

Me and my Avatar: acquiring actorial identity

Anthony J. O'Tierney^a, Donncha Kavanagh^b and Kevin Scally^c

^aUniversity of Leicester, UK (e: ajot1@le.ac.uk)

^bUniversity College Dublin, Ireland (e: donncha.kavanagh@ucd.ie)

^cUniversity College Cork, Ireland, (e: k.scally@ucc.ie)

Full paper submitted to

32nd European Group of Organizational Studies (EGOS) Colloquium

Naples, Italy

July 7–9, 2016

Sub-theme 37: 'Agents, Actors and Actorhood: Institutional Perspectives'

Introduction

Masks have become a ubiquitous feature of political protest, but they drew widespread media attention in November 2015 when some individuals attending a masked protest in London refused to give police their names. The police initially brought criminal charges, but these were subsequently dropped as they were apparently unable to identify the legal persons involved (Greenwood and Hughes, 2015; Allen and Ledwith, 2015). This is but one instance of what Pilcher (2015) refers to as the ‘nameless body identity problem’ and well illustrates how there can be a separation between the physical body of a man or woman and that individual’s representation, the legal person. This incident, at a masked demonstration, is not without irony in that the origin of the word ‘persons’ derives from masks; specifically, those worn by actors in ancient Greek and Roman theatre. Adopted into legal practice, the word *persona* originally referenced artificial beings, and a man’s rank or status; not the man himself, but ‘...the state of the man [sic], the part he plays in society, abstractly, without considering the individual.’ (Andrews, 1910 p.157, 159-160).

We see this as doubly significant because agency and the construction of actors *within the legal world* is typically not of central concern in management and organisation studies’ extensive conversation—most notably in institutional theory—about the relationship between actors and institutions. Hence, part of our objective in this paper is to study these issues through the lens of the legal studies literature, which tends not to be foregrounded in our conversations. For instance, the corporation is fundamentally a *legal entity*; though this is, at best, only explored in the margins of the vast literatures on corporate social responsibility, agency theory and bureaucracy (Veldman and Parker, 2012; Veldman and Willmott, 2013; Crane, Matten and Moon, 2008). In agency theory, for example, the managers are agents of the *legal* entity that is the corporation (not, as is sometimes believed, the shareholders (Stout 2012)). Likewise, in Weberian bureaucracies there is a clear distinction—sometimes constituted in a quasi-legal sense but routinely adjudicated on and governed by the courts of the land—between the bureaucratic position and the human individual who fills the role. The legal underpinnings of everyday practices tend to be invisible—yet hugely important—but when they do come out of the shadows the long-term impact of court debates and decisions become clearer and make for fascinating study. For instance, legal issues are very much to

the foreground right now in the context of cryptocurrencies like Bitcoin and its underlying technology, the blockchain, which has opened up a range of conundrums for legal scholars and practitioners. Is Bitcoin a form of money or a form of property? If it is property what form of property is it—is it a ‘choses in possession’ or a ‘choses in action’ or a hitherto unknown third category? If it is not a form of property can one steal it? Who does one sue if bitcoins are ‘lost’ within the blockchain? What is the blockchain? Is it a title register and if so can judicial notice be taken of it? Can it be made the subject of a security interest or placed in trust? As of 2016, these issues have not been resolved, which partly explains why bizarre things have been happening in the world of cryptocurrencies since Bitcoin first appeared in 2009. For instance, in 2013 the police closed down Silk Road, the online black market and first darknet market—where Bitcoin was the currency of choice—when they charged Ross Ulbricht with conspiring to traffic narcotics, computer hacking, money laundering, and attempting to have six people killed; in 2014 some \$450 million in bitcoins went ‘missing’ when the bitcoin exchange Mt. Gox closed down (Reuters, 2014); in June 2016 a hacker succeeded in stealing \$53m in digital currency from the DAO, a non-hierarchical collective Ethereum investment fund (Russon, 2016). One can expect that such bizarre stories will not be as common once the legal conundrums and uncertainty associated with digital currencies and their derivatives are sorted out. Moreover, the stories show the importance of the legal perspective in understanding organisational phenomena, especially when phenomena are emerging. It is this perspective that we seek to foreground in this paper.

This paper argues that a legal perspective is warranted if we are to better understand how actors and agency are constructed and that such a perspective is overlooked within organisation studies. It is beyond the scope of this paper to examine why the legal perspective has been backgrounded within the field’s discourse, but it is a question that deserves research as, we maintain, the conversation in management and organisation has been diminished as a result. In the next section, we set out the theoretical position that has informed our inquiry, and then we proceed to present and explain our analytical scheme.

Theoretical Positioning

Our paper seeks to explore and question the concept of the legal person, itself¹, as an actor. As with any inquiry, we come to the research question with a mix of theoretical positions and it is useful, to begin with, to sketch these out. In particular, we are informed by three literatures: systems theory, actor-network theory, and games.

There is a very large literature under the general umbrella of systems theory that spans cybernetics, open systems theory, soft systems methodology, contingency theory and other theoretical positions that privilege metaphors from living systems and biology. Indeed Morgan (1986/2006) sees this as the dominant way of thinking about organisations and his classic book *Images of Organization* provides a good summary of the major contributions to the variants of systems theory that abound. One theorist that Morgan doesn't reference is the sociologist Niklas Luhmann who sees society as composed of communications between individuals and social systems, which are essentially communication systems that enable interaction and problem-solving. Luhmann (1982, 1985, 1995) postulates a somewhat unfashionable functionalist view of society as a system that has evolved into functionally differentiated, quasi-autonomous problem areas, such as economy, law, health, education, religion, etc. For him, these systems are not 'real', nor are they made up of people, but are only instantiated in communication between people. So, for instance, the legal system only exists in the moment when a jury makes its decision on the guilt or innocence of a defendant; outside of such moments of interaction it doesn't, in an ontological sense, 'exist'. At the same time, such systems typically have an autopoietic character which means that they have the ability to self-reproduce through these moments of interaction.

Actor-network theory (ANT) is a second theoretical position that has informed our research though here 'theory' is perhaps better understood as a method or set of methodological preferences. ANT invites us to look at the familiar in new ways; to see my computer as an agent; to question the ontological status of boundaries like the distinction between 'me' and the 'computer' that 'I' am now using. Paraphrasing Marx, ANT invites us to sweep away all

¹ We will use gender-neutral pronouns like 'itself' because the legal entity might not necessarily be constituted as either male or female.

fixed, fast-frozen relations with their train of ancient and venerable prejudices. This, perhaps, is ANT's most enduring virtue: an enthusiastic willingness to question our most robust mental categories. Hence, Bruno Latour, one of leading authors in the actor-network tradition, has little truck with Luhmann's concept of system, as, for him, the boundary of any system is the thing to be explained rather than an *a priori*. But, in truth, ANT can never truly deliver on its promise. A key point is that even though ANT advocates anti-essentialism and a "sociology of verbs rather than a sociology of nouns" (Law 1994: 15)—akin to Tsoukas and Chia's (2002) arguments for a "weak ontology of becoming"—this begins to crumble, or at least is seen as selective, once an ANTer uses a noun, any noun, in writing about an actor-network. It might be churlish to add that, since every transitive verb requires a noun, Law should really be arguing for a sociology of intransitive verbs. Moreover, even if we follow Law by 'verbing' nouns—organisation to organising, market to marketing, theory to theorising, actor to acting—it still seems unreal to think that we can dispense with nouns *tout court*. And since nouns necessarily work to depict a system and boundaries of some sort, we cannot, in truth, avoid systems.

Our analysis is also structured around a framework developed out of the game studies literature, which we have found to be particularly helpful in understanding the legal world, which can, itself, be thought of as a form of game. Games are complex and elusive phenomena; on the one hand they can be understood as 'closed, formal systems' (Fullerton, Swain and Hoffman, 2008 p.42), and as such they are self-sufficient and complete unto themselves, representing a subset of reality. Others disagree with this 'autotelic' view of games, and instead see the boundaries between the game and 'real' world as fuzzy, under constant negotiation, and anything but closed (Juul 2005 p.36; Woods 2012). We broadly take the latter position, following Luhmann's (1995) understanding of systems, which we see as especially relevant given his writings on law as a social system (Luhmann et al 2004).

Social media and avatars

Hogan (2010), discussing avatars on social media sites, relates these to Goffman's (1959) pre-internet idea of 'presentation of self' as a 'metaphorical technique used to explain how an individual presents an "idealized" rather than authentic version of herself.' Goffman's idea derives from the notion that, even in the non-virtual or 'real' world, we roleplay—aiming to

present or project an identity with someone we aspire to being. We assume, in other words, identities like those of the responsible parent, the honest transactor, the caring lover. As Hogan puts it, we ‘engage in performances, which Goffman (1959) defines as “activity of an individual which occurs during a period marked by his continuous presence before a particular set of observers”’.

This preference for an idealised version of the self is supported by a study of the online game *Warcraft* (Bessière, Seay, & Kiesler, 2007) that reveals players articulating an avatar character with traits that are better than their their self-rating for the same trait. To take this further, Suler (2004) refers to an ‘online disinhibition effect’ that allows online users to display characteristics that they would not display in a face to face ‘living’ encounter. While some users, through their online identity, may display generosity and benevolence—something Suler calls *benign disinhibition*—he also identifies the *toxic disinhibition* that gives rise to those well known internet displays of ‘rude language, harsh criticisms, anger, hatred, even threats’. Aboujaoude (2012) refers to the danger of this ‘e-personality’ and ‘how the Internet allows us to act with exaggerated confidence, sexiness, and charisma’. This desire to articulate a different persona may become a feedback loop, since Yee & Bailenson (2007) identify the ‘Proteus Effect’ where ‘an individual’s behavior conforms to their digital self-representation’.

Legal Personhood

Legal personhood is not an innate quality immanent to all by virtue of being human; a fact demonstrable by the existence of ‘stateless people’ or ‘non-persons’, who cannot obtain access to public services (Sawyer and Blitz, 2011). Two UN Conventions sought to grant legal status to those who are not nationals of any country and to address some of the causes, but their recommendations have only been ratified by a few countries (Berkeley, 2009). In practice this means that, despite being very much alive and capable of trade and activity, stateless people often lack the capacity to interface with legal and economic systems. In this sense, they resemble US slaves prior to the passing of the Fourteenth Amendment (Stein and Bauer, 1996). Such capacity can also be removed from those who possess it, due to political upheaval and expulsion (ibid). In exceedingly rare instances, legal process can render a living man or woman’s person legally deceased (Rawle, 2015; BBC, 2013), and so unable to

interface with aspects of the legal system, while being dead is not, in itself, an impediment to holding property, suing, or being sued (Wall, 1996). All of this indicates that it would be a simplification to suggest an isomorphic, one-to-one, correspondence between living human men and women and Natural Persons.

Given that such isomorphism does not obtain, it would seem incumbent to consider an extract from a legal definition of a Person, which is identified as: ‘The object of rights and duties, that is, capable of having rights and of being liable to duties.’ (Osborn’s 1927, p.208). Like a gun or other artifact (Latour, 1994), it would appear that a legal person is not endowed with its own will, and that such an entity can better be conceived of as an Avatar; a medium through which the will of a living person is expressed. That is to say, while legal personhood is the means by which men and women are represented within a legal system, the lack of isomorphism between living people and the legal persons that represent them (discussed further in subsequent sections), and the character of legal persons as being ‘objects of rights and duties’ would seem to indicate a separation between the physical world and the legal system which represents it. This is analogous to the manner in which financial reporting representations signify aspects of the world, but must maintain the fiction that the representations are the things themselves, as to simultaneously describe the world referred to by different terms, would split apart signifier and signified in such a way as to negate the function (Hines, 1991 pp.321-322). This representational character is perhaps more evident with second-order Avatars, particularly corporations, which have been characterised as ‘A new form of spectral life ... a reified creation, building on an emergent representation of the aggregation of individuals’ (Veldman and Parker, 2012 p.418); which have ‘become endowed with an (agential) capacity’ which empowers them to own other legal entities’ (Veldman and Wilmott, 2013 p.608-609).

Analytical Scheme

Players and Avatars

One of our key points is that prior to—and requisite for—engaging in relations or exchanges, legal entities must first be acquired or constituted. Here, we follow Lindberg and

Czarniawska (2006, p.294) who propose that, rather than seeing actors as antecedent to actions, actors are initially, themselves, constituted by actions; that a first step is the acquisition of an ‘actorial’ identity, a process we term ‘articulation’, which *emerges from actions*. Within the syntax of language—which requires nouns *ab initio*, the passive voice is denigrated—this can be difficult to comprehend or illustrate, but a crucial analytical point is that action comes first. That is, the starting point of our conceptual scheme is that via an action, an identity is created or selected, with our lexicon for this elaborated below.

A simple model of the relationship between a living person (which we term in general a ‘player’) and their representation (their ‘avatar’) may be observed in the relationship between a player of a boardgame and the piece on the table that represents that player, through which they engage in actions, which are legitimised by the piece within the game world. Beyond this simple analogy we also observe that game playing has a broad cultural and social presence, since commentators use the metaphor of the ‘game’ for virtually every kind of human activity, including politics (Cox and McCubbins, 1986), business (Carr, 1968; Stack & Burlingham, 1992) and the market (Hamington 2009). Wittgenstein (1953) examines the relationship (or analogy) between our complex and imprecise use of everyday language and the remarkable variety and purpose of games we play, concluding: ‘the result of this examination is: we see a complicated network of similarities overlapping and criss-crossing: sometimes overall similarities, sometimes similarities of detail’ (Wittgenstein 1953, p. 31).

In the context of the player/avatar relationship we may take the example of chess. The chess player enters the game by formally adopting the pieces, or avatars, which each have an identity only within the limits of the 64 squares of the board. Beyond that board and the individual game we encounter MacIntyre’s (1981/1984) distinction between chess (the game) as a practice and the chess club as an institution. Following MacIntyre, the club may be affiliated to a national body, or to the World Chess Federation (FIDE). Each separate institution has officers, elected or appointed (and with their identity derived from each institution), to define and monitor the rules under which chess competitions are legitimised and played.

Frameworks

The role of institutions is important in the construction of actorial identity, with Lindberg and Czarniawska (2006) observing that ‘it is institutions that endow the actors with their identity rather than the other way round’ (p.294). As noted, an actor, in our lexicon, can be of broadly two kinds - a Player or an Avatar. If we consider the example of a social networking website, or online virtual world, it is easy to conceive of the institution which created it determining the parameters of the form and capacities an actorial identity (Avatar) might have. Such institutions, or systems within which action takes place, we term ‘Frameworks’. In studying simulated online worlds, Davis et al. (2009, p.93) distinguish between ‘People’ as the users of the system, and ‘Avatars’ as the representations that symbolise them within said systems. For ‘People’ we substitute ‘Players’ (Westbrook, 2008), and hence our analytical frame is structured around three primary elements: the ‘Player’, ‘Avatar’ and ‘Framework’. In terms of the legal system (or legal Framework), ‘Players’ are the living men and women behind the representational ‘Avatars’ of Natural Persons, as considered below. In line with Bentham’s (1789/1996) philosophy, when we speak of Players we give primacy to the actual bodily experience of pain and pleasure, both of which are the most experiential or innermost sensations. Legal *persons*, in contrast, are beyond both pain and pleasure, though quite real nonetheless.

Construct	Examples	Our terminology
Living Person	me, you	Player
Legal Person	Mr, Mrs, Miss, Individual, Corporation, Association, Partnership,	Avatar
Legal System	UK Legal System, US Legal System	Framework

Table 1: Basic Analytical Scheme.

As noted earlier, it is possible for players to have no avatar within the legal system; to be seen as “non-persons”, “undocumented aliens”, or “stateless persons”. To better illustrate the analogies described, it is evident that being permitted to use a social media account or an account for a virtual online environment is not an inherent right that a legal person has, but rather a privilege granted by the operator of the system. A company operating such a system could refuse or rescind the user rights to such an account. The same is true of a player’s use of an avatar within the legal framework. A US Supreme Court case considered this point, noting that:

“To be a citizen of the United States is a political privilege which no one not born to can assume without its consent in some form. The Indians in Oregon, not being born subject to the jurisdiction of the United States, were not born citizens thereof, and I am not aware of any law or treaty by which any of them have been made so since.”

(Elk v Wilkins, 1884 at 109)

In our proposed lexicon, the Indian polity would be considered a separate legal framework to that of the United States, and as this had not been articulated as one and the same as the US legal framework, avatars of the Indian legal framework were not considered to be avatars of the US legal framework. Stein and Bauer (1996, p.129) note that a visiting non-US legal person within the United States does not change their status merely by their presence in the US, but retains their existing nationality. That is to say, an avatar nested in a legal framework remains part of that framework even if they are present in another one. While it is possible to transfer permanently to another framework, this requires that the avatar disconnect from their existing framework in order to do so, or in legal terms, that they effect a “*complete surrender to jurisdiction*” (Ibid).

Articulation

We have discussed the nouns of the lexicon, but we now introduce a verb - articulation - which we illustrate with reference to a social media framework. A Player in this scenario would be the living person who seeks to use the social media framework. Prior to being able to act within it, they must create a user account; that is, they must articulate (create) an Avatar, setting forth its name and other properties as specified by the parameters of the

framework. By then logging in through that account, the Player joins with that Avatar - the Player articulates their actions as being those of the Avatar. Thereby, the Player has the capacity to act within the framework, and so interact with other Avatars, while the actions will be seen as those of their own Avatar.

The verb 'articulate' is chosen due to it embodying three pertinent meanings: to "express in words"; "to join, to attach by joints,,"; "to set forth in articles," (Online Etymology Dictionary, 2016). It applies to both the initial creation of an avatar as well as subsequent instances where one actor (whether player or avatar) elects to act as another (an avatar).

- 1) "*express in words*" - in many instances, the action of electing to act as a particular Avatar will be expressed by a performative statement such as "I am Joe Smith" / "I am playing as the top hat".
- 2) "*to join, to attach by joints*" - whereby one actor is joined to another, much as in the theatre, where a mask is placed on the face of an actor to convey that their words are those of the character represented. In the legal framework this may be considered analogous to the legal term 'joinder', "Joining or coupling together; uniting two or more constituents or elements in one; uniting with another person in some legal step or proceeding." (Black, 1891 p.650).
- 3) "*to set forth in articles*" - again, with reference to the legal framework this can be considered a point of performative creation; the articles of association of a company are subscribed by its members and "create the corporate union between them" (Black, 1891 p.92).

To apply this conceptual scheme to the legal framework, the starting point is the same - that an Actor, via an action, articulates an Avatar. So, a living person, in respect of the legal framework, would be considered a Player; external to the framework itself, for reasons explored in the next section. By engaging in an action (the registration of a birth), a legal person is articulated; this serves as an Avatar, via which the Player can interface with the legal framework and interact with other Avatars.

Construct	Examples	Our terminology
-----------	----------	-----------------

Actor	Individual, company or living human (in legal system); a user account or the user (online); playing piece or the game participant (board game).	Participant in an action or process, in general, without specificity as to their nature or capacity.
Avatar	Individual (or corporation in legal system); a user account (online); playing piece (board game).	A representation or vehicle / agency through which another acts, whether in a legal, economic, or virtual sense.
Player	A physical, living, human; (in legal system); a user (online); a game participant (board game).	A physical living human being, as distinguished from a legal or virtual representation, or agency. An actor which is outside of the framework being referenced.
Articulation	The act of a Monopoly player expressing the intention to 'become' the top hat. A living human declaring themselves to be 'Mr Smith', or 'Mr Smith' declaring themselves to be 'Regional Manager for Acme Ltd.'. Also, the act of registering a legal person or online user account into existence, and similarly also the subsequent act of a user logging in to such an account.	The formal declaration or acknowledgment that an avatar is (or represents) a player (or other avatar). Also the moment of creation, when an avatar is called into being.

Table 2: Analytical Scheme.

This same dynamic - the articulation of an Avatar by a higher-level actor - is evident within the legal framework. Much as a Player can articulate what we might consider a first-order Avatar (created via the registration of a birth), that first-order Avatar, likewise, can itself articulate another kind of Avatar; a company. This illustrates a further distinction, made to varying degrees in different frameworks - that Avatars exist at different levels, or orders, with an Avatar at a level above having the capacity to articulate one of a lower order, but not the other way around.

Osborn's (1927, p.208) law dictionary states that: 'Persons are of two kinds, natural and artificial. A natural person is a human being, an artificial person is a collection or succession

of natural persons forming a corporation.’ So two categories are identified by *legal* terminology: a first order legal entity (a Natural Person) and a second order legal entity (an Artificial Person), with the former giving rise to the latter. For instance, in the legal framework, corporations can be viewed as one such second-order construction. Table 1 seeks to clarify these ideas.

Construct	Examples	Legal person	Feels Pleasure / Pain	Our terminology
Living Person	me, you	No	Yes	Player
Natural Person	Mr, Mrs, Miss, Individual	Yes	No	first-order Avatar
Artificial Person	Corporation, Association, Partnership,	Yes	No	second-order Avatar

Table 3: First order and second order Avatars in the legal framework.

Veldman and Parker (2012, p.417) identify Natural Persons as the building blocks of legal systems, while describing a corporation as an “aggregation of individuals”; a “legal reified representation”, so that we label it a second order Avatar.

Creation by accounting process

Within the legal framework, in order to articulate a first-order Avatar, a Natural Person, an application is first made for an entry in the Births Marriages and Deaths register. A certificate is then issued evidencing the entry, known as a ‘Birth Certificate’. For second-order Avatars (Artificial Persons), the process can be similar. In the case of a limited company, the means by which the actorial identity is articulated, at least in most common law jurisdictions, is through an application (by the first-order Avatar, the Natural Person) to the central register of companies - in the UK, Companies House. An entry is made in the Companies Register and a Certificate of Incorporation is then issued, evidencing this. The parallels in the two processes indicate that both Avatars share some common attributes at least in their formation, and this is reflected in convention. In official communications, both

first-order and second-order Avatars will identify themselves by a name and address, as well as possibly a registry number such as a National Insurance Number or Company Registration Number, depending on the nature of the interaction.

The Player outside the game

We argue that interactions and exchanges take place between Avatars, and in this sense the Players remain outside the game. To understand this counterintuitive idea, it is worth remembering that players cannot physically enter a computer game, and therefore can only act via a ‘representational device [which] stands proxy for what (or who) it represents’ (Lynch, 2014 p.324). However, an ontological distinction remains between the representation and that which is ostensibly represented (Barad, 2003 p.804). A similar example may be observed in a board game where one Player needs to retire and, to keep the game going, another steps in to take their place. In this situation the avatar of the playing piece is, in effect, withdrawn (or disarticulated) from one Player and articulated by the other. This situation intriguingly resembles that where an ambassador, in presenting their ‘letter of credence’ (allowing them to represent their government to a foreign power), while also presenting a ‘letter of recall’ to the previous ambassador.

Computer games or other simulated online environments offer great potential for research (Bainbridge, 2007), and a field has developed wherein analyses framed around real-world laws and practices are applied to these simulations (Balkin, 2004; Bradley and Froomkin, 2004; MacInnes, 2006; Westbrook, 2006). However, they also have the potential to illustrate real-world problems. By applying the logic of games to the real world, the phenomenon of ‘articulation’ can be illustrated before being applied to existing legal and economic systems.

Before interaction can occur within any game/system, an actorial identity must be articulated; that is, identified or created. For example, a user of an online system—whether this be a game or a social networking website—must register an account, and in doing so, acquire a means to interact within the system; an Avatar by which they are represented (Capin et al., 1999). Much like other registers, such as those of the banking system (Millo et al., 2005), this constitutes a framework within which interaction can take place between previously disconnected actors. Players are not, themselves, within the system, even if their Avatar

carries their name; yet they have the capacity to act within it through the medium of the Avatar. This can be illustrated by analogy to a rail network, composed of several nodes known as stations. The stations themselves often carry the names of the towns or cities in which they are located; they are articulated as being ‘Sheffield’, ‘Leicester’ or ‘Derby’, and within the framework that is indeed what they represent, so that the stations can be seen as Avatars within the rail framework. As such, even though they carry the name of a city, they are not literally the city itself, but rather a point within the rail framework that interfaces with the city. Similarly, the word ‘Leicester’ in the context of the rail framework designates that particular node of the framework itself, while in other contexts the same word would designate a node within that particular framework, where such exists; this could be a football team, a university or the branch a business. Consequently, Avatars are not merely self-contained entities freely existing, but rather bounded nodes within the frameworks in which they are articulated. A social media account exists within the framework of the social media framework; a train station exists within the rail framework, and a legal person exists within the legal framework, however that is not to say that any of these are entirely closed systems.

Connectedness and boundedness

Avatars of the rail framework are limited in their activity to the railways that they connect with. A British railway station does not connect to a Canadian railway station, but it can connect to a French one. Similarly, different social media frameworks can be connected to each other, facilitating exchange, and legal frameworks can be connected via treaties. In this sense, in the current age, a British Avatar can move relatively unrestricted from the British legal system to the French, Spanish or Italian one. There are scenarios, however, where such connections are non-existent, such as at times between Taiwan and China, or between the largely-unrecognised Eastern European state of Transnistria and most other states. The movement of legal persons between it and other states is therefore restricted due to the lack of connections via treaties. Here we have considered connections between frameworks of the same kind, but connections exist also between frameworks of different kinds.

While connections between nodes of rail networks are limited to the railway itself, there are points of overlap at level crossings. Here, the similar networks of road and rail connect, but

traffic along either network cannot traverse the other outside of such points. These serve as an analogy for the ways in which, for example, a social media or online game framework might interact with that of the banking system, via an interface such as a website processing payment; where an action can impact upon both frameworks (bank accounts are credited and debited, and a social media or online game account is adjusted in some way). Where frameworks are nested, however, one may be considered subordinate to, or existing within, the other. For example, the banking system may be seen as consisting of connections between Avatars (banks), which comprise nodes in that framework. Those Avatars (banks) are nested within the legal system; as we identified above, they are second order Avatars, being companies articulated via registration. If the legal framework were to cease to exist, so too would the banking framework, which exists within it. However, much like the rail framework, the banking system comprises connections between Avatars in multiple legal frameworks. Much like treaties between states, the agreements between these Avatars has given rise to connectivity.

The above might be contrasted with the operation of the Bitcoin framework. Several similarities exist, and the elements of Avatars, a Framework and articulation are present, but the manner in which they are expressed illustrates some distinct properties to its operation.

Why Bitcoin is different

Much as with the legal framework, for a Player to interact with the Bitcoin framework, they must first articulate an Avatar, known as a key (public and private). This Avatar provides an interface through which the Player interacts with other Avatars, and as in other frameworks the Player remains outside of the framework, and their actions are seen to be those of their Avatar. In this way it is not particularly distinct. What does separate it from other frameworks, however, is that the framework lacks interfaces with other frameworks. An Avatar within the banking framework (a bank account) is nested within a second-order Avatar of the legal system. When a first-order Avatar (Mr Joe Bloggs) articulates an Avatar within the banking system by opening a bank account, those Avatars are connected and all nested within the legal framework. Similarly, a social media Avatar or online game Avatar are nested within the internal framework of the company that created the social media platform or online game, respectively. Where a normal payment is made by actors, this action

takes place between Avatars within the banking system which connect to other Avatars; the second-order Avatar of the company and the first order Avatar of the natural person. All such transactions connect back to first order Avatars; the natural person of the customer, and, ultimately, the natural persons of the company's employees, directors and shareholders.

However, the Bitcoin framework operates differently. Bitcoins are not held in a bank account, and unlike most shares, there isn't an ownership register that identifies legal persons as the owners. In this sense they might be compared to bearer shares, although again there are differences in that the bearer shares represent rights within the legal framework, while bitcoins broadly do not (with limited recognition being granted in some countries). When a payment is made via Bitcoin, no such connections as those described above need to be present. The transaction takes place within the Bitcoin framework, but does not necessarily involve Avatars of the legal or banking frameworks. Players utilising the framework, via the keys serving as Avatars, operate outside the legal framework, and said keys are effectively new first-order Avatars, without evident connection to pre-existing Avatars utilised by the Player in other frameworks. That is to say, a Player may operate directly through an Avatar in the Bitcoin framework, while in the banking framework they must operate through two levels of Avatars; a first-order Avatar in the legal framework and a second-order Avatar in the banking framework.

In relation to social media frameworks, the avatars utilised can sometimes be traced back to a legal person. This is possible in cases where the footprint has been preserved because, in setting up the account, the user linked it to an address or bank card, and the avatar identity was later articulated from the respective legal person. More recently, some internet sites have enabled accounts to be opened with an anonymous email address alone, unlinked to the person's legal identity. This allows living people to separate themselves from their legal persona. The avatar, in other words, much like in the Bitcoin scenario above, becomes the only accessible identity.

To return to our consideration of first order avatars of the legal framework (natural persons), as we have argued, the articulation of such avatars occurs via a register of births, which lists the avatars which populate the framework. Such an avatar is a prerequisite for a player to interact both with other first order avatars, and for them to articulate some other avatars

within subordinate frameworks nested within the legal framework. That is, to open a bank account or take up employment a player must do so by acting as an avatar (a natural person). Without such an avatar, it is not possible to act within the banking framework. However, such an avatar is not a prerequisite for use of the Bitcoin framework, as this is not nested within the legal framework.

Fractality

An observation from the above is that, what at one level functions as an avatar (for example, a bank or social media company), can internally serve as a framework within which other avatars are articulated (bank accounts, social media accounts). At the international level, this is true of countries also, which are seen as single legal persons, as are aggregations thereof - federations or political unions such as the EU. Much as is illustrated by the frontispiece to Thomas Hobbes' *Leviathan* (Hobbes, 1651), there is a fractal dynamic to avatars.

Summons and address

In one sense, we might consider Avatars as possessing some of the features of 'artifacts' described by Latour (1994, p.4). He notes that guns, in and of themselves, might be characterised as 'a tool, a medium, a neutral carrier of will', where each 'artifact' possesses its own 'script' or 'affordance'. Once a man takes possession of a gun, a new actor comes to be—a gunman—which is ontologically distinct from both the gun and the man. Similarly, Players can interact with Avatars, creating a new actor, the Player-Avatar, who will be afforded certain actions while others will be proscribed. In the full paper, we will develop our ideas on how this Player-Avatar comes to be. Specifically, we will focus on two key concepts: the *summons* and the *address*. The summons rests upon according certain administrative privileges to specific Avatars, specifically that capacity to act as judges (Schell, 2008 p.364). The address is important because it is fundamental to the ability of Avatars to locate other Avatars. For instance, cryptographic currency systems like Bitcoin are founded on both assuring particular addresses and ensuring that the authenticity of these addresses can be maintained.

The contribution of this paper is to show that within management and organisation studies, the ontological understanding of actors, and their relations with institutions, can benefit from being informed by legal discourses. Our full paper will develop the analytical frame introduced here, specifically the distinction between Living, Natural and Artificial Persons, the relationship between Players, Avatars and Player-Avatars, as well as supplementary concepts such as the ‘autotelic’, the ‘summons’ and the ‘address’. Taken together, the model provides a novel understanding of how actorial identity is created and maintained within an institutional context, and the crucial role played by legal discourse in the constitution of both actors and institutions.

Conclusion

Legal persons are created via accounting processes (the recording of entries in registers), and are components of the framework in which they exist.

We propose a conceptual scheme for modelling and analysing the core dynamics of such systems which indicates that the ‘Avatars’ that comprise them are nested and fractal in nature, so that an Avatar at one level is itself a framework within which other Avatars can exist.

References

- Aboujaoude, E. (2012). *Virtually you : the dangerous powers of the e-personality*. New York ; London: W.W. Norton.
- Allen, V. and Ledwith, M. (2015) *A mockery of justice: Riot suspects who refused to give their names in court have their cases dropped as prosecutors are accused of failing justice*. [Online] Available at: <http://www.dailymail.co.uk/news/article-3366508/Riot-suspects-refused-names-court-cases-dropped-prosecutors-accused-failing-justice.html#ixzz3unP81NTy> [Last accessed 8th Jan. 2016].

- Andrews, DW. (1910) *American Law and Procedure*, vol. 13 Chicago: La Salle Extension University.
- Bainbridge, W. (2007) The Scientific Research Potential of Virtual Worlds. *Science*, 317(5837), pp.472-476.
- Balkin, J. (2004) Virtual Liberty: Freedom To Design And Freedom To Play In Virtual Worlds. *Virginia Law Review*, 90(8), pp.2043-2098.
- Barad, K. (2003) 'Posthumanist Performativity- Toward an Understanding of How Matter Comes to Matter', *Signs*, 28(3), pp.801-831.
- BBC (2013) *Living Ohio man Donald Miller ruled 'legally dead'*. [Online] Available at: <http://www.bbc.co.uk/news/world-us-canada-24486718> [Last accessed 8th Jan. 2016].
- Bentham, J. (1789/1996) *An Introduction to the Principles of Morals and Legislation*. Oxford: Clarendon.
- Berkeley, B. (2009) Stateless People, Violent States. *World Policy Journal*, 26(1), pp.3-15.
- Bessière, K., Seay, A. F., & Kiesler, S. (2007). The Ideal Elf: Identity Exploration in World of Warcraft. *CyberPsychology & Behavior*, 10(4), 530–535.
- Black, H. (1891) *A Dictionary of Law*. St Paul: West Publishing.
- Bradley, C. and Froomkin, A. (2004) Virtual Worlds, Real Rules. *New York Law School Law Review*, 49(1), pp.103-146.
- Capin, T., Pandzic, I., Magnenat-Thalmann, N., Thalmann, D. (1999) *Avatars in Networked Virtual Environments*. Wiley: Chichester, England.
- Carr, A. Z. (1968). Is business bluffing ethical? *Harvard Business Review*, 46(1), 143–153.
- Crane, A., Matten, D. and Moon, J. (2008) *Corporations and Citizenship*. Cambridge: Cambridge University Press.
- Cox, G.W. and McCubbins, M.D. (1986) Electoral politics as a redistributive game. *The Journal of Politics*, 48(02), pp.370-389
- Davis, A., Murphy, J., Owens, D., Khazanchi, D., and Zigurs, I. (2009). Avatars, people, and virtual worlds: Foundations for research in metaverses. *Journal of the Association for Information Systems*, 10(2), pp.90-117.
- Elk v Wilkins (1884) 112 U.S. 94.
- Fullerton, T., Swain, C. and Hoffman, S. (2008) *Game Design Workshop: A Playcentric Approach to Creating Innovative Games*. 2nd Edition. London: Morgan Kaufmann.

- Greenwood, C. and Hughes, T. (2015) *Laughing at the law: Rioters refuse to give their names to police or court... but are set free and are asked to please come back next year.* [Online] Available at:
<http://www.dailymail.co.uk/news/article-3307965/Laughing-law-Rioters-refuse-name-s-police-court-set-free-asked-come-year.html> [Last accessed 8th Jan. 2016].
- Hamington, M. (2009). Business is not a game: The metaphoric fallacy. *Journal of Business Ethics*, 86(4), 473-484.
- Hines (1991) The FASB's Conceptual Framework, Financial Accounting and the Maintenance of the Social World. *Accounting, Organizations and Society*, 16(4), pp.313-331.
- Hobbes, T. (1651) *Leviathan*. London:Willis.
- Hogan, B. (2010). The presentation of self in the age of social media: Distinguishing performances and exhibitions online. *Bulletin of Science, Technology & Society*, 0270467610385893.
- Juul, J. (2005) *Half-Real: Video Games between Real Rules and Fictional Worlds*. Cambridge: MIT Press.
- Latour, B. (1994) On Technical Mediation--Philosophy, Sociology, Genealogy. *Common knowledge*, 3(2), pp. 29-62.
- Law, J. (1994) *Organising Modernity*. Oxford: Blackwell.
- Lindberg, K. and Czarniawska, B. (2006) Knotting the action net, or organizing between organizations. *Scandinavian Journal of Management*, 22(4), pp.292-306.
- Luhmann, N. (1985) *A Sociological Theory of Law*. London: Routledge.
- Luhman, N. (1982) *The Differentiation of Society*. New York: Columbia University Press.
- Luhmann, N. (1995) *Social Systems*. Stanford: Stanford University Press.
- Luhmann, N., Ziegert, K. A. and Kastner, F. (2004) *Law as a Social System*. Oxford: Oxford University Press.
- Lynch, M. (2014) Representation in formation, In: Coopmans C., Vertesi, J., Lynch, M. and Woolgar, S. *Representation in Scientific Practice Revisited*. London: The MIT Press. pp.323-327.
- MacInnes, I. (2006) Property rights, legal issues, and business models in virtual world communities. *Electronic Commerce Research*, 6(1), pp.39-56.
- MacIntyre, A. (1981/1984) *After Virtue*. London: Duckworth.

- Millo, Y., Muniesa, F., Panourgias, N. and Scott, S. (2005) Organised detachment: Clearinghouse mechanisms in financial markets. *Information and Organization* 15(3), pp.229-246.
- Morgan, G. (1986/2006) *Images of Organization*. London: Sage.
- Online Etymology Dictionary (2016) *Articulate*. [Online] Available at: http://www.etymonline.com/index.php?allowed_in_frame=0&search=articulate. Last accessed 20/06/16.
- Osborn, P. (1927) *A Concise Law Dictionary for Students and Practitioners*. London: Sweet and Maxwell.
- Pilcher, J. (2015) Names, Bodies and Identities. *Sociology*. doi: 10.1177/0038038515582157
- Rawle, T. (2015) 'Dead' man spends 10 years trying to prove he is alive. [Online] Available at: <http://www.dailystar.co.uk/news/latest-news/452123/Dead-man-struggles-10-years-pr-ove-authorities-alive> [Last accessed 8th Jan. 2016].
- Reuters (2014) Exclusive: *Mt. Gox faced questions on handling client cash long before crisis*. [Online] Available at: <http://www.reuters.com/article/us-bitcoin-mtgox-idUSBREA2T01T20140330> [Last accessed 21/06/16]
- Russon, M. (2016) *The curious tale of Ethereum: How a hacker stole \$53m in digital currency and could legally keep it*. [Online] Available at: <http://www.ibtimes.co.uk/curious-tale-ethereum-how-hacker-stole-53m-digital-currency-could-legally-keep-it-1566524> [Last accessed 21/06/16].
- Sawyer, C. and Blitz, B. (2011) *Statelessness in the European Union: Displaced, Undocumented, Unwanted*. Cambridge: Cambridge University Press.
- Schell, J. (2008) *The Art of Game Design*. London: Morgan Kaufmann.
- Stack, J., & Burlingham, B. (1992). *The great game of business*. New York: Doubleday Currency.
- Stein, D. and Bauer, J. (1996) Interpreting the 14th Amendment: Automatic Citizenship for Children of Illegal Immigrants? *Stanford Law & Policy Review*, 7(2), pp.127-132.
- Stout, L. A. (2012) *The Shareholder Value Myth : How Putting Shareholders First Harms Investors, Corporations, and the Public*. San Francisco: Berrett-Koehler.

- Suler, J. (2004). The Online Disinhibition Effect. *CyberPsychology & Behavior*, 7(3), 321–326.
- Tsoukas, H. and Chia, R. (2002) ‘On Organizational Becoming: Rethinking Organizational Change’, *Organization Science*, 13(5): 567-582.
- Veldman, J. and Parker, M. (2012) Specters, Inc.: The Elusive Basis of the Corporation. *Business and Society Review*, 117(4), pp.413-441.
- Veldman, J. and Willmott, H. (2013) What is the corporation and why does it matter? *M@n@gement*, 16(5), p.605-620.
- Wall, D. (1996) Reconstructing the Soul of Elvis: The Social Development and Legal Maintenance of Elvis Presley as Intellectual Property [1]. *International Journal of the Sociology of Law*, 24(2), pp.117-143.
- Westbrook, T. (2006) Owned: Finding a Place for Virtual World Property Rights. *Michigan State Law Review*, 3, pp.779-812.
- Wittgenstein, L. (1953). *Philosophical investigations*. Oxford: Blackwell.
- Woods, S. (2012) *Eurogames: The Design, Culture and Play of Modern European Board Games*. Jefferson: McFarland.
- Yee, N., & Bailenson, J. (2007). The Proteus Effect: The Effect of Transformed Self-Representation on Behavior. *Human Communication Research*, 33(3), 271–290.