather than with an abundance of physical persons (Laamanen, Bor, and den Hond 2019). If they interact with a network, they become part of that network – a consequence that they may want to avoid.

Such preferences can also apply to a group of organizations. For example, the EU has demanded that European industries form meta-organizations so it can interact with a relatively few organizations rather than dealing with all the firms operating in the European market (Jutterström 2004). Some of these meta-organizations have, in turn, demanded that their members be national meta-organizations, which has forced firms in various countries to create their own meta-organizations. Whether all these new organizations have led to more, less, or unchanged organizing and organized order is an open question.

6 A Definition That Can Travel?

In this essay, I have speculated about what would have happened if the classical authors of organization theory had paid more attention to the concept and social institution of the legal person when establishing the concept of organization. To have initiated the field of organization studies in that way would have solved some problems that their definitions of organization created and would have led to other explanations of some fundamental aspects of organizations. Later, organization scholars have paid more attention to aspects of legal persons when discussing organizations, although almost never by explicitly referring to this fundamental institution. Yet, a definition of organizations as legal persons or legal-person-like entities would be a possible outcome of this development. Whereas the definitions of the classic authors confused organizations, organizing, and the organized, a legal-person definition would make it easier to distinguish among these core concepts of organization theory.

Maybe such a development would also have implications for the status of organization theory in social science as a whole. As described in the introduction, there has been a certain tendency in organization studies to avoid clear definitions of its core concepts. For better or for worse, that tendency may have facilitated the import of ideas, concepts, and theories from other fields of social science and allowed research into phenomena with loose connections to any concept of organization. But it may also have created export difficulties – difficulty in convincing scholars in other
fields that an organizational perspective is a relevant and useful way of understanding contemporary society. After all, these scholars may need more precise definitions than do scholars who are already submerged in the field of organization studies (Besio, du Gay, and Serrano Velarde 2020; Ringel in press).

An understanding of organizations that connects to the well-known social fact of the legal person may help to convince scholars in other fields of social science of the relevance of organization studies. Although one can assume that people in medieval times found the legal person a mystical construction (another name for ‘legal person’ was actually *corpus misticum*), contemporary people, including scholars in other fields, may find the traditional definition of organizations, with its spatial metaphors of an inside and outside, more mystical than a concept of organization that is closer to the concept of the legal person. And with separate and clear definitions of organizing and the organized, it may be easier to convince other scholars that the phenomena that these concepts denote are also necessary for understanding modern society—not least because they exist not only in the context of organizations, but elsewhere as well.

**References**


