

Research on Corporate Governance and Business Ethics

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Abstract

My research and publications over the past 25 years can be related to two major themes: building up the case for business ethics education in UK Business schools, and the development of a virtue ethics approach to institution building in business and management. My business ethics research papers have been focused on the exploration and use of virtue theory as an approach to applied ethics in the context of business and organisational life, exploring subjects such as loyalty, codes of conduct, executive remuneration, job security, health hazards, service work, shareholder responsibilities, temperance, maritime piracy. Virtue theory is a useful framework to approach ethical issues in work organizations. First, this is because its emphasis on the shared values in a community (rather than a set of universal rules) lends itself to understanding ethical standards within communities of practice or professions. Second, because of its emphasis on moral education and development, virtue ethics has useful purchase on issues around management and professional development. These two themes were combined in the study of corporate governance and accountability. The relationship between business and society is a complex phenomenon and requires a multi-disciplinary approach to understand its full ramifications. My book, *Corporate Governance and Accountability* is an analysis and a synthesis of the politics of corporate governance and draws upon economics, management, law, politics, ethics, and sociology to examine the representative institution of business in our society, the company. An analysis is made of how its legal form has changed over the years in response to social drivers and political imperatives. The book attempts to track the nature and course of these developments and tries to understand the present situation, and then attempts to give some insights into how companies may be expected to develop in the future. The perspective of the study, although multi-disciplinary, in many aspects is perhaps, in the final analysis, predominantly political, because it is the relationship of the company to society that is the major focus of the analysis. In this respect, a major theme of the study is to examine to what extent the corporate form changed in response to socio-political factors as well as economic factors.

Phd by Publication – **Analytical Commentary**

Critically explores the relationship between the published work submitted and the current body of knowledge in the field.

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1. Introduction

On the whole, the early interest in business ethics revolved around the broad questions of the morality of the economic institutions of society (Ruskin 1860: Weber, 1968). Only in the 20th century, with the growth of the large company and an occupational group called 'managers', have the narrower questions of business practice been subject to debate and addressed in business ethics courses (Khurana, 2007). In 1932, Berle and Means in the USA, the crucible of the large company and the progenitor of the multinational, raised the classic question of corporate governance when they put forward the view that ownership and control were being separated, so in whose interest should the firm be run? (Berle & Means, 1932). Not surprisingly, and in the spirit of pragmatism characteristic of its democracy, most of the early courses tackling this question were pioneered in the USA (Bowen, 1953). Indeed from its inception, the Harvard Business School sought to combine both technical and social aspects of education for the professional manager (Piper, Gentile & Parks, 1993). They took the need to provide a liberal education in business seriously and helped confer status and prestige upon business as a worthy occupation. And they can justly claim an unbroken succession of courses, from 1908 to the present day, which reflect a concern for the ethical dimension of business life albeit that the title of these courses has been subject to fashion and have only recently been titled 'business ethics'. This record of esteemed education for a business career, should be contrasted against that of the UK's pre-eminent universities where undergraduate and post-graduate business education is only now gaining the recognition it deserves (Cummings, 1999).

Concern with moral aspects of business life as a wide spread study is, then, a transatlantic phenomenon and its foundation was laid with courses on corporate social responsibility which started to appear in American Business Schools in the 1960's and 1970's. Pockets of interest in this question also appeared in the newly founded British business schools in the 1970's, when

concern with rising unemployment in the face of a deep recession and a corporatist approach to government were seen as a threat to private enterprise (Kempner et al., 1974). However, the real take-off of business ethics as an academic discipline in its own right, has been pin-pointed as being in the USA in 1974, when the first national conference on Business Ethics was held at the University of Kansas. A Committee for Education in Business Ethics (CEBE) was set up and reported in 1980 on guide-lines for the curricula of Business Ethics courses. Since then the accrediting body of American Business Schools (AACSB) has decreed that, in all schools, business ethics, in some form, should be part of the curriculum. In addition to the many generously endowed chairs, and the publication of many journals and textbooks on business ethics, the Federal government passed the 1984 Sentencing Reform Act which, encouraged corporations to actively engage in business ethics training. This in itself has furthered the growth of a large ethics consultancy industry in the USA (Carroll, 1999).

To a large extent business ethics was pioneered in the USA mainly because it has had three powerful sponsoring institutions: corporations, churches and the state (Vogel, 2005). In Britain, only the first of these sponsors has taken a serious interest in business ethics and our business schools have now responded to this external interest (Hendry, 2004). British business education, which came late in the day to universities, has, to my mind, often been founded on a narrow definition of professionalism, which considered topics like the social responsibility of business as a peculiarity of American culture (Warren, 1991). So only in the late 1980's has the introduction of ethical issues into the business curriculum of Britain's business schools started to gain ground. Professor Mahoney's survey in 1990 (similar to the Pond report on the teaching of medical ethics in 1987) indicated that an increasingly wide range of university business schools were teaching business ethics to undergraduates, but that the approaches taken to the subject were highly variable and the institutional support for these courses was very weak (Mahoney, 1990).

Nevertheless, since then three chairs in business ethics have been established funded by industrial sponsors, and in September 1994 the UK Chapter of the European Business Ethics Network (EBEN) was formed bringing together academics and business people interested in the study of business ethics at its first conference in Cheltenham. EBEN itself, was formed in 1987, after the first major European conference on business ethics in Brussels, with the aim of promoting the exchange of experiences and knowledge of the management of ethical issues in European business. To date there are no European guide-lines for the curricula of business ethics courses but many textbooks and several journals are now published (EUC, 2001). Consequently, the need to share our ideas and experiences is very important if business ethics is to establish itself as an important aspect of European business education (Joseph, 2003). A survey on the teaching of business ethics produced by the Institute of Business Ethics reported that most Business Schools had recently introduced electives in this subject, along with corporate governance and corporate social responsibility (FT, 2012).

Contribution to knowledge

My contribution to knowledge in the field of business ethics is based upon the thesis that business schools certainly have more to offer the business community than simply to advise on strategy and analysis of the current business environment, valuable though these are (Warren, 1991). Business ethics can function as the humanities of the business curriculum and has much to learn from the virtue ethics tradition in ethical theory (Warren & Tweedale, 2002; Hursthouse, 1999). Business ethics teaching has an important contribution to make in supporting business and in helping it find its role as an integral part of a humane society, which can only truly flourish in terms of the quality of life of all its citizens (Warren, 1995). If business is to be fully professional the past must be used to inform and guide actions in the present; the building of successful business institutions requires that the

lessons from mistakes made in the past are not repeated in the future because of ignorance of the past (Warren, 1997). Management educators have much to learn from the institutional failures, frauds, and unintended consequences of past corporate and individual decisions (Warren, 2002: Warren, 2011). Business research that is focused upon this ethical agenda can richly detail and illustrate how and why these mistakes were made and help business students and practicing managers to reflect upon the structures and processes that are necessary to make progress in business ethics (Warren, 2005: Warren 2011). Self-imposed constraints and pre-commitment strategies in institutional formation and operation can do much to help organizations avoid the dangers of paternalism and yet ensure that they show respect and dignity to human rights in such matters as corporate governance (Warren, 2001).

A study of the institution of the corporate form as a contribution to knowledge

My book *Corporate Governance and Accountability* takes up one of Peter F Drucker's concerns expressed in the seminal work on the modern corporation published in 1946, *The Concept of the Corporation*; this is the relationship of the corporation to society and the need to understand the company as an important social institution (Drucker, 1946). Working within the framework of institutional theory, it is important to realize that the company is a public institution and not just a private arrangement created by contract; it cannot, therefore, be fully determined by economic factors alone, but, is, importantly, also partly determined by political and social factors (Scott, 2001). Sometimes these political and social factors can become more deterministic in shaping its destiny than the economic factors. This tends to be the case when the legitimacy of business institutions are called into question. In these circumstances, the normal economic determinants of business practice can superseded by political events and the environment of business practice can change radically. Sometimes a new set of institutions

for the conduct of business can emerge, and so, in a sense, the form of the company and other business practices can be said to evolve. The primary focus of my study is the company form, that is its legal code of governance, although business activity is regulated in many ways by laws, taxes and codes (Baken,2004). The new politics of corporate governance is about how to balance economic performance against social accountability.

The concept of 'the evolving company' developed in the book is not intended to imply a Darwinian foundation to business practice, but the metaphor of punctuated evolutionary change following a crisis of survival and the need to adapt to new conditions of existence seems to be an appropriate term for the description of these processes. These changes are not always in a progressive direction (politically, socially or ethically); if the new institutions of business are not be found to adequately serve the needs of society, they will probably be called into question again and further adaptation and change will become necessary. The relationship between business and society is a complex phenomenon and is likely to require a multi-disciplinary approach to understand its full ramifications.

This book makes a contribution to knowledge by presenting an analysis and a synthesis of the new politics of corporate governance which, draws upon economics, management, law, politics, ethics, and sociology to examine the representative institution of business in our society, the company. An analysis is made of how its legal form has changed over the years in response to social drivers and political imperatives. Then a synthesis is presented of the various perspectives that are trying to shape the debate about the future trajectory of the company form.

To gain an understanding of the issues involved also requires some historical perspective regarding the development of the company form. Incorporated joint stock companies were the result of a long political debate about the growth and the dependability of business enterprises two centuries ago. I

briefly review this debate as it progressed in chapter 1, and some of the concepts necessary to understand this process are identified. Peter Drucker's *The Concept of the Corporation*, was an attempt to understand the nature of the corporation in post-war America, this study picks up that concern and assess the position of the company in the UK at the end of the millennium. The question of the legitimacy of companies is the subject of analysis in chapter 2, and the question posed is, are we experiencing a new legitimacy crisis at the moment? The drivers of change pushing upon the company are the topics of discussion in the next three chapters. The present position regarding the structure and practices of corporate governance are briefly outlined in chapter 3, together with some of the criticisms made of the present system. The debate about the need of management to pay more attention to the stakeholders in the company is also reviewed. The 2001 Department of Trade and Industry's review of company law is considered as the question of stakeholders is of central importance in this analysis. Chapter 4 examines some of the demands that are being made for firms to become socially responsible and consider some of the methods companies are using to make themselves more transparent and accountable in this respect. Chapter 5 focuses upon the environmental issues that became a pressing concern for all companies in the 1990s and are likely to be even more important in the new millennium. It also looks at the growing interest in the relationship between companies and human rights, and examines how this issue has moved up the agendas of many consumer pressure groups.

The burdening of companies with a raft of social responsibilities will have to take into account the developing nature of commerce in an increasingly global market place. In chapter 6, the characteristics of the so called 'informational age' are outlined, and the implications for the company form explored. My thesis is that the future trajectory of the company form is likely to be partly determined by the political perspective that is taken of the right to hold, use and dispose of private property: is it to be an absolute right inalienable in the face of other competing values, or is it to be a social right

dependent upon the acceptance on the part of property holders of certain community and environmental obligations. And, partly determined by the extent to which companies are expected to contribute to the maintenance and generation of trust and wider social relationships in society, often called social capital. Putting these two dimensions together, in an analytical sense, gives rise to four possible scenarios for mapping the future trajectory of the company form. Each of these scenarios is outlined in turn over four chapters, and the leading protagonists of these perspectives are identified. Chapter 7 examines the radical communitarian agenda for the transformation of the company. Chapter 8 considers a more reformist version of this approach. Chapter 9 outlines the liberal agenda for restoring the shareholders control of company operations. And finally chapter 10 considers whether the corporate form and the large company in particular are likely to be superseded by other sorts of business organizations and mechanisms of coordination. An evaluation is made of these four trajectory scenarios in the final chapter, and a stab at predicting the most likely course of events is attempted in the conclusion. The overall purpose of this book is to provide orientation, to chart the strong currents that the ship of business enterprise is negotiating as it moves through the uncharted waters of the new millennium.

2. List of publications selected: R.C. Warren

Book

Corporate Governance and Accountability, Liverpool Academic Press, Wirral, 2000, p 218, ISBN 1-903499-02-X

No	Article	Theme	Principal Sources
1	Company Loyalty an Organisational Virtue, <i>Business Ethics: a European Review</i> , 1992, Vol 1, No 3, pp 182-89.	The virtue of loyalty	Emmett, Williams, Foot, Aristotle
2	Codes of Ethics: Bricks Without Straw, <i>Business Ethics: a European Review</i> , 1993, Vol 2, No 4, pp 185-91.	Codes of Conduct	Foot, Williams, MacIntyre, Aquinas, Hume, Macedo
3	Corporate Temperance: a Business Virtue, <i>Business Ethics: a European Review</i> , 1994, Vol 3, No 4, pp 223-232.	The virtue of temperance	Aristotle, Foot, Mahoney, Bellah
4	Business as a Community of Purpose, <i>Business Ethics: A European Review</i> , 1996, Vol 5, No 2, pp 87-96.	Virtues in a community of purpose	Macmurray, Selznick, MacIntyre
5	The Enforcement of Social Accountability: Turner and Newall and the Asbestos Crisis, <i>Corporate Governance: An International Review</i> , 1997, Vol 5, No 2, pp 52-59.	Organisational justice, Informed consent	Walzer, French
6	Against Paternalism in Human Resources Management, <i>Business Ethics: a European Review</i> , 1999, Vol 8, No 1, pp 50-59.	Paternalism	Douglas, Flanders, Macmurray, Northcott

7	Putting the Person Back Into Human Resource Management, <i>Business & Professional Ethics Journal</i> , 2000, Vol 19, Nos 3&4, pp 181-198.	Personalism	Sennett, Macmurray, Maritain
8	The Responsible Shareholder: A Case Study, <i>Business Ethics: A European Review</i> , 2002, Vol 11, No 1, pp 14-24.	The virtuous shareholder	Hendry, Sandel
9	Ethics and Service Work, <i>Service Industries Journal</i> , 2005, Vol 25, No 8, pp 999-104.	Virtues in service work, dignity	Sennett, Taylor, Rousseau, Selznick, Bellah
10	Temperance and Alcohol, <i>Worldwide Hospitality and Tourism Themes</i> , 2009, Vol 1, No 2, pp 97-109.	The virtue of temperance	Aristotle, Wilson
11	Piracy and Shipowners' Ethical Dilemmas, <i>Society and Business Review</i> , 2011, Vol 6, No 1, pp 49-60.	The virtuous shipowner, informed consent	Hursthouse, Foot, Aristotle, Hobbes
12	Are We Making Progress in International Business Ethics?, <i>Humanomics: International Journal of Systems and Ethics</i> , 2011, Vol 27, No 3, pp 212-224.	Global business ethics, relativism	Walzer, Kung

3. Critical account of how the publications make a coherent and significant contribution to knowledge.

This section will be in two parts: section one on the contribution of my research to the development of the teaching of business ethics; section two on the contribution of my book to the development of studies in corporate governance and social accountability.

Part 1 - Business ethics teaching and research

The internationalisation of business and the process of globalisation raise many ethical issues about acceptable norms of conduct on the part of business. The core concerns of international business ethics today are: human rights, labour standards, bribery and corruption, environmental protection, product safety, financial probity and the control of money laundering (Kline, 2005). Racism and discrimination are also a universal problem for a global business ethics (Chua, 2004). Multi-national companies (MNCs) are increasingly being challenged by non-governmental organizations and the media to justify their conduct and legitimacy in ethical terms. Activities that undermine human rights and visibly damage the environment are particularly strongly challenged by pressure groups. In recent years, nation states and international institutions such as the United Nations have begun to call upon companies to respect human rights, seek sustainable business practices and take up other ethical initiatives. This overview will touch upon some of these ethical issues but will mainly focus upon the growing demand that business develop policies on accountability and corporate social responsibility (CSR). It will also consider the areas of business ethics where my published articles and book have tried to make a contribution.

Of course, business ethics is not a new subject in the curricula of the Business Schools of the U.S.A. In fact business ethics has been taught at the Harvard Business School since its inception in 1908. But the subject can be said to have taken off in the international business schools in the mid-1970s and developed extensively in the last 30 years. Nearly every major business school is now offering some kind of business ethics courses on their postgraduate and undergraduate courses. These courses have arisen for a number of reasons, but perhaps the most important one is the need for a view of the common good in business and society (Cummins, 1999). If companies are to become competitive and successful, they should be led by managers who take the responsibility for the company as a community seriously, and who act with integrity towards their various stakeholders. The notion of stakeholders is a broad one and includes shareholders, employees, management, customers, suppliers, community and importantly, the environment. Modern management carries responsibilities towards all these constituents and not the least to serving some notion of the common good (Hendry, 2004). In companies, managers need to use moral language and possess the ability to frame arguments that inspire debate about what is right and good. Managers should know about ends as well as means: how to create values as well as create wealth. The aim of many of my articles is to stimulate debate on topical ethical issues in business education (Company Loyalty (1) Warren, 1992: Codes of Conduct (2) Warren 1993: Corporate Temperance (3) Warren, 1994: Business as a Community of Purpose (4) Warren, 1996: Organisational Justice (5) Warren, 1997: Paternalism (6) Warren, 1999: Personalism (7) Warren, 2000: The Virtuous Shareholder (8) Warren, 2002: Temperance (10) Warren, 2009: Piracy (11) Warren, 2011).

A general appreciation of philosophy can be invaluable to the student of business; but of particular relevance is that branch of philosophy called ethics. This opens up a completely new world for the student of management and business, and provides a language in which the question of ends and means can be discussed and put into perspective. Ethics is the

study of what is right and good in human conduct and the justification of such claims. Not surprisingly, there is much disagreement about what is right and good and even more disagreement about how ethical theories can be justified on a rational basis. Ethics in Western philosophy is itself a stratified subject. *Meta-ethical analysis* is concerned with the concepts and status of the language used in ethical theories, and whether there can be such a thing as ethical knowledge. *Normative ethics* is concerned with the formulation and defence of theories about what ought to be done in moral life. *Applied ethics* is the use of these theories to examine and try to resolve moral problems such as abortion, war, racial discrimination, animal welfare etc. Business ethics is a subset of applied ethics. In practice, ethical analysis involves aspects from all these strata using as the prime tool reasoned argument; the main insights to be had come mainly from the discoveries we make on the journey rather than in the reaching of any destination. Perhaps this is why Kant called ethics "practical reason" and assigned it more importance than "speculative reason" (science) because it dealt with the fundamental question of how one should live, and that a person who understood the nature of ethics would know that right conduct was a necessary condition both for self-fulfilment and in order to lead the good life.

How is ethics to be applied in the business context?

We will now examine the use of practical reason in the business context, and consider what the connection is between ethics and business, and how ethical problems in business can be analyzed.

First, can a corporation be held to be ethically responsible? Some commentators argue that only people are ethically responsible and that a corporation is not a person and so is not a responsible moral agent. Others argue that corporations are organizations that are recognized under the law as legal persons and so can be treated as moral agents for the purposes of making them accountable for the deeds and misdeeds committed in their name. Second, the question of whether there is a corporate social

responsibility is also the subject of debate. One of the early denouncers of this notion, Milton Friedman, the economist, argued that the social responsibility of business began and ended with the duty to increase profits, that it was the shareholders who should then decide what their personal ethical stance was, and that this right should not be subverted by management, nor should managers try to second guess the ethical preferences of the shareholders (Friedman, 1970: Friedman 1999). This view is challenged by those who stress that the separation of ownership from control in the corporation is an undeniable fact, and that the accountability of the modern firm is increasingly tenuous in terms of shareholders and nation states (Hutton, 1995). The corporation is a structure of enormous power in society, and has responsibilities to its various stakeholders, which are dependent upon and subject to the actions of the corporation (Bakan, 2004). Therefore, to maintain a social mandate, the managers of the corporation need to be mindful of these responsibilities and act accordingly.

Business ethics is the study of the conduct of people in the business context and this raises the question of whether this behaviour should be judged by the same standards of ethical behaviour we apply to the rest of life. Some commentators claim that personal ethics are unrelated to business ethics . But we should be careful that business ethics does not allow people to use the cloak of corporate legal personality to avoid moral responsibility when doing business. Indeed if business ethics becomes, as Peter Drucker puts it, a form of discredited excuse making, then it will not last long and "it will have become a tool of the business executive to justify what for other people would be unethical behaviour rather than a tool to restrain the business executive and to impose tight ethical limits on business" (Drucker, 1981). Ethical conduct should be consistent in all contexts and there is no fundamental separation between personal and business ethics.

Ethical problems are part of business life. They are as old as business itself (arguments about a fair price, a just wage and usury are found in the Bible

and Koran); but today, they are more complex, as business has expanded and become truly global. The Bophal disaster, the Enron fraud, the collapse of Barings Bank, the Parmalat fraud, and the most recent 2008 credit crunch and banking collapse are all the stuff of current public concern over the morals of business. Ethical issues are also part of everyday business life and ordinary transactions could not be performed if certain moral norms did not prevail. For example, the making of contracts, whilst legally enforceable, depends for its efficacy upon the ethical behaviour of truth telling, keeping promises and acting in good faith. In fact, it is impossible to think of an employment contract purely as a legal contract, for it would be meaningless and quite useless as a contract unless it is built upon a whole raft of moral and social norms which both parties leave unacknowledged in the contract.

Any business issue that relates to human values is of interest to business ethics. The analysis of such issues requires the use of ethical theories to investigate in a systematic way specific business practices. The language, concepts and arguments of those facing ethical dilemmas in business have to be examined and the moral choices identified. Of course, not all moral dilemmas are resolvable, nor can ethical analysis make us agree about what to do; but at least we can be clear about what we are doing when we act, what the contending viewpoints are and how they are being justified.

Today, globalisation is one of the main reasons why business ethics has become an important topic in the international business schools. The firm doing business on a global basis faces many difficult decisions about what to do in different countries: whether to follow the company's home country rules and customs, or whether to follow host country rules and local customs. Ethical dilemmas and value contradictions arise frequently and students of business and corporate managers need to exercise ethical reasoning and imagination.

The contribution of my articles to business ethics education

The temptation in any new field of study is to try to give the impression that its origins have a strong pedigree and that it is merely the revival of a lost tradition, in the hope, that this will make it respectable and acceptable to a skeptical academy. Both Plato and Aristotle had things to say about business ethics. Plato identified the proper functions of business, and Aristotle discussed the question of economic justice. However, both were condescending towards trade as an occupation and to this day, the disdain they felt for business is still faintly reflected in our culture. Nevertheless, critics of business cannot deny that throughout history references to ethical problems with economic institutions can be found especially on questions of a just price and the practice of usury. And, of course, the debate about the labour theory of value and the apparent exploitation of the workers by the Capitalist, lent moral justification of Marxist ideology.

19th Century interest in business ethics revolved around the broad questions of the morality of the developing economic institutions of society. In the 20th century, with the growth of the large company and an occupational group called 'managers', new questions about ethical business practice were considered. In 1933, Berle and Means in the USA, the crucible of the large company and the progenitor of the multinational, raised the classic question of corporate governance when they put forward the thesis that ownership and control were being separated, so in who's interest should the firm be run? (Berle & Means, 1933). Not surprisingly, and in the spirit of pragmatism characteristic of its democracy, most of the early courses tackling this question were pioneered in the USA.

In the later 20 century, business ethics was pioneered in the USA mainly because of three powerful sponsoring institutions: corporations, churches and the state. In Britain, only the first of these sponsors initially took a serious interest in business ethics and our business schools have subsequently responded to this external interest. In September 1994, the UK

Chapter of the European Business Ethics Network (EBEN) was formed bringing together academics and business people interested in the study of business ethics at its first conference in Cheltenham. EBEN itself was formed in 1987, after the first major European conference on business ethics in Brussels, with the aim of promoting the exchange of experiences and knowledge of the management of ethical issues in European business. I was an early participant in these organisations and attended conferences, presented papers, and published articles in its sponsored journals.

Students of business now perceive the world less in terms of collective interests and more as individuals who have to make their own way in life. Henry Phelps-Brown has termed this 'the counter revolution of our time', where a reaction to collectivism and the welfare state have been affected by rising standards of living and new patterns of working life causing a dissolution of the labour movement and the embracing of a new individualism (Phelps-Brown, 1990). Students in a post-traditional world are faced with the ontological question about the nature of their being, which brings the matter of the choice of life-style to the center of their attention. In the modern world, a set of institutions has developed which have largely emancipated us from the dogma of tradition and religion, and modern science and technology has freed us from the pre-existing constraints of previous life chances. Consequently, we are much more concerned about choosing morally justified forms of life for self-actualization (Hendry, 2004). Who am I, and how shall I live, are important questions facing today's students and if not all of us now. However, as a post-modern generation they are also very skeptical about the operation of reason, and are aware that science and technology can be a mixed blessing, which creates new risks and dangers for society. We also live in an age where the social supports of community and tradition, that gave past generations a sense of security and identity when faced with the need to make moral choices, have broken down. Consequently, difficult moral questions now face us in all

directions, and business ethics is now an important part of business education and professional development.

British business education has responded to these conditions by moving beyond the purely technical view of business, and is showing concern for its ethical aspects and its impact on society. Emile Durkheim, at the turn of the 20th century, who sought to explore the moral problems of our advanced, differentiated, and complex society, in which the economy had become somewhat detached from other social institutions, saw the need to find a system of moral guidance which would be relevant to modern conditions (Durkheim, 1957). He proposed a system of professional codes and civic values, which would contribute to a regulation of the economy rather as the guilds had regulated medieval economic activity. In effect, that business needed to operate according to a code of ethics. A century or so later we are starting to take Durkheim's project more seriously in business education. This is because we are starting to encounter some of the problems that Durkheim foresaw as dangers, namely a period of uncertainty and confusion over moral issues in our society. This moral anomie is apparent in a number of areas of our society: in the erosion of our institutions of civil society; in the increasing social division in our society; in the need for those in powerful social roles to set a moral example; and in our need to share a view of the common good, and to work for its achievement. Students of business need to learn a language in which to frame and debate ethical issues, as do other aspiring professionals: they need to know about ends as well as means, how to create values as well as create wealth.

To my mind, business education should be a project of liberal learning addressed to both mind and spirit, an enterprise that harnesses both character and values to the imagination, and the desire to create and achieve. Consequently, the student of business needs to be connected to a purpose, which is not just purely instrumental, but one that is connected to the larger purposes of others and which contributes to the common good. The foundations of the moral character of our students are obviously laid in

the institutions of early socialization, but I think it is wrong to consider these to have been completed before their university experiences. We still have an opportunity to build upon these foundations, and although we cannot dig up foundations, we can still make a contribution to their completion. The whole of the business school experience is a formative moral journey in a variety of ways, and is consequently difficult to analyze in terms of its contribution to character development. But exposure to moral theories, reasoning and debate can make a contribution to the development of a moral imagination (Emmet, 1979).

Durkheim was very concerned that business was not organized as a profession in the self-regulative sense of the term, because he feared that unrestrained competition would lead to anomie and eventually undermine the moral cohesion of the division of labour. In our times, although many people would like to see business management treated as a profession, the fact of the matter is that this desire is still a long way from being realized. Despite the Handy Report in 1985, and the creation of the Management Charter Initiative launched afterwards, the professionalisation of business as an occupation has not been achieved, particularly if we compare it with the criteria that are thought to be the mark of a professional occupation. For an occupation to qualify as a profession the following criteria are often sighted: possession of expert knowledge; closure of membership; qualifications and a license to practice under the control of a regulating body; a client group who are to be rendered the service and who need to be protected from abuse of the expert practitioner; a code of conduct (Warren, 1995). Business Schools are proof of the fact that there is a degree of expert knowledge to be mastered by those who wish to practice in business. Even if this body of knowledge can be ignored or doubted by some successful business people, their recruitment practices do not reflect this view. There are many managers in business, who call themselves professionals in the using expert knowledge sense of the term, and the Chartered Institute of Management seeks to organize them into a professional body. However, without a

licensing system, which would require the support of the State, it is difficult to see how this body will achieve the closure necessary to regulate the entry into, and the conduct of, the profession. Notwithstanding this fact, the CIM, in 1993, drew up a comprehensive professional code for managers, which is both detailed and prescriptive. But, the problem then becomes how to implement and enforce the code in an open entry occupation in which few if any measures can be taken that act in restraint of trade. Indeed, it is difficult to see how any code of ethics in business is going to be enforced except by self-imposed restraint of the professional managers themselves, or by their companies. However, the main problem of attempting to classify business as a profession is that of identifying its client group to whom it gives a service and owes an obligation to protect. Is this the shareholder, the customer, the employee, the suppliers, the society, or all of these stakeholders? This fundamental ambiguity, over who is the client in business, clouds the issue of professional identity and obligations. In business, leadership is centralized and dependent upon the incumbency of a formally defined office in an organizational hierarchy; whilst in the professions, collegiate authority is important and commitment to the good of the client is ultimate. In other words, the loyalty of the professional in the business organization is often divided and a professional may have to choose to put the interests of the client first on some occasions or risk a conflict with the professional body. In business, however, to be seen as having a divided loyalty is often, to be thought to be acting against the interests of the business. The client in business is often narrowly defined by the executive as the shareholder; there is no other client interest as far as the executive is concerned. In this respect, the notion of the client as made up of a range of stakeholders, has a long way to go before it gains acceptance from senior executives. This puts the professional manager in a very difficult position, when professional interests and career interests can be at odds with each other.

I think this dilemma is illustrated by an anecdote, taken from Purcell and Ahlstrand's book on HRM in the Multi-Divisional Company, which concerns the treatment of the HR professional in a large company (Purcell & Ahlstrand,

1994). The incident depicted is a decision about which of two HR managers would head an amalgamated division. The managing director had a choice between two individuals: one typified the hard-nosed, economy-driven approach of the parent company, but had limited HR experience; the other represented a more caring and more professional approach to HR, who had a high standing in the Chartered Institute of Personnel and Development. Apparently, the managing director chose the former over the latter, and justified his decision on these grounds:

“He was a pure personnel professional (the person who did not get the job). He was driven by personnel considerations only. In our company we try for a more balanced approach to personnel in which personnel is tied to the business. Personnel people must be business people first. We don't want substitute trade union officials as personnel managers; a good personnel person does not equate to CIPD personnel professionalism.” (Purcell & Ahlstrand, 1994, p169).

The message is that professional obligations which lie beyond the interests of the company are suspect in the executive ranks of business. This message is also clearly conveyed in Robert Jackall's study, *Moral Mazes*, which is very pessimistic about the possibility of professional ethics in the business context (Jackal, 1988). However, the case for adopting a professional ethic in business is a good one, and we should not be deflected from trying to achieve its realization, but we do need to acknowledge that professional ethics often exists in a cold climate in business. The string of scandals and disasters since the 1990s has made the case for more attention to professional conduct in business more urgent: Polly Peck, Guinness, County Nat West, Robert Maxwell, Enron, Tyco, Marconi, Parmalat, Conrad Black, BAE & Saudi Arabia. And the Great Crash 2008 starting with Northern Rock, Lehman Brothers, AIG, RBS, Halifax, Bear Sterns, PPI miss-selling, Rogue Traders, Nick Leeson, Barclays & LIBOR, HSBC, Standard Chartered, has only reinforced the case still further. Indeed, the recently appointed Arch-Bishop of Canterbury, the Rt. Rev Justin Welby, commented in the *Financial Times*

that the City of London had a "culture of entitlement" and also suggested "serious consideration" be given to the idea of setting up a professional banking body to regulate standards (FT, 27.4.13).

Business ethics can contribute to character development by strengthening and deepening those qualities associated with the idea of personal integrity and self-confidence. This will involve students and practicing managers reflecting on their own identities and backgrounds as well as the awareness of the nature and type of responsibilities that go with certain roles in business and the problems and choices such organizations face. I have tried to further this debate in a series of articles on contemporary business ethics issues: Company Loyalty (1) Warren, 1992: Codes of Conduct (2) Warren 1993: Corporate Temperance (3) Warren, 1994: Business as a Community of Purpose (4) Warren, 1996: Organisational Justice (5) Warren, 1997: Paternalism (6) Warren, 1999: Personalism (7) Warren, 2000: The Virtuous Shareholder (8) Warren, 2002: Service Work (9) Warren, 2005: Temperance (10) Warren, 2009: Piracy (11) Warren, 2011).

A recovery and rediscovery of our moral vocabulary is a very important part of this mission. I think Alisdair MacIntyre was right then he wrote that we are in possession of fragmented and disjointed moral vocabulary, which needs to be disentangled and reconnected to its various moral traditions (MacIntyre, 1981). My use of virtue theory in business ethics is influenced by the work of Dorothy Emmet' in her book *The Moral Prism*, in which she notes that there are various kinds of moral theories, but none of them covers the whole spectrum of morality (Emmet, 1979). If one takes the Kantian notion that we have certain obligations and we perceive certain duties that ought to be performed, we can say that this applies to a certain range of moral questions but it fails to consider wider ends and purposes. If one takes the utilitarian view that one ought to be concerned with consequences and how to judge them, we can note the difficulty of finding a very general notion of an overall purpose, for instance the promoting of happiness.

Therefore, this moral theory is not adequate in all respects. This is also true of virtue theory, which does not have all the answers. The metaphor of the prism implies that we do not have a white light of morality, which shows us what to do but instead a spectrum of different theories, which illuminate different aspects of morality. To make decisions when there is no one adequate theory requires that we develop powers of moral judgment and for us to acknowledge which ethical perspective we are using. This judgment is a creative activity brought to bear on a situation that needs to be trained and cultivated by wrestling with moral problems for which there are no clear solutions.

There is much to do in making business ethics a key part of the curriculum in business education. The problem of the professional standing of business cannot hold us back from this task. Business ethics needs to engage the attention of students and prepare them for a challenging career by developing their characters so that they can act with integrity and moral imagination in all that they do. As teachers of business ethics, the challenge before us is to develop course materials which reflect the circumstances of business and provide frameworks that can give the student a moral compass. Business ethics in many ways represents a new meeting ground for those interested in business and the moral sciences. As Robert Solomon has argued:

“what we need in business ethics is a theory of practice, an account of business as a fully human activity in which ethics provides not just an abstract set of principles or side constraints ...but the very framework of business activity.”(Solomon, 1992, p99).

Part 2 - Contribution to the understanding of Corporate governance and accountability

Another aspect of the impact of globalisation is also adding to the demand that there should be more corporate codes of conduct. In a world of nation states the assumption is that the state will be the locus of regulatory activity in regard to the operation of the company. However, the growth of many businesses into corporations that operate in many states and across states means that the regulatory powers of any one state have been much attenuated, and in many cases the jurisdiction of one state over a multinational corporation (MNC) is often limited. The resources and financial power of MNCs mean that politicians are often competing against each other to gain the support of the corporation for inward investment and support for their political party. States are often in a position where they are competing with each other for foreign direct investment, and to provide the most favourable regulatory regime to attract MNC investment. Consequently, this conflict of interest between acting as the regulator of corporations, and at the same time wanting to be the recipient of their investments, weakens the role of the state in relation to business.

The power and scope of many companies means that the welfare and prosperity of many citizens in a nation state are affected by the decisions taken by the management of the corporation. The speed of communications and the mobility of finance through international markets, and the outsourcing and globalisation of the supply chain of the MNCs, enhance this power still further. In many ways, corporations can now choose where to be registered, and so can shape the legal regime that will govern their operations. Nation states, are themselves engaged in regulatory competition. Without some degree of self-regulation or restraint there will be increasingly fewer restrictions placed upon the conduct of the MNC besides those of the market. The creation of international legal regimes needed to match the

scale and scope of the MNC presents a formidable challenge, and while many laws and regulations do exist, the ability of international institutions to monitor and enforce compliance with these laws is limited. The United Nations (UN) and the Organisation for Economic Co-operation and Development (OECD) are the most obvious candidates as international regulators. However, the development of the European Union (EU) as a regional regulator of the affairs of corporations in Europe is perhaps the most promising development in terms of matching the power and effectiveness of the MNC in part of their domain. My book on the form of the company, and how it might evolve in relation to these challenges is, in a small way, a contribution to this growing debate (Warren, 2000).

The growth of the new accountability agenda

In the absence of effective regulation of the MNC, the spotlight of the media and its reflections of public opinion on the activities of corporations have, to some extent, filled the vacuum. The growth of corporate public relations in response to this interest, with the intension of trying to shape media reporting in the company's favour are important developments in modern management strategies. The main corporate response to media criticism and non-governmental organisations (NGOs) campaigns aimed at various aspects of corporate conduct and power is for the corporation to try to demonstrate a commitment to voluntary accountability and various notions of corporate social responsibility (CSR).

CSR is the idea that companies should consider the interests of society and the environment when making decisions. The importance of CSR in the operational strategies of business firms is apparent to most consumers today. In the UK, Mori opinion polls have tracked the public approval rating for big business over the last 30 years and find it to be at an all-time low, with only a quarter of the public considering it a 'good thing' for large

companies to make profits. Many people in these surveys are concerned that companies do not behave 'ethically'. Companies are aware of this fact, and have, in recent times, been searching for ways to improve their standing and legitimacy with the public without losing sight of their private self-interest.

Many companies in response to these pressures have developed policies on corporate social responsibility. A quick reading of the report and accounts for many large companies will reveal that accountability, stakeholders and sustainability have become the slogans of the new millennium. Many companies are now publishing operating and financial reviews alongside their mandatory accounts, and some have actively welcomed independent auditors and pressure groups such as Friends of the Earth as verifiers of their sustainability statements and achievements. The failure of a company to take swift action in the face of social pressure can be enormous, it is much harder for managements to get these decisions wrong than right. For many companies, the attention that has had to be devoted to social responsibility issues is proving to be costly and time consuming. Most companies now allocate some of their budget to social responsibility issues (Vogel, 2005). What was once perhaps a public relations stunt is now a serious part of many firms' business strategy.

First, it is important to understand more about the growth and development of the new CSR agenda in business. Corporate social responsibility is a fairly recent term but it is becoming a well-known expression for what, in the recent past, has been a collection of different and yet related terms: corporate philanthropy, corporate citizenship, stakeholders, community involvement, corporate responsibility, socially responsible investment, sustainability, triple-bottom line, corporate accountability, corporate social performance. Some of these terms have a family resemblance to each other, but many of these expressions have other connotations as well. Authoritative definitions of CSR are hard to come by in this developing area

of responsibility because there is, as yet, so little orthodoxy in both theories of CSR and in its practice (Carroll, 1999). There is no general theory of CSR, although many academics have sought to establish the fact that such a responsibility exists, and some academics are leading advocates and campaigners for its adoption in business (Zadek, 2001).

The EU has embraced CSR, and in the green paper *Promoting a European framework for CSR*, has defined CSR, "as a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis." (EUC, 2001, p 6). There are three points to note in this definition: this activity on the part of companies is held to be a voluntary initiative; these social and environmental concerns should be integrated; and that all businesses should interact with their stakeholders. Let us consider these points in turn.

First, the EU is encouraging firms to embrace CSR as a voluntary activity, which is a move above and beyond what is required by company law. Firms are urged to do this as a matter of enlightened self-interest; but as yet, most states and in particular the super-national EU does not want to force this responsibility onto firms or require that it becomes legally enforceable. This reflects a political compromise within the EU, as firms in some states are now finding that certain aspects of CSR are now almost mandatory and are increasingly becoming integrated into some states frameworks of company law. For example, CSR reporting is virtually compulsory for UK firms that want to maintain stock market listings and the approval of large investment funds. So, whilst the EU definition defines CSR as an added value or voluntary activity, this may be a transition phase prior to its incorporation into the regulatory framework of business. On the other hand, CSR may just be a passing fad, as it has been in the past, that the EU is happy enough to endorse and encourage at present but will in due time be allowed to drop away so that its incorporation in to company law will not then arise. The voluntary character of CSR will also allow it to be dropped by business in a

few years if the public pressure for CSR begins to subside. The designation of CSR as voluntary in the EU definition indicates then that it is still a tentative and a contested political issue that has succeeded in gaining the attention of the EU, but has not yet managed to become an institutional fixture in business.

Second, the EU definition indicates that two responsibility agendas ought to be integrated: the social and the environmental. The environmental agenda for business has been around since the 1960s, and in Europe, some states are much further along the road of making business more environmentally conscious than others. The movement towards sustainable business has a long way to go but consciousness of the perils of ignoring these matters is now with us. Many of these requirements are making their way into state and EU regulations, but once again business is being urged to take this responsibility further than mere compliance. The social responsibility agenda that is being integrated with the environmental or green agenda has arisen more recently, but represents the growing need for business to act ethically, transparently and responsibly in its dealings with customers, and in the communities where it operates. The integration of these two agenda reflects the globalisation of business and the fact that the social and environmental are ultimately connected and must be embraced as a single concern for sustainability in business.

Third, the notion of stakeholders is also referred to in the definition and this reflects some of the debate in business that developed in the 1990s about the different ways to embrace capitalism: sometimes characterised as a choice between the Rhennish (Stakeholder) versus the Anglo-Saxon (Stockholder) view of the firm. The term stakeholder is contrasted with shareholder or in the USA stockholder, as the signifier of the differing perspectives at issue. Shareholders are often held up as the beneficial owners of the company because they are the major risk bearers and are therefore entitled to the profits of the business after all other contract

payments have been made (Bakan, 2004). The creation of shareholder value is said by many commentators to be the *raison d'être* of the business and is therefore the primary duty of the shareholder's agents, the managers of the company (Sternberg, 1994). The substitution of the term stakeholder in place of the shareholder is an explicit questioning of this first duty assumption, effectively redefining the duties of management as pluralist or multiple. Stakeholder advocates are seeking to define business as a shared endeavour with many participants, all of whom have a stake in its success, and in the firm's good governance. As yet, stakeholding is a term used mainly by public relations departments and in some management literature in large organisations, but there is now a push to see this conception of responsibilities incorporated into company law. In the so called, Rhennish model firms, in countries such as Germany and the Netherlands, stakeholder representatives drawn from the workers have boardroom seats in the company. The demand to enfranchise more stakeholders in the company would substantially alter the institutional nature of business and the model of governance that sets its purpose and function. The introduction of stakeholder language into the EU definition is indicative of the radical potential the CSR concept has and indicates that this will be a contentious and momentous change in the institutional structure of capitalism should this view come to prevail.

The adoption of CSR language and activity in business is now substantial and widespread. These changes are an indication that there has been a response by business to social, political and ecological pressures that are largely instinctive, ad hoc, and to-date, have had little guidance or direction from a justifying theory. In initiating policies and activities, demonstrating concern for CSR business has made all the running, with business school academics often struggling to catch up, the business schools being mainly content with describing and categorising these initiatives rather than directing them. However, in recent years several interesting explanations have emerged that

can help us to understand businesses' response to these new social and political pressures.

John Hendry, in his book, *Between Enterprise and Ethics*, offers one of the most eloquent explanations (Hendry, 2004). As he sees it, we now live in a 'bimoral' society, in which social conduct is influenced by two contrasting sets of principles. On the one hand there are the principles associated with traditional morality and the maintenance of hierarchical order in society. Although these rules of conduct allow individuals a modicum of self-interest, their emphasis is on our duties and obligations to others: to treat people honestly and with respect, to treat them fairly and without prejudice, to help others and to be there for them when in need, and ultimately, to put the needs of others before one's own. On the other hand there are the principles associated with the entrepreneurial self-interest of individuals in a competitive society. These also impose obligations, but of a much more limited kind. Their emphasis is competitive rather than cooperative: to advance our own interests rather than to meet the needs of others. Hendry demonstrates in a richly textured analysis of changes in Britain that both sets of principles have always been present in society but that in recent years, traditional moral authorities have lost much of their force, and the morality of self-interest has acquired a much greater social legitimacy, over a much wider field of behaviour, than ever before. The modern moral dilemma is that in many situations it is no longer at all apparent to many people, which set of principles should take precedence. Hendry carefully explores how the cultural and historical origins of the 'bimoral' society have also led to new, more flexible forms of organizing, which have released people's entrepreneurial energies and significantly enhanced the creative capacities of business. He notes that working within these organizations, however is fraught with moral tensions because traditional obligations and individual self-interest conflict and workers are pulled in all sorts of different directions at once. Consequently, organisation and governance in business are much more problematic and are posing new moral challenges for business leaders,

and is therefore putting a new focus on business ethics. The job of management becomes institution building and stakeholder balancing: determining purposes and priorities, reconciling divergent interests, and nurturing trust in interpersonal relationships. Hendry identifies the issue of business legitimacy as one of the challenges posed for all societies as they seek to regulate and govern an increasingly powerful and global business sector. In this respect the issue of CSR and its influence on public opinion is of crucial importance in the national and increasingly in the global context.

The importance of the public acceptance of business as a legitimate set of interests that contribute to the good of society was stressed in my book on corporate governance and the new agenda in accountability (Warren, 2000). Legitimization is a term used to analyse the relationship of power that exists between an institution and society. In society, a legitimization crisis arises when the power of an institution is challenged or where it comes into conflict with other groups who ask questions about the authority and scope of the institution. For an institution to function its activities have to be generally accepted and the decisions of its leaders complied with both inside and outside the institution. Consequently, an institution needs a certain amount of authority if it is to pursue its purpose in society. Authority can be defined as a rightful claim to deference or obedience. As such, institutional authority rests upon a kind of power, the need to gain assent or deference based on a claim recognized as right by those both inside and outside the institution. So a claim to authority must be accepted as right and proper by the relevant groups of people in society, but not necessarily from all those who are expected to obey that authority. For example criminals may not respect the authority of police officers, but the civil population generally does, as do most police officers inside the hierarchy of the police force. A claim to authority may rest upon a broad or narrow base of consent, and is often deeply rooted in law, custom or institutional practice. Authority can be swiftly eroded when this assent disappears, and at times, this can happen very quickly.

The major institution of business in society today takes the form of the company or corporation, either private or public under company statutes. But the moral character of a company is largely determined by the kind of authority its executive sustains and how that authority is used inside and outside the company. If a company's authority presumes consent, then when this consent is called into question, the claim to authority needs to be justified because legitimacy questions are being asked. When a legitimization crisis occurs, and it might be a long time before this is recognized and acknowledged, then a new basis for company legitimization needs to be negotiated, so that a new consensus can be built or formed in society.

Legitimacy is also important to business for other reasons. It is often not enough for someone or for an organization to be powerful and to be able to get others to do their or its bidding, they want the respect of those they wield power over and they want them to accept this bidding as being right and proper. As Max Weber, observed, "The generally observable need of any power, or even of any advantage of life, (is) to justify itself." (Weber, 1968, p 953). Weber, in his study of rationalization in society, distinguished three kinds of legitimate authority: Traditional, Charismatic, and Rational. In the first, obedience is a matter of personal loyalty to someone in society with a traditional institutional role, perhaps a teacher or a priest. In the second, authority is claimed by the prophet or hero of a charismatic nature in order to reaffirm or reconstruct the values of a community. The leader's authority is derived from personal qualities and achievements not from social position. The third kind of obedience is based upon rational authority embodied in rules and commands in an impersonal order. Faith in a legal order is important for the legitimacy of this form of authority.

Company legitimacy is important because great power in terms of resources and life chances are now wielded by modern companies in the global market place (Bakan, 2004). This power is often transnational and weakly regulated

by the nation state, and although companies are nominally accountable to the shareholders, decision-making is firmly in the hands of a professional management elite. MNCs are also subject to varying expectations regarding the social norms and methods of operation they are expected to adopt when doing business in different parts of the world. The legitimacy of companies is under scrutiny when there is a perceived inconsistency between the way companies do business and the changing goals and priorities of people in various societies. A company is legitimate, if and only if, the way it does business is consistent with the norms of society it does business in. Free market economists have argued that companies ought only to be accountable to shareholders and the law, and that as instrumental organisations little else, ought to be expected of them nor should we expect more of them. Notions of stakeholder accountability or corporate social responsibility are, from this perspective, dangerous notions that are damaging to the wealth creation process and represent the thin edge of the wedge that opens the door to totalitarian socialism. However, from time to time this justification of the limited responsibility of business wears thin and evidence of the social costs of moral indifference begins to mount in terms of market failures, environmental degradation, distorted priorities, defrauded consumers, abused human rights etc. The demand begins to mount for greater corporate responsibility and accountability through greater regulation and a greater sense of company responsibility. To maintain its legitimacy a corporate response on these two fronts is then required to defuse the crisis of confidence in the institutionalization of productive private property.

Company legitimacy involves issues of internal organization and management, and that attention be paid to public expectations and acceptability criteria in society. Hence, company legitimacy is about corporate responsibility and accountability and how this is related to shareholders and stakeholders. Company legitimacy requires that management pay attention to external constraints and internal consistency of policy. General standards to which a company must adhere need to be

developed and against which, companies can be held accountable by legislatures and courts. Principles of CSR, defining the mission, policy and responsibilities of the company also need to be developed and implemented. Within this framework the company makes its own decisions regarding specific objectives, internal organization and the allocation of resources. However, it is important that the company exercise restraint and show responsibility within these constraints and establish a moral order within the company. Legitimate companies build moral competence into the structure of the organization. To be a responsible company requires more than conformity with an external standard it also requires an inner commitment to moral restraint and an aspiration to be responsible. This legitimacy challenge is being met by the CSR response.

The movement towards a legitimacy crisis for business institutions in recent years can be seen to derive from a diverse combination of factors. Some are new and circumstantial, others are the legacy of a prolonged period of political change designed to make society more enterprising and market based. The preoccupation with the state ownership of the commanding heights of the economy has been superseded by that of the privatization of these public sector industries and services. Many of these privatisations in the case of the railways for example have exaggerated the benefits of what such changes in ownership could deliver by way of prosperity and wellbeing for the whole of society. The legitimacy of companies as creators and distributors of wealth is beginning to be questioned as greater inequalities are emerging. The employee's sense of security which comes from working in a company has been shaken in recent years through cost cutting redundancy programmes and the sub-contracting and outsourcing of the supply chains across the globe. Many workers have a diminished stake in the system of capitalism; it offers them neither job security nor stable sources of income on which to live, nor an environment that is sustainable. The welfare states in many societies are now struggling to cushion the blow of uncertainty, and an increasingly divided and unequal society is growing. In

fact, the social fabric of some societies is wearing very thin because the base of social capital upon which capital accumulation depends is not being rewoven. Increasingly, workers and citizens are being asked to shoulder the risks of a capitalist society without gaining a sufficient share of the rewards of company profitability. It follows that many business leaders are of the perception that if something is not done to re-legitimize the operations of companies then there will be trouble. There could be a further deterioration in the social and ecological order of society. These pressures do not bode well for the creation of an open and tolerant society with a sustainable future that is able to shoulder its share of international burdens in the turbulent world of the twenty first century. Small wonder that in the face of these pressures and drivers, CSR has been moving to the top of the business agenda in recent years.

These trends towards the embracing of CSR particularly on the part of big business have not been without its critics in recent years (Vogel, 2005). As was noted earlier these tendencies were subjected to criticism when they arose in the 1970s by the Nobel Prize winning economists Friedman and Hayek. In recent years the CSR movement has criticised by the noted economist David Henderson, and the business ethicist Elaine Sternberg (Henderson, 2001: Sternberg, 1994). In general terms they argue that the laws and other social institutions ought to be neutral with respect to individual persons and their conceptions of the good life and how to live it. Institutions, including business, exist to enable each person to pursue their own ends as long as they do not interfere with others engaged in the same process. In questions of morality, liberals tend to the view that justice is a matter of procedural rights and the question of substantive goals such as the common good should not be allowed to decide matters. Consequently, in the matter of property rights these are fundamental and basic to the rights of individuals to exercise freedom and choice in society, and so have to be protected. The distribution of these rights is therefore a secondary matter and cannot be allowed to override the individual's property rights. The

establishment of private property in the company form is something that the state should refrain from interfering in, and, apart from matters of procedural justice and the prevention of deception and fraud, should refrain from regulation beyond the necessary requirements of administering contract law. In their view, the firm is to be thought of as a nexus of contracts, which is owned by the shareholders. The management are agents in the relationship with their investor principles. All others are contractors and can gain satisfaction and redress under the contract arrangements or by recourse to the courts and the law of contract. In the pursuit of each person's self-interest, the common good is served by the invisible hand of the market as Adam Smith noted. In this respect, a moral outcome miraculously results from selfish motives. If this spontaneous system of interactions and outcomes is interfered with in an intentional way to try to pursue some other political purpose then disaster will follow. The aim of the economic liberal should be to vigorously defend this system and to see that malign and benign intentions of well-meaning business people do not undermine what is a natural and spontaneous evolution of a civilized social order. When these doctrines are applied to the institutionalization of the company then a vigorous defence of the status quo and a rolling back of these recidivist tendencies is required. They view the CSR movement with utter dismay.

A second line of argument against CSR is that these policies are more about public relations and marketing than about serious intentions to do good. A report by IPPR in 2003, using data from a survey of 500 leading firms, claimed that many of the firms' claims about CSR were tokenistic (Joseph, 2003). CSR policies are also a kind of insurance policy. Companies with well-known brands, healthy profits, and old sites in the developed world and significant activities in the developing world have significant value at risk. A commitment to CSR can reduce these risks and act as an insurance against reputation damage if something goes wrong.

Whether these arguments will deflate the CSR movement remains to be seen, but even a small sample of today's business literature tends to indicate that CSR is a much used vocabulary of motive and is now widely adopted in many organisations (Porter & Kramer, 2011). Whether CSR will provide the necessary boost to business legitimacy and will therefore become a permanent fixture in the institutionalisation of the corporate form depends upon the sincerity with which these initiatives are pursued by business leaders.

CSR reporting has come a long way in the last decade, and over 2,500 companies have now joined the early pioneers such as Body Shop and the Co-op Bank. Recent converts to CSR reporting now include McDonald's and British American Tobacco. In the UK, the Pension Fund Amendment Act has raised the profile and importance of socially responsible investment and has encouraged companies to report on their SR criteria. Some large companies, in the UK, are now choosing to produce an Operating and Financial Review, which includes reporting on CSR issues. Another factor has been the appearance of public listings for CSR focused companies in the FTSE4Good and Business in the Community's Corporate Responsibility Indices.

At the moment, those companies wanting to communicate with their stakeholders face a bewildering array of reporting standards and frameworks. There is the United Nations Global Compact, standards such as AA1000 and SA8000, and multinational guidelines such as those of the OECD. The Global Reporting Initiative is emerging as one of the leading frameworks because of its broad foundations and international reach. The GRI is a UN-backed organisation that has brought together governments, business, campaign groups, trade unions, accountants and academics to develop reporting guidelines applicable to any organisation anywhere.

Recent work on the changing company form

More recent work on the corporate form, and how it needs to change to match modern circumstances has come from William Davies in a Demos publication: *Reinventing the Firm* (Davies, 2009). In response to the crisis of 2008, and its calling into question the legitimacy of the financial system, Davies suggests that it would be a pity to let a good crisis go to waste. The shock to the system caused by the credit crunch can lead us to think about new ways of organising business organisations. He would like to see a richer ecology of types of business organisation, and more businesses in the private sector that are imbued with a sense of public purpose. He believes that firms that espouse employee participation can achieve this transformation. Further, he argues that the UK already has experience and models on which to draw in promoting wider use of employee participation. Davies points out that it is too simplistic to think of the firm as being an asset that can be bought and sold. At the heart of any business, especially the modern 'knowledge economy' business, lie the knowledge, expertise and commitment of the employee and the relationships that exist within the firm. We have been conned into accepting the claim that shareholders own the business. In fact, all that they own is their shares.

Employee participation partly concerns the idea of the ownership of the firm. Davies cites studies showing that employee ownership has a beneficial impact on productivity that cannot be fully accounted for by economic considerations. It seems that employee participation has a psychological impact on how employees relate to the firms that they work for. This positive effect is only achieved, however, where financial participation is accompanied by more participatory forms of governance.

It is important to distinguish between direct and indirect forms of employee ownership. Direct ownership involves individual employees buying, or being given, shares in their employer. Davies, however, favours indirect ownership. This often involves a trust or a trust-like structure where ownership of the

firm is held on behalf of employees but not by employees directly. This is the approach used by the John Lewis Partnership. There is a management board so that employee participation does not impede effective decision-making. At the same time, ownership of the business is vested in trustees on behalf of employees and employee participation pervades governance at every level of the firm. The John Lewis structure achieves the difficult balance of making thorough-going employee participation compatible with strong management.

Davies acknowledges that not every employee will feel comfortable with a participatory workplace, for participation is a two-way street; it makes demands on employees as well as bringing benefits. Employees will need to learn about governance and financial issues if they are to play their part in a participatory firm. And, it will no longer be so easy to hide behind managerial shortcomings as an excuse for failure. The power that participation brings with it also entails personal responsibility. Davies cites studies showing that employee participation results in greater productivity and lower staff turnover. In governance terms, managerial decisions have greater legitimacy when employees have had a say in formulating them. And employees are well placed to hold senior management to account, having both the information and the incentives that good monitors need.

Most of the pressure to get companies to take their responsibilities seriously on CSR also involves a requirement that companies pay attention to human rights issues particularly if they are multi-nationals. Human rights violations have often been regarded as a product of domestic politics and therefore beyond the sphere of influence of international companies. But, with the globalisation of the economy and the sourcing of consumer products in the developing world and the increasing role and influence of multinationals as the engines of economic development, companies cannot longer stand aside with impunity in a critical world in which information about what they do is widely available. Retailers whose supply chains contract to buy products from tens of thousands of sources in the developing world, often confront difficult ethical problems in relation to human rights such as health and

safety, child labour, debt slavery, hostility to trade unions, sweatshops, starvation wages, and racial and ethnic discrimination. Companies making direct investments in foreign countries face the threat of their security arrangements having an adverse impact and of being accused of complicity if they are seen to benefit from silence in the face of oppression. Added pressure is also coming from consumers through the supermarkets and other stores in the field of clothing, footwear, toys, sports goods and cosmetics. The Council on Economic Priorities, a New York based research consultancy, has drawn up the SA 8000 Social Accountability standard for the measurement of the ethical commitment of companies in this area. It is designed to mirror the ISO 9000 and ISO 14000 standards for manufacturing quality systems and environmental quality systems. SA 8000 sets out specific provisions on issues such as trade union rights, the use of child labour, working hours, health and safety at work, and fair pay and conditions, as well as the necessary management systems to deliver them. Each company applying for certification is given an independent verification by an outside auditor such as SGS-ICS, the world largest certification company. The standard is modelled on universal quality standards and based upon the conventions laid down by the International Labour Organisation, the universal declaration of human rights, and the United Nations convention on the rights of the child. SA 8000 has to other elements to help with social auditing: the auditors are required to talk to and learn from interested parties - trade unions, workers and charities etc., and a complaints and appeals process allows for interested parties to bring up issues of non-compliance at certified companies. Accreditation is valid for a span of three years, with surveillance and observation audits every six months, covering each and every country where the certification body audits ten or more companies. It might be only be a matter of time before the call for companies to publish comprehensive information on their compliance with the likes of SA 8000 is made.

Soon other standards for corporate community involvement are likely to be developed and they are also likely to be made a formal accounting requirement for companies. This is likely to take the issue of social responsibility into the main stream of business practice. For companies that trade upon their ethical reputations, the auditing and reporting of the veracity of their claims is a very important part of preserving their reputation which will always be under scrutiny as it represents a high risk business strategy in very competitive markets for reputations and brands. Research from the Future Foundation, found that companies operating in a responsible way are nearly always more successful in commercial terms because it has an impact on customer trust and perceptions (Future Foundation, 1997). Corporate community involvement has grown markedly in the past few years with many businesses claiming that it is not just philanthropy but also good for profits and company morale. Business in the Community has seen its membership increase to include three-quarters of the FTSE 100 members. Many firms are working with schools, communities, development agencies, and charities in partnership to help and to improve their reputations. Among the many spin-offs claimed for this activity are that it improves relationships with governments at home and abroad, improves the quality of the workforce the firm is able to attract, can be a useful vehicle for staff development and importantly can create better relationships with customers. The scale and scope of this activity is now considerable.

We are now 20 years on from the Cadbury Committee which issued the first UK Corporate Governance Code and its comply or explain why you are not in compliance approach to governance. The code is now monitored by the Financial Reporting Council. However, the failures of this code to professionalise corporate governance is now clear. Perhaps the most glaring shortfall is the failure to bring remuneration into a sustainable framework that matches company performance. The formalisation of boardroom pay setting led to the ratcheting up of most chief executives pay into the third and upper quartile so that they could look comparable to their peers.

Another area of concern is the poor quality of the explanations offered by firms for non-compliance with the code especially from smaller companies. And, since the 2008 crash, the number of corporate governance failures is also worrying. For example, the board weaknesses exposed at Barclays in the shape of an over dominant chief executive Mr Bob Diamond. BP's troubles in the Gulf of Mexico and the Texas City refinery reflected the same syndrome during Lord Browne's long tenure as chief executive. The insurance giant Aviva is in downward spiral of decline and against a background of dispersed ownership does not seem able to make necessary changes in the board. In corporate governance more generally, there is felt to be a problem below the boardroom level with regard to incentive structures, particularly in the banks. BP's problems reflected flawed incentives on safety issues and a failure to translate principles from the board deliberations into the heart of the organisation. The conduct of the banks with regard to the sale of payment protection insurance to customers is also a case in point. This ethical deficit is perhaps one of the most serious problems still to be faced in improving corporate governance. Moreover, the commercialisation of the audit process and profession does not always give sufficient emphasis to the public interest in this process. Codes of conduct do not always help resolve these important conflicts of interest. Good corporate governance is very much a hygiene factor, and success in preventing a corporate disaster is, in reality, immeasurable and many of the positive achievements of governance cannot be known.

In context of the developing world, CSR often takes the form of compliance with basic expectations about the conduct of business and in reducing public hostility towards business enterprise. In a study of CSR in Russia, this concept is much more about creating productive firms that provide real jobs that generate wealth and contribute taxes. By showing, that business can act independently of the state business CSR policies are contributions to building the social legitimacy of business as an honourable and respectable occupation. If these policies are successful, this could be seen as a real

achievement in the context of a society where 70 years of communist propaganda attempted to portray business as rapacious and immoral enterprise that exploited the working class and impoverished the third world (Kuznetsov, Kuznetsova & Warren 2009).

Another trend in CSR is for companies to work together alongside governments and development agencies on problems that are too big for any one company to handle, such as the HIV/Aids pandemic, poverty, climate change and corruption (Wadham & Warren, 2013). The United Nations is helping to forge some of these collaborations with its initiative called Growing Sustainable Business for Poverty Reduction in Africa. This initiative aims to encourage businesses to target poor consumers and improve the links between big and small companies in the continent. This could extend the scope and impact of CSR quite considerably and importantly is an initiative that business is itself promoting. The importance of CSR initiatives in society is underlined in the analysis of the post-crash economy in a recent book by Colin Crouch (Crouch, 2011). *The Strange Non-Death of Neoliberalism* is an analysis of why, given the crash of 2008, neoliberalism emerged relatively unscathed by the financial crisis. The analytical focus of the book is on a particular tension between how the body of neoliberal theory suggests that the economy *should* operate and how the economy actually *does* operate. Crouch contends that neoliberalism is, in actuality, more about firms - specifically large corporations - than about markets. Crouch argues that the correct path to transcending the limitations of neoliberalism does not lie in the state increasing its capacities for regulation. Rather, he contends, progressive transformation is more likely to come from the activism within civil society.

4. Demonstration of a critical reflection of methodological issues and an indication of the future direction of research needed in the field of business ethics and corporate governance.

Meaningful and useful debate in business ethics requires engagement with businesses and managers in their own context and empirical research into what happens in practice based on the compiling of careful descriptions, and factual evidence gathering. In short, business ethics has to take empirical research more seriously and engage in theory building that will be more 'grounded' than previously. Several of the reviews conducted into the methodology of business ethics research have made this important point. Randall and Gibson's review of 94 business ethics research papers in the USA, found that over 80% were based on questionnaire surveys that purported to measure respondents ethical attitudes (Randall & Gibson, 1990). As well as asking questions about the validity and reliability of these questionnaires to get at the real issues of ethical behaviour in business, Randall and Gibson also were concerned that these studies showed a lack of theory development and often had failed to test different hypotheses.

Another review of empirical research papers, published in the *Journal of Business Ethics* in 1993, conducted by Robertson, noted the preponderance of attitudinal studies based upon survey questionnaires (Robertson, 1993). She criticised the lack of focus on behaviour and speculated that this was probably due to the sensitivity of the issues involved such that, 'It is probably less threatening for respondents to report their attitudes towards other people's cheating on tests than it is for them to report honestly about their own cheating behaviour.' (Robertson, 1993, p588). However, she goes on to note that in other fields of study, such as criminology, research methods have been devised to elicit information about sensitive behaviour. For business ethics research to progress, she considered several improvements in methodological approach were required: a greater

emphasis needed to be placed on the normative basis of empirical studies, behaviour (rather than attitudes) needed to be established as the key dependent variable, theoretical models of ethical decision-making needed to be tested, and empirical studies needed to focus on theory-building. The behaviour to be investigated should not be confined to individuals but should be widened to include work groups, department units, the corporation, consumers and other market behaviour. The methodological research base also needed to be broadened beyond the dominant questionnaire technique to include observational and documentary techniques, and other qualitative research methods.

Cowton's consideration of the empirical contribution to business ethics in the UK, also notes these same weaknesses and suggests that more imaginative responses to research design are made to overcome these problems (Cowton, 1998). However, he cautions against letting the empirical approach overwhelm the normative base of the subject, that, after all, has to be mindful of Hume's basic puzzle, that one cannot determine an 'ought' from an 'is'. Moral reasoning has to take into account context when arguing towards an evaluative conclusion but still must include normative premises. One of the major issues Cowton's discussion highlights is the problem of access to fieldwork and the reliability and validity of research designs in business ethics. After all, few people will admit to unethical behaviour and self-interested motives; the assessment of the individual's or a group's vocabulary of motives and interests in any situation is complex and difficult. Designing empirical research which takes account of this complexity is difficult and gaining access to companies and institutions to study the behaviour inside them is again taxing in terms of time and resources.

Often the rich ethnographic accounts of participant observer social science studies are some of the most fruitful sources of evidence for the examination of moral conduct in business. Most notable in this respect was the study by Jackall of norms and values in use in some American corporations, and in the

UK, Tony Watson's in-depth account of managers in conversation and in action (Jackall, 1988; Watson, 1994).

It is also my contention that the methodological development of business ethics can be improved still further by drawing upon the insights that are available from business history for understanding business conduct and theory-building in business ethics. Many studies in business history contain rich insights into past management behaviour and actual organisational activity that can be used to explore the moral issues involved and to help to develop and test out theories about managerial decision-making. To a large extent the justification for providing a historical component in the business ethics is similar to the argument for history in general education: it is an important tool for understanding human nature and its past endeavours and it can throw light on the present and the future in many ways (Evans, 2005). Its study increases our understanding of humanity and it has lessons to teach us about human aspirations, ambitions, and organisations. This is most certainly the case in business, where there is often very little that is truly new under the sun: this year's empowerment and sub-contractor initiatives were perhaps better known in previous times as the helper and putting-out systems. The tendency of business education to remain ahistorical is, in itself, remarkable and perhaps shows that the development of business education has been overshadowed by economic ideology. The discipline was, after all, established in universities during a period when the social sciences were the dominant influence. It is perhaps time for business schools to develop a more liberal business education curriculum, one that includes a historical dimension.

The benefits of using historical methods in business ethics are many. It provides the analysis with an overview of the development of the national and international economy, besides providing key insights into industrial structure and the evolution of business strategies. A broad historical examination of business practice provides information on an extremely wide

range of subjects: government-business relations, technology, corporate culture and, of course, business ethics. Importantly, business history provides instructive contrasts between past and current business practice. (Jeremy, 1998) Business history not only includes the study of organisational systems, but its breadth of approach also provides managers with insights into human behaviour operating under a variety of constraints and influences. Most management research deals mainly with the short run. There is also a tendency to compartmentalise different aspects of management, destroying the interrelationships between subjects and events, so that analysis is divorced from the real world. In the modern world of high-speed decision-making managers need to be aware of how long-term changes have affected enterprises. Business history, on the other hand, is multi-disciplinary and concerned with long-term change, so offering a more practical focus.

An implied criticism of historical writing and study is that it is merely antiquarianism: that yesterday's events might be interesting or entertaining, but are little use or relevance to contemporary or future affairs. More detailed examination shows the falsity of that premise. First, there is a remarkable convergence in subject-matter between business history and management writing. Pick up any book on business ethics, and the subjects chosen for discussion – corporate governance, state-industry relationships, religion and business, ethical investment, environmental concerns, trade unions, and fraud and accountability – all these can be illuminated by historical analysis. Once we have disregarded the notion that business history is unimportant, we can examine ethical areas in which the discipline can make a contribution. The religious dimension was perhaps the ethical dimension that appealed first to industrial historians. It was, after all, Tawney who wrote about religion and the capitalist ethos, and emphasised the problems of inequality and the 'acquisitive' society (Tawney, 1926: Tawney, 1921). Business managers and management analysts have been wary of linking religious ethics with business, a feeling noted by Tawney

himself: 'Trade is one thing, religion is another' (Chryssides & Kaler, 1993, p. 50). But business and its (sometimes) profound links with religion have been a consistent thread in the writings of economic and business historians. The impact of nonconformist ideals on industrialisation has been noted frequently; and, more recently, exhaustive analyses have been conducted on the impact of Christianity on British business leaders in the twentieth century (Jeremy, 1990).

Various aspects of corporate crime are also currently issues in business ethics. History and ethics are important tools for understanding the implications and consequences of producing a lethal material, in particular, the recent problems of the asbestos industry. The investigation of this failure of corporate ethics was essentially an historical exercise using company documents (from UK asbestos giant, Turner & Newall) produced by legal discovery in the American courts. It would not have been possible to explore this issue any other way. The richness of the documentation meant that the ethical perspectives raised by asbestos were not single, but multiple (Tweedale, 2000: Warren, 1997: Tweedale & Warren, 1998: Warren, 2008). Turner & Newall's systematic efforts to minimise or deny compensation to dying former employees and their families were exposed in stark relief.

Several of my articles have attempted to use the insights from historical research to draw out the implications for business practice on a variety of ethical issues (Warren, 1999: Warren, 2002: Warren 2009: Warren, 2011).

Methodology of the book in relation to crises of company legitimacy

The use of historical methods was also an important part of the analytical framework in my book on corporate governance. At the end of the millennium several business writers commented upon the growing problem of business legitimacy in our society. Will Hutton was a very important influence (Hutton, 1995). *The State We're In* is an incisive analysis of the

peculiarities of British capitalism and its social consequences. It points to increasing insecurity in the labour market, and the emergence of the '30:30:40' society – with 30 per cent suffering poverty and social exclusion, 30 per cent subject to insecure pay and conditions, and only 40 per cent in well-paid, stable, pensionable employment. Underlying growing inequality, social division and social exclusion are financial structures and a corporate culture geared to short-term profits, sustained by a socially divisive education system. *The State We're In* argued that cultural and structural changes across society, but especially in corporate governance, were necessary for economic stability and social cohesion. It insisted on the importance of institutional structures, advocating stakeholding at the level of the firm, and reforms to public services to make them more inclusive.

In essence, Hutton's analysis was that the increasingly market-oriented British model of capitalism was in trouble. It needed to be reformed in ways that, taking the best bits from the alternative models of capitalism, would reduce the power of short-termist shareholders and strengthen that of other "stakeholders" in companies, including workers and the state. In 1995, British voters were preparing to bring to an end nearly two decades of Conservative Party rule. Their faith in the party's economic competence had been shattered by a deep recession, a series of corporate scandals, and Britain's forced exit from Europe's exchange-rate mechanism, a forerunner of the euro. Hutton's book caught the mood perfectly, especially among educated metropolitan elite who had long hated the free-market rhetoric and reforms of the Thatcher and Major governments. *The State We're In* combined accessibility and popularity with serious analysis, sold 250,000 copies, and confirmed Will Hutton's position as a public intellectual. The softback edition was the only work of sociology, politics, economics or social policy in the top hundred paperbacks of the year.

The importance of the public acceptance of business as a legitimate set of interests that contribute to the good of society was a key theme in my book *Corporate Governance and Accountability* (Warren, 2000). The analysis of

the changing legal form of the company and the legitimacy of corporate governance arrangements makes use of historical research. In particular, the technique of looking for key books that are emblems of the zeitgeist of debate about the politics of corporate governance that have occurred at various points in Anglo-American history from time to time. Certain books and arguments gain national and sometimes international prominence, and stimulate the political urge to change the basis of legitimacy upon which the corporate form is founded upon in a society.

The recognition of the existence of a legitimacy crisis is not just an event that is measured by social consequences; it is also signified in the history of ideas by a stream of literature and debate on the nature and extent of the crisis and a variety of proposals regarding its solution. The legitimacy crisis is, therefore, reflected in a quickening of the pace of debate and by the arrival of new and influential books putting forward suggestions for resolution of the problem. Often it is possible to single out a debate, or a text, which is the definitive statement of the nature of the legitimacy crisis of the period, and then chart the resolution of the crisis by the way these ideas work their way into policy debates and changes in the institutional framework. In my analysis of company legitimacy several of these text were identified and the debates which they helped to foster, and the changes that they provoked in the relationship between business and society.

Critical commentary on the analytical framework of the book

Corporate Governance and Accountability is essentially the study of an institution - the company, it is orientated in the field of institutional theory, but perhaps did not make sufficient reference to this literature in the bibliography. (Warren, 2000) This lacuna was picked up by one of the early reviewers of the book, Professor John Holland (Holland, 2001). In retrospect, I could now make use of two important analytical frameworks that came out after my study, which would help to provide deeper

theoretical underpinning to the study. In particular, W R Scott's *Institutions and Organisations* and D. North's *Understanding the Process of Economic Change* (Scott, 2001; North, 2005). Institutional theory attends to the deeper and more resilient aspects of social structure. It considers the processes by which structures, including schemas, rules, norms, and routines, become established as authoritative guidelines for social behavior. It looks at how these elements are created, diffused, adopted, and adapted over space and time; and how they fall into decline and disuse. Although the ostensible subject is stability and order in social life, students of institutions must attend not just to consensus and conformity, but to conflict and change in social structures.

Scott presents an historical overview of the theoretical literature, an integrative analysis of current institutional approaches, and a review of empirical research related to institutions and organizations. He offers an extensive review and critique of institutional analysis in sociology, political science, and economics as it relates to recent theory and research on organizations. Scott asserts that,

“Institutions are social structures that have attained a high degree of resilience. [They] are composed of cultural-cognitive, normative, and regulative elements that, together with associated activities and resources, provide stability and meaning to social life. Institutions are transmitted by various types of carriers, including symbolic systems, relational systems, routines, and artifacts. Institutions operate at different levels of jurisdiction, from the world system to localized interpersonal relationships. Institutions by definition connote stability but are subject to change processes, both incremental and discontinuous”... (Scott, 2001, p 48).

My exploration of the history of the company form and the influences on its formation and change were very much in the same spirit and the connections with this literature should have been more fully explored. Another influence in the field of institutional theory that could play a more significant part in the book's analytical structure is the work of Douglas North

(North, 2005). The concept of path dependent development is very important when considering the prospects of change to the company form, as is the notion of transaction cost analysis which does inform some aspects of the analysis but needed to be acknowledged more fully.

Douglass North inspired a revolution in economic history by demonstrating that economic performance is determined largely by the kind and quality of institutions that support markets. The New Institutional Economics (today a subfield of economics), demonstrates that property rights and transaction costs are fundamental economic determinants. North has sort to explain how different societies arrive at the institutional infrastructure that greatly determines their economic trajectories. North argues that economic change depends largely on "adaptive efficiency," a society's effectiveness in creating institutions that are productive, stable, fair, and broadly accepted, and, importantly, flexible enough to be changed or replaced in response to political and economic feedback. North's *Understanding the Process of Economic Change* accounts not only for past institutional change but also for the diverse performance of present-day economies (North, 2005). North draws on an analysis of economic performance in history to compare successful and unsuccessful economies and societies, seeing success as linked to 'getting it right or getting it wrong' in terms of the scaffolds we erect, our institutions. Path dependence is a critical concern for North. Our current scaffolds are based on conditions that existed when they were erected. Since conditions change with novel situations, they may not necessarily apply the same way to new conditions. Adaptive efficiency is the degree to which institutions can adapt to change by allowing for trial and error, and risk and being open to change based on new knowledge. Institutions discriminate in their responsiveness to various actors, and some political and economic entrepreneurs may have more influence on institutions. They can be held rigid by vested interests, created under incentives meant to deal with past situations. Where institutions are failing due to path dependence, human intentionality through political and

economic entrepreneurs can change institutions to adapt. However, imperfect information, erroneous beliefs, the interference of non-rational beliefs and power structures vested by the current institutions can produce unsuccessful outcomes.

I think these insights are important for the analysis of the new development in the company form presented in the final chapters of my book. North's theoretical model would provide a richer set of underpinning concepts with which to explore the evolution of company accountability. Radical paths are unlikely developments in the face of path dependent institutions, and the end of the corporate form and its replacement by new institutional features remains a remote possibility that will only occur with a discontinuity in the path dependency of company development.

In the meantime, the company form has remained quite resilient even in the face of a deep banking crisis and recession since 2008 and seems as formally entrenched as ever. Albeit, that the adoption of CSR policies by many companies is now a key strategy in trying to maintain its claim to legitimacy in society. Criticism of the power and role of the corporation in society has not abated however.

More recent work on the company form comes from Professor Colin Mayer in his book *Firm Commitment* (Mayer, 2013). In recent times, the company is often conceived as nothing more than a network of short-term contracts. Any shareholder, from a transient day trader to a long-term investor, has the same standing in law. American directors' ability to defend their company from hostile takeover or German directors having to live with trade union representatives on their supervisory boards are seen as obstacles to enterprise in Britain. However, Mayer argues that companies and wealth generation are about co-creation, sharing risk and long-term trust relationships, and that our refusal to embrace these core truths is one reason for the poor performance of British companies. Companies were originally invented as legal structures to enable groups of investors to come

together, committing to share risk around a shared goal, and so make profit for themselves, but delivering wider economic and social benefits in the process. Incorporation was originally understood to be associated with obligations: a company had to declare its purpose before earning a license to trade. There existed a mutual deal between society and company.

Mayer argues that we need to return to the creation of commitment obligations in our corporate governance, and that until we do, little improvement in British investment and innovation is possible without a return to engagement, stewardship and commitment. He argues that limited liability should not be a charter to do what you like. It must be conditional on a core business purpose, along with the creation of trustees to guard it. Directors' obligations, in his view, should be legally redefined to deliver on this purpose. What's more, every shareholder should be required to vote, with voting strength, as Mayer argues, increasing for the number of years over which the share is held. To solve the problem that individual shareholders do not have sufficient power, nor sufficient incentive to engage with managements, voting rights could be aggregated and given to new mutuals. Companies would become trust companies, with a stewardship code. The priority in takeovers would be the best future for the business, not the ambition to please the last hedge fund to take a short-term position. He also thinks stakeholders should also have a voice in how the company is run. In Germany, a company's bankers and its employee representatives have seats on the supervisory board. Mayer's contention is that the company has become a dysfunctional organisational construct that needs root-and-branch reform. Whether these and other suggestions will be instrumental in the evolution of the company form remain to be seen. What is likely is that the debate on the company form and the basis of its legitimacy is set to rage on for some time to come.

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Humanomics

Are we making progress in international business ethics?

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Abstract

Purpose – The internationalisation of business and the process of globalisation raise many ethical issues about acceptable norms of conduct on the part of corporations. This article aims to evaluate whether there is progress in establishing standards for international business ethics.

Design/methodology/approach – The paper explores whether the case for a global standard of business conduct can be grounded and justified in rational argument.

Findings – As a moral minimum, corporate ethical codes need to rule out what the management believes to be clearly unacceptable behaviour. The distinction between thick and thin moral rules is particularly important in wrestling with the rights and wrongs of international business ethics. A good deal of room needs to exist for the local interpretation of these codes, but there are a number of situations where universal standards have to be enforced in the host country.

Originality/value – This paper summarises the progress made in establishing the field of international business ethics. And it identifies and discusses the evidence on the effectiveness of ethical codes in improving international business practice.

Keywords Ethics, Global, Codes of conduct, International corporations, Relativism, Global compact, International business, Globalization, Business ethics

Paper type Research paper

Introduction

The internationalisation of business and the process of globalisation raise many ethical issues about acceptable norms of conduct on the part of multi-national companies (MNCs) and other organisations. The core concerns of international business ethics today are: human rights, labour standards, bribery and corruption, environmental protection, and financial probity and the control of money laundering (Kline, 2005). Racism and discrimination are also a universal problem for a global business ethics (Chua, 2004). The search for better business ethics has been an issue accompanying the industrialisation process, as it has slowly become a global phenomenon (Ruskin, 1860). Globalisation is the main reason why international business ethics has become an important topic in the international business curriculum (Dunning, 2003). The firm doing business on a global basis is faced with many difficult decisions about what to do in different countries: whether to follow the company's home country rules and customs, or whether to follow host country rules and local customs. Ethical dilemmas and value conflicts are bound to arise in many areas, and corporate managers need new guidance (Brown, 2005). For example, over ethical issues arising out of international business transactions such as patent protection in the pharmaceutical industry; what is fair trade; what constitutes cultural imperialism; varying global labour standards, the dilemmas of child labour; outsourcing production and services to low-wage countries; the problem of international commerce with pariah states. Hence, corporations need to give careful thought to international business ethics, and need to use moral theory to establish principles of international business ethics.



This paper will attempt to summarise the progress made in establishing the field of international business ethics. The problems faced by developers of moral theory in cross-cultural management will be outlined in the first section. The second section will focus upon the search for a cross-national code of ethics that could help to establish norms of conduct to deal with these issues in the global marketplace, and on the evidence of their effectiveness. The final section will look at the rise of corporate social responsibility (CSR) in multinational corporations, and will identify and discuss the effectiveness of these policies in improving international business practice.

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Theoretical foundations for global business ethics

A very important initial question to consider is whether the case for a global standard of business conduct can be grounded and justified in rational argument. When considering the range of human behaviour across the world, some anthropologists point to a range of practices considered morally acceptable in some societies but condemned in others, including infanticide, genocide, polygamy, racism, sexism, and torture. Such differences may lead us to question whether there are any universal ethical principles or whether morality is merely a matter of cultural taste. Differences in moral practices across societies raise an important issue in international business ethics, that of relativism. To illustrate the problem, a brief analysis will be given of two differences in moral values between India and the West, in respect of informality and the involvement of family members in decision making.

India has become a haven for out-sourcing the West's call centres and parts of the software industry. However, while global trade has joined together east and west, it has not influenced the cultural values that each society brings with it. In fact, for foreign companies seeking to conduct business in India, cultural integration has to be considered very carefully. The challenge for the MNC is to meet global standards and be competitive while, at the same time, retain the rich cultural heritage of Indian society. For example, while lifestyle in the West is often informal, life in India borders on the conservative and formal. There is a strict observance of the status and civility conventions in Indian society. Family structures in India are very close-knit unit, and decisions are often made only after prior consultation with the family members. Life in the USA and Europe is more independent, and decisions are often made independently of such family influences. In India, making important decisions without talking to the family might be considered offensive and implies a lack of respect. This important Indian value may have implications in the workplace. The West prides itself on its independence and "raising yourself by your own efforts". This personal independence has helped build an individualistic attitude not found in India, but at the same time, it is argued by some social commentators, that it has damaged Western society to the point where children are often estranged from family members, and are sometimes lacking in civility (Fukuyama, 1999). Overall, the moral climate of the Indian workplace is very conformist and traditional compared to the West, and there are strengths and weaknesses associated with this divergence in values.

International business ethics and domestic business ethics

It might be tempting to decline to accept that there are any absolute overarching values that can offer guidance to those whose business has to be conducted on a world wide basis. Perhaps, international business companies should acknowledge and celebrate

this relativism as a virtue and declare itself in favour of an ethic of conduct that is local and situational. The appeal of this relativistic approach in international business ethics is easy to understand and has the following advantages: it promotes tolerance and acceptance; it maximizes MNC freedom of choice, whereas absolutism rules out alternatives; it respects the diversity of individual values and cultures; it values societies that want to be left alone; and finally it partly accounts for difficulty in attaining objectivity in moral judgements. However, the relativist position is not without its problems, for example: self-criticism and social criticism are difficult, since there are no standards by means of which one can judge values, actions, and goods; also learning from experience (progress and improvement in moral values) is problematic; decision-making is easy but often baseless; so many priorities are baseless, since "better" and "worse" presupposes some standard; and finally, the assertion, "all values are relative", is itself a claim that is absolute and universal.

Relativism is a view that holds that no culture has a better code of ethics than any other, and that, in turn, there are no international "rights" and "wrongs". The main problem with relativism is that not all cultural differences can be accepted. If one state endorses bribery, then one must grant bribery the same moral status as a doctrine of anti-bribery. If we reject relativism, then morality in the international sphere must be something more than an unprincipled "when in Rome do as the Romans do". It does not follow that all questions of moral differences among cultures can be solved by measuring them against a rigid, universal moral absolutes. But it does mean that morality has some, albeit imperfect, "thin" universal concepts that have relevance to the "thick" particular cultural context. This position has been advocated by the philosopher Michael Walzer in his book, *Thick and Thin* (Walzer, 1994).

Walzer notes the distinction between two moral vocabularies, one based on simplicity, the other on complexity. The complex one, which he labels "thick", is rooted in local conditions and circumstances. It is a language of ethics, which poses questions such as, what do I owe to those around me, those whose history, language, and culture are similar to mine? The language of "thin" morality, by contrast, is universal, but applies to everyone and at the same time to no one in particular. The language of simple, thin morality poses questions such as: what unites me with people who do not share my culture; what obligations do I have towards strangers and foreigners. Walzer's point is that each language of morality has its own sphere: thick morality is domestic, while thin morality is international. We should not tell the Burmese or the Nigerians how to provide education, but we can respond when they demand freedom and truth. But we do have a moral obligation to think about how we can provide education to our fellow citizens, because we share with them cultural and social resources that link our lives together. In Walzer's view, many moral mistakes are made when we apply a thick morality where thinness is appropriate, by trying, for example, to impose Western cultural values on those of a different culture. They can also occur when we apply too thin a morality in contexts that demand thickness, for then we fail to ask enough of the society that unites us. Consequently, there are only a few universal rules that can inform how and what we do in every case. Walzer argues that a scheme for a just social distribution of goods is a "thick" argument that can only be made within a single culture, but opposition to genocide and tyranny are universal "thin" moral rules.

The distinction between thick and thin moral rules is particularly important in wrestling with the rights and wrongs of international business ethics.

Consequently, the rejection of relativism and the adoption of universal principles, such as those establishing a minimal floor for business conduct in the international context, must respect cultural and social difference. Even if moral values were exactly the same around the world, the same specific principles would not necessarily be appropriate for every host country context. What follows is an attempt by various theorists to identify the “thin” moral principles that should be respected by international organisations wherever they do business.

Principles for a cross-national ethical framework

Many anthropologists have noted, however, that there are important moral similarities across cultures such as prohibitions against killing innocents and provisions for educating and socialising the young. The fact that these broad similarities exist gives support to Walzer’s “thin” moral universalism that is still compatible with the significant differences among the moralities human beings have and do practice. Critics of relativism also argue that many moral beliefs presuppose religious and metaphysical beliefs, and that these beliefs, rather than any difference in fundamental values, give rise to much moral diversity. In addition, differences in moral belief across different societies may not arise from differences in fundamental values but from the need to implement the same values in different ways given the varying conditions obtaining in these societies. Nevertheless, despite many cultural and contextual differences many dominant religious belief systems have much in common.

Interfaith code of international business ethics

A series of interfaith dialogs began in 1984 under the patronage of HRH Prince Philip, the Duke of Edinburgh, and HRH Crown Prince E1 Hassan Bin Talal of Jordan. Followers of the three monotheistic faiths Christianity, Islam, and Judaism took part, under the auspices of St George’s House, Windsor, and the Al Albait Foundation and the Arab Thought Forum in Amman. An Interfaith code of ethics for international business was formulated in the light of these religious traditions and was published in 1993. The provisions of the guidelines reflect the ethical basis indicated in the teaching of the three religions. A group of eminent scholars, clerics, and business people drew up the declaration from the three religions. They formulated a declaration that is based on a shared concern for justice, mutual respect, steward-ship, and honesty. (*An Interfaith Declaration – A Code of Ethics on International Business for Christians, Muslims, and Jews*, 1993, Amman, Jordan).

The cross-faith agreement established in this forum might not be convincing for the secular communities across the world, or for MNCs that have to work in a multi-faith and secular contexts. Several moral philosophers have attempted to identify the principles of a global ethic based upon social contract theory, Kantian ethics, and a synthesis of religious and rights-based approaches.

Social contract theory

Donaldson has advocated the social contract theory of international business ethics in his book, *The Ethics of International Business* (Donaldson, 1989). Donaldson offers three concepts for interpreting international business ethics: a social contract between productive organisations and society, the notion of a fundamental international rights, promulgated by ten specific international maxims, and a moral “algorithm” to help

multinational managers make tradeoffs between conflicting norms in home and host countries. Donaldson proposes a strategy for developing a company code of conduct based on the idea that a contract can be held to exist between individuals and society. Based on this contract, he argues for a set of moral maxims that MNCs should seek to follow. He suggests corporations use rules, which might have been agreed by individuals before the age of industry, under what John Rawls termed it, "a veil of ignorance". The idea is to explore what rules of conduct individuals would have agreed to before businesses were established. Donaldson argues that firms should act in the same manner in deciding on the rules of conduct for international business. Donaldson reasons that the following three maxims would probably have been agreed upon as a social contract:

- (1) That a company should enhance the long-term welfare of employees and consumers in any society in which the organisation operates.
- (2) That a company should minimize the drawbacks associated with moving beyond the state of nature to a state containing productive organisations.
- (3) That a company should refrain from violating minimum standards of justice and of human rights in any society in which it operates.

Donaldson then proposes a method for determining a set of rules of conduct by distinguishing rules about basic rights and duties from those that are desirable and aspirational. The following ten maxims, he calls fundamental rights:

- (1) freedom of physical movement;
- (2) ownership of property;
- (3) freedom from torture;
- (4) fair trial;
- (5) non-discriminatory treatment;
- (6) physical security;
- (7) freedom of speech and association;
- (8) minimal education;
- (9) political participation; and
- (10) subsistence.

Donaldson urges companies to honour these fundamental rules of conduct. Other requirements such as not polluting the environment and not paying bribes are derivative rules in his view, and when they come into conflict with the fundamental maxims the later should prevail. For example, the pollution control right is derived from the right to physical security. When there are two competing derivative rights, one must consider the magnitude of the impact of each alternative and how closely tied each derivative right is to a fundamental right.

Kantian foundations for international business ethics

Richard DeGeorge, has advocated a Kantian approach in his book on international business ethics, *Competing with Integrity in International Business*. He takes the view that the development of international business, particularly in the form of MNCs, has outstripped the national frameworks of regulation (De George, 1993). Consequently,

the problems of injustice, harm, loss of rights, and exploitation of nature are all too common in international business. In this situation, DeGeorge seeks to explain how a company of integrity should act. His basic moral guidelines are derived from a wider set of moral considerations beyond those of Kant and include consequences, unalienable human rights, and justice. DeGeorge identifies the following moral guidelines for MNCs:

- do no intentional harm;
- produce more good than harm for the host country;
- contribute by their activity to the host country's development;
- respect the human rights of one's employees;
- to the extent that local culture does not violate ethical norms, multinationals should respect the local culture and work with and not against it;
- they should pay their fair share of taxes; and
- multinationals should cooperate with the local government in developing and enforcing just background institutions.

A company of integrity must also engage in various imperfect duties, ideals, and virtues that go beyond the moral minimum: such as charitable activities, providing employment security, and profit sharing. An important theme is ethical displacement which is the view that various moral problems cannot be solved at the level at which they occur, but can only be resolved by moving to a higher level. The problem many MNCs face, when confronted with demands for payoffs or for bribery, may not be resolvable without moving to the level of the firm or to the firms in that market and instituting appropriate structural changes. Measures that do this are the US Foreign Corrupt Practices Act, where bribery by US firms anywhere in the world is held to be a criminal offence.

The contribution of Hans Kung

Building on these religious and philosophical arguments, and the fundamental nature of human rights, the theologian, Hans Kung, has developed the basic values of a "Global Ethics" which he claims could be the basis for cross-cultural and religious agreement (Kung, 1997). The Second Parliament of the World's Religions held in Chicago in 1993 approved the following declaration. Kung identifies two basic values and eight core values.

Basic values

Humanity – In the face of all inhumanity, it should be a shared basic ethical principle that every human being must be treated humanely.

Reciprocity – There is a principle, which is found and has persisted in many religions and ethical traditions of humankind for thousands of years: *What you do not wish to be done to yourself, do not do to others.*

Core values

Respect for life, non-violence; justice; tolerance; truthfulness; equality; and partnership.

This global ethic implies that all MNCs should adopt the same "thin" principles of conduct in different places and contexts. Variation is bound to occur between operations in developed and developing countries, but variations should be justifiable in relation to the application of the same general principles. The difficulty with any code of ethics,

whether organisational or international, is enforcement. To encourage adherence to ethics codes, MNCs first must institutionalise adherence to the code internally in their organisations. Deviations from the code should be reported; and after investigation, the problem, its solution, and the reason the conduct was considered unethical should then be communicated to all employees. Additionally, the MNC should encourage others such as non-governmental organisations (NGOs) and media organisations to tract its commitment and enforcement of the code in practice.

International codes of conduct

One strategy that can help the MNC to build legitimacy and trust is to declare that the organisation is committed to and will be guided by a code of business conduct in all that it does. The drive towards an international code of ethics for MNCs has been a long one. The international labour organisation (ILO) was founded in 1918 to try to get better labour standards worldwide. The creation of the United Nations (UN), in the aftermath of the second world war, produced a universal declaration of human rights in 1948 for its member states to subscribe to, and this charter has been supplemented by a variety of more specific codes over the past few decades: the UN convention on international sales of goods 1980; the World Health Organisation infant formula code 1981; the UN general consumer guidelines 1985 covering product safety, quality, and distribution. In 1999, the UN Secretary General launched the idea of a global compact, covering human rights, labour, and the environment and invited companies to embrace and enact a set of nine principles in their operations. The nine principles of the global compact are:

Human rights

Businesses are asked to:

- (1) Support and respect the protection of international human rights within its sphere of influence; and
- (2) Make sure its own corporations are not complicit in human rights abuses.

Labour

Businesses are asked to uphold:

- (3) Freedom of association and the effective recognition of the right to collective bargaining;
- (4) The elimination of all forms of forced and compulsory labour;
- (5) The effective abolition of child labour; and
- (6) The elimination of discrimination in respect of employment and occupation.

Environment

Businesses are asked to:

- (7) Support a precautionary approach to environmental challenges;
- (8) Undertake initiatives to promote greater environmental responsibility; and
- (9) Encourage the development and diffusion of environmentally friendly technologies.

Businesses that are willing to sign up to these principles have to send the UN a letter from the chief executive officer setting out the company's commitment to the principles, and then be prepared to publicise, once a year, one example of how they have put these

principles into practice. Businesses in the compact are allowed to use the UN global compact logo on their company publicity. Over 2,300 businesses from over 87 countries have signed up to the global compact so far. However, critics question whether this voluntary bottom-up approach will be sufficient to really tackle the ethical issues facing global business.

The organisation for economic co-operation and development (OECD) in 1994 (updated 1999) also issued a set of Guidelines for Multinational Enterprises, making the integration of economic, environmental, and social concerns a key objective in company policy. The European Union (EU) has recently recommended that all publicly quoted companies with over 500 employees in the EU should publish social responsibility reports detailing what they are doing about sustainable development and issues of employment, training, and working conditions. In 2007, the International Finance Corporation, the World Bank's private lending arm, put into effect comprehensive labour and environmental standards covering the investments, it makes in the private sector across the world. It is also working with the UN's ILO to promote better labour standards in the global garment, footwear, electronic equipment, and other light manufacturing industries.

Corporate codes of ethics have a long history prior to globalisation, but they were often confined to particular companies with special cultures or strong founders who instilled a particular set of guiding values at an early stage in the growth of the company (McIntosh *et al.*, 1998).

Another aspect of the impact of globalisation is also adding to the demand that there should be more corporate codes of conduct. In a world of nation states, the assumption is that the state will be the *locus* of regulatory activity in regard to the operation of the company. However, the growth of many businesses into corporations that operate in many states and across states means that the regulatory powers of any one state have been much attenuated, and in many cases the jurisdiction of one state over a MNC is often limited. Moreover, the wealth and financial power of the MNC means that politicians are often competing against each other to gain the support of the corporation for inward investment and support for their political party. States can, therefore, be in a position where they are competing with each other for foreign direct investment and to provide the most favourable regulatory regime to attract MNCs to invest in them. Consequently, this conflict of interest between acting as the regulator of corporations and recipient of their investments is weakening the control of the state in relation to business. The power and scope of many companies means that the welfare and prosperity of many citizens in a nation state can be affected by the decisions taken by the management of the corporation. The speed of communications and mobility of finance and investment through international markets and the outsourcing and globalisation of the supply chain of the MNCs enhance this power still further. In many ways, corporations can now choose where to be registered, and so can shape the legal regime that will govern their operations. Nation states are often in effect engaged in regulatory competition. Without some degree of self-regulation or restraint there will be increasingly fewer restrictions placed upon the conduct of the MNC besides those of the market.

The creation of international legal regimes to match the scale and scope of the MNC is a formidable challenge, and while many laws and regulations do exist, the ability of international institutions to monitor and enforce compliance with these laws is limited. The UN and the OECD are the most obvious candidates as international regulators.

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However, the development of the EU as a regional regulator of the affairs of corporations in Europe is perhaps the most promising development in terms of matching the power and effectiveness of the MNC in part of their domain.

Evidence on the effectiveness of ethics codes

Whilst there is now an established literature on how to devise a code of international business ethics, there is not much evidence, as yet, on whether they work and actually do make a difference to business practice (Payne *et al.*, 1997). Only a few studies have produced evidence on this important issue.

A study published by the Ethics Resource Centre in the USA, examined employee attitudes and behaviour in relation to the existence of three components of an ethics program:

- (1) codes of conduct;
- (2) the introduction of ethics into employee and management training; and
- (3) the establishment of ethics and compliance offices.

Over 1,500 US workers were surveyed representing different levels of responsibility, job functions, company size, and industries. The survey indicated that ethics programs appeared to have a distinctly positive impact on employee behaviour and their opinions about the ethics of fellow employees, management, their companies and even themselves. The most positive effects were reported in companies, which had all three program components – codes of conduct, ethics training, and ethics offices. Striking differences could be seen in the responses of employees in companies with comprehensive ethics programs and the responses of those in companies with no program elements or with only a code of conduct. Indeed, a code of conduct as the sole element of an ethics effort often seemed to have a negative effect on employee perceptions. Ethics initiatives appeared to increase employee awareness of misconduct, employee willingness to report misconduct, and the level of satisfaction with the outcome of their reporting (Ethics Resource Centre, 2003).

The Institute of Development Studies published a study of labour code implementation in 2006, commissioned by the UK's Ethical Trading Initiative (ETI) (Barrientos and Smith, 2006). The study found that codes of international business ethics had positive impacts on certain issues: health and safety, for example better fire safety, introduction of training on emergency procedures, and safer use of chemicals; working hours – reduced regular and overtime hours; wages, for example ensuring payment of the minimum wage and provision of state insurance and pensions; child labour – less employment of children and young workers. The codes were found to be having less impact in relation to freedom of association, discrimination, regular employment, and harsh treatment, where serious issues frequently remained. Workers on some sites visited were weary of engaging with trade unions, especially when their jobs were insecure. Although codes had led to some practical improvements for women workers (such as provision of post-natal benefits), they had done little to address basic inequalities such as unequal access to employment, promotion, and training. Social auditors often failed to identify these more embedded issues. Permanent and regular workers benefited most from MNC codes. A significant finding was the extent to which migrant and third party contract workers were employed across different sectors and countries. Codes of labour practice often failed to reach these workers. Many

experienced poor working conditions, particularly for those employed by third party labour contractors, where significant issues remained. Implementing codes of business ethics in complex global value chains posed significant challenges. The study found that companies were more likely to achieve positive change through working collaboratively in conjunction with trade unions and NGOs. MNCs needed to engage more actively with local stakeholders, suppliers, and workers. The ETI was considered to provide an important forum for collaboration and learning between companies. The conclusion of the study was that international business codes have helped to raise awareness of employment laws, but they were not a substitute for more effective implementation of effective labour, health and safety, and environmental legislation.

Transparency international (TI) has been at the forefront of the anti-corruption movement since it was formed in 1993. TI is a non-profit, independent, NGO dedicated to increasing government accountability and curbing both international and national corruption. TI publishes an annual *Corruption Perceptions Index* (CPI), examining levels of perceived corruption in 163 countries. The CPI scored countries on a scale from zero to ten, with zero indicating high levels of perceived corruption and ten indicating low-levels. About 71 countries – nearly half – in the index scored below three, indicating that corruption is perceived as rampant in many parts of the world. Haiti had the lowest score, with Iraq and Myanmar close behind. The least corrupt countries were perceived to be Finland, Iceland, and New Zealand. TI also established the *Bribe Payers Index* (BPI) in 1999, highlighting the supply side of the corruption equation. The 2008 BPI assessed the propensity of companies from 30 of the leading export countries to bribe abroad. It showed that companies from the wealthiest countries generally ranked in the top half of the index, but still routinely paid bribes, particularly in developing countries. In addition, companies from emerging export powers such as China, India, and Russia ranked among the worst in bribing abroad. The 2008 BPI reflected the responses of more than 8,000 business people in 125 countries. The publication of these facts is, in some small way, perhaps part of the solution to these intractable ethical problems.

The new CSR agenda

In the absence of effective regulation of the MNC, the role of public opinion and the media on the activities of corporations has to some extent filled the vacuum. The growth of corporate public relations in response to this interest, with the intension of trying to shape media reporting in the company's favour are important developments in modern management strategies. The main corporate response to media criticism and NGOs campaigns aimed at various aspects of corporate conduct and power is for the corporation to try to demonstrate a commitment to voluntary self-regulation and various notions of CSR. CSR is a fairly recent term but it is becoming a well-known expression for what, in the recent past, has been a collection of different and yet related terms: corporate philanthropy, corporate citizenship, business ethics, stake-holding, community involvement, corporate responsibility, socially responsible investment, sustainability, triple-bottom line, corporate accountability, corporate social performance. Authoritative definitions of CSR are hard to come by in this developing area of responsibility because there is, as yet, so little orthodoxy in both theories of CSR and in its practice (Carroll, 1999). CSR is the idea that companies should consider the interests of society and the environment when making decisions. The EU definition of CSR is given in the green paper *Promoting a European framework for CSR*, "as a concept whereby

companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis." (EU Comm, 2001, p. 6). There seems to be no general theory of CSR, although many academics have sought to establish the fact that such a responsibility exists, and some academics are leading advocates and campaigners for its adoption in business (Zadek, 2001).

Many MNCs in response to these pressures have developed policies on CSR (Warren, 2000). A quick reading of the report and accounts for many MNCs will reveal that stakeholders, accountability, and sustainability have become the slogans of the new millennium. Many companies are now publishing operating and financial reviews along side their mandatory accounts, and some have actively welcomed independent auditors and NGOs as verifiers of their sustainability statements and achievements. The failure of a MNCs to take swift action in the face of social pressure can be enormous, it is much harder for managements to get these decisions wrong than right. For many international companies, the attention that has had to be devoted to social responsibility issues is proving to be costly and time consuming. Most corporations now allocate some of their budget to social responsibility issues.

In the absence of a world-wide political community, companies are bound to look to their shareholders interests first rather than take the wider view of all global stakeholders into consideration in their actions. But taking a broader view of stakeholder interests is possible to some extent. Ethical thinking like political thinking in the present age is moving slowly beyond narrow self-interest and beyond the confines of the nation state to consider stakeholder interests in the broader global civil society (McIntosh *et al.*, 1998).

Corporations wanting to communicate with their stakeholders face a bewildering array of reporting standards and frameworks. There is the UN Global Compact, standards such as AA1000 and SA8000, and multinational guidelines such as those of the OECD. The Global Reporting Initiative (GRI) is emerging as one of the leading frameworks because of its broad foundations and international reach. The GRI is a UN-backed organisation that has brought together governments, business, campaign groups, trade unions, accountants, and academics to develop reporting guidelines applicable to any organisation anywhere. Another advantage of GRI is that it is compatible with other systems and standards. GRI covers three components of CSR sustainability reporting, environmental, social, and economic performance. Companies are asked to report on a wide range of indicators from greenhouse gas emissions and waste management to human rights, child labour, bribery payments, and customer data privacy. In all, there are 57 core indicators of performance and 53 voluntary ones. The GRI are also producing sector-specific supplements in sectors such as financial services, tour operators, mining, and car manufacturing. The next challenge is for MNCs to standardise the verification and auditing of these reports. The International Standards Organisation (ISO) is developing a new standard for auditing CSR called ISO 26000.

Conclusions

MNCs are increasingly being challenged by NGOs and the media to justify their conduct and legitimacy in ethical terms. Activities that undermine human rights and visibly damage the environment are being particularly strongly challenged by pressure groups. In recent years, nation states and international institutions such as the UN have begun to call upon companies to respect human rights, seek sustainable business practices and take up other ethical initiatives. This paper set these developments in the context of

international business within a global “civil society”. Codes of company ethical conduct can reach, by persuasion, beyond coercive legal obligations. However, codes of international business conduct have to be theoretically grounded in universal principles and values, rather than national and cultural values. Many governments following the lead of the UN are trying to develop regulations and incentives to promote ethical behaviour by businesses, to redress the failure of markets to manage protection for human rights, and to protect aspects of the natural world for its own sake. Examples are declarations to uphold human rights, and to fight against corruption, and to promote sustainability of resources.

Business leaders and the non-government organisations that advocate greater CSR on these subjects have the opportunity to contribute to the development of global civil society by working together to establish persuasive codes that do not require slow and difficult international intervention by government. But there is a whole set of potential conflicts that an international corporation needs to think carefully about how to handle. Corporate codes of conduct are standards of behaviour which a company adopts without being compelled to by law, but which then become binding on all employees, in order to minimise potential conflicts arising from undesirable effects of international business activity on societies and the natural environment. Such corporate codes of conduct at least make it clear that the management of the corporation is concerned about how business goals are achieved. As a moral minimum, corporate ethical codes need to rule out what the management believes to be clearly unacceptable behaviour. A good deal of room needs to exist for the local interpretation of these codes, but there are a number of situations where the MNC has to have the courage to apply its own standards and values, and not that of the different social and cultural frameworks of the host country. This might be the case in areas such as labour standards, discrimination, bribery, marketing, information policy, environmental protection, animal experiments, and health and safety policy. Ethically acceptable manoeuvrability within the corporation’s code needs to be clarified and its effects on people, environment, and society analysed. MNCs also face complex issues in relation to consistent and uniform standards in ethical auditing and reporting.

The movement pressing for the widespread adoption of international codes of business ethics will face numerous further hurdles. Many special interests in developed countries may wish to use an ethical code as a cover to advance their own agendas rather than as a means of ensuring fair international trade. Given the present state of the global free market, and the resulting difficulty of obtaining transparency and monitoring, let alone sanctions, on MNCs activities, some observers are pessimistic about making progress in improving international business behaviour (Barber, 2003). However, given the fact that international business ethics is now part of the business education curricula in many countries, and that there are increasing public expectations concerning CSR, this may eventually lead to a change in the rules of the game of international business for the better.

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Codes of Ethics: Bricks without Straw

Richard C. Warren

'Ethical codes of conduct are superficial and distracting answers to the question of how to promote ethical behaviour in corporate life.' The author is Principal Lecturer in the Department of Business Studies at Manchester Metropolitan University.

The proliferation of corporate ethical codes appears to be strong evidence that ethical conduct in business is being taken more seriously today. A not untypical statement explaining the purpose of its ethical code is that of Unisys UK's given below:

At Unisys, the commitment to ethical behaviour is not a matter of vague principles and generalised rhetoric. We have a strict code of conduct . . . Every Unisys employee is required to understand and comply fully with both the rules and approval procedures established by the Unisys Code of Ethical Conduct. Exceptions may be granted only by the Ethics Committee of Unisys Corporation.¹

Codes on the increase

Survey evidence in Britain, suggests that many more large companies are introducing ethical codes of conduct.² A study published in 1988 by Edinburgh University of Britain's top 200 companies found that 42% had introduced an ethical code.³ This is to some extent following a trend established in the USA in the 1980's, where most large corporations seem to have established such codes. In a 1990 survey by the Centre for Business Ethics at Bentley College, of those companies responding, 94% of the 'Fortune 500 service' and 'Fortune 500 industrial', reported having written an ethical code.⁴ This figure was up from 74% in a similar survey undertaken in 1985. Moreover, in the 1990 survey 32% reported going beyond a code by forming an ethical committee and 15% had appointed a full-time ethical officer.

In fact, so well established is this trend in the USA that ethical codes of conduct are going to become legally relevant documents for corporations found guilty of malpractice or corrupt practices. Recent legislation passed by the US Congress and guidelines and regulations written by State and Federal Commissions represent new attempts by the American government to oversee corporate behaviour through the criminal justice system. In particular, the 1984 Sentencing Reform Act and the US Sentencing Commissions 1991 Federal Guidelines for Sentencing Organisations, allow for a fine on a corporation to be reduced by up to 95%, if it can show that it "has an effective program to prevent and detect violations of law". This means the establishment of an ethical code and follow-up procedures which ensure the following: (1) established compliance standards; (2) specific individuals to oversee compliance; (3) due care in delegating discretionary authority; (4) training programmes and publications; (5) monitoring and reporting systems; (6) consistent enforcement of standards; (7) review and modification of programme after an offence.

Hard questions to be asked

However, the question of whether this trend is really going to improve the moral conduct of those who work in corporations has yet to be answered. Before we attempt to devise ways to measure this on an empirical basis, some a priori reservations should be considered on theoretical and practical grounds regarding the assumptions which ethical codes make about moral agency and the

types of moral thinking on which such codes are predicated.

These reservations do not seem to have worried many of the new practitioners of ethical consultancy who are often strong advocates of corporate ethical codes. Their advice to the executives of corporations is always to write an ethical code of conduct and then to enforce it. For example the recommendation of the 'ethical consultants', Clutterbuck Associates, to chief executives is:

Publish a code of ethics . . . The company has to take active steps to police the policy . . . Use reward and punishment mechanisms to reinforce correct behaviours: write ethical responsibilities into every manager's job description and use it in appraisal; reward exemplary behaviour, with cash maybe, but recognition always; punish breaches of the ethical code, publicly; use the key motivators of influence, promotion and access to resources.⁵

But does this advice constitute a sincere and lasting contribution to the promotion of ethical conduct and social responsibility in our companies? Are the solutions prescribed by these consultants genuine, or just a form of window dressing for public relations purposes that help to ensure that the company is covered if someone gets found out? Moreover, where is the evidence to suggest that these consultants have really thought about the theoretical justification and possible unintended consequences of their advice? Before chief executives rush out to hire a consultant or begin to write an ethical code of conduct perhaps they should consider some of the arguments below.

The main contention of this paper is that ethical codes of conduct are superficial and distracting answers to the question of how to promote ethical behaviour in corporate life. The creation of an ethical code is often a measure taken in response to a crisis or because this is the latest prescription that has to be swallowed to keep up with new management thinking, in much the same way as mission statements are now *de rigueur* in corporations. All too often those who adopt ethical codes are by implication showing a less than adequate grasp of the psychology of moral agency; or, in layman's terms, why people choose to be good. This contention can be supported by reasoning that draws upon both theoretical and practical arguments. It will be argued that the assumptions about moral agency embodied in ethical codes are all too often an eclectic mixture of those that derive from utilitarian, deontological and contractualist moral theory.

Consequently, the flaws of these theories are reproduced in the ethical codes and are then multiplied in their effect by the contradictions of such eclecticism. From a practical point of view it will be argued that ethical codes are unrealistic and cumbersome attempts at restraining behaviour, which are either ignored by employees in practice or add further to the bureaucratisation of the corporation. Instead it will be argued that virtue theory holds out a better prospect for grounding ethical conduct in our corporations because it takes full account of the central place of moral agency in its explanation of ethical conduct.

Assumptions about moral agency

Let us start by examining the assumptions about moral agency that are implied in many corporate ethical codes. These codes are often written in a way that assumes that employees can clearly distinguish ethical actions from the expedient behaviour of corporate life. The code tries to provide a set of standards and rules that should be complied with by employees in situations where ethical conduct is important to the company. Regardless of the nature of these standards or the content of the rules, the implication is that the employees' perception of ethical issues is straightforward and unproblematic. As the Unisys code goes on to say, "It is critically important that all employees meet the highest standards of legal and ethical conduct. Nothing less will do." Or, as the BP value statement puts it, "We will conduct our relationships . . . not only within the law but also with exemplary standards of ethics".⁶

These instructions presuppose that employees know about and can recognise ethical conduct when they see it and will be able to keep to exemplary standards. This, in effect, assumes that the employees are moral realists, who have a clear and direct perception, and consequently knowledge, of the ethical realm.⁷ It pre-supposes that they subscribe to the view that ethics is a rule-bound language, which suggests that there are rules which when discovered need to be obeyed. The problem with this position is that it assumes that a universal set of rules can be discovered and justified.⁸ But a review of the history of moral philosophy suggests that there is no agreed procedure for looking up and finding out exactly what the rules are; that there is constant conscientious moral disagreement; and that there is historical and cross-cultural moral diversity in moral law. So perhaps the protagonists of ethical codes would do better to start from the proposition that there is not

assumptions about moral agency

a moral world-order out there, over and above what is carried in human practices and human language. They might also realise that employees are likely to be drawn from a diversity of moral backgrounds and cultures, and that a shared perception of ethical issues has to be cultivated in society and then inside the corporation, rather than be merely pre-supposed to exist ready made.

Considering the content

Now if we turn to the substantive content of ethical codes we find rules which are supposed to provide guidance to employees prior to their making decisions or taking certain courses of action. Let us take another Unisys rule which can be taken to represent the general form and content of rule statements in most corporate codes of ethical conduct:

Our success in the marketplace results from providing superior products and services at competitive prices. Unisys does not seek to gain improper advantage by offering business courtesies such as entertainment, meals, transportation or lodging. Employees should never offer any type of business courtesy to a customer for the purpose of obtaining favourable treatment or advantage.⁹

This rule embraces three significant propositions about moral philosophy. Success in the market place is the greater good to be furthered as a consequence of employee behaviour in conformity with the rules in the ethical code. These rules are in any event right in themselves, and so should be obeyed for this reason alone. And success is achieved by not seeking to gain an unfair advantage over the other competitors in the market place.

These propositions which can be inferred from the rule are an eclectic mix of the rational and universalised principles found in utilitarianism, deontology and contractualism. These are the types of moral theory which emerged in the modern period alongside notions like the rule of law and liberalism, and which embody the ideals of theoretical unity, completeness and reason in the moral arena. The aim of these approaches was to provide a conception of moral principles that transcend circumstances of who we are and where we live. In the case of *rule-utilitarianism* this meant that the morally good life equates with seeking the happiness of the greatest number, and that actions are to be judged right if, in accordance with certain rules, their

consequences lead to more happiness for a larger number of people. *Deontology* is the view that we should obey moral rules because it is the right thing to do irrespective of the outcome in terms of happiness, profit or success. *Contractarianism* is the view that moral rules are necessary for the maintenance of society (and that society is necessary if there is to be any good at all) and that the rules that will be consented to are those that, regardless of the individual's position, will benefit all to some extent. The moral principles supported by these theories, it was hoped, would represent a timeless, rational system open to any rational inquirer who will assume an impersonal point of view. In a way it requires that human nature be permanent and unchanging, and that judgments of fact can be separated from the imperatives. As John Stuart Mill said, "It is the business of ethics to tell us what our duties are or by what test we may know them".¹⁰

To the executives of a company, the writing of an ethical code may seem to be on the face of it a rational way to encourage moral behaviour. A code prescribes universal rational statements that are to be adhered to by all employees in the company for good reasons. Consequently the question of the employee's moral agency does not appear to require much consideration. The creators of the code assume that all employees are fully capable of obeying the same rational rules at any location in the world and that it will be beneficial for the company's long-term interests that all the employees comply with these rules. Moreover, by establishing a code which contains an eclectic mixture of principles, a 'belt and braces' solution has been concocted with which it is hoped all rational employees will concur and which should cover every eventuality.

A critique of codes

Let us now subject these assumptions to examination, and consider the reasons why ethical codes are unlikely to improve moral conduct. From a theoretical perspective three further points of criticism can be made: that there is still no satisfactory *justification* of a rational ethics; that *rules* are unable to determine actions; and that ethical conduct depends upon *social supports*.

1. The problem of providing a *transcendental justification* for all rational beings of the principles of utilitarian, deontological and contractarian ethics is still unresolved. The modern attempts of Ross, Hare, and Rawls have been

ethics at sea

unsuccessful by and large; although, as MacIntyre has said, widespread awareness of this fact is limited.¹¹ Perhaps this accounts for the implicit incorporation of a mix of these principles into so many ethical codes. A more persuasive position in moral philosophy seems to be that human nature does not have a universal component, that rationality itself rests on irrational assumptions and that a point of anchorage outside human experience cannot be found. Some call this the post-modern condition.¹² In metaphorical terms ethics is a boat adrift at sea being blown in various directions by winds from different philosophical directions, but without sight of a secure harbour in which to seek refuge. There are just too many disconnected moral vocabularies in modern use. The justification of an ethical life has to be established from within our own society. But the question why should I be moral has as yet no rational answer. Nor can ethical codes provide one, much though their creators would like them to. They are not underpinned by moral authority but only by managerial authority. Compliance because of the threat of coercion is often the only sort of obligation they achieve.

However, the question of why 'we', or people in general, should be moral can be given a rational justification by building on the Hobbesian argument of the need to avoid a war of all against all and on the more recent analogy from game theory where cooperation can lead to greater gains for everyone. But for the individual person the fact is that to be moral one must want to be moral. So we should not ignore the importance of the person as a moral agent who chooses and is motivated to be moral. Ethical theories which assume an abstract, disembodied individual miss this crucial point. The moral agent is a person who as a social being is embedded in a set of roles, in certain institutions in a particular society, at a certain point in its history. Consequently the moral psychology and culture of the society in which the person lives have a strong bearing upon their moral condition. The individual person's perception of the ethical will be filtered by these contingencies and the beliefs and desires they have developed. If these premises are accepted, then a view of ethics as an engagement of the person in an ongoing discussion about how we should live in society seems more appropriate. This approach to moral philosophy is that bequeathed to us by virtue theory, which puts the primacy of the moral agent before the principles that should guide ethical actions. The moral agent or person will determine how to act according to the

sort of person they think they ought to be. The questions of what action to take and of what sort of person to be are not separate questions but are interdependent. Moral motivation is as significant as actions and consequences. Ethical codes tend to ignore the motives of persons and the place of virtue in ethical conduct that is based on social roles.

2. The substantive content of ethical codes are *rules* about what to do or what not to do when faced with a particular contingency. Some codes specify short universal rules such as 'do no harm', or 'act with integrity at all times'. Others try to take greater account of the variability of circumstances and prescribe a sort of decision-making procedure to guide the actions of its employees. However, the problem of interpreting the rules in relation to the particularities of any situation remains. Every situation is in some way unique, and so the question has to be faced of exercising judgement in the interpretation of the rule and in its application to the facts of the situation. Once again we cannot ignore the crucial role that the moral agent plays in using their discretion and discernment in the interpretation of the code.

Even if a code is supported by employee instruction and training the interpretation of the code is still vitally dependent upon the sincerity of motive and good will of the employee. Disciplinary sanctions or the offering of self-interested rewards do not create sincerity of motive or a good will. The moral character of the employee is the foundation of a good will and of the subsequent exercise of good judgement about how to act in a particular circumstance. The virtuous employee is hardly in need of an ethical code and is able to exercise practical wisdom in all circumstances. This is not to say that deciding what is the right thing to do is easy or can be done without reflective guidance. The key point is that the decision is an interactive process between the moral agent and the contingency of circumstance. The type of reasoning that will be exercised is not that of deduction from a general rule or principle to a course of action, but is more like that of casuistry, where the facts of the situation are judged in relation to other precedents derived from the agent's experience, to arrive at a provisional conclusion about how to act. This type of practical reasoning as a formal approach to analysing ethical issues has been revived in recent years and could provide a useful training in developing judgement on ethical issues in many fields of practical endeavour. Indeed, there is some empirical evidence to suggest that the actual decision-making pro-

cess of doctors and managers on ethical issues bears a strong resemblance to the casuistic paradigm of reasoning.¹³ Such reasoning is at present acquired as part of a professional training and inspired by a sense of vocation rather than from written codes and short indoctrination programmes.

3. Perhaps the primary purpose an ethical code can serve is as a *shared statement* of values and standards to which all an organisation's members wish to subscribe. In this respect the process of creating the code is more important than its actual form or content, because, as Professor Mahoney has said, the best ethical codes and their likes simply help good people to make good decisions.¹⁴ Ethical conduct is more likely in a community of believers in virtuous behaviour and high standards of conduct. The members of that community will want to take pride in their roles and will share a view about what virtues it is desirable to cultivate within that community. The difficulties of regarding the business organisation as a community of purpose are formidable but they are not insurmountable. It is a long-term process which requires an inspired leadership and a considerable investment in all the members of the company.¹⁵

Moreover, unless the creators of an ethical code actively engage all members in the drafting of the code, it will have little credibility as a device for ensuring ethical conduct in the company. All too often ethical codes are handed down to employees from the executive above them, and the importance of trying to create a community of purpose within the company is ignored. This contention can be supported by evidence drawn from industrial relations studies on the honouring of collective agreements made by shop stewards on behalf of the workers with management. Joint authorship of the rules is a very important ingredient in determining whether they are going to be honoured and interpreted in good faith by the workers.¹⁶ Moreover, the diversity of interests within a business organisation makes any agreement on, and sharing of, a joint purpose that engages all members a painstaking task. The company does not stand alone in society and its members are the individual bearers of the society's moral climate. For the multinational corporation with employees in many countries there can be no quick fixes on the road to high standards of ethical conduct.

Impact and consequences

The argument as to why ethical codes are often ineffective in promoting moral conduct

can also be supported by two pragmatic reasons regarding the impact of codes on efficiency and the unintended consequences they can give rise to.

1. Many management thinkers now agree that the efficient and competitive organisation must be low on hierarchy, lean on rules and clear on vision.¹⁷ The old mechanistic bureaucracies are unable to respond with the speed, flexibility and imagination needed to serve modern markets. Much of the advice to managers in recent years has been to reduce the rule-bound organisation culture and to empower its employees by giving them a sense of mission in order to gain a competitive advantage.¹⁸ The introduction of elaborate ethical codes and strictly monitored compliance procedures is hardly going to be a step in this direction even if it is for the best of intentions. By adding to the web of bureaucratic rules the attempt to improve ethical conduct might indeed be at the expense of improving company competitiveness. Well formed moral characters rather than detailed rules are more likely to be the bearers of virtuous conduct in competitive companies.

2. The unintended consequences of adopting ethical codes are now becoming apparent. Petrie in a study of ethical codes in the USA claims that they can lead to two kinds of abuse.¹⁹ Firstly, a failure in many codes to respect the procedures of due process and the rights of the accused; and secondly, an overemphasis on technical rule compliance at the expense of autonomy and ethical reflection by individuals in a company. Indeed, it is instructive to examine what function an ethical code actually plays in a company apart from its intended purpose of ensuring ethical conduct. As Chadwick has shown, codes can serve a range of functions often at variance with the espoused intentions of the ethical code, such as a political statement spelling out the company's manifesto to the public, or as an exercise in self preservation in the face of pressure groups and legal restrictions.²⁰

If these arguments are accepted as presenting a compelling case against the adoption of ethical codes on the basis that they will be ineffective, what hope is there for higher standards of business ethics? I hope that some of the points that were raised about the importance of moral agency have indicated that an alternative approach to regenerating the moral life of corporations is indeed feasible. There is not the space here to develop this approach in any detail, but a brief indication can be given of what a virtue-theory-based business ethics might look like.

We need to start by building on the foundations of Aristotle and many other moral

*a community
of purpose*

philosophers who have followed in this tradition, with a reconsideration of the place of virtue in ethical conduct.²¹ But it must be acknowledged that the set of virtues we might choose to cultivate are not guaranteed by rational justification but have to be agreed upon in a continuing debate within a society that is seeking to answer the fundamental ethical question of how should we live. Business organisations need to be treated as communities of purpose within society, and so will partake of, and contribute to, the moral climate of a society. The development of virtuous individual characters in the institutions of society, including business, is the fundamental process to be examined.

We might also start from the pride of a self-respecting person whose character formation is a vital part of their moral agency. They live by a set of evaluative standards failure to live up to which leads to loss of pride and ultimately loss of self-respect. Such standards of conduct are evaluative notions about the nature and ideals of the right way to live, and specify what is shameful, honourable, decent and civil etc. These conceptions do not develop in a social vacuum, but as part of a complex network of social behaviour in which models of conduct and character are established. Individuals identify with such models, taking them to be examples of what they should be like, and, indeed, want to be. So people are transformed by the social practices and roles in which they partake, and their motivation, sentiments and attitudes converge with those with whom they identify. The evaluative conceptions are internalised and a more refined and virtuous character emerges.

If we apply this approach to the business organisation, the key factors are the building upon the character development that has taken place in pre-employment social institutions such as the family and schools and colleges. In this respect it is in the interests of business that families are supported and schools and colleges are properly funded, because they are the primary settings of moral development in young citizens.²²

But it is the further development of virtue in business that then becomes important. This is not a short-term approach nor an easy one to cultivate. It means that the business must be treated as a community of purpose by its leadership, and that attention is paid to the integrity and moral example that pervades that community on the part of all its members. Of particular importance will be the moral virtues displayed by those in leadership positions in the organisation and the identification which this will inspire. But the

conception of virtue to be cultivated in this community of purpose must be shared and built from the bottom up on the principle of respect for the person as a moral agent. The building of ethical conduct from these foundations will enable the corporation to rise to new heights in the skyline of the future ●

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Absolutely

'I don't want to be surrounded by yes-men. I want people to tell me what they think - even if it costs them their job'

attrib. Samuel Goldwyn

FOCUS: Business as a Community of Purpose

Richard C. Warren

"We need to start by recognising that the company is a contributor to the moral order of society." Only then can we really and accurately identify the role of business in today's society. The author of this important study is Principal Lecturer in the Business Studies Department, Manchester Metropolitan University.

"The defining purpose of business is to maximise owner value over the long term by selling goods or services."

Elaine Sternberg¹

"Instead of an organisation being a castle, a home for its defenders, it will be more like a condominium, an association of temporary residents gathered together for their mutual convenience."

Charles Handy²

". . . we have taken the corporation for granted as a natural feature of our society – subject to regulation to be sure, but not seriously scrutinised as to its fundamental terms of institutionalisation."

Robert Bellah³

Introduction

The first two of the above statements, by Sternberg and Handy, are typical of those made by many management gurus on the present purpose of business and the role of the company in pursuing this purpose.⁴ The aim of this article will be to try to take up the challenge of the third statement, that of Bellah, and to subject the first two statements to critical evaluation and consider the moral implications of the "institutionalisation" of these conceptions. It will be argued that the first two statements are erroneous, and very damaging to the moral fabric of society because both Sternberg and Handy are respected commentators and influential shapers of modern management ideology. Conse-

quently, their writings can have the effect of self-fulfilling prophecies as managers absorb these ideas and then use them to shape the business and companies they control.

The critique to be offered in this article is a moral one, based upon both theoretical and empirical arguments. The main criticism of Sternberg's view is that she has oversimplified the multiplicity of purposes present in business endeavour and in particular its wider moral dimension. The criticism against Handy is that he is overly dismissive of the contribution that business organisations do and can make to the moral order of society. The counter argument to be put here is that business is a complex, morally significant activity whose essence cannot be easily distilled into a clearly defined purpose, and that, consequently, the company or corporation should also be regarded as a morally significant institution in addition to being an instrumental organisation designed to fulfil an economic function. The conclusion of this argument is that the company should be institutionalised as a shared community of purpose which enables us to recognise its contribution as one of the important vehicles for the development of virtue and the good life. Business educators and business leaders need to take these aspects seriously and build this conception into their professional ideology and practice. In a time of moral poverty the contribution of business to moral regeneration is not to be underestimated, although its role should equally not be overexaggerated in relation to other communities and influences on the prevailing moral climate.

Just Business: its only purpose?

Elaine Sternberg's recent book, *Just Business*, is the latest in a long line of statements on the function of business in society begun by Adam Smith and vigorously defended by Hayek and Friedman in our century.⁵ What unites these commentators is the basic contention that business is a specific and limited activity that has to function within the constraints of the law and established ethical norms, but that, apart from respecting these constraints, business is about profits for shareholders and has no other obligations or responsibilities. Adam Smith was the first to delimit the sphere of business as the wealth generating function in society and to begin to shape its legitimating rationale. Hayek and Friedman were particularly keen to protect business from the interference of the state and socialist planning in the 1960's and 1970's.

Today Sternberg claims that by introducing conceptual clarity into business ethics she will provide solid arguments for rebutting "trendy, but unethical demands for social responsibility in business".⁶ To do this she calls upon a comprehensive, naturalistic, philosophical framework based upon the metaphysics of Aristotle which identifies and explains human activities by reference to their ends or purposes or essences. The central questions of business ethics are to be answered by clearly defining the purpose of business. When the nature of business is understood then the ethical questions surrounding its practice can be answered. Sternberg then goes on to argue that business is a very specific, limited activity, whose defining purpose is "maximising owner value over the long term by selling goods or services". Therefore business is not about providing social welfare, spiritual fulfilment or full employment, nor is the company to be thought of as a family, a club, a hobby or a sort of government. Emphatically, "the purpose of business is not to promote the public good".⁷

Having identified the purpose of business she is then in a position to identify the key principles of business ethics; the conditions of practical conduct which will enable business to flourish. Two requirements are held to be necessary: distributive justice and ordinary decency. Her book then goes on to offer a model for ethical decision-making using these principles. If we take Sternberg's view seriously, business is not an amoral activity but its demands for moral conduct are very basic and its moral horizons are limited. One could protest that the house of Sternberg makes little contribution to devel-

oping the moral imagination of those in business and lacks ambition in its prescription for improving our business conduct, but these are only superficial faults. Its structural flaw is that this house is built upon sand.

The foundational flaw of this conception of business ethics is the theoretical philosophical framework upon which it is based, and any undermining of this aspect of her case brings the whole edifice crashing to the ground. The theoretical problem with Sternberg's position is the Aristotelian metaphysics upon which her arguments rest. Although aspects of Aristotelian philosophy are well worth preserving, its metaphysical assumptions about the nature of the world are now untenable and need to be discarded by those interested in neo-aristotelian ethics. The argument against Aristotelian metaphysics has been made most forcibly by Popper, and it can be reiterated here too against Sternberg.⁸

Popper labels this metaphysical problem that of essentialism against nominalism, which is to do with whether there can be universal terms which identify real essences to which they refer. Is 'humanity' just a name we give to a group of individual men and women, or is it some thing which they all have in common? In the business context, is there an essence to business which is distinct, as opposed to individual businesses such as the Ford Motor Company which denotes a particular business? Essentialists such as Sternberg would deny that we first collect a group of single things and then label them with a universal term. Rather, she claims, we label a thing with a universal term on account of a certain intrinsic property that it shares with other things which possess this universal property. This property, 'business', denoted by the universal term, is regarded as an object which deserves investigation just as much as the individual things (businesses) themselves. Sternberg then attempts to strip away the accidental or superfluous and to penetrate to the essence of the purpose of business which is something universal.

However, the problem is that the essence of business stripped of its connections to a time and a place leaves us with an abstract and unreal universal which has nothing to tell us about the real world of business as a historically situated practice. Instead of recognizing the multifaceted nature of language and its relation to social practices which inevitably means a good deal of particularity, the craving for generality leads to the development of misleading metaphysical theories which fail to shed any light on the social practice of business.

*contribution to
moral regeneration*

By contrast, according to Popper we have to study societies as social practices in the world, with all their particularities rather than in the ideal realm of logical abstraction. There are no *a priori* reasons for action, no *a priori* principles of practical reasoning which can be identified independently of the particularities of context and practice. Objectivity is internal to context and there is no context-free standpoint from which we can evaluate the world and its social practices.

This is the perspective that Popper called nominalism. It looks at things as they are and how they manifest themselves in society. The task for those who study business then becomes 'how do businesses function in society and how do people doing business actually behave?' To answer this new terms and concepts have to be introduced wherever necessary or old terms redefined where needed while neglecting their original meaning. 'Business' is not a common element of business practice. What links the particulars falling under this common term is, in fact, the family of resemblances between them, the crisscrossing interrelationships, rather than a necessary definition. The objectives of businesses are diffuse, changeable and multiple. To find out what they are we have to study the actions, experiences and interpretations of people in business.

Sternberg's essentialist approach to the study of business ethics effectively screens out the most interesting questions in trying to understand moral behaviour in business and unnecessarily limits its conceptual development. Business ethics is indeed just ethics, but in a certain context. It is about how characters are formed in the institutions of business and the actual problems and dilemmas faced in business life. It has to be prepared to cross boundaries and to consider the realities of business life as it is lived as a matter of empirical investigation, not as an armchair, logical thought programme. Indeed, Adam Smith made it plain that it was prosperity not profits that constituted the goal of the free-market system.⁹ To single out 'long-term owner value' rather than productivity or public service as the central purpose of business activity is a falsification of most people's motives in business. Consequently, if we adopt too narrow a vision of what the purpose of business is we are likely to misunderstand business practice and lose its sense of cooperation, community and integrity of its participants. The task of business ethics is to clear the way through these dangerous misconceptions which obscure rather than clarify the underlying norms which make business possible. A paradigmatic

example can be drawn from the study of management which was revolutionised by the work of Henry Mintzberg, who, rather than define and prescribe what managers are supposed to do, decided instead to go out and look at what managers actually did. Not too surprisingly, the actuality did not bear much resemblance to the received theory.¹⁰ Business ethics should consider actual business practices and must explore the realities of this field of study and not abstracted essences. Participants in a business may be there to make a profit, to earn a living, to make life interesting, to gain status; for a multiplicity of purposes which cannot be defined out of the analysis at its outset.

The empty company

If the arguments of Elaine Sternberg can be overturned on theoretical grounds because of the absence of empirical analysis of business practice, those of Charles Handy cannot be so faulted, for his are based upon nominalist methods. Handy's most recent book, *The Empty Raincoat*, is an attempt to look into the future, and presents a wide range of interesting ideas about how present trends might be understood and how we might come to grips with them.¹¹ However, it is Handy's depiction of the future of the company and its implications for employment security that will be the focus of criticism in this analysis.

As the quotation at the start of this paper indicates, Handy has some radical things to say about how we should regard the company and its members. In the future, business will be centred around smaller organisations, most of them in the service sector, with a small core of key employees and a collection of subcontractors or portfolio workers in the space around the core. Employment status will then be a privilege, akin to a partnership for a select minority who are expected to show loyalty and a sense of obligation towards the company. Most workers will no longer have employment status, but as organisations disperse and contract their work more and more people will be working for themselves, often by themselves. These portfolio workers will charge fees, not earn wages, and their loyalty will be first to their team, or project, then to their trade or profession, and only thirdly to the organisation where their skills are practised. The company, therefore, will no longer be a place of community; its people must leave this notion behind and learn to adapt to the challenges and uncertainties of independent contracting. Perhaps, as in the acting profession, portfolio workers will find an agent who will

*the real world
of business*

not only find buyers for their talents and negotiate a deal, but will also be their coach or mentor, helping them to review their experience and guiding them into training and educational opportunities. Handy acknowledges that in a competitive world with an oversupply of labour the independent contractor will need all the help they can get, and so new places of belonging will need to be developed.

"We independents need somewhere other than the house, somewhere where there are colleagues not clients, somewhere where we can find the companionship and gossip of the old office or factory but without the boss. Somewhere where we can exchange experience and contacts. We need a club . . ." ¹²

This proclamation of the death of the company as a long-term employment organisation is not just the idiosyncratic view of Charles Handy. On both sides of the Atlantic management writers are formulating and advocating similar proposals. The American management guru, Rosabeth Moss Kanter, has noticed that

"The job-tenure ideal of the past is colliding with the job-insecurity reality of the present. Institutionally dependent careers are declining; self-reliant careers as professionals and entrepreneurs are proliferating, increasing the burdens on people." ¹³

As she sees it, the only employment security will come from a person's employability, from the skills that will enable them to add value to a business. Companies will only be attractive to independent workers if they are able to provide learning opportunities which will enhance the person's employability in the future. In short, she claims, the world of work will be like McKinsey's: all projects and just passing through, but for everyone.

Any conception of the company as a moral community is certainly absent from these pronouncements. Perhaps one small indication that these ideas are starting to have an impact upon management thinking and actions is to observe the new trend of 'Hot-desking' in both Britain and the USA, which is symbolic of how far the de-communiting of the company is going to go. You have no space of your own in the office, no place in a set of regular relationships from which you will be missed or your presence noted. ¹⁴

Moral implications

If Sternberg thought that business was a specific and circumscribed activity, Handy's

view is that pervasive job insecurity is going to be a fact of life in society. Both positions undercut the importance of business organisations as moral communities with a substantial contribution to make to the prevailing moral climate of society. These views can do lasting damage if they allow us to ignore this contribution or cause it to decline still further, and this should be a matter of concern to all those interested in ethics.

The situation is analogous to that of the sociology of the family: in the 1960's and 70's, many sociologists said we should accept that the family was in decline as an institution and should learn to embrace new ways of living. However, we now know that this was a misconception of the situation, and that we should have done everything in our power to try to preserve and protect the family because the consequences of family breakdown have been serious and damaging to the moral order of our society. ¹⁵

Similarly, if we accept that the purpose of business is a narrow one and that employment security is in terminal decline, this too could be a mistake and one that we will also live to regret. Moreover, there is little sign that other countries will be taking this fatalistic stance towards their companies. Indeed, as Handy does acknowledge "to the Japanese the company is a community. To the continental Europeans the best companies are run like families". ¹⁶ Perhaps, then, we should broaden our view of what we take to be the purpose of business and reconsider whether job security can be preserved in the face of global competitive markets. After all, economic change may not be such a deterministic process that we cannot exercise some degree of choice on the basis of our wider social priorities. But first, the case for why the purpose of business should be seen in broader terms, and why employment security is worth preserving, needs to be made. The next section will develop these arguments: that many companies should be regarded as communities of purpose; that they make an important contribution to the development of moral virtues in their participants; and that along with other communities, companies play a vital part in the collectivity of communities which together maintain the moral order of our society.

Communities and companies

Let us begin with a diagnosis of the larger ethical problem we are facing today, which is the maintenance of the moral order in society,

and then go on to consider the narrower issue of how we should regard the company within this order. Many commentators claim that this moral order is in crisis and that we need to pay attention to regenerating the conditions and institutional supports which preserve this order.¹⁷ Today, job insecurity is pervasive, the rich are getting richer and the poor poorer, the crime rates are rising, as are divorce rates, there is a flourishing traffic in hard drugs, our inner cities are in decay, the morals of business and political leaders are in doubt; in short, civil society is in decay and at its root is a moral crisis in liberal society.

The description of this problem is given in similar terms by many commentators, but the prescriptions offered are all a little different. For example, David Selbourne argues that what has destroyed our moral order has been an over-insistence on rights at the expense of responsibilities.¹⁸ Too much rights claiming has led to a devaluation of political debate and the creation of single interest lobbies, pressure groups and competing claims that cannot be satisfied, resulting in a climate of moral disillusionment and cynicism. Selbourne wants to resurrect a civic sense of duty to be enforced by new courts of obligation if needs be, where citizenship is no longer seen as a set of entitlements, but has to be earned. However, it might be rejoined, the law is a crude method of trying to bring about moral regeneration and there is no reason to suppose that 'rights in a community' are unjustifiable.¹⁹

In the USA, Etzioni's communitarian movement, and in Britain commentators such as Jonathan Sacks, have suggested that the real foundation of a sense of responsibility and civic obligation is to be found in families and communities.²⁰ It is in these close associations and affiliations that people learn and practise responsibility, to understand the mutuality of the social bond and to discover the nature of the good that they seek in common. Moreover, the modern state, having lost the underpinnings of a shared morality, is now too remote and abstract to be worthy of loyalty.

This analysis echoes that of the great sociologist, Emile Durkheim, who maintained that we need a set of intermediate associations in which we can become involved, and against which we can make claims.²¹ However, today it is apparent that families and local communities are in decline, leaving us only temporary and conditional affiliations to fill in the gaps. Our range of commitments has been narrowed and our sense of who we are and what we stand for has been eroded. What is needed is a regeneration of the insti-

tutional framework in which moral behaviour and self-esteem can be rebuilt. A whole range of communities need to be enlisted in the education of our citizens in civic duty, the schools, churches, and voluntary associations. And it is the main contention of this article that we should now recognise that business organisations also have a part to play in this revitalising process. The moral order of society has to be maintained and enhanced by a community of communities all playing their part and acting as supports and mediators between the individual and the state.

Whilst the contribution of business companies is not likely to be the most important of these communities, especially in the formation of the young citizen, its role in the moral order should not be down-played or undervalued. For many people in modern society this can often be their most important sense of community that they experience in their adult life. And it is in communities and through group affiliations that virtues are acquired, practised and become habitual. So we should be careful not to dismiss business as an important source of moral development and discount the contribution it can make as a school of virtuous conduct and civic duty. We have already noted Durkheim's suggestion made at the turn of the century that corporate associations were needed to connect the individual with an intermediate body between themselves and the state. The business corporation may not be what he had in mind or be its nearest equivalent, but it is one of the most enduring institutions available, and in actuality it often fulfils this function. As Robert Bellah, quoting Alexander Hamilton, remarks "economic institutions teach and form us as effectively as schools and families do, if not more so".²² Business ethics often highlights the moral vices or shortcomings of business. However, it should also examine the extent to which companies act as moral communities, and assess their potential for improving the moral climate of society.

This is not to argue that everyone participates in business for the same reasons, or that business represents a harmony of interests, or, indeed, that it should do so. But the fact remains that inside companies there are often elements of community and shared conceptions of conduct and standards of behaviour that are remarkable. Too many studies of business have ignored the accounts given of conduct as it is practised, as opposed to how it was thought to be practised. As Anthony notes in his discussion of the distinction between official management theory

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and the real theory of empirically based studies of organisations,

"at least in real theory accounts of their inhabitants' behaviour, can be seen as communities; that they are held together by informal moral relationships that may be stronger than the moral order that the hierarchical superstructure seeks to impose, and that moral and social relationships are cemented by myth, symbol, culture and narrative."²³

A community of purpose

It may be useful if a new term is coined to describe this moral property of community which can be found in the business organisation: that, as the title of this article states, the company is 'a community of purpose'. The term draws upon the work of John Macmurray who distinguishes between a community of purpose and a community of love.²⁴ The latter is a more intimate, and therefore enriching, association, and is the foundation of the purpose of life. The community of purpose is a more transitory and less significant association, and is there to serve an instrumental purpose. Clearly, the business company is of this second kind, but that it is a form of community and therefore has some of the valuable properties of community should be noted.

A community is of moral significance when, in Selznick's terms, it requires from its participants 'core' involvement, as opposed to 'segmental' involvement.²⁵ Core involvement means that people are not free-floating but are connected to others in specific personal relationships with a strong sense of identity and autonomy. From such bonding people develop stable lives and characters of depth and durability, with a sense of moral obligation sustained by the appropriate motives and self-discipline. Core involvement is one of the foundations of moral competence.

A company that functions as a community of purpose is therefore characterised by the following features:

- people relate to whole persons rather than to segments;
- each participant is perceived as having intrinsic worth;
- communication is open and founded upon trust;
- obligation is mutual, diffuse and extended;
- there is a sense of belonging together and sharing a common identity; and

- personal development, security and satisfaction are important.

This concept of a community of purpose can be used to describe the contribution of the company towards the development of virtuous conduct and the common good. Companies requiring only segmental involvement or a limited investment of the self are more likely to undermine moral competence than to enrich it, and are likely to weaken personal responsibility. Handy's future company only requires this form of involvement, and this may be of little concern if the assumption is made that well-socialised workers, from stable families and local communities, do not need to find psychological sustenance in less intimate, more impersonal settings. But are these presumptions still correct for many people in today's society? Many companies can and do offer much more than this, and in fact their communities of purpose add thread to the moral tapestry of society.

There are many studies by social scientists of business organisations which can be used to support this description of the company as a community of purpose.²⁶ Melville Dalton's classic study of the informal organisation that exists in parallel with the formal organisation, the latter meaning that which is planned and agreed upon, is full of insights into the moral nature of organisational relationships.²⁷ The nature of the moral community in companies is also drawn out in the classic study by Burns and Stalker of the management of innovation,

"Every firm is community, with its own particular flavour, its own social structure, its own style of conduct. Newcomers are very conscious of this quality of uniqueness. Indeed, they have to be, since they have to learn the culture, and until they do, until it is other places which begin to have a disconcertingly unfamiliar smell, they have neither been accepted nor accepted their position."²⁸

But that is not to say that all companies share these attributes to the same degree, nor is it suggested that they should all do so. A distinction needs to be made, similar to Mahoney's one of active and passive stakeholders in the firm, between companies that are active communities and so contribute to the moral order of society and those that are purely instrumental or amoral communities that fail to develop moral virtues in their participants.²⁹ On the whole, this is not a matter that can be determined *a priori* but needs to be assessed empirically. Perhaps

one way of identifying companies that function as communities of purpose is to use MacIntyre's distinction between practices, that have internal goods, and work, that produces only external goods.³⁰ A practice is a social and co-operative human activity realising goods that are internal but determined by human conceptions of excellence and value. Internal practices involve a set of standards or criteria which serve to identify what counts as a good or bad, exemplary or worthless, competent or incompetent instance of the activity concerned. Internal goods are judged by those inside the practice but their achievement is a good for the whole community. Work institutions are more likely to be concerned with the production of external goods in a competitive exchange which may add nothing to the common good.

Although MacIntyre claims that all business organisations have no notion of internal goods which serve the common good, the empirical evidence suggests, to the contrary, that many companies do indeed create internal goods and cultivate practices which make a contribution to the common good. Salaman's study of the occupation of railwaymen noted that its internal goods consisted of three criteria commonly shared by the railwaymen: the ability to accept responsibility, as it was a potentially dangerous business; that being a railwayman was a vocation, needing a non-instrumental attitude to work; and that punctuality, reliability and steadiness were key virtues.³¹ Salaman quotes one railwayman as observing, "The good railwayman does not do his work just for the weekly wage; he does it because he takes pride in it, for the satisfaction of a job well done".³² Salaman also describes the sense of fraternity between the railwaymen who even set up unpaid mutual improvement classes, organised and administered by older, more experienced railwaymen to help the younger ones get through their promotion examinations.

The picture is similar in many other organisational accounts. Tom Burns's study of the BBC noted that the organisation consisted of a network of games in which individuals have the role of both players and spectators, and that the whole was held together by a moral order which was absorbed by recruits through the actualities of the conversations and actions which constituted their work.³³ The movement to identify managerial competencies that specify good and bad practices in management work is a sign that the internal goods developed in companies are now increasingly sought after and are now openly described and assessed. Watson's

recent study of managers gives some interesting examples of these competencies:

"Good managers are sensitive to the attitudes and feelings of all those they work with; they treat others and their ideas with respect . . .

Bad managers have little regard for the people they work with; they are insensitive to the feelings, views and interests of others . . .

Good managers work with teams they lead to build up a positive climate. . . .

Bad managers work on their own and tend to maintain power by keeping information from others . . .³⁴

These benchmarks of managerial behaviour gave the managers in his study indicators against which they could match their own behaviours. It helped them cultivate a sense of what kind of manager they wanted to be, and provided a moral resource to identify rogues and heroes in the process of managing to manage.

Neglected internal goods

In the light of this evidence, which is substantial and long-standing, why has the generation of internal goods which help to serve the common good not been recognised more widely and institutionalised into our legal and economic infrastructures? The actual contribution to the moral climate of society by many companies is often ignored or discredited by modern management rhetoricians. Their talk of the limited, contractual nature of the relationship is often at odds with the deep and personal investments made by the members of a company. Perhaps the employment contract is an example of a shared symbol in a community culture which can mean different things to employers and employees, and yet still brings them together. After all, if it were just a contract, why do so many people, most of the time, go beyond the contract? The character of Willy Loman in Arthur Miller's play, *The Death of a Salesman*, is a figure with whom many employees can identify and share his sense of frustration that his deep investment and personal commitment to his firm has not created a reciprocal obligation on the firm's side. Watson's study is full of examples of managers who wanted to give more commitment to their firm, but felt that this would not be reciprocated.³⁵ The institutional framework of business in Britain does not recognise the variety of stakeholder interests in business nor does it appreciate the company's contri-

*discredited
by modern
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bution to the common good. This is at odds with the situation elsewhere and with much of the evidence on actual behaviour in UK business organisations.

Rhetoric and reality

Loyalty in firms is persistent and highly valued in Japan and Germany.³⁶ Apparently, in the USA it is difficult to shake out even in the face of an individualistic self-interested rhetoric which sees the pace of change as accelerating so that firms are unable to offer long-term job guarantees. As Heckscher points out in his analysis of management loyalty, the problem for many corporations is not that of creating employee loyalty but of how to discourage it.³⁷ Even in businesses that have suffered severe job cuts, the surviving managers clung to their ideal of the company that would honour commitment as a reciprocal obligation. His study raises doubts about whether the employees' need for a sense of community could be satisfied by mobile workers who move from project to project and have no community to which they feel they belong. In Britain a recent study by the Institute of Personnel and Development into the intentions of more than 300 companies employing between 20 and 200 employees found that managers were not interested in offering short-term employment.³⁸ No fewer than 80% aimed to retain employees for between five and twenty years.

This wish to keep employees for a long time is in striking contrast with the pronouncements about the end of job security coming from Handy and Moss Kanter. Some studies of the labour market positively contradict this supposedly inevitable trend. David Shonfield at Incomes Data Services published a study of the labour market in 1995 which claimed that "Predictions of a future of casualised, promiscuous employment without secure jobs are not just questionable but demonstrably wrong".³⁹ His report shows that part-time working is not a recent trend but has been increasing in use for over 30 years. Most of these jobs were created in the 1960's and most were long-term jobs. He also points out that the average length of job tenure has not changed dramatically, because while 36% of men in 1993 had been with the same employer for 10 years or more, in 1968 the equivalent figure was 37.7%. Management career patterns had also remained much the same: the average manager in 1973 was 44 years old, had been in the company 13.1 years and 4.8 years in the same

job; in 1990, the average manager was 44 years old, had been with the company for 13 years and in the same job for 5 years. One can only infer from his evidence that a much more stable labour market exists than we are often led to believe.

The real danger is that we are ignoring these facts. By their actions people are apparently working hard to preserve their communities of purpose, and this is a sign that they place immense value on their membership. It could be that to call for the premature demise of job security will turn out to be a very regrettable step to take, because until we know what other forms of affiliation are available, or conclude that we cannot do everything in our power to make companies flourish, we would perhaps be best advised to act cautiously.

Conclusion

If we turn to consider the third of this article's opening statements, that by Robert Bellah, it would appear that what we have hitherto taken for granted is now under threat. The company is institutionalised as an instrument of the shareholder, and other stakeholders' interests go unrecognised and are given little credence beyond contractual liabilities. Modern commentators like Sternberg and Handy consequently propose definitions of purpose and advocate changes which take little account of the wider moral dimension in business endeavour. It has been argued here that this perspective is both limited and misguided. It is therefore time to reappraise the fundamental terms of company institutionalisation in this country.

We need to start by recognising that the company is a contributor to the moral order of society. Importantly, we should follow Mahoney's advice and not seek to overburden business with too many responsibilities.⁴⁰ But the present system of legal incorporation perhaps needs to be changed to include principles of corporate governance similar to those advocated by J. B. White in the USA, which state that "the business corporation should always endeavour to act as a responsible citizen in its economic and other activities".⁴¹ This means that the company is incorporated as a form of collective citizen in society and its sole objective is not just to make money but also to do good.

However, we should acknowledge that there are different types of collective citizen, and that some are more active and contribute more than others to the common good. Some companies are active centres of virtue infor-

mation and development: beacons which radiate moral energy to other parts of society. Some companies have a very weak light; and some are dark spots. We need to create regulations which recognise that the purpose of business is to make life better for everyone and that a multiplicity of motives is often present in business practice. We should be prepared to acknowledge and esteem the companies which make a real contribution to the common good because at their best they are the equivalent of one of Edmund Burke's 'little platoons' of society. Instead of undermining job security we should be trying to preserve and support it in the face of destructive competitive pressures and tendencies. As with families, if secure employment cannot be supported and re-established we will be the poorer for it, since after all few practical suggestions have been put forward as to what should take its place.

The worrying trend in society today is that many people are excluded from companies because unemployment is a pervasive problem in society. Research by Gregg and Wadsworth points to the growth of a secondary labour market characterised by higher labour turnover among the least-skilled, young and old and those in atypical employment. And they conclude that "Long-run poverty among families systematically disenfranchised in terms of regular access to earned incomes is the ultimate consequence of these developments".⁴² People need centres of affiliation in which to practise virtue; we all need to have the opportunity to participate in communities of purpose. The exclusion of women, the disabled and ethnic minorities from these opportunities in the past in many companies is to be regretted and has to change, but this is no reason to see the company as an institution condemned and job security threatened. The company can be a virtuous community as well as a flourishing business; it can further the type of occupation one can be proud to be a member of, with a sense of calling which will serve the common good. Even employees in the 'de-layered' firm can take pride in its sense of community and in the internal goods its members help to produce, despite facing a limited career ladder and increased job rotation.

Otherwise the alternative of pervasive job insecurity is going to be very damaging on morale in business. The survivors of the latest redundancy round are not only likely to be overworked and fearful for their futures; the stress they are under will not bode well for their performance. If the employer cannot offer reasonable job security why should the employee offer more than a job's worth atti-

tude in return? Increasingly fewer employees will volunteer to do more than they need to unless the reward is clear and immediate. No longer will young employees be prepared to serve time in a boring job for several years in the expectation of a steadily rising career in the longer term. Perhaps we should therefore start to question whether the advice of Handy and Sternberg is to be followed. Instead we should urge our companies to follow the example of Rover Cars: there job security is guaranteed, provided that the employee is prepared to be flexible and to continually update their knowledge and skills.

And in the field of business education we need to learn more from Europe, and move away from the traditional Anglo-American paradigm of business upon which we have relied so heavily in the past. Michel Albert has distinguished two types of capitalism: Rheinisch and neo-American.⁴³ The former depends upon a subtle blend of competition and co-operation, market-based but not wholly market-driven; the latter is competitive, market-driven and focused upon short term profitability. The firm in the former case is not driven by individual self-interest and the relentless exposure to market forces, but is constrained by a network of intersecting interests held together by collective values and co-operative behaviour. Consequently, the Rheinisch firms trade off short-term efficiency losses against long term investments of human capital and its attendant competitive advantage. What often holds the neo-American firms back, even when they understand the difference, is that they are constrained by the limited rhetoric of economic liberalism which does not provide the necessary concepts and paths towards a change of view.

What we need is a language and a set of institutions in which cooperation and consensus can be forged and in which market mechanisms are tempered by moral constraints. We need to incorporate the conception of business as a community of purpose which will take its wider social and moral functions more seriously alongside its economic ones. Rheinisch capitalism is centred around strong communities of purpose that seem to endure and prosper. Let us take hold of this insight and enact this conception of the company which will make it a collective citizen in the moral order of society ●

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Corporate Temperance a Business Virtue

Richard C. Warren

"There are strong temptations for those at the top of an organisational hierarchy to appropriate to themselves a disproportionate share of the resources of the organisation and to exercise too much power over the activities of other organisational members." Hence the case for taking a cool look at executive remuneration and other possible breaches of applying the classical virtue of temperance to corporate behaviour. The author is Principal Lecturer in the Business Studies Department, Manchester Metropolitan University, Aytoun Building, Aytoun Street, Manchester M1 3GH.

Introduction

From my early boyhood, when I spent so much time living in my imagination and the world of the great adventure books of the 1920's, I have had a picture in my mind of the sort of person I wanted to be. A sort of Boy's Own Paper composite, archetypal British gentleman – simultaneously strong and compassionate, stiff-lipped yet emotional, courageous both physically and morally, doing incessantly to others as you would be done to yourself.¹

John Harvey-Jones's autobiographical account of his managerial experiences has perhaps unconsciously helped to revive the ideal of the virtuous manager and provides an example of how this occupation can be both a stimulating and morally worthy career for a young person. As his remark indicates, his outlook focused upon the question of what sort of person he wanted to be and what character traits he should try to cultivate. This approach to moral behaviour is that associated with virtue theory which takes its inspiration from the works of Aristotle. New proponents of virtue theory are concerned however, that the set of virtues to be cultivated are relative to the historical and cultural context and are to be identified in a community of virtue rather than by the lone individual. In this respect virtue theory

takes on board a degree of cultural relativism and has to accept that the virtues of a Japanese company's employees may be different from those of a British company's employees.²

In the United States, Robert Solomon in his admirable book, *Ethics and Excellence*, attempted to define a set of core virtues for those in business. His basic virtues were honesty, fairness, trust and toughness; his virtues of the corporate self were friendliness, honour, loyalty and shame; and he considered the ultimate virtue to be justice in corporate life.³ Now, as a list of western business virtues there is little to argue with here; and one could also suggest a few more relative virtues to supplement this list, such as tolerance, industry, prudence and charity. However, whilst there are parallels to the other classical cardinal virtues in his list there appears to be one missing, and that is the virtue of temperance. Nowadays many people would say that the virtue of temperance, which is often narrowly defined as moderation in the consumption of food and drink, is of only secondary significance in the modern context, and so is not a prime candidate for consideration as a cardinal virtue in business. Temperance in today's society, whilst encouraged by the Health Education Council, is a purely private virtue, and the days of the temperance society are long gone, making the collective significance of this Aristotelian virtue less important.⁴ However, this article will seek to argue that the meaning

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of temperance as a public virtue in corporate life should be reinvigorated, and that this virtue should be considered to be one of the cardinal business virtues.

The argument will proceed as follows: first, the traditional meaning and significance of temperance will be considered. Then the importance of Philippa Foot's point about the need to interpret virtues in the prevailing social context will be used to try to reinvigorate the public meaning of temperance in the contemporary western business world. Corporate temperance will be defined as an organisational virtue requiring personal moderation in the consumption of resources and authority in the business enterprise as a community of purpose. It will be argued that the return of the public virtue of temperance would make a major contribution to the balancing of competing interests in the business organization and give strength to the notion of leadership by personal example. It will also be argued that the widespread practice of corporate temperance in society would make a significant contribution towards improving the common good in three ways: first, by helping to reduce the dangers of wage-push inflation; second, by helping to reduce the inequalities of income distribution which endanger the prospects of greater social cohesion in the division of labour; and finally, by helping to improve our industrial efficiency.

The traditional meaning of the virtue of temperance

Temperance for Aristotle was that virtue which is to do with the pleasures that arise from the sense of touch, including taste, rather than from those of sight, smell or hearing.⁵ He thought it was necessary to subdue sensual pleasures to reason if we were to become truly human. As such, then, temperance is the virtue of *the rational control of our physical appetites* and this was thought to be one of the important ways in which we differentiate ourselves from animals. Aristotle thought that those who are intemperate are self-indulgent, and are then taken over by cravings that cause them to lose the power to discriminate between alternatives and so tend to choose the pleasurable above everything else. On the other hand, the person who takes no pleasure in the satisfaction of appetites is inhuman, and so the temperate person should occupy the middle position between self indulgence and insensitivity. Hence the old adage that 'a little bit of what you like does you good'.

It is important to note that Aristotle thought the appetites should be guided by rational thought and that the two should harmonize together. As he observed, "the noble is the mark at which both aim, and temperate people crave for the things they ought, as they ought, and when they ought; and this is what rational principle directs".⁶

In the Aristotelian context the meaning of this virtue of temperance is clear and distinct. However, to identify it as one of the cardinal, or pivotal, virtues is to say that temperance is one of the character traits which are central to what one sees as the living of a good life. In this respect both Aristotle and Plato thought that temperance was a public as well as a private virtue, and that the state which lacked the public virtue of temperance should be characterised as a tyranny.⁷ In this sense public temperance is related to self-control in the desire for, and use of, social power and influence, so that the temperate ruler is one who recognizes the claims of others and who has a sense of themselves as a person among persons. Indeed, as John Casey in his recent book *Pagan Virtue* reminds us, Plutarch, the Hellenic biographer, considered it a sign of Alexander's appropriateness to rule that he refrained from raping the women of Darius when they came under his power.⁸ By contrast, the intemperate ruler has developed a powerful will and intense ambition and lust for power and wealth out of all proportion to that of the good person. As Cardinal Wolsey said of King Henry VIII, 'rather than he will either miss or want any part of his will or appetite, he will put the loss of one half of his realm in danger'.⁹ In this respect public temperance controls our will to power and introduces measure and the ability to recognize and adhere to a mean in political affairs. The vice of intemperance in public life is to allow ourselves to be corrupted by power and wealth, and so develop a voracious appetite for aggrandizement and domination that is insatiable and dangerous to the wellbeing of others. In the Greek context, then, temperance in the private sphere was about self control in the consumption of food and drink, and in the public sphere, about moderation in the exercise of power and the acknowledgment of the interests of others in political life.

Modern western society is, of course, very different from that of antiquity, but the Aristotelian concept of virtue is still very useful in helping us analyse moral behaviour. During the transition to a capitalist society the virtue of temperance in both its private and public forms could perhaps be said to have been an over-dominant characteristic of

its founding bourgeoisie class. Both Max Weber and Richard Tawney attributed the emergence of the industrial spirit of capitalism to the Protestant ethic which developed out of the Reformation.¹⁰ The Protestant ethic encouraged a rising middle class to work hard, not just in order to meet basic needs, but as a duty in its own right to try to ensure one's eternal salvation. Importantly, they denied themselves the fruits of their own labours beyond that needed for a frugal lifestyle, and they invested the rest in their businesses, so setting both a private and public example to others. This in its turn set off the juggernaut of capitalist accumulation, and spread the moral imperatives of hard work, rational calculation, temperance and frugality throughout the rest of society, far beyond the adherents of Calvinist theology.

This work ethic and the achievements of the self-made men of business were greatly venerated and publicised in the Victorian era by the likes of Samuel Smiles, who carefully categorised the industrial virtues and described the process of character formation needed to acquire them.¹¹ However, the moral climate and this outlook have gradually changed, and with it the meaning and importance attributed to the public virtue of temperance, for perhaps two reasons. First, the accumulation of wealth by the new entrepreneurs gradually eroded their religious affiliation and turned them into self-interested individualists who indulged in conspicuous consumption. With the growth of mass consumer society these traits spread to the rest of the population, where consumption fuelled by debt became widespread and consequently vital for the maintenance of the economic order. Second, the growth of large scale organisations and of a salaried managerial and clerical class has changed the nature of the work ethic away from the virtues of self-reliance, unremitting devotion to work and a moderate reward, towards the vices of the infamous 'organisation man', who is said to be dependent, uncommitted, and extremely status and reward conscious.¹² In short, in the modern period, the virtue of public temperance has been lost for the most part from western organisational life, particularly in business. The reasons why this is to be regretted, together with the case for the revival of temperance as a cardinal virtue of corporate life, will be explored below.

Corporate temperance reconsidered

The type of community in which the virtues are cultivated has a great bearing upon which characteristics are considered to be necessary

for the good life. In ancient Greece, women were excluded from political life and many people were slaves, practices which we now consider to be intolerable. Thus in any contemporary analysis of the nature of the virtues it is important to consider the social context and the present conceptions of human flourishing (much as Aquinas did in the Middle Ages). Let us then, consider the role that the virtue of temperance might play in modern society.

Some help in this task is provided by Philippa Foot in his book *Virtues and Vices*, in which she claims that the virtues are in some sense correctives. Hence, if there had been no human tendency to give in to certain temptations, temperance would not have been a virtue.¹³ Likewise, if mankind had been subject to weaknesses different from those which actually beset us, there would have been virtues different from those which we presently recognise as such, given the actual state of things. In her view, it is important to introduce an element of world-relativity into our conception of familiar virtues. But this relativism of the virtues should not destroy the objectivity of our value judgements, by saying they are only a function of what people believe or choose. Instead, we should rely upon the idea that certain virtues are virtues only in relation to certain ways of life or certain historical contexts. This makes the status of these virtues depend on facts about how human needs vary over time, or on deep facts about human nature, rather than on anything subject just to the arbitrary views of people. So a belief in relativity of the virtues need not force us to any sort of relativism about moral values.

With these important points in mind, the questions we should ask ourselves are what do we have to be self-controlled about in contemporary life and what over-indulgences lead to harmful outcomes and endanger the common good? In our society temperance, it could be argued, is the virtue needed to help us exercise self-restraint in the face of the many temptations that surround us in modern consumer culture, in respect of both the private consumption of food and drugs, and publicly in terms of the accumulation of income, power and the domination of others. There are clearly many implications here for business ethics but for the purposes of this analysis the focus will be on the temptations facing organisational employees, rather than on other stakeholders in business, these being aspects which would require a separate treatment.

In terms of the business enterprise there are strong temptations for those at the top of

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an organisational hierarchy to appropriate to themselves a disproportionate share of the resources of the organisation and to exercise too much power over the activities of other organisational members. In simple terms overindulgence can mean that executives' remuneration may be too high and their lack of self-restraint may mean that their grip on power is too tight. Executives who moderate their consumption and appetites in these matters are practising the virtue that might be termed 'corporate temperance', which has two component dimensions. The first dimension is the moderating of one's consumption of corporate resources. This can take many forms, but it particularly implies moderating one's personal remuneration to what is necessary for personal generosity and the living of a good life.

Naturally, the parameters of appropriate remuneration and executive aggrandisements will be very wide in business life, but they should not give rise to appropriations that are profligate or parsimonious. The second dimension involves a characteristic self-restraint on the exercise of power and domination over other employees, so as to allow them to have a say in decisions which affect them, to accord them moral respect and allow them to retain personal dignity, and to help them to develop their own practical wisdom in decision-making in the business.

The public virtue of corporate temperance can make an important contribution to helping the business organisation develop as a genuine community of purpose and also help to enrich the common good in a number of ways. Moderation in executive remuneration is likely to generate a greater sense of equality and common purpose not only in business, but also in society, where it could help break the cycle of pay push inflation which undermines industrial competitiveness. It could also help increase investment in industry and so make a contribution to reducing unemployment. Moreover, greater industrial efficiency and productivity can be achieved where an organisation empowers its members and liberates a greater part of their talent and initiative. It is worth, then, examining in more detail these arguments connecting the virtue of corporate temperance to human flourishing in business and the contribution it can make to the greater common good.

Moderation in remuneration

The business enterprise is often spoken of as a community of purpose in which all its

members have a role to play and a contribution to make to its success. This is certainly the impression which is given by many company reports and in the rhetoric of those who take responsibility for human resources management in many business organisations. Many research studies show that in hierarchical organisations the nature of the leadership example is very important in establishing and maintaining its ethos and culture.¹⁴ Consequently, the personal example and public behaviour of business executives can be seen to have a tremendous influence throughout the organisation and puts the spotlight on their characters and actions, so much so that their every word and its nuances are often deeply reflected upon by every member of the organisation. The implication of this for business ethics is that the organisation, if it is to be regarded as a community of purpose, ought to be guided by leaders who exemplify the cardinal business virtues, including that of corporate temperance. Moral leadership in business should be by personal example which is respected and reciprocated by those who follow.

Corporate intemperance

That some business executives fall short of this standard has been amply evidenced in recent years by many instances of intemperate corporate remuneration reported in the financial press. In 1993, for example, the chief executive of Prudential received £769,000 in salary, pension contribution and shares; the part-time chairman of Next had a 68% pay rise to £168,000; the chief executive of the Direct Line insurance business for the Royal Bank of Scotland received a £24 million bonus; the chairman of Guinness had a 25% pay rise to £777,000, plus an annual top-up payment to take his pension to about £500,000, and £50,000 a year in consultancy fees; the chairman of Carlton Communications received an 84% pay rise to £520,000; and payments totalling more than £2.4 million were being paid to four Lonrho directors, aged between 64 and 77 years, who were leaving the international trading group's board. Perhaps one of the most blatant examples is of two directors of Britannia Hotels who received a 98% rise in pay to more than £4 million each, while the company recorded an £8.5 million loss.¹⁵ These are not just isolated cases; the general trend in the face of the recession of the 1990's has been for senior executives' pay to increase at a rate above average earnings, in fact, by over 50% in the past four years.¹⁶

This is at a time when other employees in these organisations have been asked to moderate their wage claims and ensure that their pay is linked to their personal performance. Nor are these intemperate trends confined to the business sector. In the public sector, University Directorates, Trust Hospital Managers and Civil Servants have all been rewarded with increasing generosity above and beyond that of other employees in these organisations.

These tendencies are judged by many commentators to be intemperate because they are not related to the performance and profitability of companies. Research by Gregg, Machin and Szymanski published in March 1993, investigating the relationship between the highest paid director and the economic performance of over 300 large companies, found that after 1988 'the very high pay awards received by top directors in the recessionary period up to 1991 appear to be unrelated to the performance of their companies'.¹⁷ And they concluded that the results of their study 'strongly call into question the effectiveness of current systems of pay determination for top company directors'.¹⁸ Disquiet at the absence of a link between executive remuneration and company performance has also been expressed in the USA by Graef Crystal, in his book *In Search of Excess*, which is an extensive analysis of the relationship between pay and performance in large US companies.¹⁹ Indeed, shareholders at the 1993 BP Annual General Meeting were said to have been appalled by the 'extensive increases in executive incentives schemes at a time when BP's dividend is frozen'.²⁰ It would seem that increasingly double standards are operating in corporate life and that many business leaders are failing to set a personal example to their employees.

At first reading, this disquiet may appear to revolve around the question of social justice because of the inequality of executives' rewards compared with those of other employees and the apparent absence of a link between executive pay and company performance. However, we have to acknowledge the arguments against this contention put forward by economists such as Hayek and Friedman: first, that market transactions are the free exchange of individuals and if uncoerced must be procedurally just; second, that the distribution of income and wealth arising from individual exchanges is not the outcome of any guiding intentions and so cannot be unjust; and finally, that to interfere with these outcomes does more harm in the long run to the social order because we have no agreed criteria of distributive justice.²¹

However, as Plant has argued, although the distributive outcomes of market exchanges are unintended, the fact that the outcomes are foreseeable means that we should bear a moral responsibility for the unintended but foreseeable nature of our actions.²² In this case the issue is not so much one of social justice but of our response to the effects of unintended but foreseeable actions. Even if the market allows executives to appropriate high salaries, the question for the executive wishing to practise corporate temperance is, is it right to accept this level of remuneration, and could self-restraint in this matter help to serve the wider interests of the company and the greater common good in society? Indeed the practice of corporate temperance is often to be seen in political and public life where many ministers, MP's and chairpersons decline to draw their full salaries. Moreover we should also acknowledge the long-standing example of executives in business who practise corporate temperance, notably Christopher Haskins, Chairman of Northern Foods.

We might also profit from the example set by the Japanese executive in this respect. Executives in Japan show an admirable sense of corporate temperance when it comes to moderation in pay increases and the impact such rises have on the structure of wage differentials in the firm. The executives of Japan's large and famous companies may enjoy prestige and a high profile, but wealth is usually not one of the benefits that comes with their office.²³ Many Japanese executives live in residences which would be considered humble by western standards, and their personal fortunes are insignificant compared to US and European equivalents. Michiyou Nakamoto quotes a senior Japanese director as saying, 'In Japan the executive's job is seen as an extension of the work of the other employees, so it is considered inappropriate to create a huge gap between executives' and other employees' pay.'²⁴ Few Japanese firms offer executives stock options, and even if they did, the view is that again the company's performance is the sum of employees' work, which prevents them from rewarding executives alone for good business results.

Moreover, the Japanese company executive is expected to set a good example to other employees. Extravagance in any form is likely to be frowned upon, and would attract criticism at the first signs of a business downturn or unhappiness amongst the employees. Executives also in times of recession, as we have seen in recent years, tend to moderate their own pay increases and are often the first to take a pay cut before putting job reductions into effect.²⁵ Indeed, their preference

double standards in corporate life

for trying to avoid job cuts in the fight to reduce costs, and to concentrate on managing productivity improvements through better utilization of resources and the reskilling of employees, is a further lesson which western business could learn from the Japanese. It may be no coincidence that, on the international scene, Japan, Sweden, Germany and Holland are countries whose businesses practise corporate temperance and tend to be amongst the most successful in economic terms.²⁶

Pay drift

A second reason why executives might wish to practise corporate temperance is because of the causal link between their own pay increases and their relationship with the general problem of cost push inflation which makes many British firms uncompetitive in world markets. During the 1980's, salary pull wage inflation became a serious problem in British business. This problem has been carefully analysed by Lord McCarthy in his recent review of incomes policy over the last 25 years.²⁷ The findings of his research, and its implication for the practice of corporate temperance, might be summarised as follows. Despite the recommendations of the Donovan Commission in 1968 on the need for incomes growth to be carefully regulated in a system of coordinated bargaining arrangements, over the past 25 years governments of both parties have failed to take effective measures to deal with earnings drift in the economy, and this has become a serious cause of the weakness in our industrial performance. Cost-push inflation has been a recurring problem which has undermined our competitiveness and kept unemployment higher than it need have been for over a decade.

McCarthy claims that the key to understanding incomes growth calls for an understanding of the wage structures of the internal labour market inside the firm. Here the management of wage costs depends upon the achievement and maintenance of internally acceptable pay differentials which both promote increased performance and productivity and are seen by the employees to be fair. As McCarthy sees it, the mechanisms for increasing pay in the internal labour market have been affected by four factors. First, that pay has outrun price increases by some 4% per year in the 1980's; second, that this degree of escalation has not proven to be compatible with sustained productivity improvements; third, that pay increases have increased income inequalities, rising faster at the top than at the bottom; and finally, that,

contrary to the popular view, non-union labour has been receiving better pay rises than those represented by trade unions, so unions in fact may be a restraining influence on earnings growth and pay inequality. McCarthy claims that one of the implications of this analysis is that "Britain's pay problem has not been solved by deregulation and attacks on collective bargaining. It has actually got much worse".²⁸ Another implication is that

"if the economy ever begins to grow again for any significant period, we shall not be able to avoid another pay explosion. Even at the bottom of the recession pay movements remained in advance of prices, and skewed much as before towards the top. Directors continue to receive increases three times as great as the average".²⁹

McCarthy identifies the new pay drift as having been created by three processes: pay increases are given to executives; these are then diffused through the internal pay structures of the organisation; and then a suitable rationale is advanced to justify their continuation. In essence, executive pay increases are based upon comparisons with international rates of pay in advanced nations like the USA, and also on the basis that these rates help motivate such talented players in the corporate game. This good fortune is then shared with those slightly lower on the corporate ladder in the name of justice and fairness, and then the whole system of pay relativities is jacked up as internal comparisons are made in the internal pay system and as performance related pay comes into place. As William Brown has also noted, the problem of tying pay to objective assessments of performance is notoriously difficult for managerial grades, and so on subjective measures their pay continues to increase in line with those at the top of the pay ladder.³⁰ The justification for this generalized pay increase for executives at the top is that the overall pay bill will not increase. This is achieved by ensuring that a combination of labour shedding and cost reducing contracting out will reduce the labour costs of the organization at the bottom of the pay ladder. Moreover, the smaller but more efficient core labour force will be held to deserve the increased pay they received according to their contribution to value added. In addition, senior executives reinforce their arguments by claims to their boards that this is the line that all their competitors are taking. Shareholders and investors are then in no position to argue and prevent senior executives from implementing the same scenario year after

pay drift

year. Consequently, the problem of pay drift begins with executive remuneration, and incomes growth goes out of control in institutional terms. Ironically, the so-called wealth creators may be unwittingly the creators of inflation, inequality and unemployment.

Controlling measures

If McCarthy's analysis is correct about the causes of inflationary salary increases owing to the lack of management self-restraint, the question is, what can be done about it? In recognition of these facts a common remedy has been to call for the government to intervene, and also to express the hope that leading shareholders will call for restraint.³¹ But in reality, it would seem, that business executives are a group in society who are often out of the reach of institutional restraints, be they those of government or shareholders. The Prime Minister and the Chancellor of the Exchequer have both made statements calling for executive remuneration to be moderated.³² The hope of many shareholders is that the Cadbury report on Corporate Governance and its recommendations for the appointment of non-executive directors on company boards will act as a restraining influence on pay.³³ But it remains to be seen if executive directors can be compelled to disclose more information to shareholders about the levels of remuneration in the firm. Moreover, to what extent can shareholder interests be mobilized in the fight for lower product prices and higher levels of investment, rather than higher pay for the executive management? The suggestion of Peter Ingram that an Institutional Shareholders Committee become involved in an assessment of pay increases to keep inflation low is timely but is unlikely to be sufficient.³⁴ In essence the unaccountability of executives to shareholders seems to substantiate the claims of James Burnham, who predicted that there would be a growing divorce of ownership from control in the modern corporation.³⁵ Executive managers are today in many ways a new ruling class who increasingly dominate others in the distribution of rewards even in the face of shareholder or government opposition. To my mind the only viable answer to the problem of executive push wage inflation is to educate executives into the practice of the virtue of corporate temperance so that they show a degree of self restraint in their own appropriation of remuneration because they know that this will improve the competitiveness of British business and with it the common good of society.

Tackling unemployment

Practical wisdom also suggests that the common good would be best served by a general reduction of unemployment in society. In some ways the exercise of corporate temperance in business by all employees could make a significant contribution towards meeting this goal. The reduction of costs in industry and the re-investment of profits by shareholders and companies in expanding their businesses are practical ways in which organisations can make a real contribution to reducing national unemployment. Moreover, active support for redistributive taxation can also help to moderate the plight of the unemployed and the working poor in a developed economy. The exercise of corporate temperance would be an appropriate response by those in business to a trend first noticed in the USA, which is that the income of unskilled workers in the economy has continued to decline in the 1980s and 1990s. This has increased the income differentials in the USA to around 9 to 1 and in the UK to 6 to 1.

It is interesting to note here another parallel with antiquity, in that Plato wrote in *The Laws* that "if the state is to avoid the greatest plague of all . . . civil disintegration – extreme poverty and wealth must not be allowed to arise in any section of the citizen-body".³⁶ Plato accordingly thought that limits must be put on the lower limit of poverty and the accumulation of wealth that is no more than four times the measure of the lower level. Anyone who acquired a surplus more than this should hand the balance over to the state, because Plato did not think that virtue and great wealth were compatible, or that enormous wealth would bring happiness. Aristotle also thought that the limit to poverty should be sufficient wealth to allow for a "life of temperance and liberality" so that frugality and generosity balance each other out. Moreover, he says, "a special degree of justice and temperance is therefore required in those who appear to be faring exceptionally well and enjoying all that the world accounts to be happiness".³⁷

The analogy for our society is that the persistence of high and sustained unemployment during the last decade is evidence that once again the rich and poor are now often in different boats, one rising and the other sinking, the boat that is sinking being that of the unskilled worker and the rising one that of the skilled worker. The reasons why this pattern of inequality is growing are subject to debate; some think it is due to technological

change and the increasing division of labour, while others place the expansion of trade with developing countries where unskilled labour is cheaper as the main causal factor.³⁸ Either way, the consequence is to reduce the wages of unskilled workers and to push them out of their jobs. This growing inequality has damaging consequences for social order and can denigrate the dignity and work ethic of the unskilled and unemployed worker. The exercise of corporate temperance by individuals and firms could help to alleviate this problem by channelling more resources into business expansion and into schemes designed to help unskilled workers acquire skills and income supplements for low-paid workers. It is important, however, that the taxes paid by these individuals and firms do not destroy the incentives of the unskilled to acquire skills. The moral justification for the exercise of the virtue of corporate temperance in this situation is that it is unfair if the poor of society suffer as the result of these changes in technology and trading patterns which benefit the majority. Surely it is wiser to reinvest profits and pay taxes to help support the unskilled, than it is for us to ignore their plight and to take our chances on avoiding being robbed or murdered.

Corporate temperance and business efficiency

The second dimension in the exercise of temperance in corporate life is the exercise of self-restraint over managerial appetites to control the power of decision making, and the need to take into account the views of others in the organization. Management power is often used to attempt to gain absolute control over all that happens in a business organisation. Every delegation of responsibility is made with reluctance and only on the basis of formalised job descriptions, rules and procedures and standard operating systems. Such power can be used in a way which is authoritarian and leaves very little discretion or dignity to the moral agency of the subordinate. Our record in Britain in terms of industrial relations tends to show that management's 'low trust' approach towards its employees generates resistance and can result in low motivation on the part of its powerless subordinates, as well as an unwillingness to show initiative and creativity in work and an instrumental commitment to the purposes of the organisation.³⁹ Moreover, this top-down managerial control has become increasingly overbearing and difficult to sustain in the conditions confronting many

firms in the competitive markets of the 1990s. Many organisations now acknowledge that most people are willing to give more to their jobs when they are granted a higher degree of individual freedom (empowerment), discretion and control over their work, and that the opportunity to be involved and to participate in the decision making processes of the organisation can lead to greater personal satisfaction and to the taking of more responsibility for their actions.

British business can again profit from the lesson of those in other parts of Europe, where we can see that 'subsidiarity', a principle of Catholic social philosophy, is applied to good effect in the context of business organisations to limit management prerogatives and share decision-making power. As Mahoney has indicated, inside the corporation, "there should be a mutual respect for the role and function of the various individuals or groups at different levels within any society, including the business corporation".⁴⁰ The implication for British managers is that power should be spread throughout the firm at all levels and in varying degrees, from the directors to the workers on the shop floor, such that no-one can make a contribution to the running of the firm without being accorded some degree of power and responsibility as a valued member of the community of purpose.

Corporate temperance in British business could be one way to acknowledge the importance of this principle as a managerial virtue. Recent industrial relations research in Britain shows that trade unions have declined in effectiveness as representatives of employees in industry and that there has been "no spontaneous emergence of an alternative model of employee representation that could channel and attenuate conflicts between employers and employees".⁴¹ Nor is there a framework of legal regulation that gives employees employment rights and representation. In effect, it seems we now have an unregulated arena of industrial relations where employees are dependent upon the good will of the employers as never before in the post war era. Consequently, the aim should be for management to recognise and place limits on their own decision-making prerogatives in the interests of all members of the organisation.

In western Europe in the post war period extensive systems of employee involvement and participation in industry are credited with making workers and their trade unions into 'social partners' in industry. However, British employers have been reluctant to share their power with employees, and our adversarial pattern of industrial relations has

*managerial
appetites*

only been moderated at the expense of high levels of unemployment and strict legal restraint of trade unions. To date they have resisted the call of the European Union's Directives for worker directors and works councils, preferring instead the limited forms of participation such as employee share ownership, profit-sharing and task empowerment. Perhaps a measure of industrial democracy and greater respect for all employees as moral agents in industry is now required in the national interest.

Corporate temperance requires managers to implement some system of power-sharing that recognises all employees (including women, ethnic minorities and the disabled) as important contributors to the community of purpose in the firm. The objective of such a system should be to create a constructive relationship between management and workers, rather than a defensive coexistence. Although some conflict is inevitable between workers and management and is even healthy, in Britain our industrial relations are still unduly marked by class division, low trust and poor communications. The way to change this is to create a framework for employees to share in those decision-making processes which affect them and to encourage them to do so. This is because, where decisions are mutually arrived at by all parties, they will also share responsibility to uphold them and be committed to them.

All the evidence points to the fact that the distribution of responsibility can make a major contribution to improving our industrial efficiency and open up a range of new and creative ideas which can benefit our companies.⁴² The systems for distributing management power do not need to be prescribed in a mechanistic fashion. Several methods and levels of participation may be appropriate, including, to name but a few, increasing the range of collective bargaining; increasing joint consultation machinery and the coverage of works councils; increasing worker representation in the board room; increasing participative management processes; and increasing job autonomy. Perhaps we should allow the practical wisdom of the parties concerned to dictate the choice of a system which will suit the needs and requirements of their community of purpose.

Conclusion

If the arguments of this paper are persuasive then I hope it will be agreed that the virtue of corporate temperance should be added to our list of cardinal business virtues. As John

Harvey-Jones's personal example shows us, the business executive needs to develop a set of virtues which enable him or her to set a leading example in their own community of purpose. This in turn will have a beneficial effect on the cohesion of the wider division of labour in society, and on the pattern of human flourishing which it helps to bring forward. A career in business requires that the link between personal and public virtue is maintained and reinvigorated, because this is both good for business and good for society. Let a commitment to corporate temperance be the mark of the professional manager. A theme so eloquently expressed in a passage from the seminal book *Habits of the Heart* is a suitable note on which to end this entreaty.

Reasserting the idea that incorporation is a concession of public authority to a private group in return to the public good with effective public accountability, would change what is now called 'social responsibility of the corporation' from its present status, where it is often a kind of public relations whipped cream decorating the corporate pudding, to a constitutive structural element in the corporation itself. This, in turn, would involve a fundamental alteration in the role and training of the manager. Management would become a profession in the older sense of the word, involving not merely standards of technical competence but standards of public obligation that could at moments of conflict override obligations to the corporate employer. Such a conception of the professional manager would require a deep change in the ethos of business administration, where business ethics would have to become central in the process of professional formation. If the rewards of success in business management were not so inordinate, then the choice of this profession could arise from public-spirited motives. In short, personal, cultural and structural change all entail one another⁴³ ●

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The Enforcement of Social Accountability – Turner and Newall and the Asbestos Crisis

Richard C. Warren

By the 1920's it was very clear that asbestos was causing this dust disease of the lungs called asbestosis and nobody knew better than Turner and Newall, because the first big scientific report was done on their workforce in the Rochdale factory and that found about a third of their workforce had got asbestosis. . .

John Waite, Face the Facts, BBC Radio 4, 6.10.93 [1]

The expenditure which may arise from such possible future claims cannot be determined, and in the absence of any reasonable basis for making such provision, no provision is made.

T&N Annual Report and Accounts 1994 [2]

It is widely acknowledged that the impetus for the setting up of the Cadbury Committee on corporate governance was the series of scandals that became public in the late 1980's.[3] And whilst hard cases do not always help in making good laws, they can sometimes prompt us into reflective action to consider what arrangements might prevent these problems from occurring in the future. This paper seeks to describe and examine a hard case that poses corporate governance questions regarding distributive justice and the appropriate form of procedure that might satisfy its demands. The hard case in question is that of Turner and Newall (T&N) and its handling of its asbestos liabilities. This case raises many ethical issues (secrecy, duties of care, distributive justice, informed consent, corporate responsibility) which can only be touched upon in this brief examination which is mainly focused upon the issue of corporate responsibility arising from this firm's predicament.

The case will be discussed as follows: first, the facts as they are known will be described concerning the asbestos risks and damage liabilities of T&N; secondly, the policy and practice of T&N in dealing with this issue will be outlined; thirdly, the moral inadequacies of their response will be highlighted; then a contrast will be drawn with the strategy adopted in the USA by the Johns-Manville Corporation; and finally, one possible alternative solution will be proposed and its wider lessons for corporate governance considered.

The Facts of the Case

Asbestos is derived from the Greek word meaning incombustible, today it is the generic name given to the hydrated silicate mineral which is resistant to fire, rot, rust, and yet is light, strong and fibrous and can be used in a wide variety of ways from woven fabrics to additives in cement. At the end of

the 19th century, in the new machine age, the demand for asbestos began to grow enormously after large deposits of the mineral were discovered in Canada in the 1870's. By 1930 annual production of asbestos was 339,000 tons per year, in 1950 1.2 million tons were produced world wide.[4] Asbestos was used in the manufacture of motor vehicles, ships, electrical and power generating equip-

ment and extensively in the building industry. The first firm to process and manufacture asbestos products was started in the USA by Henry Ward Johns which eventually became the Johns-Manville Corporation in 1901.[5] In Britain, the leading firm in asbestos production became T&N which was formed in 1920 by merging four other firms: Turner Brothers Asbestos, The Washington Chemical Company, Newalls Insulation, and J.W. Roberts. T&N was floated on the London Stock Exchange in 1925 and acquired Ferodo Ltd a brake linings manufacturer soon after, making it the largest vertically integrated asbestos based business in the UK. In 1926, it had 5,000 employees; in 1961, 40,000 employees half in the UK and half abroad.[6] Its sales turnover grew consistently and was over £300m in 1958, and the company was consistently profitable up until the early 1980's, in some years it returned its shareholders a 16% yield on their investment.[7]

Medical historians have shown that both the Greeks and Romans had noticed that asbestos was a health hazard because slaves who wove it into cloth tended to develop a sickness of the lungs.[8] However, modern acknowledgement of its dangers dates from 1900 when in Charing Cross hospital in London a postmortem on a 30 year old asbestos-textile worker revealed that there were "spicules of asbestos in the lung tissues" and that his occupation may have contributed to his death.[9] A diagnosis of 'asbestos poisoning' was made by Dr Scott Joss in Rochdale in 1922 on a woman asbestos-textile worker, and at her death in 1924, the pathologist Dr Cooke testified that the "mineral particles in the lungs originated from asbestos and were, beyond reasonable doubt, the primary cause of the fibrosis of the lungs and therefore of death." [10] His findings were published in the British Medical Journal in 1924 and in 1927. Today, it is widely accepted that the inhalation of asbestos can be the cause of several diseases: asbestosis is a chronic disease of the lungs and results in shortness of breath similar to emphysema; mesothelioma is a cancer of the chest or abdominal lining; and lung cancer.

T&N's Reaction to the Asbestos Hazard

David Jeremy in a recent article has chronicled the corporate attitudes to the unfolding health hazards at T&N and offers some explanations for where these responses originated and how they began to change.[11] Initially, in public and in court, T&N repu-

diated the term asbestos poisoning. They denied that the disease was caused by asbestos, that there was any risk to the public and perhaps only a limited risk for some workers. In the early stages of the asbestos crisis from 1927 to the 1950's, Jeremy characterises T&N's directors' response strategy in the following terms, that "the doctors' opinions and judgements should be challenged; that the interests of the company, as understood by the board, were paramount; and that the appropriate defensive tactics were denial, a legalistic view of the situation, and litigation." [12] Although T&N accepted and complied with government safety regulations, they were often grudging in their acceptance of their necessity and tried to negotiate delays and restrictions on their implementation. And when forced to tighten up on conditions in its UK factories failed to do likewise in its overseas operations in Zimbabwe.[13] Jeremy notes that the Turner family, who dominated the company, came from the respectable religious background of the United Methodist Church and that they took their 'responsibilities on accumulating capital and wealth seriously'. [14] Their hostile initial response to the news of the asbestos threat also needs to be seen in relation to the relative health hazards in the cotton trade which were also a source of concern, perhaps their first thought was that asbestos was no worse than this, and so should be handled in the same piecemeal fashion. In short, Jeremy characterises the early response of T&N as one of self-deception in order to preserve the profitability of a thriving industry and that "commitment to their faith and paternalism precluded the possibility that the springs of their wealth were poisoned." [15]

From the 1960's onwards as the dangers and incidence of asbestos related deaths became more well known and widespread, the company's stance began to shift from that of outright denial towards that of risk assessment and damage limitation. Improvements in safety were put into its factories, knowledge of the dangers propagated more widely and claims for worker compensation assessed and some damages conceded. What had been a few dozen claimants in the pre-war years now began to go into thousands and estimates of the future number of claims began to run to the order of hundreds of thousands, if not millions, as exposure to asbestos fibres was so widespread in society. Increasingly, medical evidence showed that a limited amount of exposure is sufficient to bring on the onset of the disease in some people. In the UK, medical research suggests asbestos related disease killed about 3,000 people in

Greeks and Romans knew asbestos was a health hazard

Medical evidence shows risks

1995, and is likely to peak at 5,000 to 10,000 deaths a year in 2020.[16] In the USA, it is estimated that some 4.5 million workers in shipyards alone have been exposed to harmful concentrations of asbestos.[17] The problem for the victims is knowing who to make the claim for compensation against as nobody wants to accept responsibility for such a widespread and devastating tragedy. Claims are being made against the manufacturers such as T&N, against the distributors, the contractors, the insurance companies, by former workers, people who worked with asbestos in other occupations and by people who lived in the vicinity of its factories. Chase Manhattan Bank sued T&N for £117m recently over asbestos contamination of its New York headquarters building.[18] In October 1995, T&N was ordered to pay compensation for environmental contamination outside its factory in Armley in Leeds, to two women who contracted mesothelioma when playing as children near the factory.[19] It is thought that this case will encourage further claims against T&N who have already paid out about £200m to settle out of court, without admitting liability, claims by former employees and their families. In the USA, T&N has set aside a £100m provision to cover US claimants taking part in a \$1bn class action for personal injury cases. However, the so called 'Georgine' settlement allows individuals to opt out of its provisions and bring separate personal claims against the company, and in 1995 approximately 267,000 requests for exclusion had been received by the company.[20] In the future, claims against T&N are set to rise, but the policy of only making limited provision to pay compensation encourages observers to think that its defensive and legalistic strategy towards the victims of asbestos may have to be maintained indefinitely. Indeed in its overseas operations, John Waite of BBC's 'Face The Facts' programme claims that "The documents we obtained from the T&N archive make it clear that certainly until late 1980's and not withstanding earlier pledges, the company's subsidiaries failed to protect workers in India and Africa in the same way the law compelled them to do in the UK".[21] It would appear then that T&N operated a double standard in its business conduct. Double standards are often accepted in some quarters of the business community by those who take a strictly legalistic view of corporate responsibility, but from the moral point of view this policy has horrified and appalled many observers of corporate conduct. Perhaps this is a case where the process of corporate governance needs to be put under the spot-

light and ethical questions asked and some new procedures proposed, if companies are to continue to remain legitimate institutions in society.

T&N – an Ethical Analysis

The best interpretation that can be given to T&N's response in this case is a utilitarian one: the continuation of the company for the sake of its shareholders and other stakeholders, was felt to outweigh the damage done to what was initially only a minority of asbestos victims. When the balance of the utility calculation began to change in favour of the victims the response of T&N became grudging and legalistic, lacking in both compassion and imagination. In essence, T&N's utilitarian response was to do too little and too late. This analysis will attempt to interpret the facts of the case from the perspective of the virtuous bystander who is concerned with the demands of justice and the lessons that need to be learnt about corporate governance and responsibility. One of the key points to bear in mind is that the asbestos problem emerged in an unfolding way, and that with hindsight, it is easy to criticise the failure of T&N executives to act decisively when in the early stages of the problem their knowledge horizons were short. The important lessons of this examination of the case revolve around the dangers of blind loyalty to the company as an institution, and the importance of having the courage to take the decision to go against this for the greater good. A virtue theory interpretation of the T&N response recognises that the character and background of the executives was of upright, Christian gentlemen, who were concerned about the welfare of the communities in which they had established their factories. But that the virtue of loyalty to shareholders and the company was allowed to override that of the demands of justice owed towards stakeholders. The demands of justice in this case, it will be argued, were overriding and needed to be carefully considered.

What are the demands of justice in the asbestos case?

Justice is a complex virtue but a vital factor in human conduct. There are many aspects to justice: distributive, retributive, substantive and procedural. Did T&N executives consider the justice of their actions and did they show compassion towards those they had injured? Let us consider how an impartial spectator might judge T&N's response to the asbestos

*Double standards
appal some*

tragedy. As employers in their communities they treated their employees much like any other: the mining and textile industries have always had practices that were harmful to health, but under the legal duty of care improvements in safety standards have reduced the damage done to employees over the years. These risks were often openly acknowledged and were widely understood by employees, who in the face of these dangers sought to ensure that the employers paid wages that reflected the conditions. The asbestos industry was similar to the coal industry in generating claims for respiratory injuries, however the difference between the two industries is the degree of openness about the risks that were involved and the degree of informed consent to the dangers that employees and others could be said to have accepted. The moral wrong in the asbestos case arises from the secrecy T&N maintained with regard to the hazardous nature of the asbestos mineral in its products. This knowledge was kept from the workers, customers and the local community until it was forced out of the company by other parties. This secrecy, perhaps exercised for paternalistic reasons, was a corrupting influence on the executive and their abuse of power went undetected, and those responsible were not held accountable for many years. As Sissela Bok has remarked:

For all individuals, secrecy carries some risks of corruption and irrationality; if they dispose of greater than ordinary power over others, and if this power is exercised in secret, with no accountability to those whom it affects, the invitation to abuse is great.[22]

Perhaps the phenomenon of 'group-think' can be seen to have been at work in this situation on men who were otherwise respectable individuals. This is where members of a group are at times willing to take larger risks than each member would have taken individually. In this way the individual's sense of personal responsibility for joint decisions and their personal judgement becomes careless, and collectively they exhibit all the signs of expensive and reckless behaviour. They probably also had very extensive legal advice on both options and responsibilities.

The lack of transparency practised by T&N would seem to be on a par with failure to disclose to its employees and customers because they were not given the facts of the danger asbestos exposed them to, and so could not be presumed to have exercised informed consent to such risks. T&N's secrecy does not seem to be justifiable; that is

according to the test of justification put forward by Bok in this kind of situation.[23] For the secret to be justified one would need to answer three questions. First, were there other courses of action that could achieve the aims T&N was hoping to achieve without the failure to disclose? Surely the interests of the company would have been better served by an earlier acknowledgement of the problem and earlier research into the possible substitutes for asbestos, if the truth had been made public much sooner. Protection and regulations could have been introduced earlier, and workers and customers could have been given some indication of the risks to their health if they undertook this sort of work. Second, could the company have made public the moral reasons thought to excuse or justify the secrecy and the counter arguments against greater openness? For example the loss of a vital product used in many safety applications; the loss of employment in the communities where the factories were located; and the need to prevent panic amongst those already exposed to asbestos dust. The testing out of these reasons and arguments is not something that should have been confined to the board room of T&N, it is important that Bok's third test of public reasonableness is applied to these arguments. Could the T&N board have obtained a response to their stance from outside the company to test the acceptability of its actions against public opinion? In all likelihood public opinion would have been increasingly unfavourable as the evidence of the hazardous nature of asbestos began to accumulate rapidly. But at least the call to restrict its use to vital safety protection in some industrial applications and the need for more research on its implications for human health would have been strengthened. In this way the community would have been asked to share in, and to some extent, consent to some of the risks involved, and also could have begun to prepare for the changes needed to run the asbestos industry down. Moreover, the shareholders of T&N by being kept in the dark about the risks of this investment did not have the opportunity of withdrawing their investments or the opportunity to censure the company executives for their actions. Consequently, the shareholders, in the early years, profited at the expense of the victims exposed to asbestos, and were therefore, albeit unwittingly, party to grave injustices. The failure of T&N to disclose the truth constitutes an injustice on two grounds: the requirement for a fair distribution of rewards in business has been abused and the workers' moral autonomy has been violated. These two

Knowledge kept from workers

Shareholders kept in the dark

injustices will be examined in more detail below.

Distributive justice in business is about making sure that organisational rewards are proportional to the contributions made to organisational ends.[24] Workers in T&N were paid the going-rate for their jobs in the local labour market but with the harmful nature and conditions of this work being largely unacknowledged. Had workers been informed of the risks to health it is likely that the supply of labour to the firm would have been reduced and higher rates of pay offered to attract workers who were willing to face the hazards involved. Indeed, the beneficial effect of high wages for dangerous work, would have made the product more expensive and so would have encouraged the early search for substitutes, and partly prevented its wide spread use in much of the building trade. The consequence of T&N's secrecy is that the market was deprived of vital information which economic actors would have been able to evaluate and factor into their calculations. If this secret had been exposed across the asbestos industry as a whole, a smaller workforce would have been highly paid, declining shareholder profits would have reduced levels of investment, and so have encouraged the search for substitutes for asbestos much earlier, and then customers and community would have had reduced contact with asbestos in many of its uses. The paying out of compensation claims under strict criteria of liability, does not compensate the victims adequately because they did not get the chance to enjoy these rewards while living, and it ignores the question of whether they would have consented to accept the hazards in the first place.

Informed consent is an important aspect of justice because to treat others as a means to an end and to ignore their moral agency and well being is wrong. In medicine, respect for patients is shown by asking them to consent to surgery before it is performed and by informing them of its implications and uncertainties. In employment, while the employer has a duty of care towards the employee under the law, it is assumed that the employee tacitly accepts the risks inherent in some jobs when they engage in dangerous work: deep-sea divers, steeplejacks. The concept of informed consent consists of a number of components: disclosure, understanding, voluntariness, competence and consent.[25] T&N failed to disclose the nature of the asbestos risks fully to its workers until very late in the day, when limited protective measures were introduced. Customers of T&N and their workers using asbestos, were

often ignorant about the nature of the danger and the degree of protection required. Ignorance of the full extent of the hazard means that the component of voluntariness was not respected by T&N and so the consent they assumed others had given under the contracts of employment and supply, apparently did not in fact exist. Moreover, it is debatable whether employees and customers had the competence to give the consent required. Legally and morally in our society, the competence to engage in harmful activities is restricted to mature consenting adults. But even then, some contracts to engage in harmful activity or to exchange bodily harm or mutilation for money, are illegal in our society. Slavery, and the selling of body parts are said to be examples of blocked exchanges where even mature consenting adults are not allowed to make this kind of exchange contract. This has been explained by the theory of blocked exchanges developed by Michael Walzer, who argues that it is important to recognise that in different aspects of life different principles of distribution are appropriate to prevent unjust dominations.[26] Separating these spheres or blocking certain exchanges, limits the power any one person can acquire, for example money should not be able to buy political office, criminal justice, friendship or human beings. Whilst we can sell our labour power to an employer we are not allowed to sell our bodies into slavery. Nor should employees be able to consent to working with substances that are harmful to their health without forewarning and being provided with the appropriate protection and safe systems of work. Working in an unprotected fashion with asbestos was similar to asking a person to handle nuclear waste with their bare hands. Asbestos workers who are asked to exchange health for wages under an employment contract, should be protected by such a blocked exchange which is unjust in moral terms; those who are seeking to make such an exchange should be regarded as not having the competence to make such contracts. As regards those who have suffered harm from asbestos dust in the surrounding communities of the factories, they were certainly never in a contractual relationship with T&N and consequently, have been exposed to the graver injustice of having their moral rights and well being ignored altogether by the firm.

It would appear from the preceding analysis that T&N has behaved unjustly towards a range of stakeholders so how should these wrongs be redressed? Many observers think that the law in the UK has been cumbersome and weak in upholding the rights of the

Did employees know and accept the risk

asbestos victims against the legal might of T&N, and so justice in the moral sense has not been seen to be done. Perhaps we can learn some thing from the experiences of the Johns-Manville Corporation in the USA.

Johns-Manville and the Asbestos Crisis

A similar company to T&N in the USA, Johns-Manville took a very similar line against its many claimants for compensation, they strenuously denied the allegations of negligence brought by former employees and handlers of asbestos, and used the defense of contributory negligence and ignorance of the risks involved. But in the Borel case in 1969, brought by the widow of a deceased asbestos worker, Johns-Manville were found to be negligent in the precautions taken to protect the worker and substantial damages were awarded to the plaintiff.[27] Between 1969 and 1982 the firm was the defendant in over 20,000 cases and paid out over \$50m in compensation payments. Then in 1982, when faced with a potential 52,000 suits that could cost the firm over \$2bn, nearly twice the company's net worth, the directors decided to apply for reorganisation under chapter 11 of the Federal Bankruptcy Act.[28] Chapter 11 did not stop the processing of claims already registered with the courts but it did prevent all future claims, forcing the claimants to look to the bankruptcy court for relief and to take their place in line behind secured creditors. Naturally, the claimants and the public were angered and outraged, but were not able to do very much about it. Meanwhile Johns-Manville wanted to transfer its operating assets to a new company, diversify its activities out of asbestos and use some of its cash flow to pay off the debts of the old company. This course of action was contested in court by the asbestos victims as they felt that this was going to deprive future claimants of their right to claim compensation. After protracted litigation the company agreed to set up a separate trust fund to deal with asbestos-disease claims but stipulated that the fund would not be part of the company. The trust would be funded by a bond of \$1.65bn to be paid in instalments of cash and company shares. After a four year period the trust fund could use its voting rights on its shares to take over the company. During the period of reorganisation it was estimated that 2,000 of the personal injury plaintiffs died without receiving any compensation.[29] But at least the trust fund can in future take over the company and liquidate

it if it runs out of money to pay future claims. Losing control of the company, and doubling the number of claimants suing the company, was not the result that many in the financial community were looking for. Their hope was that chapter 11 bankruptcy would provide a quick fix to the stream of claimants and after setting aside some money to pay compensation, the company would be able to resume its operations unencumbered by future liabilities. So an uneasy compromise was struck and whilst the lawyers had a field day, a form of retributive justice was arrived at. The shareholders lost control of their company and property to some extent, but a wide range of claimants can now be assured of getting some compensation for their injuries. In terms of corporate governance this was a clumsy and pragmatic approach towards finding an acceptable solution. Clearly, there are lessons to be learnt here for the T&N case in the UK and our practices of corporate governance in general. Perhaps we can build upon the Johns-Manville experience and develop stronger procedures for dealing with these situations in other similar cases.

An Alternative Solution

The following section is necessarily speculative, because in reality it would appear that T&N has settled the matter to the satisfaction of its shareholders and many business commentators. This outcome may even have been accepted by the British government because T&N's Chairman was knighted in the 1996 New Years honours list for his services to the motor components manufacturing industry. But it is unlikely that this case will be put to rest because our increasing knowledge of the social impact of corporate activities on the environment is a major concern in the debate about improving corporate governance in business.

Some commentators claim that corporate punishment requires that not only redistributive compensation be paid to victims but also that retribution be visited upon the perpetrators of these injustices.[30] After all, the price of such a punishment is written off as just another cost and in the long-run may be just passed on to the customers of the company. The business ethicist, Peter French has suggested in this situation, when the company cannot be sent to prison, that corporations be shamed, by subjecting them to adverse publicity, that threatens their prestige, image, social standing and also severely damages the interests of employees. Perhaps the appropriate response in the T&N case would have

Legal claims twice the company's net worth

Call for retribution

been for the company to express its own sense of shame. After all, the old proverb says 'where there is no shame, there is no honour'. However, in T&N's company communications this sense of shame is not much in evidence.[31] Some sections of the media have tried to expose the executives of T&N as the unacceptable face of capitalism on a par with the likes of Robert Maxwell, but little good seems to have come of it in terms of T&N's stance on social accountability.[32] In many ways, this case exposes the weaknesses of French's proposed 'Hester Prynne Sanction' or shaming punishment, which may be more effective in societies where codes of honour still flourish. However, in the West, many companies have revealed a capacity to live with shame as long as they maintain the confidence of their shareholders and their governing authorities. Consequently, if social accountability is not taken up on a voluntary basis then it can only be upheld if new and imaginative legal mechanisms are introduced to enforce these responsibilities. Corporate social accountability is about recognising that companies have non-fiduciary obligations to their stakeholders and that these cannot be ignored even in a crisis. As a legal inducement to improving corporate governance practices and social accountability and 'enforced trust' legal procedure is outlined below as an alternative solution.

In the T&N case the shareholders and executive have profited from the injustices done to others. Workers, customers and communities who have suffered from being in contact with asbestos need to be fully compensated for the damage done and not only in financial terms. Knowing that other companies will not be allowed to do the same again will help too. Merely to bankrupt the company would not be enough and can be counter productive as we have seen in the Johns-Manville case, because it will not provide for those who wish to make claims in the future. Moreover the Johns-Manville case was very cumbersome in moving towards a just settlement. But the loss of corporate status and a transformation of the assets into a mutual status organisation would seem to be an appropriate solution in such cases. This entails the shareholders losing their property rights to help with compensation claims, but this should be for a limited period of time. The general proposal here is that companies who have seriously failed to discharge their corporate responsibilities should be obliged to change their status under the Companies Acts and undergo conversion into a mutual trust for the benefit of those they have harmed.[33] In

T&N's case, it would be transformed into a trust to be run as a going concern, trying to make profits from safer forms of investment, that will be paid out to future sufferers from asbestos-related damage on more generous claims criteria than is presently the case. The mutual trust is to be jointly administered by representatives of claimants, shareholders and workers. Until all future claims are settled the company should remain as a trust and shareholders' rights be superseded in favour of the damaged persons. After all claims have been settled then the trust can be converted back into a company and returned to its shareholders and their property rights resumed.

This procedure should become an option in the Companies Acts of all countries to be used in other cases of this sort where substantial injustices have occurred and company power has been abused. The case of the Chisso chemical company in Japan that poisoned the fishermen of Minamata by dumping toxic mercury into the sea is a case in point.[34] The Chisso company in 1956 not only poured untreated mercury sludge into Minamata bay, it also ignored warning signs and covered-up the evidence for 15 years, many of the victims remained uncompensated until 1992 due to legal prevarication by the company and Japanese government.

The purpose of the proposed 'enforced trust procedure' is not only to provide mechanisms of compensation to victims but to provide a salutary example to the corporate world of how irresponsible practices will be punished and provide another spur towards higher standards of corporate governance. Good corporate governance requires leaders who exercise wisdom and are able to balance the demands of loyalty and prudence to the company against those of justice towards its stakeholders. It also requires a strong legal and regulatory framework to ensure that if corporate leaders decline to respond to the imperative of recognising wider social values in a more energetic and intelligent way then they will face the prospect of having these responsibilities enforced by legal duress.

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Non-fiduciary obligations to stakeholders

Good corporate governance requires leaders

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Book Note

Aspects of Corporate Governance; Mats Isaksson and Rolf Skog (editors), 1994, Corporate Governance Forum, Juristförlaget, Stockholm, Sweden

The corporate governance debate has extended beyond the United States and the United Kingdom to other countries in Europe. These papers, which were presented at a conference in Stockholm in December 1993, include Louis Lowenstein on the "not altogether happy history" of corporate governance in the United States, Theodore Baums on corporate governance developments in Germany, Paul Davies and G. P. Stapledon on development in the UK, Eddy Wymeersch on comparative corporate governance throughout Western Europe, Rolf Skog on the Swedish moves in company law towards harmonization with the UE, and Ronald Gilson discussing corporate governance and economic efficiency.

I think men of total good will can come to quite different conclusions about how to behave in a particular situation. It is very important therefore that we try to understand other people's points of view. But

as far as our own conduct is concerned perhaps a good guide is whether you could comfortably explain it to your wife and family or to the wider public ●

FOCUS: Corporate Loyalty Loyalty as an Organisational Virtue

Richard C. Warren

Loyalty, commitment and self-interest explored in Japanese and Western companies. The author is Principal Lecturer in the Department of Business Studies at Manchester Polytechnic.

'Organisations . . . exist for purposes besides providing a way of life for those who participate in them . . . We have here something of a dilemma; if an organisation becomes a way of life, people get a vested interest in maintaining it as it is. But unless it holds the loyalty of its participants . . . its serious purposes will suffer.' Dorothy Emmet *Rules, Roles & Relations*¹

Dorothy Emmet was a distinguished Professor of Philosophy at Manchester University and is one of the few philosophers to engage actively with those who study management and organisations, most notably in the book from which I draw my opening quotation. Her remarks imply that the need to embrace organisational change so as to be able to serve a purpose, and the need for membership loyalty are mutually exclusive aims. Moreover, I would suggest, this is not just a managerial dilemma, but a moral one regarding a clash of values.

The values of loyal members who share a sense of community are at odds with those outsiders who want the organisation to change so as to serve its purpose efficiently. The ethical aspect of this dilemma is, how are we to combine loyalty with efficiency in organisations? The purpose of this article is to try to indicate how the dilemma might be resolved by an examination of the notion of loyalty in business organisations.

My analysis of organisational loyalty will be in several parts. Firstly, the concept of loyalty and its relationship to social context will be identified. Second, a review of modern management literature shows that loyalty is rarely mentioned but that the need for it is implied in the new rhetoric about creating commitment in business organisations. Much of the talking-up of the commitment issue can be attributed to the focusing of attention on the success of Japanese firms and certain United States companies who are said to exemplify the commitment ideal.

1. Emmet, D., *Rules, Roles & Relations*, London, Macmillan, 1966.

However, I shall argue, a closer examination of the Japanese model shows there to be a distinction between loyalty as a virtue and commitment which is self-interested which marks out the nature of Japanese commitment as qualitatively different from its western forms. Loyalty as a virtue is then considered in the light of a renewed interest in virtue theory as a foundation for modern morality. Finally, organisational loyalty is discussed and some qualifications made before a resolution of Dorothy Emmet's dilemma is proposed.

Bound by loyalty

The aphorism that comes to mind when the word loyalty is mentioned is a line in E.M. Forster's essay *Two Cheers for Democracy*, 'I hate the idea of causes, and if I had to choose between betraying my country and betraying my friend, I hope I should have the guts to betray my country'.² Loyalty, as far as Forster is concerned, is about relationships, faith and sacrifice; in which the allegiance to a close friend comes before that of nation. Loyalty is a bond between people, the most familiar being those between individuals, which may be in the context of the family or the tribe or of friendships. However, the relationship can be between an individual and a large group of people like a church or an army or a city or a state, or indeed towards an abstract entity like the sovereign or a religious ideal. These allegiances are to be distinguished from relationships of trust, which although similar, because they take time to build and are a matter of honour if they are not maintained, are different because loyalty is not necessarily founded upon a reciprocal or equal relationship. The duty of loyalty is honoured as an act of faith and in this sense it represents an important value in itself. Moreover, it is possible to have a relationship of loyalty without trust as the historian Allan Bullock said of Hitler and Mussolini 'He was remarkably loyal to Mussolini but he did not trust him'.

The bond of loyalty is a pre-modern idea born of traditional society and so precedes the notion of contract and ex-

changes of mutual self-interest, the present normative framework of modern society. The distinction between loyalty and self-interest is very important because the test of loyalty is often one of self-sacrifice or forbearance. For example, a wife stays loyal to her husband, who is sent to prison for many years after committing a fearful crime which brings social obloquy upon the wife, loss of family income and a break in normal marital relations during the years of the sentence, and yet she still waits faithfully for him to return. Can this covenant be described as self-interested or one of equal obligations? Her interests and wellbeing will have suffered, and it is unlikely that her husband will be able to make up for her loss although he will probably reciprocate with consideration. Loyalty is faithfully staying by someone when others turn against them.

Or to take a more controversial example, Derek 'Red Robbo' Robinson's loyalty to the Communist Party and his trade union activities in BL Cars led to his dismissal from his job and his blacklisting by other employers, such that he has not been able to obtain paid employment since. Was this devotion to his party and its ideals a matter of his own self-interest? Loyalty demands more than just commitment; it requires fidelity and consistency over time. In modern life our common vocabulary of motive is essentially that of self-interest. The first explanation we call for when trying to understand a puzzling action is to enquire of the person 'what was in it for them'? So much so, that for someone to act from a sense of duty or obligation without apparent self-regard makes that act somewhat suspicious in our eyes. To be bound by a bond of loyalty is an old fashioned kind of motive. Let us now look at business organisations to see if loyalty is still an important motive.

Membership loyalty

A review of the literature on management and organisational change reveals that membership loyalty is rarely discussed or its importance in organisations explicitly identified.³ An occasional reference to loyalty can be found in the writings of

'the test of loyalty is often one of self-sacrifice'

2. Forster, E.M., *Two Cheers for Democracy*, London, Beacon, 1952.

3. Over fifty popular management and organisation textbooks were scanned for references to loyalty in the business library at Manchester Polytechnic; only seven references were found.

'the "committed organisation"'

4. Barnard, C.L., *The Functions of the Executive*, Camb. Mass. Harvard University Press, 1938. Sloan, A. *My Years with General Motors*, New York, Doubleday, 1963. Whyte, W.H., *The Organisation Man*, New York, Simon & Schuster, 1956. Simon, H.A., *Administrative Behavior*, New York, Macmillan, 1976. Dalton, M., *Men Who Manage*, New York, John Wiley, 1959.
5. Some of the most notable texts on the commitment issue are: Peters, T. & Waterman, *In Search of Excellence*, New York, Harper Row, 1982. Campbell, A. et al, *A Sense of Mission*, London, Hutchinson, 1990. Deal, T. & Kennedy, A., *Corporate Cultures*, Reading, Mass., Addison-Wesley, 1982. Kanter, R.M., *The Change Masters*, New York, Simon & Schuster, 1983. Pascale, R. & Athos, A., *The Art of Japanese Management*, New York, Simon & Schuster, 1981. Schein, E., *Organisation Culture & Leadership*, San Francisco, Jossey-Bass, 1985. Waterman, R., *The Renewal Factor*, London, Bantam Press, 1988. Peters, T., *Thriving on Chaos*, Basingstoke, Macmillan, 1987. Ouchi, W., *Theory Z*, Reading, Mass., Addison-Wesley, 1981. Morita, A., *Made in Japan*, New York, E.P. Dutton, 1986. Vogel, E., *Japan as Number One*, Camb., Mass., Harvard University Press, 1979. Ishikawa, K., *What is Total Quality Control?* New York, Prentice-Hall, 1985.
6. Fox, A., *Beyond Contract: Work, Power and Trust Relations*, London, Faber, 1974.

the classical management theorists like Barnard, Sloan, Whyte, Simon and Dalton, but even in their work the term is mentioned only in passing, and the concept remains largely unexplored.⁴ However, the fortunes of the loyal in business may be changing, for in recent years the word loyalty has begun to appear more frequently in management texts. This is because the new topic of interest for management writers is the desire to create the 'committed organisation' that will gain a competitive advantage in business.⁵ These texts preach the language of commitment, trust and involvement, with the implied assumption that membership loyalty can be created too, by appeals to the member's own self-interest with a judicious mix of intrinsic and extrinsic rewards, incentives and offers of career progression.

Why have modern management gurus turned their attention towards the development of commitment and the idea that loyalty is now a desirable attribute to be fostered by management in their organisations? Much of the interest in commitment arises because this is supposed to be the key ingredient of success for Japanese firms and also that of certain excellent companies such as Hewlett Packard and Federal Express in the United States of America. The book which has sold over six million copies, *In Search of Excellence*, highlights the importance of gaining employee commitment around an inspiring sense of mission as the driving force of profitable success in aggressive markets. Indeed, the philosophy behind the Total Quality Management movement, first taken seriously in Japan and now being propagated in the west, is built around the need for commitment to quality as an overarching company objective. The reasoning that supports most of these studies might be paraphrased as follows.

Modern business is highly competitive. Businesses that are to flourish in this environment would appear to require innovative management and quality consciousness amongst every member of the firm. As markets are volatile, firms need to be able to respond to market demands quickly, and so the management of change becomes a vital factor in main-

taining the firm's competitive advantage against the competition. The response of organisational members towards change has a big impact on the success of the change management process. How does commitment help or hinder this process? Committed employees are thought to be prepared to respond positively to change: they are willing to be retrained or redeployed, they will be quality conscious and prepared to use their initiative and cooperate fully in the new tasks to be achieved. Committed employees are productivity conscious in a self-controlled way rather than made productive by management control and close supervision. Some years ago, Alan Fox described such a pattern of work relations as the 'high trust' model, as distinct from the 'low trust' model which he thought so characterised the British system of industrial management.⁶ The advantage of the 'high trust' model is that it allows managerial time and effort to be focused on the business's competitive profile in the market rather than on the industrial relations problems of labour control and the inefficiencies of instrumental employee motivation.

The reason why loyalty is brought up in relation to commitment is that the two attributes need to go together if the high trust model is to work. In essence, if you build commitment you need loyalty in order to be able to reap the benefits. After all, to build employee commitment involves a cost to management, the offering of employment stability, good will, fair reward, and trust, all of which take time and effort to establish, especially when firms have started from a 'low trust' relationship with employees.

Importantly, it should be recognised that committed employees may not be loyal employees. They can be poached by better employment offers or even tempted away by other challenges. Firms can only afford to treat these committed employees as a business asset if they can hang on to them. The investments in training and development are paid back over the long term rather than in the short term. Relationships and understandings develop amongst employees within and without the firm which lead to mutual reciprocation and other longer

term benefits like the maintenance of trust, customer loyalty and market integrity. The key assumption in the commitment literature, and one that I now want to take issue with, is that commitment and loyalty are related by mutual self-interest and can be created and rewarded by management. To my mind, many management gurus have misunderstood the nature of loyalty and its moral implications. Loyalty is not a mutual contractual bond but a covenant of virtue. Moreover, I would suggest, a careful interpretation of some of the studies of Japanese firms can point up the crucial distinction between self-interested commitment and that of self-less loyalty.

The Japanese model

Most studies of the culture of Japanese business feature the large companies that recruit direct from schools and universities and offer life-time employment to their employees in return for unyielding devotion and commitment.⁷ The other organisational features often identified are the low levels of labour turnover, seniority wage systems, extensive job mobility, on-the-job training and personal study, enterprise unionism, off-the-job socialisation and paternalistic manager-employee relationships. A question frequently raised in these studies is to what extent this model is culturally specific and so unique to Japan, or whether it is just a good example of applied common sense and so perfectly replicable in the west. Only the most thoughtful of these studies have thrown light on this issue. Most notable to my mind is the work of Ronald Dore, who has been writing on business in Japan for over 20 years, and more recently the work of Pamela Briggs.⁸

The latter's study of the apparent contradiction between the low levels of job satisfaction and workforce commitment in Japan puts the spotlight on moral values in Japanese culture. Her review of survey evidence revealed that the Japanese show less job satisfaction than their British or American counterparts; they are more discontented with their jobs following technology-induced change; they feel their jobs to be less of an accomplish-

ment; they are less likely to report that they work hard because of a feeling of responsibility to the company and co-workers; they show less pride in their firm than their American counterparts; and overall they show lower levels of organisational commitment as measured by Porter's Organisational Commitment Questionnaire.⁹

And yet they show a phenomenal commitment to hard work for their companies. Briggs' explanation of this split between opinion and behaviour is a cultural one, as she claims it is the deep-seated desire of the Japanese to keep the realm of duty separate from that of personal sentiments. In this respect she is pointing towards a moral explanation when she says that

'It is not commitment in the western sense that binds a Japanese worker to his or her company: loyalty is not fostered by any sense of obligation or by any specific employment practice. The young student makes his or her choice, and is simply prepared to stick by it, irrespective of personal satisfaction.'¹⁰

Why the Japanese worker is prepared to 'stick by it' she does not say, and in this respect I think the cultural explanation needs to be taken a bit further. It is the work of Ronald Dore that may be useful in this respect.

One feature Dore identifies over and again in his writings on Japan is the importance of Confucian moral values in Japanese society and the role they play in its culture and business. The contrast with the west is well drawn in his preface to his book *Taking Japan Seriously* when he writes

'Motives are what this book is primarily about . . . why do people work? . . . Start from the assumptions of original sin, as did some of the Confucianist's opponents in ancient China, and as did the Christian divines of the eighteenth-century societies in which our western economic doctrines evolved, and you get one set of answers. People work for self-interest. If you want a peaceful and prosperous society, just set up institutions in such a way that people's self-interest is mobilised and let the

7. Handy, C. et al, *The Making of Managers*, London, Pitman, 1985. It should be noted that these firms employ only a minority of the Japanese labour force.

8. Of particular note in a long line of studies from Ronald Dore are: *British Factory: Japanese Factory*, London, Allen & Unwin, 1973. *Flexible Rigidities*, London, Athlone Press, 1986. *Taking Japan Seriously*, London, Athlone Press, 1987. Pamela Briggs has published two notable articles: 'The Japanese at work: illusions of the ideal' in *Industrial Relations Journal*, Vol. 19, No. 1, pp. 24-30. 'Organisational Commitment' in Brewster, C. & Tyson, S., *International Comparisons in HRM*, London, Pitman, 1991.

9. Briggs, P., 'Organisational Commitment' *ibid.*

10. *Ibid.*, p. 42.

invisible hand of the market do the rest . . . If, by contrast, you start, as at least the followers of Mencius among the Confucianists did, from the assumption of original virtue, then something else follows. You assume that bonds of friendship and fellow-feeling are also important, and a sense of loyalty and belonging – to one's community, one's firm, one's nation – and the sense of responsibility which goes with it.'

My contention is that the Confucian virtue of loyalty is the fundamental cultural variable that differentiates the nature of commitment and its connections with loyalty when comparing the Japanese and their western counterparts. The writings of Confucius are a major influence on the moral climate in Japanese culture.¹¹ Confucius is particularly strong on the need to cultivate virtues and the place of these in creating a wider social harmony. Loyalty is an important duty owed to an unequal in return for benevolence from a superior. These virtues are to be cultivated for their own sake as a moral ideal. They do not necessarily lead to expectations of happiness or satisfaction as a reward.

In short, many Japanese employees are loyal out of a sense of duty and honour rather than from the motive of self-interest. In this respect loyalty is a virtue of Japanese employees and should not be confused with the sort of commitment which is pursued out of self-interest. In the west the underlying assumption is that firms need to offer employees rewards which will satisfy self-interest in order to retain committed employees in the firm. The motivation of those in the labour market are thought to be utilitarian and so they will pursue their own best interests. If better offers of employment are to be had in another firm then there is no shame in employees giving notice under contract and transferring their commitment to another firm. The alternative is to try to tie the employee to the firm with certain incentives and rewards mainly of a retributive kind. This outlook is relatively unknown in Japan, where the distinction between self-interest and loyalty is more apparent: if Japanese employers don't poach it's because they

don't want to. After all they say, 'who wants a disloyal employee, it's like employing someone with no integrity'.

Declining in the west

This is not to say that we do not understand loyalty or have never valued it in the west. Loyalty is still revered in many aspects of private life, family, friends, clubs, etc. But in the public sphere of life, and in business organisations in particular, our respect for loyalty has declined. In Britain there are still many firms, I am sure, where loyalty is a most cherished employee attribute; but in many firms respect for employee loyalty has undoubtedly waned. It is due partly to the fact that the market is just as unkind to the loyal as to the disloyal. And partly, as one of the first nations to throw off the shackles of feudalism, the motive of loyalty has slowly been replaced by that of contractual self-interest and a utilitarian moral climate. A recent example showing that employee loyalty has a less than marginal significance in business is the closure of the British Steel plant in Ravenscraig in Scotland, despite the high levels of productivity from a loyal workforce who were willing to embrace change to help save the plant.

It is our loss of respect for business organisations as purposeful communities that has pushed the virtue of loyalty out. This point was made in 1957 by Philip Selznick in his book of acute observations, *Leadership in Administration*, concerned with how leaders build institutions out of organisations by defining their mission and sense of moral purpose, defending their integrity and ordering their internal conflicts.¹² Moreover, the importance of a sense of community in building loyalty has also been identified in the early sociological work of one of today's leading management gurus, Rosabeth Moss Kanter, who in 1972 studied Utopian communities in the United States.¹³ She noted that loyalty was a property of a community which had a shared conception of how they should live and so was able to define a set of roles for its members. Loyal commitment was generated through several social processes in

'a utilitarian
moral climate'

11. Support for this contention can be drawn from the work of Shoichi Watanabe, most notably in his *The Peasant Soul of Japan*, London, Macmillan, 1989, and that of the anthropologist Ruth Benedict in her classic *The Chrysanthemum and the Sword*, Tokyo, C.E. Tuttle, 1948.

12. Selznick, P., *Leadership in Administration*, Berkeley, University of California Press, 1957.

these communities: sacrifice, investment, renunciation, communion, mortification, and transcendence. The members of these communities, when flourishing, had a sense of the complete affirmation of being and belonging. As she writes,

'A person is committed to a group or to a relationship when he himself is fully invested in it, so that the maintenance of his own internal being requires behaviour that supports the social order. A committed person is loyal and involved; he has a sense of belonging, a feeling that the group is an extension of himself and he is an extension of the group. Through commitment person and group are inextricably linked'.¹⁴

So it would appear that loyalty is a virtue which is best cultivated in a community that wishes to develop a set of virtues related to a shared conception of the way they should live. The prospect of reestablishing loyalty as an organisational virtue in British business (given that this aim is itself desirable) would seem to be dependent on two main factors: the extent to which the moral climate of our society is one that is focused on the development of virtues within a shared view of how we should live; and the extent to which business organisations can sustain a sense of community amongst members who wish to be virtuous. Let us explore these two requirements in a little more detail.

Being virtuous

The notion of a moral climate is a difficult one to explore, but to some extent it will be influenced by the reflection that takes place on the foundations of our ethical beliefs. The difficulty of securing a foundation for our ethical beliefs is all too evident in current moral philosophy, where a range of ethical approaches compete for our attention both religious and secular. Alisdair MacIntyre in *After Virtue*, his influential analysis of modern moral thinking, would have us believe that '... the morality of the society he inhabits ... and the modern moral utterances and practice can only be understood as a series of fragmented survivals from an

older past'.¹⁵ Ancient virtue theories were repudiated with the rise of science and the rejection of teleology by the Enlightenment project of giving morality a rational secular foundation. But he claims that these projects: utilitarianism, deontology and contractarianism, have all failed and what we are left with is a moral catastrophe. His solution to this problem lies in an evocation of past communities which have resisted the pressures of modern life, in particular the thomistic tradition of mediaeval Christianity. However, as a realistic proposition for remaking morals in modern society, MacIntyre would seem to have left most of us out of his personal community of retreat.

A more optimistic proposal has been suggested by Bernard Williams, who, having grown dissatisfied with utilitarianism and its rivals, has advocated a return to virtue theory as founded by Aristotle.¹⁶ Williams thinks of Aristotle as too much of an optimist and notes that the type of society in which his ideas developed is foreign to ours. He feels, however, that Aristotle's perception of ethics, which are grounded in character and human nature, is a more secure foundation for morality than one that gives rise to a method or reasons for behaving in this way rather than that. His conclusion is that the 'thick' concepts of virtue are more likely to make us behave decently than belief in God's will, or the greatest happiness of the greatest good, or the categorical imperative.

Indeed, Williams was not the first to draw our attention back to the help that virtue theory could give us in a reconstruction of the moral life. Philippa Foot's *Virtues and Vices* was a seminal contribution in this respect.¹⁷ She draws on the works of Aristotle and Aquinas to recover a set of virtues that can help people get along together and create a better society. The cardinal virtues she identifies are courage, temperance, wisdom and justice. These are excellences of the human will, both in its intention and in its performance. These virtues are, then, dispositions of character with the desire to act in certain ways. Their development, together with a range of relative virtues, and their application are to be guided by practical

'a return to
virtue theory'

13. Kanter, R.M., *Commitment and Community*, Camb., Mass., Harvard University Press, 1972.

14. *Ibid.*, p. 66.

15. MacIntyre, A., *After Virtue: a study in moral theory*, London, Duckworth, 1981, p. 38.

16. Williams, B., *Ethics and the Limits of Philosophy*, London, Fontana, 1985.

17. Foot, P., *Virtues and Vices*, Oxford, Blackwell, 1978.

wisdom, which is knowing what means to use to achieve good ends, and knowing how much particular ends are worth in the circumstances. Such wisdom is within reach of the ordinary adult and not just of the clever. The virtues are in her view a corrective in relation to human nature, and they are acquired through good education and the practice of judgement. As a possible foundation for guiding moral behaviour in our society, these proposals for a reconstructed virtue theory, look to my mind, to be very promising.

A full list of relative virtues that complement the four cardinal ones is likely to be incomplete (in many respects this is not of vital importance) but might include: compassion, tolerance, decency, prudence, self-reliance, resolution, charity, modesty, liberality, trustworthiness, honesty, patience, integrity, sobriety, and loyalty. The choice of virtues depends upon the particular concept of human flourishing or of the good life (or, to use the Aristotelian term, *eudaimonia*) that is shared in a community. Modern virtue theorists have to accept that there is a good deal of disagreement about what this might be. Indeed, an alternative set of virtues was commended to prospective princes by Machiavelli which are incommensurate with Christian virtues.¹⁸ Nor are Japanese variants of the Confucian virtues the ones that we might choose to cultivate. Nevertheless this does not invalidate the attempt to imagine a state of human flourishing and its attendant virtues and the all important debate about how these are to be realised.

In Britain today, as I have said elsewhere, I think we need to have a vigorous debate about how we should live.¹⁹ An awareness of the importance of virtue in all aspects of our lives will help to regenerate a moral climate which has tended towards nihilism and the devaluation of human decency. All the more so in business, where certain virtues like honesty and integrity play an important part in maintaining market efficiencies. Returning to the question of loyalty as an organisational virtue in business, it has to be said that in Britain the moral climate is unlikely to be one that is substantially influenced by virtue theory for quite

some time. Loyalty given to business organisations, where it exists, does so in a cold climate in virtue terms, compared to the warmer one in Japanese society.

The second factor to be considered is whether managements alone can establish loyalty as an organisational virtue in business. This will depend upon the extent to which the organisation can become a community in which its members practice virtuous behaviour, including the relative virtue of loyalty. To some extent it is possible carefully to select employees who have virtuous characters, but they are unlikely to practise these virtues unless they are managed in a virtuous way. For example, as Dore has noted, 'It is almost an established convention in Japan that before a large company asks its union to freeze wages or accept redundancies – even voluntary redundancies – top managers take a 10 or 20% cut in salary.'²⁰ This approach requires managers who have been educated and trained with a sensitivity to the organisation as a moral community, something which much British business education falls short in doing. It also requires managers who share a conception of their social purpose with their employees, a purpose which all will judge to be worthy and which makes a contribution to the greater social good.

Conflicts of loyalty

However, the cultivation of organisational loyalty as a virtue has also to be qualified in relation to the virtue of practical wisdom exercised by the organisational member. In this respect loyalty can be a vice and a mixed blessing in certain cases. Loyalty if not judged aright can suffer from blindness, and the question of conflicts of loyalty has to be considered. Blind loyalty is a vice because it is pursued at the expense of other virtues like justice and wisdom and so it is prejudicial to the good. In this respect we should not give our loyalty to an organisation regardless of what purpose it serves or of how it is managed. For example, if a company aims to ignore or break safety standards, employees are obliged to consider the virtues of justice

'top managers
take a cut'

18. Machiavelli, N., *The Prince*, Harmondsworth, Penguin, 1962.

19. Warren, R.C., 'Practical Reason and Business Education' in *Management Education and Development*, Vol. 22, No. 2, pp. 119-126.

20. *op. cit.*, p. 86.

and compassion for others rather than matters of loyalty, and are obliged to take what actions they deem to be appropriate.

The other qualification that needs to be made to the virtue of loyalty is that practical wisdom is likely to judge that being bound by only one loyalty in life is an impoverished way to live. Consequently, employees should expect to suffer conflicts of loyalty from time to time, and should realise that this is not necessarily a bad thing. A collection of loyalties towards family, friends, clubs, company, community and nation is a rich and wide set of relationships which, together with other attributes, constitute the components of the life worth living. A person with many loyalties will experience conflicts of loyalty, but the exercise of judgement required to prioritise or balance them is itself an experience in developing practical wisdom. Moreover, as life is lived, changing loyalties have a place, in allowing people to adjust to their situation. The parent is loyal to the child, and then the child to the older parent; the loyalty of family life can be a source of comfort and support if one's career takes a turn for the worse; in a business organ-

isation the loyal employees may be retained and respected even when they are less productive.

In conclusion, it would seem that loyalty as a virtue could be developed inside some British firms. The Japanese have no monopoly on virtue, but loyalty has to be cultivated within the framework of an organisation which sees itself as a community of virtue, and not just because it might be profitable. As we have seen, in the short run the development of an organisation as a community is likely to involve a considerable initial investment of management time and effort, before the benefits of commitment and loyalty are returned over the longer term. In this respect the lessons from Japan can be instructive because they take the long view in matters of investment and personnel management policy. Moreover, their example also shows us that the way to resolve the apparent dilemma that Dorothy Emmet brought to our attention is by breaking the circle of self-interest between individuals and markets: loyal employees guided by virtue can also embrace organisational change which allows it to serve its purpose with efficiency ●

'loyalty has to be cultivated'



Piracy and shipowners' ethical dilemmas

Shipowners' ethical dilemmas

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Abstract

Purpose – The purpose of this paper is to use virtue ethics to explore the dilemmas arising for shipowners facing the piracy threat off the coast of Somalia.

Design/methodology/approach – The ethical issues arising for the shipowners in the face of the piracy threat off the coast of Somalia are explored using a virtue theory perspective. In particular, the ethical issues facing shipowners in routing vessels through the danger zones, as well as the dilemmas that can arise when a ship has been boarded by pirates, such as whether or not the shipowners should pay the pirates' ransom demands.

Findings – Although individual shipowners can take some matters into their own hands by various initiatives and security measures, the conclusion is that the scourge of piracy can only be reduced by international co-operation between shipowners and nation states.

Originality/value – Piracy on the high seas is an old problem that has begun to resurface and become more frequent and widespread in recent years. Several important ethical dilemmas for shipowners are discussed. Should shipowners put absolute priority on protecting the lives of the crew by keeping the ship and its cargo away from the zone of attack? What measures should be implemented to inform and protect the crew, the ship and its cargo? And, if the ship is attacked by pirates and captured, what should shipowners then do, should they resist or should they pay a ransom?

Keywords Ships, Terrorism, Theft, Risk management, Ethics, Somalia

Paper type Case study

Introduction

An old ethical problem has resurfaced in the shipping industry in recent times, the scourge of piracy. There is some dispute amongst shipowners as to whether the term piracy should be used to describe the hijacking of ships by hardened criminals, particularly, as in the public imagination pirates have romantic and heroic connotations. But piracy is a term of art and is richly descriptive. Piracy is unlawful depredation on a ship or aircraft using the threat of or actual violence. Piracy is outlawed by UN law conventions on the high seas, which are seas outside the territorial limits of nations. National territorial limits are normally 12 miles but can extend to 200 miles with the declaration of economic zones, control of continental shelves, or by using claims on offshore islands as the basis for the 12 mile limit. Inside territorial limits, national laws either create offences relating to piracy or assume it within other categories of criminal offence such as murder, assault, robbery or theft. Since many shipowners do not report incidents of piracy, for fear of raising their insurance premiums and prompting protracted investigations, the precise extent of piracy is unknown. Statistics from the International Maritime Bureau, the piracy monitor, suggest that both the frequency and the violence of acts of piracy have increased dramatically in the past few years (Murphy, 2009).

This paper will explore the ethical issues arising for the shipowners in the face of the piracy threat off the coast of Somalia. It will use a virtue theory perspective to consider



the ethical issues facing shipowners in routing vessels through the danger zones, as well as the dilemmas that can arise when a ship has been boarded by pirates, such as whether the shipowners should pay the pirates' ransom demands or not.

Problematics: the piracy problem off the Somali coast

Piracy has never fully gone away on the high seas; it is an old problem that has begun to resurface and become more frequent and widespread. Recorded acts of piracy and armed robbery against ships have been increasing but the rapid increase in recorded incidents from 2007 to 2009 are heavily influenced by the situation in the waters off the coast of Somalia. The danger is that as news of piracy and its success spreads, it will become more prominent in other parts of the world and will become a major method of revenue raising for criminals and terrorist groups (ICC IMB Piracy Report, 2010). The situation in the west coast of Africa and, in particular, in the Gulf of Guinea has seriously deteriorated as well. The east and west coast of Africa account for 61 per cent of the total number of incidents reported globally during 2008 and 75 per cent of the incidents reported since 1 January 2009 (ICC IMB Piracy Report, 2009).

Until recent years, the modern piracy problem was most prominent in the Malacca Strait, which separates Indonesia from Malaysia and Singapore. Today, the problem consists mainly of the armed robbery of ships crews and has been reduced in frequency by improved security co-operation between the three coastal states (Mo, 2002).

The major new piracy threat today is centred on the Somali coast and has become particularly acute recently and threatens to spread the problem further. Over 111 pirate attacks occurred in 2008. Piracy off the Somali coast is thought to have originated as the Hawiye clan, based around Haradere in central Somalia, tried to deter illegal dumping and fishing by foreign fishing boats in the early 1990s (ICC IMB Piracy Report, 2009). They graduated from attacking vessels to seizing them for ransom (*The Economist*, 2009). The pirates attracted widespread attention with the attack on the *Seabourn Spirit*, a cruise ship, around 115 m off the Somali coast in 2005. Although the attempt failed, it demonstrated that the pirates were able to use "mother ships" as bases to go a long way off the coast (Murphy, 2009). Many of these fishermen are now part of pirate gangs piloting the speedboats from which the attacks are launched on passing ships. Most of the pirates are young men with satellite phones, global positioning systems, machine guns and rocket-propelled grenades who board the victim ships by grappling hooks and ropes. The shipboard gang is often in touch with a base camp in Somalia which then deals with specialist negotiators on behalf of the shipowners and insurers. Many of the pirate gangs use specialist intermediaries to negotiate on their behalf. Shipowners pay the ransoms because they think they have no other option and because a Taiwanese sailor was murdered when his ship's owner refused to negotiate (Murphy, 2009).

These pirates are hampering the passage of shipping in one of the world's main trade routes the Gulf of Aden, which sees the passage of 20,000 ships per year. As a result, shipowners have to pay higher insurance costs for kidnap and ransom cover of their ships, cargos and crews if they use this route. The alternative is for shipping companies to route their vessels round the Cape of Good Hope increasing journey times and fuel costs by over 30 per cent. There are also fears that the seizure of oil, gas or chemical tankers could end up triggering an ecological disaster as well as loss of life (*Financial Times (FT)*, 2008f).

The pirates' three most notable hijackings to date have been the *Sirius Star*, a Saudi-owned tanker with 2 m barrels of oil, a Ukrainian-owned vessel ferrying arms

and 33 military tanks and the US-registered Maersk Alabama, a large container ship. More than £15 m has been paid in ransoms by shipowners and insurers in 2008. Most of the attacks are in the passage out of the Gulf of Aden, but increasingly attacks are happening far out to sea in the Indian Ocean; the Saudi-owned oil tanker Siruis Star was captured 450 miles south east of Mombasa on the African coast; the Mearsk Alabama, a container ship, was taken 350 nautical miles off the Somali east coast as it made its way between the Kenyan port of Mombasa and Djibouti in the Red Sea (*FT*, 2008a). Capturing vessels this far from the coast is only possible with “mother vessels” (often previously hijacked ships) from which the pirates launch the small boats to carry out the attacks. The pirates have been allowed to move captured vessels close in shore to the coastal villages in Somalia that serve as their bases (*FT*, 2008b). They have generally treated hostages well while negotiating ransom payments with the ship owners.

The response of the international community

Somalia has been a failed state for many years. The overthrow of Said Barre, a military dictator, in 1991 led to the collapse of the Somali state and its institutions and the descent into civil war. A succession of the US, the UN and regional attempts to end a civil war that has raged since 1991 have all failed. The bitter experiences of the US troops and UN peacekeeping troops in the early 1990s forced them into a humiliating withdrawal from Somalia.

Natural disasters have also contributed to the lawless situation in Somalia. Since the Tsunami in December 2004, Somali fishermen were also faced with an economic setback because the coastal area was severely damaged. Many Somali people died because of the destructive waves and many of the boats of the fishermen were destroyed ((*The Economist*, 2009). Many Somali fishermen were not able to go out to sea again, because there was no help to recover from this natural disaster. Foreign fishing vessels came increasingly into the Somali territorial waters to catch as many fish as they could, destroying the rich natural habitat of the sea. Unfortunately, the Somali government was not able to protect its interests, because it lacked a coastguard to prevent these illegal fishing activities. The lack of protection also made it possible for other foreign vessels to take advantage of the territorial seawaters of Somalia in an even more vicious way: by illegally dumping toxic waste out of their tanks into the sea, right off the Somali coast.

Into this political and social vacuum, warlords and pirates have had the space to flourish unhindered, and the revenue from these activities has brought influence and protection. However, the pirates from Hawiye did abandon piracy at least temporarily when the Haradere area fell in 2006 to Somalia's short lived, anti-piracy Union of Islamic Courts government. But then pirates from Darod, with strongholds around Eyl on the east coast and Bosassa and Caluula in Puntland on the Gulf of Aden stepped in and have increased the number and scope of piracy attacks (*FT*, 2009b).

Somali pirate gangs have now increased in number and sophistication, over 42 ships have been captured and over 800 crews held hostage. Most of the vessels are detained in the area known as the Puntland in northeast Somalia (ICC IBM, 2009). An eclectic fleet of naval vessels is patrolling the Gulf of Aden in an attempt to limit the number of pirate boardings of vessels. Ships are protected by forming them into convoys and by providing naval escorts for these convoys as they navigate the Red Sea through the Gulf of Aden. The pirates in turn are adapting to the significant naval presence by launching several attacks at once to swamp the ability of nearby naval vessels to respond.

Even when pirates are captured, there is a problem of which courts have jurisdiction to try them, often they are released uncharged. However, only the formation of a Somali government capable of re-establishing the rule of law will curtail the problem in the longer term (Byers, 2004). The outlook for this prospect is not good because there have been 16 failed attempts to reconcile the country's warring clans without success. Somalia was occupied by Ethiopia for two years until December 2008, but this radicalised the Islamist coalition and helped to globalise the movement by attracting jihadists to the cause (*The Economist*, 2009). The UN-backed transitional government led by the president Sheik Sharif Ahmed has made Sharia law the national law in an attempt to undercut the radical Shabab and jihadist militias. If foreign states take more actions to deal with the piracy problem directly, this is likely to fan Somali nationalism and strengthen the Shabab radicals.

Although the sea-lanes of the Gulf of Aden can be patrolled by international naval forces in an effective way, the Indian Ocean coast of Somalia cannot be protected in the same way as the sea area is too vast. The only path open to other states is to assist in the UN efforts to rebuild the Somali state but from a distance. An international donor conference of 60 countries in Brussels in April 2009 pledged £145m towards stabilising Somali through a 5,000 strong African Union peacekeeping force. This is an acknowledgement that you cannot tackle piracy effectively at sea unless you tackle the root causes of piracy on land which are lawlessness and insurgency (*FT*, 2009c). The International Maritime Organisation's strategy may best be summarized as one of containment, until such time as a viable solution ashore can be found.

The shipowners' ethical dilemmas

This ethical analysis will focus on the questions and dilemmas faced by the shipowners based upon a virtue theory analysis. This is a view of ethics that has ancient roots in the work of Plato and Aristotle and is based on the character and actions of the virtuous individual (Hursthouse, 1999). Ethics is not seen as a set of rules to determine what is the right action to perform but as the motives and actions of people who are concerned to further the common good. The central questions which inform the person's actions are about how one should live and what constitutes the life worth living in a human community. The development of virtue takes place in a community which has a clear conception of what makes for human flourishing and what virtues are to be commended and what vices scorned. Virtuous people strive to develop dispositions and character traits which predispose them to act in the right way in any circumstance as guided by their practical wisdom. This means that circumstances and consequences will be weighed up by persons of discernment who know what they want to achieve and take pride in doing it or would be shamed if they failed to do the right thing (Foot, 2001).

There is a good deal of variation between virtue theorists as to what constitutes the ideal set of virtues but most would agree that they are the product of a shared conception of the good life to be aspired to by a society. So, for example, Aristotle thought that the key virtues were courage, temperance, justice and wisdom and that these were character traits fixed in people by habitual training such that virtuous persons aim at moderation between the two extremes of excess and deficiency and that the proper balance is determined by people of practical wisdom who develop judgment and discernment in making their choices. Other important virtues are fortitude, generosity, self-respect, tolerance and sincerity. In addition to advocating good habits of character,

virtue theorists hold that we should avoid acquiring bad character traits, or vices, such as cowardice, insensibility, injustice and vanity. Virtuous people grow up knowing what to do because they know what is worth having and doing and it has become second nature to them that they should exercise their practical wisdom in every situation that confronts them. Ethical conduct is, therefore, anchored in the dispositions of character rather than in a decision procedure or according to formal rules (Wilson, 1993).

The main criticism of virtue-based ethics is that it is unclear what action might be judged to be right or wrong in a particular circumstance: two virtuous persons may decide on different courses of action. Moreover, the fact that a virtuous person chooses a certain action does not, in itself, make that action moral. In other words, it might be thought to be sufficient to judge actions by the character of their doer rather than the consequences of their actions. Consequently, this approach still needs to be supported by careful thought and analysis about what is ethical and why, in the various situations and circumstances of life, some actions are the right ones to perform while others are morally questionable.

What should the virtuous shipowner do? Virtue ethics in this situation requires the exercise of courage to overcome the threat of piracy but also a strong commitment to justice to ensure that the shipowners take responsibility for the well being of the ships' crew and the cargo owners' property. Should they put absolute priority on protecting the lives of the crew, by keeping the ship and its cargo away from the zone of pirate attack? What if the risk of attack cannot be reasonably avoided? What measures should be implemented to inform and protect the crew, the ship and its cargo? And, if the ship is attacked by pirates and captured what should ship owners then do, should they resist or should they pay a ransom?

Should this area of the world be avoided?

The first obligation of the just shipowner is to protect the lives of the crew and the property of the cargo owner ahead of the demand for profits. This can be done by avoiding the danger area and so reducing the risk of attack (Jackson, 1996). Ships vulnerable to pirate attack in the Red Sea or off the Somali coast are often coming from the Suez Canal or have rounded the Cape of Good Hope and are sailing north parallel to the coast of East Africa. Whilst the Suez Canal can be avoided if the destination is not in the Red Sea or East Africa, the impact on shipowners costs in avoiding this passage are considerable (increasing voyage costs by over 30 per cent, as it can add six weeks to a voyage), and the cost to the Egyptian economy is also acute if Suez Canal remittances decline. At a time of depressed freight rates for shipping, many charterers are reluctant to pay these extra costs (*FT*, 2008f). In fact, some ship charterers are demanding that shipowners accept contract terms forcing them to sail through areas where the risk of pirate attack is high. Many shipowners could be desperate enough to accept such terms as charter rates have fallen in some bulk commodities by 90 per cent from their levels in June 2008 (*FT*, 2008d).

Several large tanker companies are, however, instructing their ships to give the Suez Canal a miss and to take the route around the Cape of Good Hope and then to give the coast of East Africa a very wide berth. For the security of their crews and to protect their ships, it may be the most prudent course of action for the ship owner to take. Several Scandinavian owners have decided to take this action the Danish, A.P. Moller-Maersk, the Norwegian owners Odfjell and Frontline. These shipowners are putting the interests

of their crews and the cargos carried above cost considerations but are paying a heavy price for this prudential conduct in terms of lost profits (*FT*, 2008c).

Calls to put the interests of the ships' crews before profits have also been made by the maritime unions and by some governments. The Philippine government announced in April 2009 that it was banning its seafarers from sailing through the waters off Somalia. The Philippines is the world's largest provider of maritime crew, supplying at least 10 per cent of the world's 1.5 m seafarers (*FT*, 2009c). Ships with Filipino crews were advised by their government to sail at least 200 nautical miles off Somalia's coast, and in the Gulf of Aden, they were urged to stay within the designated transit corridor policed by international naval forces. However, if avoidance action is not possible because the ship's destination is within the vicinity of the danger area, or the ship owner would be driven out of business by incurring very high additional costs, what should the virtuous shipowner do to protect the crew, cargo and ship?

The informed consent of the ships' crew

If the shipowner has little choice but to route a ship through the piracy danger zone, the informed consent of the crew in taking this risky course of action should be sought. Although the seaman might normally be thought to have consented to the anticipated risks of a seafaring career: the encountering of storms and heavy weather, the dangers of access and egress to ships in port, the dangers of illness when far out at sea, etc. in the modern age, encountering heavily armed pirates is not a normal seafaring risk. And although it might be argued that a residual low-level risk of piracy attack always exists on the high seas, the situation in the Gulf of Aden and off the Somali coast is much more foreseeable and threatening. Consequently, there is a reasonably foreseeable danger to life and limb in this zone that is comparable to sailing the ship through a designated war zone which should only be undertaken by seamen who have accepted this risk through a process of informed consent. On this matter, perhaps, the Hobbesian view of the nature of the seaman's employment contract (crew agreement) under these circumstances should prevail. The seaman can sell their labour power to the shipowner but to sell one's right to self-defence is a step too far (Hobbes, 1651). The preservation of the seaman's own life is an inalienable right of the individual and must include the right not to put one self in harms way and the right to run away from mortal danger other than that normally foreseeable in the course of a seafaring career. To presume seamen to have consented to the risk of capture and duress by pirates is an assumption often made by many shipowners.

The just and responsible shipowner is morally obliged to inform the crew of the dangers of entering the piracy zone and should seek to gain their individual consent to undertake the risks of doing so, even if the shipowner institutes all recommended precautionary measures when entering this area of danger. Not to gain the informed consent of the individual members of the crew is to ignore their moral agency and to act in a presumptuous way towards the crew's terms of employment. The seaman is not a military conscript and so should not be treated as if he were one. Any action on the part of the shipowner to pressurise, penalise or to fail to repatriate the seaman who refuses to sail into the piracy zone is morally unjust. Many seafarers, however, understand the dangers and are prepared to accept this level of risk, and they deserve to be given additional compensation when running these risks, but this payment should not reduce the responsibility of the shipowner to protect and secure the safety of the crew in the event of capture by pirates. Seafaring unions and charitable organisations also have

a role to play in representing the interests of seafarers in this situation and in trying to ensure that the ship owners gain the informed consent of seamen when operating in piracy danger zones.

What precautions can shipowners take against pirate attack?

Shipowners are incurring the risk of pirate attack when they route vessels through the danger zone. However, the chances of attack are still reasonably moderate in comparison to the volume of shipping entering the danger zone. Courage is needed on the part of the crew in this zone and the virtuous shipowner should plan and resource precautionary measures. Prior to entering the piracy zone, the shipowner and ship's master should carry out a risk assessment to assess the likelihood and consequences of piracy attack. Such an assessment should identify measures for prevention, mitigation and recovery from attack. A ship security plan is now required by most codes of best practice in the shipping industry along with crew training and resources to implement the plan. Ships that can travel at high speed with high freeboards are the most difficult for pirates to attack (OCIMF, 2009). By international agreement since 2004, ships over 500 tons must be equipped with alarms systems that silently transmit security alerts and tracking information when the ship comes under attack. Shipowners also need to train their crews in security measures and have secure recruitment procedures to protect the ship from pirate attack. The use of mixed nationality international labour market pools for crew can be hazardous as the crew might contain plants or pirates' accomplices that can undermine the ships security.

The London-based Standard Club, a mutual insurer for shipowners, advise their members to increase ships speed in danger areas to lessen the possibility that the pirates can get onboard. Crew lookouts are to be posted all round the ship particularly at the stern; the posting of dummy seamen around the ships' decks is also recommended; fire hoses are to be rigged up around the ship to allow water to run down the sides of the hull to make boarding difficult and to repel boarders and can be used to fill the pirate skiffs with water if they approach (*FT*, 2008a). Razor wire and high-voltage electrical fencing are sometimes used to further deter pirates from boarding the ship. Closed-circuit television cameras are often used to monitor vulnerable areas of the ship and external access doors on the ship are to be boarded up to prevent entry to the accommodation and bridge.

If a vessel comes under attack by pirates, the Captain is advised to manoeuvre sharply to create a wash that might capsize the pirates' small boats. The bridge of the ship is usually the focus of attack by pirates and often is fired upon to force the ship to stop. Consequently, ships' crew are often encouraged to wear Kevlar jackets and helmets for protection and to remain behind protective screens.

If the ship is captured, the shipowner is faced with a classic moral dilemma of hostage taking: if they give into the demand for ransom, then more hostages will be taken in the future; if they resist, the demand then the hostages might loose their lives. Utilitarian and Kantian moral principles usually favour strong resistance to the ransom demand in order to brake the cycle of hostage taking or to resist it because it is simply wrong. A virtue ethics approach, however, requires a response based upon practical wisdom. Shipowner resistance to the pirates' ransom demands has already led to the loss of hostages' lives, and while international naval protection of shipping and legal redress against pirates remains weak, it is not unjust to concede on the ransom demand in order

to protect life and free the crew, cargo and vessel (Hursthouse, 1999). Courageous action to face down the pirates only looks feasible collectively at the international level requiring inter-state and industry wide co-operation and intervention. Until this level of co-ordination can be achieved, it does not seem to be unreasonable that shipowners are advised to appoint a crisis management committee that will, in turn, engage lawyers to negotiate with the pirate gang or their intermediaries for the payment of the ransom in return for the release of the crew, ship and cargo.

Much of this mediation work is centred on London the traditional centre for the settlement of maritime disputes. There has been some disquiet amongst shipowners and governments about the large fees maritime lawyers and intermediaries have been collecting to conduct these ransom negotiations. If shipowners agree terms too quickly, it can imply that more money is available and the pirates could hold out for a second ransom (*Guardian*, 2009). Negotiations are said to usually take about three months. The average hijacking payment is between \$2 and 5 m. The cost of a typical claim is estimated by the P&I clubs as follows: ransom: \$1.5-3 m; crisis consultants' fees and expenses: \$300-50 K; additional expenses – delivery of the ransom: \$350 K-1 m, legal advice: \$100-50 K, salaries: \$50-75 K, communication consultants: \$ 100-125 K, as well as other expenses: psychological counselling fees, medical fees, fuel costs, etc. Cash ransoms usually have to be sent directly by air or sea to the captured vessels so that the gang can share out the proceeds amongst themselves before they disperse in small boats in different directions (Hanbury, 2009). Whilst the pirate gangs are onboard ship, the crew is usually robbed of valuable personal effects and the ships systematically stripped of stores and other valuable items that can be ferried a shore for sale. Often ships are not left in a navigable condition after the pirates have left the ship on the payment of the ransom demand.

In November 2008, the US military suggested that shipowners should protect their vessels by arming the crews or by hiring armed onboard guards. But many shipowners are reluctant to arm mixed nationality crews who might be tempted to settle personal scores at sea with these weapons (*FT*, 2008e). They are also worried about sparking of gun battles with pirates further endangering the crews, ships and cargos. Also some countries shipping registries ban the carrying of arms on board ship, while many port states also refuse to allow vessels carrying weapons into their ports. However, there is no doubt that the payment of ransoms running into millions of pounds by shipowners and insurers fuels piracy activity and spreads it further a field. It is also thought to be attracting the attention of terrorist groups as a vehicle for raising funds and for its public relations value in demonstrating the weakness of international powers to stop it from happening (Murphy, 2009).

Should shipowners use force to repel boarders?

Some shipowners have placed security guards on ships as they make the passage through the piracy area. These guards are expensive to hire and there is no guarantee they will be able to successfully repel the pirates. Three security guards (all ex-Royal Marines) on a specialist tanker, the *Biscaglia*, in the Gulf of Aden came under fire from pirates with machine guns and rocket-propelled grenades in November 2008. The security guards managed to keep the pirates at bay for more than an hour using hoses, evasive action and a sound devise that deafens attackers, but eventually, the pirates boarded the ship forcing the security guards to escape by jumping of the bridge roof into

the sea (*FT*, 2008e). The security guards were unarmed, and although fired upon by the pirates whilst in the water, and were eventually rescued by the French navy helicopter.

If security guards were to fire upon an approaching skiff manned by what look like pirates and killed or injured them prior to boarding the ship, the court case may be difficult as they would need to prove that the approaching speedboat was driven by criminal intent. By some definitions, an act of piracy does not begin until the grappling hooks are thrown on deck and the pirates climb on board ship (Byers, 2004).

Shipowner collective action to resist the pirates

As they did in the past, pirates also face a moral dilemma as well, in that, battle not only increases their operating costs (guns, rockets, grenades) but it also threatens to reduce the revenues from ransom for crew members and the value of the ships and cargos captured. It is in the pirates' interests to be widely feared so that the threat of boarding will not be resisted. In the past, the reputation of pirates in torturing people and in acting brutally, if resisted, went ahead of them and was symbolised in flags such as the Jolly Roger. In the 1700s, when governments and shipping companies found, the will to act collectively and withdrew their consent to be preyed upon the success of the pirates was undermined and it slowly disappeared by and large. The lesson for today's shipping industry may be that resistance and the undermining of the fear of piracy is still very important and so the pirates should not be placated or confrontation with them avoided. However, this can only be achieved with international co-operation between the shipowners and the maritime states with a naval capability. The armed challenging of the pirates by the Indian, US (Maersk Alabama) and French (yatch Tanit) navies may, therefore, be seen as important actions in undermining this new fear of piracy, which spreads so rapidly in the global media village, and helps to undermine the pirates' complacency that they will be unchallenged.

Moreover, the courageous actions of the crew of the Maersk Alabama, a US-registered, Danish-owned containership delivering food aid to Somalia, in taking back their ship after capture by Somali pirates, and the heroism of the captain in offering himself as a hostage to ensure the safe passage of the ships crew, perhaps marks a turning point in this respect. The US navy, when they arrived in the area, also challenged the four Somali pirates who had been holding hostage the captain of the Maersk Alabama in a lifeboat. The US navy sent three ships to the area and their forces managed to free the captain being held hostage by killing three pirates and taking one into custody (*FT*, 2009f).

However, these moves might inspire the pirates to act more brutally next time to regain their reputation for ruthlessness, and it might lead to the greater co-operation of disparate bands of pirates in order to make their piracy more successful in the future. Nevertheless, local populations on the Somali coast that supported the pirates might be less reluctant to do so if they provoke an attack by US forces on land bases. It could also force the area of pirate operations out of the Gulf of Aden where there is more chance of being caught into the open seas off the Somali coast and wider Indian Ocean.

Discussion and conclusion

How should shipowners try to build mutual trust and act collectively to reduce the piracy threat? Individually, they can take some matters into their own hands by implementing various security measures discussed above. However, piracy is a problem that can only be reduced by industry wide co-operation between shipowners and nation states.

Much of this co-operation will need to be built and organised by international institutions such as the UN, International Maritime Organisation and International Maritime Bureau which runs the Piracy Reporting Centre in Kuala Lumpur set up in 1991. The UN Convention on the Law of the Sea enjoins states to co-operate in the repression of piracy on the high seas, allowing any state to seize pirate ships or ships under the control of pirates and then to bring the pirates to their own courts to punish them. It is important that hijacked ships are not able to operate as 'phantom ships' under flag of convenience shipping registries. Secrecy and a lack of transparency in the organisation of international shipping registries so often used by shipowners for tax avoidance and cost savings are vices that need to be suppressed by international shipping industry collective action. Shipowners also need to pay taxes to maritime states with naval capabilities and fund other UN initiatives that attempt to improve international maritime relations.

Piracy tends to flourish in weak or failed states. Often, such states are reluctant to co-operate with other states in pursuit of the pirates, as this is an acknowledgement of the weakness of the failing states own sovereignty. Often, weak states are in dispute with surrounding states over disputed borders, islands and seacoasts making jurisdictional questions difficult to resolve and giving the pirates space to find sanctuary. The UN law of the sea convention allows for a 200 mile coastal economic zone and a 12 mile state territory zone, this makes the pursuit of pirates into these area fraught with legal difficulties and in the case of the inshore territory zone changes piracy to criminal hijacking. Co-operation for navies in "hot pursuit" of pirates requires inter-state agreement on permissions to infringe these conventions. Often a world power with a large navy is needed to hold the ring of co-operation between states and offer assistance to weaker states in the enforcement of anti-piracy policies (Byers, 2004). Much as the UK did in the eighteenth century, as Japan does in Southeast Asia, and as the USA might be persuaded to do in the case of Somalia. However, if this role is played in too heavy handed a manner the co-operation might brake down.

Most pirates are very dependent upon shore side support for the supply of arms and boats, the receipt of stolen goods and cargos, and the protection of warlords from political and legal interference. It is important that these aspects of the problem are tackled at root, otherwise convoy and other security operations on the high seas will be undermined and the piracy problem will persist. The tackling of weak and failed states is a major challenge on a global scale, and yet, if not addresses by the international institutions of our world, piracy might be the least of our worries as global terrorism also festers in these conditions. Ransom money for crew, cargos and ships is not the only attraction for terrorists of piracy activity. Intelligence experts claim that terrorist groups are now in control of phantom ships; hijacked vessels that have been repainted and renamed and operate under false documentation, manned by crews with fake passports and forged certificates of competency. Such ships could be used for terror strikes on other ships in the narrow passages of trade routes, or to deliver bombs into ports or harbours (Murphy, 2009).

Naval forces whilst traditionally meant to tackle piracy problems are often now not very well equipped to do so in the modern era for a number of reasons. The vessels are often not equipped with light weapons and other anti-piracy measures; the ships often have to be taken away from their prime security missions to help tackle the pirates and many navies are keen to avoid accusations of neo-colonialism when indulging in

unilateral actions in pursuit of pirates (Byers, 2004). In this respect, the use of private security companies to play a larger role in protecting shipping looks likely, as they did in the nineteenth century. Many private security firms are helping to escort convoys of shipping and are providing onboard security protection for shipowners (FT, 2008e). This assistance is particularly necessary on large modern vessels that have very few crew members to organise piracy repellent measures.

There is a worrying reputation issue to the Somali piracy problem in that several reports from international security agencies have indicated that the targeting of vessels and the co-ordination of attacks might be assisted from the centre of international shipping in London. It has been noted that several of the pirates have had satellite telephones that put them in touch with “consultants” in London and other cities (*Guardian*, 2009). The pirates who captured the Turkish vessel *Karagol*, the Greek ship *Titan*, and the Spanish trawler *Felipe Ruano* apparently had full knowledge of the cargo, nationality and routes of these vessels. It is also suspected that the pirates might be receiving information from sources in the Suez Canal and other ports on ship movements and routes. The movement of this regional piracy into a globalised criminal business that reaches into the heart of the international shipping community is a very worrying trend. As in the past, piracy can only be defeated by global co-operation between ship owners and states which is built upon mutual trust and collective rules of action informed by moral virtues.

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Putting the Person Back Into Human Resource Management

R. C. Warren

Introduction

Most of us are destined to be employees, which means we will need to depend on organizations and, within them, upon people with more power. This reality is fundamentally out of joint with the culture of social honor that pervades modern capitalism. And it is for this reason that I believe the fundamental task of social reform today lies in re-establishing the dignity of men and women as workers (Sennett, 1999:27).

This paper will explore the concepts which underpin the notion of the person in contemporary human resources management (HRM). Richard Sennett has recently accused HRM of lacking the necessary respect for persons, thereby creating a new malaise in employment (Sennett, 1998). The problem with HRM seems to be that its values and practices are reflections of the ideological climate in which it developed; the individualistic enterprise ideology of the 1980s in both the USA and the UK. In reaction to this climate of opinion, critics of this prevailing ideology have stressed the importance of collectivism as a possible counterbalance to the dehumanizing tendencies they perceive to exist in HRM. It is possible, however, in HRM discourse to build a "third way," to use this now overworked New Labour phrase. This is an approach to HRM practice that tries to preserve the employee's dignity and bestow upon them social honour without treating them in either a collectivist or a purely contractual

fashion. This paper will outline the philosophical resources that can be drawn upon to construct a balanced approach to employees as persons by the HRM practitioner. The line of thought that can be used to underpin this position is called "Personalism;" it is not new, but it has undergone many transformations over the years. The notion of trying to find a "middle way" between the individual and the collective was the theme of the personalist movement in the 1930s, and in many ways this movement represents the forerunner of the communitarian movement that has come to prominence in the 1990s. This exposition aims to connect these two lines of thought which together can provide a moral compass to guide the development of HRM practice. The analysis will begin with a consideration of what is meant by the term 'person' and how certain concepts of the person are implicated in the discourse about HRM.

Three Concepts of the Person

The term 'person' although rather vague and difficult to define has been an important concept in Western philosophy and theology since the Greeks. It is richer in meaning than the notion of the 'individual' and implies a more textured character with a clear sense of selfhood, connection and context. It is often noted that certain kinds of institutions produce certain types of character or persons. The notion of the person is often the connecting point between the individual and the organization; the very term person (*persona*) suggests one's taking on a role that has as moral obligations within a wider moral order. There is undoubtedly freedom for the individual to decide how the role is to be played out, but the very notion of socialization into a role in a moral order implies that there will be a degree of self acceptance of the expectations of others, helping to form a distinct personality or character. Consequently, it needs to be acknowledged that various theories of management contain a moral metaphysics with implications for the person whether formally acknowledged or not.

When reading the HRM literature what often appears to be missing is a clear articulation of the notion of the person presumed by the prescription under consideration. This gap may be due to the failure of advocates to think about these issues, or perhaps, because they have absorbed the post-modern view that the moral category of the person does not seem to exist any more, it having been deconstructed. It is contended, that to make informed judgments about the ethics of HRM we need to assess the

implications of various management strategies and practices on the character of persons. This analysis however, is a task fraught with difficulties, nevertheless it is important to find some way of proceeding. Different philosophies of management result in different conceptions of the person to be managed, different types of employment relationship, and different psychological contracts between employer and employee. The following analysis owes something to the example of Douglas McGregor and his identification of assumptions about human nature in theories of organization labeled Theory X and Theory Y (McGregor, 1960). Three conceptions of the person will now be described as ideal types (without reference to their philosophical foundations) against which the philosophy of HRM can be compared.

The first conception is labeled "individualistic." Individual persons are constituted as persons in themselves, independently of their relations with other persons. Relationships are external to the person and therefore society is not an essential aspect of personhood. Society is formed as if by contract and is considered to be nothing more than a collection of atomistic individuals. Individuality is fundamental, and personal choice and responsibility are primary characteristics of the person. The individual self needs and will respond favorably to freedom and opportunity. Motivation and effort are stimulated by reciprocal exchanges between individuals in which perceptions of fairness are crucial. Individual persons are entitled to profit by their own efforts and are free to enjoy their own property as long as it has been justly acquired. Selfishness is to be checked however, by the need to behave charitably and in the interests of enlightened self-interest. The individual engages in society through formal and informal contracts which are upheld on the basis of the voluntary nature of such agreements and the terms thereby agreed between the parties. Few, if any moral obligations or rights exist beyond the individual's nexus of contracts. The ideal goal of personal development for the individual is a state of independent autonomy and liberty. The person is a self-sufficient choice-maker whose good lies in the concatenation of rationalistic choices. The eventual consequence of this view is that individuals come to see themselves as owners of their own person as "possessive individuals." The person is unconstrained and any sort of imposed constraint is to be resisted as a threat to liberty. Consequently many social institutions do not fair very well: the family is often broken and abandoned, the trade union is just an instrumental group, and the community is fragmented. In fact no

institution grounded in obligation or deep or unchosen connections can be taken seriously: commitment is therefore very light and uncertain.

The second conception of the person is labeled "collectivist." The person is thought of a part of the collective with the state as the representative institution of a society. Individual purposes and motives are reflections of the social whole, and can not be understood apart from their context in society. Equality and fraternity are primary features of social life and liberty is secondary to the requirements of society. The good of the individual is to be achieved through the social good and duties and obligations are derived from the social needs of society rather than the individual ego. Property and possessions beyond those relating to the immediate interests of the individual are to be held in common and managed on the basis of common benefits. The state has, therefore, the right to exercise considerable powers to bring recalcitrant individuals into line and a responsibility to steer associations for the good of all citizens. The bonds between people are covenantal rather than simply contractual and cannot be easily broken or terminated. Achievement and success are to be related to talents and contribution but are judged on the basis of serving the common good rather than individual purposes. Solidarity is imperative and commitments are deep and serious.

The third conception is labeled "personalist." The person is conceived as existing in relation to others. But the good of all persons is achieved by the good of their individuality. The individual's good cannot be had independently of the community, but nor can the good of the community be achieved independently of the individual. Personal relations are constituted by the values of freedom, equality and fraternity. Justice is an important property of any society but the aim is the increase and development of friendship. The state exists as an institution to foster justice in and between communities and to protect the sanctity of the individual from the dangers of collectivism. Hence the importance in a personalist state of the institution of democracy, but in a form that also protects the notion of individual worth and sacredness. There are areas of life outside the control of the state which ought to allow a personal life to flourish. Yet, the development of an individualism that does not recognize that the person is constituted by its relations with others is to be avoided. Persons are bound to each other in a richer sense than through contract; they have duties towards the other and consequently, a moral bond that has to be recognized as well. The personalist community should include democracy as an

essential but subordinate dimension. But the person's freedom should not be totally overridden by the concern to establish equality and fraternity, a balance has to be struck. Justice is the first requirement in a personalist community but the second goal is the emergence of friendship as a spontaneous property of persons in relation allowing the full realization of human potential.

If we take these three idealistic types and compare them with statements and prescriptions about HRM then we can begin to classify and criticize, albeit that some versions of HRM involve contradictory views of the person. It will be contended that, in general terms, HRM tends toward the individualistic conception of the person; that many of its critics are informed by a collectivist perspective; and that the personalistic view is largely neglected and out of fashion in today's discourse. This broad judgment about the prevailing notions of the person that characterize the HRM debate will now be explained.

The Growth of HRM

The discourse about HRM in the 1980s slowly undermined the orthodox discourse of personnel management despite the fact that HRM was itself an elusive concept, difficult to identify and elucidate (Torrington, 1989). A variety of terms have been put forward to describe the meaning of HRM: that it involves policies which are adopted towards the management of employees which are written down and provide guides to action; that it involves practices which are informal processes or norms which also tend to guide behaviour; and that it involves HR strategy which is a set of ideas, policies and practices which managements' adopt in order to achieve their strategic and people management objectives. Policies, practices and strategies are all woven together as the HRM approach designed to achieve integration of strategy and performance through employee flexibility, commitment, and quality consciousness (Noon, 1992).

David Guest has provided a valuable commentary on the possible meanings of HRM and an analysis of the concept involving two distinctive dimensions—a "hard" efficiency focus, and a "soft" cultural management focus (Guest, 1987). HRM strategies can be classified according to the degree of emphasis placed upon efficiency (hard) or culture change (soft), many are, of course, attempting to achieve both elements at the same time. The environmental antecedents behind the movement from personnel

management to HRM are identified by some commentators to be the crisis of confidence in the U.S. about how to respond to Japanese competition, and in particular the need to engage employee initiative in the firm's competitive strategy (Guest, 1990; Beaumont, 1993). The HRM approach that originated in the U.S. was then enthusiastically exported to the UK by business schools and consultancies where the need to improve competitiveness was also considered urgent.

In its "hard" form, HRM is often considered to be just another method of asserting managerial prerogatives and increasing control over the work process by initiating a drive for efficiency and by putting in place strategies to getting more out of the labour input. The stress is not on the "human", but on the "resource" management aspects of the management process. Some critics point out that the new HRM is the age old process of labour intensification and capitalist exploitation reasserting itself once again despite resistance from trade unions and pockets of complacency in some levels of management (Blyton and Turnbull, 1992). Employees are, the critics claim, being treated as mere means towards the capitalists' ends. In HRM's "soft" form, employees are afforded greater recognition as individuals than as resources but are encouraged to commit themselves mentally and emotionally to the mission of the firm. The objective of HRM strategy is to generate this greater commitment by the creation of an appropriate culture in the organization which has a clear focus upon improving the competitive performance of the firm. Various cultural levers (missions, rituals, empowerment, performance management etc.) are fashioned to foster greater individual employee commitment and hopefully improved individual and team performance (Anthony, 1994). A harmony of interests in the organization is often assumed, and a new unitary culture is engineered to encourage the appropriate behavioral responses from employees. The deployment of HRM strategies leads organizations either in the direction of paternalism or sophisticated psychological contractualism in the employment relationship (Herriot and Pemberton, 1995; Warren, 1999). A philosophy of HRM, has not, to my knowledge, ever been fully enunciated by its proponents, but most commentators have noted its strong individualistic orientation and tendency to embody a unitarist view of organizations (Legge, 1995).

In the early days of the HRM debate researchers also noted that despite the eager establishment of HRM as the new orthodoxy in business school teaching its actual implementation and impact upon practice in UK

organizations was limited, tending to be confined to some of the larger, often foreign owned firms (Storey and Sissons, 1993). During the 1990s, however, the strategies of many firms, in the face of intensified competitive pressures, became focused upon productivity and service improvement and cost reduction through reducing the size of their organizations and engaging in more market based forms of contracting and sub-contracting to reduce costs and increase flexibility (Brewster, *et al.*, 1997; Cully, *et al.*, 1998). Chronic job insecurity and the end of careers for many employees are now advocated as a new ideology of progress by many consultants and management gurus strengthening the trend towards the individualistic view of the employment relationship still further (Handy, 1994; Reich, 1991).

HRM and its Critics

HRM's philosophy of individualism has mainly been criticized by advocates of the collectivist conception of the person (Legge, 1995; Blyton and Turnbull, 1992). Most of their commentary has largely been focused upon the rhetorical and exploitative implications of the HRM prescriptions for the quality of working life in organizations (Mabey, *et al.* 1998). Some critics are now addressing the new ideology of casualisation, this will be considered in the second part of this section (Sennett, 1998).

Critics of HRM, as Guest has recently noted, tend to focus less upon the "hard" version of HRM and concentrate their attention on the "soft" version (Guest, 1999). In his view, two contradictory criticisms are often made about the "soft" version of HRM: that it is a rhetorical approach to management that floats upon the surface of a harsher reality of employee experiences and so will eventually be seen for what it is; or, that it is too successful and so constitutes a powerful weapon of manipulation which is creating a working environment that is totalitarian and detrimental to pluralism and freedom. Guest notes that empirical research about workers reactions to HRM is often absent from this debate, and that many of the criticisms leveled against HRM are made on the basis of collectivist speculation, or on the basis of a few anecdotes from case study investigations, and sometimes, he claims, with a lofty disdain of the value of all empirical evidence. In order to move the debate forward, Guest has sought to provide an answer to the question: what do the workers think of HRM? He is contemptuous of the collectivist view that one cannot take the workers' point of view seriously because they are likely, on the whole, to

be falsely conscious. His recent survey work and the similar supporting evidence that can be drawn from the WERS surveys make for uncomfortable reading in the camp of HRM's collectivist critics (Cully, *et al.*, 1998). His conclusions are clear:

The verdict is surprisingly positive. A large proportion of the UK workforce have been on the receiving end of the kind of practices commonly associated with HRM. Furthermore, they like them (Guest, 1999:22).

The hypothesis tested in Guest's survey was whether the greater the number of HRM practices deployed in a firm would lead to a greater impact on the employee and increase their satisfaction in work. This proposition was substantially affirmed by the findings of his survey and puts into the shade many of the collectivist criticisms leveled against HRM. These findings regarding the success of HRM cannot be lightly dismissed as anomalous, or simply condemned as the outcome of a totality of oppression. Any critique of HRM must acknowledge its areas of success and praise its manifest improvements in the conditions of the worker, as well as point out its weaknesses and short comings. This is not to say that a critical engagement with HRM is to be abandoned, however, as Guest notes, there are other options besides an individualistic, unitary HRM that acknowledge the interests of other stakeholders and are in greater touch with the pluralist reality of the employment relationship. Indeed, if HRM has, in fact, now become the new orthodoxy in the management of people then it is important that critical scrutiny is maintained in regard to the philosophy of the person it institutionalizes.

Guest has also recently suggested that one of the new dangers is that HRM itself could be left behind in favor of a new "contract culture" and a system of extreme individual flexibility in the labour market (Guest, 1998). He identifies two aspects to this process: the notion of flexibility has negative as well as positive consequences for society and for competitiveness, and the other is that of psychological contracting. This latter approach to employment gives attention to the employee's fears about job insecurity but, is not, in his view, able to move beyond an individualistic and narrow view of the employment relationship, effectively ignoring its economic and social context. Its emphasis is upon managing down or revising employee expectation of their employment by ignoring the inequalities of power in the relationship. Guest's feeling is that this move

to employment relationships based upon "contracts is a backwards step . . ." (Guest, 1998:48). But to make this criticism stand up he needs to show why this is a backward step. The moral hazards of the contractual approach to employment need to be carefully explored.

The casualisation of the workforce is a step towards the extreme end of the individualistic conception of the person and the atomistic society. Several management gurus have also acknowledged the limitations of the contractual view of the company (Handy, 1997; Ghoshal and Bartlett, 1998). Ghoshal and Bartlett note that many people, even if they are in a position to hire themselves out as a brand, and charge a good fee, may still yearn for a sense of belonging and participation that comes from employee status in an organization. They go on to explore the new "moral" contract that may be more acceptable in their book *The Individualized Corporation*. Individuals under this contract have to agree to work and maintain their performance at its best, and take advantage of the learning opportunities being offered to them by their employers. In return, the employers undertake to support the employees employability rather than offer them job security. This requires the provision of training, variety of assignments, and a stimulating company environment. Paternalism is rejected, as well as the notion of lifetime job security; employment is to be at the will of the market which no one can predict or influence. The best stance for both employer and employee is to be ready to respond to the opportunities thrown up by the market juggernaut.

Under this "moral" contract the employees, and perhaps soon to be ex-employees, are required to have the courage and confidence to abandon the stability of lifetime employment and embrace living on the edge of uncertainty. In Ghoshal and Bartlett's view, employees should enthusiastically embrace the notion of continuous learning and personal development, accept that security only comes from performance, and that a few good years are better than many mediocre ones as a wage slave. Like the Maoists who were taught to accept the need for continuous revolution, the new worker has to be taught to accept continuous rationalisation: "If assets can be reduced, employees closest to the operations must do it; if expenses are out of line; it is their responsibility to cut them; and if all the work can be done with fewer people, the decision to increase productivity or reduce head count is also theirs." (Ghoshal and Bartlett, 1998:287). In return, the firm is to keep on investing in its employees in the full knowledge that they

will be leaving soon simply because its their duty to do so, but the employer should not be sentimental about loyalty or benevolence.

However, the philosophy of the person embodied in this view is still strongly individualistic. This has a strong appeal to the young and talented, but might be less acceptable to the old and less talented. Half of the population are below average intelligence by definition and we will all grow old. The prescription Ghoshal and Bartlett are offering is a world fit only for the McKinsey elite, not one applicable for the common men and women. The revolt of the elite that Christopher Lash described in the U.S. in relation to civic life has now dawned in the workplace; the management elite are now abandoning their own employees and they don't want to feel any sort of bad conscience about this. The employee has to learn to take it on the chin and embrace an inevitable fate. After all, we are all individuals now. Ghoshal and Bartlett's prescription would have more plausibility if it did not rely upon the employers acceptance of responsibility to invest heavily in the employee's training and education prior to their contract termination. The record on training investment by UK employers leaves much ground to be covered if the new "moral" contract is to become a reality (Marks, 1996).

Our understanding of the individualistic contract culture and the moral hazards to which it is prone are highlighted in the recent book by Richard Sennett (Sennett, 1998). After bumping into Rico, the son of a janitor whom Sennett had interviewed for a previous book on class at work, he learnt that Rico had bettered himself and had become a computer consultant. But, in contrast to the father, who had spent his life cleaning toilets and mopping floors in an office block and had a sense of gradual family improvement, Rico's life, whilst more elevated and rewarding, was characterized by perplexity and disillusionment in terms of his personal social relations. Sennett observed that in short-term capitalism, Rico could not develop durable relationships with his fellow workers, neighbours and family. He was experiencing life as episodes and fragments, where trust, loyalty and commitment had little place and his sense of self was corroded.

One of the most interesting parts of the book deals with workplace flexibilities and the fashion of teamworking. Sennett thinks this has taken employees into the domain of a demeaning and shared superficiality which keeps people together by avoiding conflict and difficult personal relationships. The absence of clear lines of authority in the modern workplace, in his view, frees management to shift, adapt, and rationalize without the need

to justify their actions. Teamworking is another form of managerial manipulation which avoids responsibility, allows for little resistance and deflects confrontation. At the end of this insightful analysis of the experience of modern employment Sennett is rather thin on remedies. He claims to have come to rest uneasily in the no-mans-land where words count for more than deeds. But he concludes somewhat prophetically, "A regime which provides human beings no deep reasons to care about one another cannot long preserve its legitimacy." (Sennett, 1998:148).

If there are elements in HRM strategies that are detrimental to the person we need to examine the ethics of the individualistic conception of the person which lies behind this approach. A new perspective from which to understand and criticize HRM is clearly needed. The implicit underpinning of many psychological contracts is a utilitarian bond of self-interest uniting employer and employee, delivering efficiency in return for training. However, Emile Durkheim pointed out long ago that a cohesive organization cannot exist on the basis of individual interests alone, least of all individual material interests, and that material interests cannot on their own operate as an effective driving force of successful co-operation. (Durkheim, 1984). As he noted in the case of contracts of employment, if the laws underpinning the system of individualized exchange were to be effective, the law itself had to be supplemented by a vast body of customary rules, beliefs and sentiments. In short, the individualistic conception of the person is not up to the task of maintaining the moral basis of the employment relationship.

This is where our third perspective on the conception of the person might be brought back into play. Personalism provides a useful set of moral concepts against which the practice of HRM and sub-contracting can be judged and the degree of moral progress or regression evaluated. The questions posed by this philosophy are "What kinds of characters will be developed in the organization," and "What is the contribution of the firm towards the common good?" If there is to be a new orthodoxy in HRM, it needs to be based upon a philosophy of partnership that recognizes both the individualistic and the community aspects of the employment relationship. Partnerships can only be created and sustained on the basis of justice and fellowship. The practice of HRM therefore needs to be underpinned by a set of moral principles which will mark out boundaries and guide the selection of initiatives in the drive towards efficiency. In short, we need to put the person back into HRM.

Personalist Philosophy

Personalism can be defined as the attempt to place persons and personal relationships at the center of theory and practice, and to explore the significance of personal categories across a variety of ways of life. On a very broad view it is difficult to say where the philosophy of personalism begins. It may be best to think of personalism as a philosophical approach with roots in 19th century thought that reaches its most systematic expression in the 20th century. In 1830, John Henry Newman spoke of the "method of personation," and the Cambridge philosopher, John Grote called his metaphysical approach "personalism." The personalist tradition in Germany was advanced by the phenomenologist Max Scheler (1874-1928). This phenomenological approach to personalism influenced a number of French philosophers, as well as the thought of Karol Wojtyla (Pope John Paul II). In France, Charles Renouvier published *Le Personnalisme* in 1903. But, the central figures of French personalism are Emmanuel Mounier who wrote a personalist manifesto in 1938, and Jacques Maritain who published a series of works throughout the 1940s (Mounier, 1950; Maritain, 1947). Mounier claimed that the personalist movement originated in the crisis which began with the Wall Street crash in 1929. *Esprit*, his journal of personalism, grew out of a movement, of conferences and discussions in every part of France around spirituality and faith in relation to analyses of the social problems and burning controversies of the time.

The leading Catholic intellectual involved in the personalist movement was the renowned philosopher Jacques Maritain, whose book *The Rights of Man* is a classic statement of the personalist political philosophy (Maritain, 1944). Maritain's conception of society is personalist because it considers society to be a whole composed of persons whose dignity is prior to society and yet the person needs to live in a community that shares a conception of the common good that is superior to that of the individual. Both Mounier and Maritain were concerned that in post-war France the ideas of personalism should inform the political reconstruction which they saw as having been caused by the crisis of meaning and truth with deep roots in modern life. In Maritain's view, the rights of working persons should be as follows: the right to freely choose their work, the right to form trade unions, the right to be considered socially as an adult; the right of trade unions to freedom and autonomy, the right to just wages,

the right to work, the right to joint ownership and joint management of the enterprise, and the right to social security and a fair share of the common goods of civilization.

Personalism, though, is not a system—it is a movement which unites a wide range of theistic (Catholic, Protestant and Jewish), and secular thinkers across Europe and in the U.S. The Viennese born, Jewish philosopher Martin Buber has been very influential on both continents with his notion of "I and Thou" and the need to embrace a third way between individualism and collectivism. In Britain, the personalist movement was led by the Scottish moral philosopher John MacMurray (1891-1976), who, against the background of logical positivism and linguistic analysis then current in philosophy, tried, with missionary zeal, to analyze the crisis of the personal which he felt was assailing his society at the time. His most significant statement was made in his Gifford Lectures in 1959 and published in two volumes with the collective title *The Form of the Personal* (MacMurray, 1957, 1961). It presents a profound critique of Cartesian thought, and whilst not well received at the time, is now beginning to gain widespread acceptance towards the end of the twentieth century. His analysis of the role of justice in the maintenance of personal relationships and of the nature of persons in relation is an important insight we can make use of today in the discourse about HRM.

Personalism puts primacy on the ethical or moral realm. In dealing with economic issues, for example, personalist morality and what we owe to others takes precedence to questions of utility. In political contexts, persons and their lifeworlds take precedence over systems or structures. Personalism is thus an attempt, in an age of increasing depersonalization, to defend both the concept and the reality of persons. If there is consensus among personalists concerning the primacy and importance of the person, there is no dogma or unified doctrine that further constitutes a personalist ideology. Although the majority of personalists have been theists, there is no unified theology, or even a requirement that to be a personalist one must believe in God. There are no agreements about methods or definitions; indeed, even the definition of "personhood" remains an open question. But because personalism opens up the middle ground between individualism and collectivism its contribution can no longer be ignored and is already in several ways being restored to prominence by strands of the communitarian movement.

Many of the Anglo-American communitarians are motivated by the negative social and psychological effects (unbridled greed, loneliness, urban crime, high divorce rates, suicides, alienation from politics, etc.) related to the atomistic tendencies that they see in their societies (Etzioni, 1995; Sacks, 1997). This movement has sought to emphasize the importance of social responsibility, and the need for all citizens to prevent the erosion of community in an increasingly fragmented world. Libertarians claim they may be setting out on the slippery slope to authoritarianism, but most communitarians are, like the personalists, merely trying to steer a middle way between rampant individualism and oppressive collectivism. How might this philosophy of the person help to shape our discourse about the development of HRM?

Personalism in HRM

A personalist philosophy of personnel management was set out with great insight and clarity by C. H. Northcott in 1945, in one of the first textbooks for personnel managers (Northcott, 1945). Its relevance to the HRM debate today should not be ignored; it could be of the utmost importance in providing an ethical framework for its development and practice. What follows is a brief restatement of Northcott's philosophy and principles of practice.

Business has an instrumental purpose requiring technical efficiency in the production of goods and services. Its personalist aspect is concerned with achieving the fullest degree of collaboration in the business enterprise. However, collaboration cannot be coerced, it is a product of human wills and so recognition of the independence of human wills and of their purposes has to be acknowledged. Technical efficiency will only be approached if it is pursued by an organization that is based upon moral principles. These moral principles are justice, personality, democracy and co-operation. Few organizations can flourish unless justice is attended to in its variety of manifestations. Much of the practice of HRM should be concerned to ensure that justice is served according to criteria of fairness in remuneration, promotion, discipline and selection. It is in the field of recognition of personality that modern HRM practice has much to relearn. The development of the person and his or her character is a part of the common good of society. It is the duty of all institutions in society to foster the fullest development of personality, including those engaged in business.

To foster personality is to bring about the growth of the whole person which in turn requires conditions of justice, freedom and opportunity for recognition.

Employment is not just an instrumental activity, it is also an important component in the development of the person: it presents them with opportunities for fellowship and a sense of purpose, gives opportunities to gain physical and social satisfaction, as well as the material rewards of employment. In this respect job security and continuity are important values to be preserved as far as possible in the employment relationship. The contribution of HRM must also be judged on the effect it has on personality in the organization as well as its contribution to technical efficiency. There is, therefore, something of a balancing act to be maintained, and the temptation for HRM professionals to take either a paternalistic, or a purely contractual approach, cannot be ignored. Hence, the importance of democracy and co-operation as principles that will help to place limits on the prerogative of management and to help include the voice of the employees in the management process. Management have to be encouraged to accept the extension of democracy into corporate governance mechanisms to ensure that there will be joint responsibility for leadership and decision-making. To make this a practical proposition requires the collective organization of the employees to give their concerns a representative voice and the involvement of these collective organizations in the decision-making structures of the firm: in works councils, collective bargaining, and the boardroom. The development of collaborative arrangements requires the development and maintenance of trust relations largely fostered by sharing information, open channels of communication, rational decision-making and processes of accountability. When these principles are used to evaluate the various strategies and procedures proffered in HRM the boundaries of acceptability or rejection can be drawn.

It should be acknowledged that in many areas of work today, HRM strategies have improved practice and helped to recognize the employees needs for satisfaction and recognition at the level of the task, if the results of Guest's survey and the WERS survey are representative. But HRM needs to be supported by a philosophy that has more to it than the psychological contract of the self-interested individual or the all encompassing company community. It needs to be based upon a philosophy of the person that recognizes both the individualism and the community aspects of the employment relationship, and that job security and loyalty

are honourable aspirations on the part of both parties. An inspiring example of a company that is moving in the direction of a more personalist approach to its HRM policy is Tesco, Britain's largest and most successful supermarket chain (Allen, 1998). Tesco's partnership agreement with the shopworker's union USDAW recognizes that the union adds value to the company and to employees, especially in helping to bring in change and in representing the employees' voice in the decision-making process. Its new agreement with the union aims to: secure high-quality representation for employees, allow USDAW to understand and promote Tesco's business goals, to guarantee co-operation, enable USDAW to challenge Tesco management when necessary, and to allow Tesco to remain flexible enough to maintain its leading market position. The deal has led to the establishment of 586 consultative forums at Tesco stores, open to union and non-union members alike. In many respects, this deal represents a personalist approach to HRM because it tries to reconcile strategic HR imperatives with established, but reformed collective bargaining institutions and procedures: a bridging of the gap between the individualist and the collectivist conception of the person. Tesco wants employees to identify with and commit themselves to the company, but sees the union as a legitimate and effective channel for cultivating and reinforcing employee involvement.

However, Tesco is more the exception than the rule. In many firms at the moment, HRM strategies are designed to "deinstitutionalisation" industrial relations and move away from collective bargaining (Millward, 1994; Scott, 1994). If empowerment initiatives are good enough at the task level surely this logic should also be applied to involving employees at the higher levels of the organization. Many employees are being denied effective trade union representation and involvement in collective bargaining and works councils; as well as the right to participate in the corporate governance processes of the firm. The individualistic approach to HRM ignores or down-plays this agenda. A personalist approach to HRM demands that attention be paid to employee involvement at both at the lower and at the higher levels of decision-making, and calls for the development of the virtues of self-government and deliberation amongst everyone in the firm.

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Ethics and Service Work

RICHARD C. WARREN

Service work is now a very wide ranging sector, where some forms of service work have different connotations to others, but some forms are still tainted with the degradations of domestic service. Much of the difference revolves around the personal nature of the service and the expectations of customers towards the service worker. Hence the importance of thinking about the ethics of the service relationship in a modern economy, and the need to put this on the right footing in terms of respect and dignity. The ethics of service work are explored in this article. Prior to this however, the nature of service work and the degree of degradation that can be experienced by those who do this kind of work are identified. It will be argued that service work ought to be morally evaluated according to the degree to which it helps to form and maintain the virtues of employees or whether it leads to the erosion of virtue and the active development of vices.

INTRODUCTION

Treating people with respect cannot occur simply by commanding it should happen. Mutual recognition has to be negotiated; this negotiation engages the complexities of personal character as much as social structure. [Sennett, 2003: 260]

The modern economy is rapidly moving towards the position where most workers are now in some form or another of service work. The service economy is now a very wide ranging sector, where some forms of service work have different connotations to others, but some forms are still tainted with the degradations of domestic service. Much of the difference revolves around the personal nature of the service

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and the expectations of customers towards the service worker. Hence the importance of thinking about the ethics of the service relationship in a modern economy, and the need to put this relationship on the right footing in terms of respect and dignity. The aim of this paper is to emphasise the importance of paying attention to the ethics of service work and to suggest that the customs of civility that lubricate service relationships need to be revived. It will begin with a review of the research into the nature of service work and the degree of degradation that can be experienced by those who do this kind of work.

Service work in call centres and many other parts of the new services driven economy is thriving but many workers seem to find this work stressful and unfulfilling. Many employers in this sector do provide agreeable and comfortable working environments and many take their employees' welfare seriously, but this does not seem to ameliorate the workers' unhappiness. For many service workers the only redeeming feature of their work is the competitive rate of pay. Very often the call centres are plagued by high absenteeism levels and attrition rates. Many employers and trade unions representing these workers are at a loss to know what the malaise might be. Recent research found that employees miss an average of 14.7 days out of 230 working days in a year, which presents an expensive problem [*Financial Times*, 2004: 3]. There was some suggestion that the problem is related to the relationship workers have with their customers, which makes the job inherently stressful, because they have to use their emotions to please customers but are also monitored against demanding performance targets to get results. Is there something in the nature of service work that makes it morally hazardous for the people who fulfil these roles in our culture?

WHAT ARE THE CHARACTERISTICS OF SERVICE WORK?

Many of the assumptions of our civilisation owe their origins to antiquity. This is especially true of our deep-seated prejudices with regard to service work. The Greeks considered physical labour to be degrading and that service work was the rightful province of slaves and artisans. Indeed, Aristotle held that the only men who qualified as citizens were those who were free of providing service to the community so that they were in a position to consider the common good in politics. Even sculptors were precluded from citizenship because sculpture involved strenuous physical labour, whereas painting was a liberal art fit for a free citizen. Although the Athenians maligned service work the law required that they respect the service worker and avoid contemptuous language towards them.

During the renaissance and reformation, Calvin and Luther can be credited with the idea of work for its own sake and with the abhorrence of rest and pleasure. The beggar moves from being traditionally a figure worthy of compassion to being a lazy, good-for-nothing with a weak moral character. The Protestant work ethic implied that through work you could find yourself and discover your salvation. A 'calling' does not refer to a type of work, but to one's attitude towards work. This gives any kind of work a spiritual dimension. Benjamin Franklin's autobiography

helped to secularise and spread the work ethic in America. A generalised work ethic developed where labour was for the benefit of society and so usefulness became an end in itself. The virtues of hard work and industriousness became embedded in stories and sayings about estimable moral character. These traits of self-improvement were incorporated into popular Victorian literature in the account of *Self Help* by Samuel Smiles, which was a best-seller in its day.

It was the onset of the movement towards equality in society, brought about partly by the force of universal religions and democratic thinkers, that led to the problem of treating service workers with decency and humanity given the traditional disdain and prejudice against this kind of work in society. The Victorian era was, after all, one of pervasive domestic service work for many working class women and men. Rising prosperity and the growth of other kinds of employment in manufacturing eventually allowed many to escape from this type of work.

The twentieth century saw the dawning of a decline in domestic service work in the UK and most other developed countries—but in the underdeveloped world, domestic service work remains common. The folk-memory of the indignity and resentment of domestic service workers has left its imprint in the minds of many workers today, who continue to consider domestic service beyond the pale. Service work today is carried on more in the office and shop than in the home, it is extremely varied and highly differentiated, but, to some extent, has certain defining characteristics which set it apart from other kinds of work.

What makes service work different from other kinds of employment?

- The focus on interpersonal relationships with public—clients, customers, passengers, guests, children.
- Having to please the customer directly – face-to-face or voice-to-voice.
- Use of personality to do one's job – deep acting not shallow acting.
- Behavioural/attitudinal aspects of the work (emotional labour) – stress, exhaustion, burnout—invasive supervision and surveillance.

It is not just working with one's brain and hands, but being emotionally involved with the work as well. One's self-respect and identity are bound up in the performance of service work. Civility of treatment in the service relationship is important and is affected by the trends in modern culture towards self-assertion, compliance and aggression in our relationships with others.

Some structures of service work are flawed in ethical terms because they do not afford employees appropriate moral respect, which, even if economic power is unequally distributed, need not mean that moral respect has to be unequally distributed. The moral hazard of service work is that it can lead to the under-appreciation of the employee's loss of self-respect and dignity in the condescending relationship of master and servant. To explore this issue in more detail, we need to examine the nature of respect and dignity in work and the moral framework required for reciprocity in this domain.

RESPECT AND DIGNITY IN WORK

Two social values that go down very deep in our culture are freedom and equality. To a large extent, a certain amount of material impoverishment and inequality can be endured if moral freedom and equality are still preserved and the inner self is felt to be dignified and authentic. As Zeldin has noted:

Two worlds exist side by side. In one the struggle for power continues almost as it always has done. In the other it is not power that counts but respect . . . Most people feel they do not get as much respect as they deserve and obtaining it has become more attractive than wielding power. [Zeldin, 1994: 136]

Consequently, once the fight for basic access to material conditions of living are secured, and some notion of equality of opportunity is accepted in place of the equality of material conditions, then the focus of these aspirations moves into the moral realm of their application, where respect is almost a universal need or craving. To respect is to take a certain delight in the other and, as such, is an aspect of love. To lose respect or be shown disrespect is to be ignored or to be demeaned in the sight of others, and is a shameful experience for the individual and can result in a loss of self-respect or dignity. Freedom of the inner self is the quest for autonomy and authenticity of existence, and equality is the need to be given the respect due to the unique individual amongst other individuals. When these aspirations are thwarted or denied then the person feels morally injured. And, whilst the loss of self-respect and dignity are felt emotions in the individual, an understanding of why and how these emotions are triggered is often a mystery. Indeed, exploring the mechanisms which bestow and deny respect and dignity to the person is not a well-developed study.

A good starting point in trying to understand this behaviour is Sennett and Cobb's [1972] investigation of *The Hidden Injuries of Class*, which looked at the intimate experiences of manual employees at work. They found that the individual who had risen up the ladder of hierarchy had been allowed the freedom to develop personal resources that others valued. Those lower down in the bottom of the hierarchy did the kind of work that did not help them express enough the qualities that were unique in themselves and would earn them the respect of others. Having to carry out the bidding of others was to experience a loss of dignity. Indeed, Sennett claims, the drive of many people in organisations is not so much for possessions or power, these are aids to being able to create an inner self which is 'complex, variegated not easily fathomed by others' [Sennett and Cobb, 1993: 258].

Sennett has returned to the question of respect in a world of inequality in his most recent books [Sennett, 1998, 2003]. As Sennett defines it, 'Respect is an expressive performance. That is, treating others with respect doesn't just happen, even with the best will in the world; to convey respect means finding the words and gestures which make it felt and convincing' [Sennett, 2003: 207]. It might be asked why capitalism does not generate more rituals that bind people together. Sennett suspects that the reason this has not happened is that the nature of capitalist exchange is meant to be symmetrical and yet it is not, and it increasingly operates on

a short framework of shared time. In other words, 'Flat, short forms of work tend to forge weak bonds of fraternity among workers' [Sennett, 2003: 189]. In the flexible organisation of today the distinction between the elite and the ordinary worker is much higher than the minutely graded inequalities of the past in bureaucracies. The work bureaucracy, although much criticised, had to have some attraction for its members. Sennett sees bureaucratic organisations as satisfying the basic needs of many individuals for an organising narrative for their life's work, in that service to an institution could earn them the respect of others. They all bore witness to each other's lives. These lessons of character learnt in the public sphere could also be carried over into the private sphere, making the social bonds of society more substantial. Self-respect is particularly difficult in non-craft work. Comparisons are made and if the person in the service job is poorly treated this makes them feel particularly inadequate.

The term 'emotional labour' has now entered the language to describe the indignity often suffered by service workers and others. One of the pioneering studies in this field was *The Managed Heart* by Hochschild. She noted that in many kinds of service work 'the emotional style of offering the service is part of the service itself' [Hochschild, 1983: 5]. She defined emotional labour as 'the management of feeling to create a publicly observable facial and bodily display; emotional labour is sold for a wage and therefore has exchange value' [Hochschild, 1983: 5]. The cost of emotional labour is that you might find yourself alienated from an aspect of yourself. It also costs the person to disguise fatigue and irritation in front of customers. The emotional worker is asked to go beyond the civility required of the citizen and has to exercise more effort in behavioural control than most people. This can lead to a process of emotive dissonance, claims Hochschild, where maintaining the difference between feeling and feigning over the long run leads to strain. She noted in her study of airline workers a distinctive vocabulary of emotional labour: positive attitude, professional service, the right attitude, friendly and charming, lots of personality, caring, delighting and impressing, project a warm personality. Customers were only expected to reciprocate a minimum civility, if at all. Service workers did not enjoy mutual reciprocation in relationships; their expectations of civility had to be limited. Service workers often dealt with this by often regarding the customer as a petulant child. Service workers often experienced several problems. The identification of the person with the role required them to de-personalise situations so that they did not become too involved and did not take injury too personally. They often felt 'phoney', unable to distinguish their real self from the false self, and felt unable to trust anyone in the same business. They also faced the problem of how to maintain a sense of self-esteem without becoming cynical, withdrawn, or acting like a robot. These problems often drove workers to react in one of three ways. If the worker overly identified with the service work they risked emotional burnout and in the final event a nervous breakdown or they simply quit the job. Or the workers withdrew into themselves but felt guilty about doing so. Or they withdrew and became cynical about their lives and felt that nothing really mattered any more.

PRESERVING THE SELF IN SERVICE WORK

Charles Taylor's [1991] specification of the ethic of authenticity in modern culture is an interesting ideal. The self is often said to have inner depths, and it is important for the person to be in touch with their inner depths. This reflects Rousseau's notion that morality is the following of a voice of nature from within us (*Le sentiment de l'existence*). Rousseau also articulated the ideal of self-determining freedom or autonomy: 'It is the idea that I am free when I decide for myself what concerns me, rather than being shaped by external influences' [Rousseau, 1968: 169]. He also suggests that each one of us has an original way of being human. Conformity and deference mean that this inner voice and originality are not acknowledged effectively so there is no opportunity for self-realisation, and no opportunity to show that one is a person of complexity, depth and importance. If you only exist for others as an instrument, then no respect is paid to your inner feelings, unless some way is found to show you mutual respect. Identity is not self-bestowed, it is created in exchange with others, particularly significant others. Identity is not a thing; it is a process of dialogue in relationships particular to the person. Identity may be created in opposition to what some significant others want for us at times. Also what makes for differences in identity are often socially determined rather than individually determined. You only possess this difference if it is symbolically acknowledged by others. So, one's identity is chosen but in a context not of one's own choosing. Social exchanges are therefore very important for shaping identity.

Relationships are of two broad kinds contractual and covenantal or another term might be impersonal and personal. Contractual exchanges can include mutual respect or not, as the case may be. Covenant exchanges are more respectful, with signs of friendship, affection and love. Most service workers are involved in contractual exchanges with many people on a daily basis. The refusal of recognition and respect in these relationships can damage those workers who are denied it. 'The projecting of an inferior or demeaning image on another can actually disturb and oppress to the extent that it is internalised' [Taylor, 1991: 49]. Some relationships are open to abuse because customers cannot be made to recognise mutual recognition obligations, but the service worker is under observation and has to show respect and deference to the customer regardless of the way they are being treated. This can lead to stress and to the decline in well-being of the service worker. A recent study on call centre workers found that the speed and pace of work was a particularly significant factor in leading to emotional exhaustion and burnout. This in turn led to increased absenteeism, a depersonalised approach to customers, and ultimately to workers quitting the call centre [Deery et al., 2002].

It would seem to be the case that once a reasonable standard of living is attained workers tend to be healthier when three conditions apply: they are valued and respected by others; they feel 'in control' in their work and home lives; and they enjoy a rich network of social contacts [Wilkinson, 1996]. Economically unequal societies tend to do poorly in all three respects: they tend to be characterised by large status differences, by big differences in workers' sense of control and by low levels of civil participation. In capitalist societies the wealthy regard themselves as

rightful 'winners'. They enjoy high social status and considerable autonomy both at work and at home. They are the dominant users of services. By contrast, workers in service work and other low status occupations are often made to feel like 'losers', with few symbols of affluence and often occupying an employment position that is uncertain and insecure. Indeed, one of the signs that service workers are under stress is the prevalence of behavioural pathologies such as obesity, alcoholism and drug addiction. Indeed, in almost all health indicators a steep social health gradient is statistically visible in most capitalist societies, and it is steepest in the USA and UK where income inequality is most marked.

In fact, respect matters more if you are poor (reversing Maslow's hierarchy of needs). It may be all you have to sustain a sense of self-respect. Many people gain a sense of self-respect through pulling their own weight by working for a living. However, if one does demeaning work, the work itself can be an arena of the battle for self-respect. Our shortage of rituals for mutual respect makes the inequality of the poor more deeply felt today than it was in the past. The poor of today are often lacking in several spheres: educational qualifications, mobility, geography, and respect. These factors make the poor today passive rather than active. The poor can become the objects of pity and contempt, making them feel the shame of poverty more keenly in a means tested welfare state. Literature on cases of violent behaviour shows that it is often sparked off when people feel they are disrespected, put down and humiliated [Wilkinson et al., 1998: 589]. Why is this? The answer according to Wilkinson is that violence is a social crime in a way that others are not. It reflects not a desire for personal gain but a perverse expression of the universal human desire for respect. He quotes the US psychiatrist James Gilligan [1996: 110], who wrote in his book on *Violence*: 'I have yet to see a serious act of violence that was not provoked by the experience of feelings shamed and humiliated, disrespected and ridiculed.' Violence is thus frequently an attempt to assert status on the part of those who feel they have no other way of commanding the respect of others, often because they are unskilled and illiterate and so are condemned to low level service occupations if they are to work at all.

Some recognition of moral equality is important therefore for a variety of reasons: to preserve the social bond between citizens in a democracy, to improve the health and welfare of these citizens, and for improved trust in society, which in turn gives rise to economic prosperity.

Further Reflections on the Indignity of Service Work

Studs Terkel, a radio presenter in Chicago in the USA, has recorded the voices of ordinary workers and then published them in his book *Working* [Terkel, 1977]. Some of these accounts were from service workers, and their shared frustrations with certain aspects of their jobs is only too apparent:

Maggie Holmes, the Domestic – 'I don't want my kids to come up and do domestic work. It's degrading ... The older women, they behind you, wiping. I don't like nobody checkin' behind me. When you go to work, they want to show you how to clean. I been doin' it all my life.' [Terkel, 1977: 117]

Babe Secoli, a Supermarket Checker – ‘What irritates me is when customers get very cocky with me. “Hurry up.” Or “Cash my check quick.” I don’t think this is right . . . I’m human, I’m working for a living. They belittle me sometimes. They use a little profanity sometimes. I stop right there and I go get the manager . . . It hurts my feelings when they distrust me. I wouldn’t cheat nobody, because it isn’t going in my pocket. If I make an honest mistake, they call you a thief . . . Sometimes I feel my face getting’ so red that I’m so aggravated, I’m a total wreck. My family says, “We better not talk to her today. She’s had a bad day.”’ [Terkel, 1977: 242]

Nancy Rogers, a Bank Teller – ‘Certain people who are having a bad day themselves feel they must take it out on you: “What are you doing there?” “Why are you checking that?” “Why did you have to do that?” You calmly try and explain to them, “That’s what’s required.” You can’t please ‘em. They make sure you’re in as nasty a mood as they are . . . My job doesn’t have prestige. It’s a service job. Whether you’re a waiter, salesperson, anything like that – working directly for the public – it’s not quite looked on as being prestigious. You are to serve them. They are not to serve you. Like a housemaid or a servant.’ [Terkel, 1977: 231–2]

Terry Mason, an Airline Stewardess – ‘It’s always: the passenger is right. When a passenger says something mean, we’re supposed to smile and say “I understand.” We’re supposed to really smile because stewardesses’ supervisors have been getting reports that the girls have been back-talking passengers. Even when they pinch us or say dirty things, we’re supposed to smile at them. That’s one thing they taught us at stew school. Like he’s rubbing your body somewhere, you’re supposed to just put his hand down and not say anything and smile at him. That’s the thing, smile.’ [Terkel, 1977: 73]

An imaginative insight into the ethics of domestic service work can be gained from a wide range of sources, but literature in particular allows us to sometimes enter into that work in a very insightful way. The writer Kazuo Ishiguro in his book *The Remains of the Day* has imaginatively recreated the world of the gentleman’s butler in 1930s Britain [Ishiguro, 1987]. The book is about Mr Stevens, a butler, who is taking a holiday that takes the form of a meandering car journey, on which he begins to reflect upon the meaning his life of service to Lord Darlington at Darlington Hall. Mr Stevens’ life in the book appears to be one of devotion and self-denial in order to give exemplary and dedicated service to his master. He takes his duties so seriously that he only fleetingly attends to his father on his deathbed, and ends up forsaking his chance of love and marriage to Miss Kenton, the housekeeper at Darlington Hall. His consolation for this double loss is at the time provided by a sense of vocational pride; the pride of a butler respected by other professional butlers in the trade, and by a sense of greater purpose pursued by his master, a real gentleman, Lord Darlington. Lord Darlington had unsuccessfully tried to bring about a peace settlement between Germany and the allied powers in a series of secret meetings at his country house in the 1930s. Mr Stevens reflects,

There are certain members of our profession who would have it that it ultimately makes little difference what sort of employer one serves; who believe that the sort of idealism prevalent amongst our generation – namely the notion that we butlers should aspire to serve those great gentlemen who further the cause of humanity – is just high flown talk with no grounding in reality . . . one has a right, perhaps, to feel a satisfaction of being able to say with some reason that one's efforts, in however modest a way, comprise a contribution to the course of history. [Ishiguro, 1987: 147]

The relationship between Lord Darlington and his butler, Mr Stevens, was one of mutual respect and deference to the judgement of the other. Despite its being a relationship of servant and master, it was not servile; but when one party infringed upon the province of the other, the relationship was only re-balanced when one or the other party acknowledged the infringement. Mr Stevens recollects an episode when Lord Darlington had two maids sacked simply for being Jewish. In the opinion of Miss Kenton and Mr Stevens this was unfair (although only Miss Kenton voiced her disapproval to Mr Stevens at the time; Mr Stevens himself said nothing to Lord Darlington but simply followed orders and sacked them). But Mr Stevens' faith in the integrity of his master was restored some while later when Lord Darlington apologised for his error of judgement in sacking the two maids.

However, towards the end of his life in service Mr Stevens comes to regret that he did not allow himself to fall in love and marry Miss Kenton, and comes to regret that he had become rather emotionally cold in all his relationships. After Lord Darlington died, he then moved on to serve a new, largely, absentee master, and he began see that he was beginning to fail to keep up his own high standards of service. Indeed, the consolation he had taken from the fact that his master had tried to bring about an appeasement process with Hitler's government and so prevent the Second World War, was a misjudgement that in retrospect he considered had marked both his and his master's lives. Clearly professional duty and pride had not been a route to happiness. Mr Stevens concludes that his life's efforts and purpose were, overall, something of a failure. He reflects:

Lord Darlington . . . chose a certain part in life, it proved to be a misguided one, but there, he chose it, he can say that at least. As for myself, I cannot even claim that. You see I trusted, I trusted in his Lordship's wisdom. All those years I served him, I trusted I was doing something worthwhile. I can't even say I made my own mistakes. Really—one has to ask oneself—what dignity is there in that? . . .

The hard reality is, surely, that for the likes of you and me, there is little choice other than to leave our fate, ultimately, in the hands of those great gentlemen at the hub of this world who employ our services. [Ishiguro, 1987: 255, 257]

Mr Stevens finishes his journey and his reflections on the thought that we can never be sure what our purpose is to be. That perhaps it is better to live in the present and to be able to draw comfort from the relationships around one. Mr Stevens had trained

himself to be emotionally cold and withdrawn in the interests of pursuing his vocation to the highest level. Perhaps, he thinks, in hindsight this was a mistake and so his vocation of self-denial was not a virtue. As he notes: 'Perhaps it is indeed time I began to look at this whole matter of bantering more enthusiastically. After all, when one thinks about it, it is not such a foolish thing to indulge in – particularly if it is the case that in bantering lies the key to human warmth' [Ishiguro, 1987: 258].

Unswerving devotion to the needs of another, even if that other is pursuing a worthy purpose, is not as dignified a life as being in a position to say that one made one's own choices and made one's own mistakes. To be merely a means towards the ends of others is not an authentic way to live one's life. These then may be some of the deeper fears and concerns of those who enter into a life of service work. Will their sense of dignity and self-worth be corrupted and denigrated by this emotional labour? Will the ultimate price of service work be self-denigration and character corrosion? Can service and dignity go hand in hand? The following ethical analysis will seek to answer some of these questions.

THE ETHICS OF RESPECT

The guiding moral theory of early capitalism was Jeremy Bentham's utilitarianism [Bentham, 1948], a revolutionary approach to moral questions in its own day. The right action was to be that which in its consequences brought about the greatest happiness of the greatest number. The question of the dignity of employees in dependent relationships did not arise so long as the movement towards a general prosperity was maintained for all employees. Utilitarians are less worried about the justice for the individual so long as the just decision for the majority is taken. Consequently, the morality of respect and dignity in employment has been a secondary issue compared with the improvement of wages and conditions for the working class as a whole. For a more sensitive analysis of the morality of respect we will have to turn to other moral theories which pay more attention to individual autonomy and character.

For many moral philosophers respect for people is a central moral duty and is to be universally accorded today to all human beings. This is not the case with animals, although there are some, most notably Peter Singer [1975], who argue that we should afford some moral respect to sentient animals. For the moment, much of our moral thinking is grounded in the notion of reciprocity; this is the modern contractualist view that moral autonomy is essential to, and foundational for, social order, as if there is a contract between citizens. This approach reflects the view of the great German philosopher Immanuel Kant:

We respect people as people when recognising that there are limitations on the way one may impact on persons, limitations derived from the fact that they are persons. One respects persons, one does not treat them as a means only, but also as ends, one treats persons as members of the kingdom of ends, if one treats them as persons should be treated. [Paton, 1948: 91]

Joseph Raz [2001], building upon this Kantian platform, maintains that respect is not a feeling or an emotion, or a belief. It is a way of conducting oneself. Respect is treating a person in ways that show they are a person, having intrinsic properties. Persons in the Kantian view are important ends in themselves.

So, what is it to be an end in oneself? Tools are not ends in themselves; works of art are said to have intrinsic value, but are not thought ends in themselves. The concept of being valuable in oneself is abstract. Things can be valuable because they are good for people. But what is good in itself? Perhaps something unconditionally good. People are unconditionally good because they are the source of values. People are valuable because they recognise things that are valuable for themselves. People ought therefore to engage with things of value in the right way. That is they ought to show them appropriate respect. Showing respect for people is also good for those who respect them. These are the bonds of family and friendship. To show respect has three components: recognition, the right regard and acknowledgement for the person of value; protection, the person is preserved and not harmed; and engagement, the right forms of acknowledgement are entered into as important symbolic acts (those appropriate to the circumstances and culture).

For the Kantian, respect is a categorical imperative, and so does not depend upon our inclinations, it is a matter of rationality and convention. Consequently, we should avoid disrespectful behaviour. The social practices of respect are vitally important and should be paid attention to in many appropriate symbolic ways: forms of address, body contact, eye contact, non-aggressive language, giving reasons, attributing autonomy, etc.

But, while a Kantian approach to the ethics of service work makes a good case for showing respect to the service worker, the approach of virtue ethics has more to say about how service employers are to treat service workers, and offers guidance on how customers should relate to service workers.

A Virtue Ethic for Service Work

The idea that conduct which is commercially successful may be bad for the character or add little to the common good is unfamiliar to modern business but must surely be brought into any ethical consideration of business practice. Virtue ethics requires that we ask of all social practices what is their contribution to the development of character and the identity of the community. All aspects of activity are to be considered in this regard, even those that are under the corporate veil. Firms cannot be neutral towards the moral characters of their employees, or the ends they pursue, they must undertake to form their character and foster the public virtues upon which society depends.

The concept of a community of purpose can be used to analyse the contribution that service work makes towards the development of virtuous characters [Warren, 1996]. A community is of moral significance when, in Selznick's [1992] terms, it requires from its participants 'core' involvement as opposed to 'segmental' involvement. Core involvement means that people are not free-floating but are connected to others in specific personal relationships with a strong sense of identity and autonomy.

From such bonding people develop stable lives and characters of depth and durability with a sense of moral obligation sustained by the appropriate motives and self-discipline. Core involvement is one of the foundations of moral competence. A company that functions as a community of purpose is therefore characterised by the following features: people relate to whole persons rather than to segments; each participant is perceived as having intrinsic worth; communication is open and founded upon trust; obligation is mutual, diffuse and extended; there is a sense of belonging together and sharing a common identity; and personal development, security and satisfaction are important.

Service work requiring only segmental involvement or a limited investment of the self is more likely to undermine moral competence than enrich it, and is likely to weaken personal responsibility. No doubt many businesses only require this form of involvement and this may be of little concern if the assumption is made that well-socialised workers, from stable families and local communities, do not need to find psychological sustenance in less intimate, more impersonal settings. But are these presumptions still correct for many people in today's society? Many service companies can and do offer much more than this; in fact the communities of purpose they help to create add bright thread to the moral tapestry of society. Service work can help us to think of work as a meaningful activity with almost a sense of calling, itself a source of the good life. As Bellah et al. [1985: 24] has expressed it:

In a calling . . . one gives oneself to learning and practising activities that in turn define the self and enter into the shape of its character. Committing one's self to becoming a good craftsman, scientist etc. anchors the self within a community of practice. It connects the self to those who teach, exemplify and judge these skills. It ties us to still others whom they serve.

There are many more studies by social scientists of business organisations which can be used to support this conception of working in a community of purpose. The nature of the moral community in a company is described in the classic study by Burns and Stalker [1961: 258] on the management of innovation,

Every firm is a community, with its own particular flavour, its own social structure, and its own style of conduct. Newcomers are very conscious of this quality of uniqueness. Indeed, they have to be, since they have to learn the culture, and until they do, until it is other places which begin to have a disconcertingly unfamiliar smell, they have neither been accepted nor accepted their position.

Service work can therefore be morally evaluated according to the degree to which it helps to form and maintain the virtues of employees or whether it leads to the erosion of virtue and the active development of vices. On the whole this is not a matter that can be determined a priori, but needs to be assessed empirically.

Perhaps one method of identifying service work that improves the moral virtues of their participants is to use MacIntyre's [1981] distinction between practices that have internal goods and work that produces only external goods. A practice is a social and co-operative human activity realising goods that are internal but determined by

human conceptions of excellence and value. Internal practices involve a set of standards or criteria which serve to identify what counts as a good or bad, exemplary or worthless, competent or incompetent instance of the activity concerned. Internal goods are judged by those inside the practice, but their achievement is a good for the whole community. Work institutions are more likely to be concerned with the production of external goods in a competitive exchange, which may add nothing to the common good. Although MacIntyre [1981] claims that all business organisations have no notion of internal goods which serve the common good, the empirical evidence suggests that many service companies do indeed create internal goods and cultivate empowerment practices, which make a contribution to the common good.

These internal goods are beneficial for both business and society. Salaman's [1974] study of the occupation of railwaymen noted that its internal goods consisted of three virtues commonly shared by the railwaymen: the ability to accept responsibility as it was a potentially dangerous business; that being a railwayman was a vocation, needing a non-instrumental attitude to work; and that punctuality, reliability and steadiness were key virtues. Salaman [1974: 103] quotes a railwayman: 'The good railwayman does not do his work just for the weekly wage; he does it because he takes pride in it, for the satisfaction of a job well done.' Salaman also describes the sense of fraternity between the railwaymen who even set up mutual improvement classes, which were organised and administered by older, more experienced railwaymen to help the younger ones get through the promotion examinations, and that those who ran the classes did not get paid.

In the light of this evidence, which is substantial and long-standing, why has the generation of internal goods which help to serve the common good not been recognised more widely in the service work literature? The actual contribution to the moral climate of society of service work is often ignored or discredited by modern management commentators. Their talk of the limited, contractual nature of the relationship is often at odds with the deep and personal investments made by the members of a service company. Perhaps the employment contract is an example of a shared symbol in a community culture, which can mean different things to employers and employees, and yet still brings them together. After all, if it were just a contract, why do so many people most of the time go beyond contract? Many employees make a deep investment and personal commitment to their firms, which have not generated a reciprocal sense of obligation on the firm's behalf.

The present institutional framework of business in Britain does not recognise the variety of stakeholder interests in business nor does it appreciate the company's contribution to the common good. This is at odds with elsewhere and with much of the evidence on actual behaviour in business organisations. This is because the corporation is institutionalised as an instrument of the shareholder, and other stakeholder's interests go unrecognised and are given little credence beyond contractual liabilities.

Service work companies must then be judged against ethical criteria and praised when they match up to these criteria, and condemned when they do not. It is therefore time to reappraise our approach to service work.

Virtue ethics can also help identify which virtues we ought to cultivate in relationships between customers and service workers. There are three interlinked virtues to be

cultivated by both parties in this approach to service relationships: gratitude, politeness and honesty.

Gratitude is giving back to someone after we have received something. Egoists do not tend to express gratitude; they are ungrateful. By giving thanks in return we are acknowledging a debt to others. This is in its way a mild form of love – a joyful giving. Ingratitude is the inability to give back – a vice. Gratitude is only really addressed to persons. Gratitude cannot be demanded as a right or a duty. There is humility in gratitude and it borders on charity.

Politeness is a rather shallow virtue, as it does not make up for injustice or cruelty. You could be a polite thug but this does not show good character. Politeness is a form of respect, and it helps smooth the flow of interaction. Honesty needs to accompany politeness for it to be sincere.

Honesty is a neglected aspect of modern service work. Many companies manipulate the sincerity of service they offer the customer to maintain their own financial gain. They often dress up exploitation and sharp practice behind a facade of politeness and a customer service ethos. Detecting the insincerity of these practices often makes the public cynical and impatient with service workers. Many service relationships try to give the impression of a personal relationship but are undermined by contractual intentions rather than the intention to enter into a real personal relationship. An I–you relationship rather than an I–thou relationship. In the impersonal relationship the intention is impersonality. The master–slave relationship is constituted by the intention of the master to treat the other person as a ‘limited tool’, in Aristotle’s [1987] phrase. Consequently, the service worker is not recognised as a person, or as an agent, but as an object possessing certain capabilities and characteristics which make them useful. A desirable characteristic from the employer’s point of view is that they are ready and willing to suffer insult and injustice without retaliating against the customer or employer. This is a contemptible position to be in compared to many other workers. The ethical service organisation should be honest with customers and strive for integrity in its relationships with its workers and customers.

CONCLUSIONS

The objective of this review was to explore the importance of dignity and respect to the service worker. The problem of low self-esteem, high labour turnover and poor morale are common attributes of service organisations. This analysis has identified a number of factors that are often felt to be important for the moral well-being of employees and their sense of purpose. Most of these factors are related to the development of virtues, the nature of civility, and a sense of community and purpose in the service organisation. A greater sensitivity to the moral aspirations of the service worker, and the contradictory and stressful pressures these workers are often put under, is the critical point for management enlightenment. Management initiatives that can improve the moral climate experienced by the service worker, and that can help to provide them with a sense of purpose and community they desire might well increase dignity and job satisfaction in this industry. A research programme

focused on this kind of initiative and the outcomes on the service workers' experiences should be undertaken, and the results made available to inform best practice in the service industries.

Management initiatives which could help service workers address emotional exhaustion might include: the provision of relief time for staff to recover from customer 'abuse'; less routine jobs and greater variety of work tasks; and opportunities to depart from organisational routines and scripts so as to be able to respond to customers with more mutuality and integrity. People at work who have jobs that are constantly under the gaze of supervisors or the public often feel intimidated and so resort to letting off steam or less controlled behaviour in so-called 'back-regions' of their working environment: the corners, tearoom, toilets, backrooms etc. [Goffman, 1959]. Back and front regions in various studies have been seen to be very important for preserving the personal dignity and reducing the tensions felt by the powerless from the gaze of the controllers. Zoning helps structure many of our activities which if allowed to merge together would make life less tolerable and personal dignity more precarious: we preserve zones in matters of sex, eating, work/leisure, defecation, death, injury, to name but a few.

Although the trend in many areas of life is against formality and towards informality, it is often surprising how creative people can be in making up new rituals of civility to help smooth their relationships and give and accept the respect they are due. New forms of handshake are evident (low five, high five), and new vocabularies of address and response ('Yo Brother/Sister'). At one period in history, the trade union movement was a pioneer in spreading a new language of fraternity. It is certainly possible that a revival in civility and rituals of mutual respect could be orchestrated today. It can be made to work and grow in the same way that a virus develops—a small group of determined people will eventually infect the whole population. Perhaps service employers and their workers could have a wider social impact by pioneering a new language of respect and civility between themselves and their customers.

The contention of this paper is that the service industries should not neglect the moral dimension in service relationships and in the conception of organisational purpose. The employers in these industries should aim to develop a management framework for the identification and consideration of the ethical aspects of service work, which includes conceptions of role and duties in combination with the development of the virtues including politeness and honesty.

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Temperance and alcohol

Temperance
and alcohol

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Abstract

Purpose – The purpose of this paper is to examine the new alcohol debate and put it into historical perspective, before outlining the meaning and nature of the new temperance challenge.

Design/methodology/approach – A moral perspective on the patterns of alcohol consumption from the point of view of character virtue is offered in order to address this deep-seated cultural problem.

Findings – Facts and figures on the nature and extent of Britain's alcohol problem are used to illustrate the strength of present day concerns.

Research limitations/implications – The acquisition of temperance in today's society is very difficult in the face of affluence and a consumer culture, which encourages impulsiveness and infantilisation especially when it comes to drinking alcohol. The particular problems of the UK are exacerbated by cultural factors and patterns of family structure, which also undermine the acquiring of the virtue of temperance.

Practical implications – Today's drink problem is a problem of character that has to be tackled by all the institutions of civil society, the family, religious groups, and communities. The drinks industry in its widest sense can also play its part in developing a culture of temperance.

Originality/value – The contention of the paper is that unless the cultivation of some notion of temperance is reverted as a shared virtue of character, today's alcohol problem will not successfully be tackled.

Keywords Alcoholism, Consumer behaviour, Culture, United Kingdom

Paper type General review

Introduction

This paper will review the new alcohol debate and put it into historical perspective, before outlining the meaning and nature of the new temperance challenge. The new alcohol problem in the UK is not so much with the absolute amount of alcohol drunk in society – this is in decline – it is the pattern of this consumption that is the problem. Indeed, the British Beer and Pub Association (BB&PA, 2007) claims that the weekly beer consumption has dropped from 3.8 pints per week in 1990 to 3.1 pints per week in 2006. But today's concerns are to do with who is getting drunk and how much they are drinking in one session. Consequently, there is a new public debate about Britain's drink problem and what can be done about it.

From the point of view of the drinks industry, it is a minority of drinkers who engage in anti-social behaviour and put their health at risk; the preferred remedies are public education about safe drinking, improved policing, better treatment for alcohol problems, and self-regulation by the alcohol industry. On the other hand, doctors and alcohol campaigners claim that these policies are the least likely to reduce problem drinking. Publicity about the consequences of anti-social behaviour is creating the conditions of a moral panic, particularly in terms of the media coverage of the alcohol problem. Much of this is focused on lobbying the government to re-introduce new restrictions on licensing and on the sale of alcohol. These include a national unfolding of



local schemes to outlaw consumption of alcohol in the street, more funding for alcohol services, and a rise in tax on drink that is proportionate to the products' alcohol content.

This paper offers a moral perspective on the patterns of alcohol consumption from character perspective, in order to address this deep-seated cultural problem. Temperance is a virtue of character concerned with the practice of moderation or self-control. The temperance movement was a nineteenth century social organisation which aimed to prohibit the consumption of alcohol and encourage teetotalism. It will be argued that the new alcohol problem requires us to embrace the wider meaning of temperance as personal moderation rather than a new movement for teetotalism. The papers's main conclusion is that the modern drink problem is mainly a problem of character that has to be tackled by all the institutions of civil society, the family, religious groups, communities, and of course, supplemented by the drinks industry: brewers, supermarkets, off-licences, pubs, clubs, and wine bars, if the virtue of temperance is to be cultivated more widely.

First, a few facts and figures might help to illuminate the focus of the present day concerns.

The pattern of drinking

Alcohol abuse is related to as many as 22,000 deaths each year in England, with cumulative economic, health, and social costs estimated at £20bn annually (Cabinet Office, 2004). Some doctors are calling today's alcohol problems an epidemic.

The binge drinking of young teenagers is of particular concern in relation to their health, and the prevalence of a new increase in women's drinking is also of concern as women's tolerance of alcohol is around half that of men's before they start to do damage to their health. In 1991, there were 7.2 per 100,000 women aged 35-54 years who died of alcohol-related diseases; today it is 14.8 per 100,000 (Cabinet Office, 2004).

Binge drinking is also widespread among British men and women throughout their 20s, 30s, and into their 40s, as new research shows (Jefferis *et al.*, 2005). There are also concerns about levels of cirrhosis of the liver in the middle aged affluent population. The Office for National Statistics (ONS) showed that mortality from chronic disease related to alcohol had almost doubled in the UK between 1991 and 2005, from 6.9 to 12.9 per 100,000 of the population. About 7.5 per cent of men and 2.1 per cent of women in Britain are dependent on alcohol, one of the highest rates in the European Union (EU). ONS (2005) a study by Jefferis *et al.* (2005) at the Institute of Child Health, University College London, looked at binge drinking trends in the UK, using data from four surveys. The surveys tracked a national sample of 8,520 men and women at the ages of 16, 23, 33, and 42. Binge drinkers were defined as men who consumed 10 or more units of alcohol on each occasion and women who consumed seven or more units. (One unit is 8 grams or 10 millilitres of pure alcohol, equivalent to a small glass of wine or half a pint of beer). The prevalence of binge drinking in adulthood was high, especially in the early 20s, when 37 per cent of men and 18 per cent of women were binge drinkers. By age 33, levels of binge drinking had dropped, but still remained high, with 28 per cent of men and 13 per cent of women binge drinking. By age 42, 31 per cent of men and 14 per cent of women were still binge drinking. About 8 per cent of men and 1 per cent of women were binge drinkers in all three adult surveys, spanning 20 years. Since 1970, there has been an almost eightfold increase in liver disease-related deaths among 35-44 year olds.

A survey of 10,000 teenagers (15-16 years) in the North West of England found that nearly 90 per cent drank at least once every six months (Bellis *et al.*, 2007). Some 40 per cent of those binged regularly, a quarter drank frequently and half drank in public. The study also estimates that of 190,000 15- to 16-year olds in England, 57,000 binge by drinking five or more drinks in one session.

Have we created a new licence to drink excessively?

The main media focus of attention in the debate about this pattern of alcohol consumption has been the deregulation of licensing laws that had been in force in the UK since 1919. State intervention to restrict alcohol consumption and reduce drunkenness mainly came from pressure during World War I for greater productivity in the factories. The licensing acts of 1919 brought in by Lloyd George's Liberal Government restricted pub opening hours and allowed the watering down of beer and spirits. The state management system in Carlisle was also introduced owing to the large number of munitions factories in that area of the country. Most of the local pubs were taken into state ownership and the production of beer and spirits also controlled. The effects on sobriety and public order were quickly realised and this helped to head off any temperance society calls for complete prohibition, which was introduced in the USA in 1920. As the prohibition experiment in the USA showed, during its enforcement 1920-1933, the dangers of poisoning from hooch liquor and the corruption of large parts of society with illicit alcohol and gambling led to a massive increase in the organised crime and gangster/mafia activity. The policy of the British state was that it was better to control and regulate the alcohol trade than to ban it outright. Consequently, much of the UK's licensing laws had remained virtually unchanged until the Labour government chose a policy of deregulation. The new policy on licensing is that of allowing drinking for up to 24 hours a day, for seven days a week, in the hope that this will reduce binge drinking and public disorder.

It is hoped that longer trading hours will help to create a continental drinking culture in Britain.

The New Licensing Act 2003 was introduced in England on 7 February 2005. The Act was underpinned by four stated objectives: the protection of children from harm, the prevention of public nuisance, the prevention of crime and disorder, and public safety. However, of the more than 200,000 premises licensed to sell alcohol in England and Wales only 2 per cent (3,000) now have a 24 hours opening policy (Department of Culture Media and Sport, 2008). A 2008 Home Office study of the impact of the licensing changes on crime and disorder found that later closing times have led to a spike in incidents of drink-related disorder which have been displaced to between 3 and 6 a.m. There is no evidence of a move to a new standard closing time, around 20 per cent of premises close by 11 p.m., 50 per cent by midnight, and 80 per cent by 1 a.m. The Home Office (2008) verdict on the new licensing laws was "7/10 good but could do better", a new package of sanctions for anti-social drinking and fines for selling alcohol to underage drinkers were also announced by ministers in March 2008.

However, the alcohol problem is not just a British concern, a recent EU survey found that binge drinking in 15-24 year olds is most common in Ireland (34 per cent), Finland (27 per cent), the UK (24 per cent) and Denmark (23 per cent), but is almost unknown in Italy (2 per cent), Greece (2 per cent), and Portugal (4 per cent) *British Medical Journal* (2007). Alcohol is held to be responsible for the premature deaths of 115,000 Europeans

every year, that is 7.4 per cent of all cases of ill-health and early death in the EU, as well as being the leading cause of death among young men. In terms of public health this places alcohol consumption ahead of obesity, lack of exercise, and use of illicit drugs as a cause of morbidity and mortality and second only to tobacco and high-blood pressure.

Dismissing these figures and concerns as just a media manipulated moral panic designed to further embarrass and undermine a faltering labour government is to underestimate the nature and extent of the new temperance problem in modern societies. Before we examine some of the policy measures that might address these problems it might be useful to put this debate into historical context and acknowledge that intemperance is not a particularly new social problem.

A brief history of temperance

The temperance movement was an interesting social development that sought to address the drink problem in the nineteenth century in the USA, UK and Scandinavia. The temperance movement was started in USA and in the UK, and then spread to Scotland, Ireland and Scandinavia at about the same period in the 1830s. Liverpool saw the formation of the first temperance society and meetings and gatherings were held that attracted large crowds, very soon they had spread to most major towns in England and Wales. These temperance societies were early forms of self-help so characteristic of trade unions and friendly societies, which were also beginning to emerge during this period following in the footsteps of the Chartists. The movement very quickly became divided between those who called for complete abstinence and water drinking or as it became known teetotalism (after Richard Turner in Stockport in 1833), and those who were calling for moderate drinking and improvements to the quality and taste of alcohol (Longmate, 1968).

The power of great orators in encouraging their audiences into taking the pledge and in becoming teetotal and going on the wagon was considerable. The most powerful orators were often reformed drinkers themselves and found it easier to narrate and move an audience into signing the pledge if a less moderate message was the stance taken. Many orators such as Gough (1842), who came across for two highly successful speaking tours to the UK from the USA, played upon the audiences fear of becoming a drunkard and that this decline could happen to anyone in the audience. The temperance message was that drink was an evil, and that by taking the pledge, the audiences' lives and their families' lives would be transformed. One of the first pledges to be drafted and sworn at such meetings was: "We agree to abstain from all liquors of an intoxicating quality, whether ale, porter, wine or ardent spirits, except medicine." Later the 1847 Band of Hope pledge was made more succinct: "I do agree that I will not use intoxicating liquors as a beverage". Hundreds of thousands of former drinkers in Britain signed up to such temperance pledges (Longmate, 1968).

The temperance societies also sort laws to make the seller of drink take more responsibility for drunkenness and its social consequences. They also, in line with the Victorian genius for social organisation, sought to provide other forms of entertainment and recreation for young people to prevent them from becoming tempted into alcohol drinking. Much of the temperance movement activity revolved around trying to provide other sources of beverage and refreshment besides beer and gin, and other venues of entertainment and relaxation besides the pub or bar.

During this period health drinks and tonics were formulated and became popular beverages; Vimto for example became a popular drink in Manchester. Other forms of entertainment were also attracting the attention of the urban working class – cinema, sporting events, association football, allotments, parks and gardens, libraries, museums, and visits to the seaside (Berridge, 2005).

The notion of respectability for all classes in Victorian society also was an important social development engendered in the writing of Charles Dickens and others. Sobriety and civility were important values that built Victorian peoples self-respect and social confidence even in the face of class divisions. Not wanting to fall into the categories of the vagrant or the inebriate was a genuine social anxiety of many people. Moral character was an important attribute of employee's that employers sort to find out about and pass comment upon in the newly important character reference that helped employees gain employment and preferment in the growing industries of the Victorian era. In the merchant navy for example, the sobriety of seaman was recorded by the ship's captain in the discharge book of every seaman after completing a voyage, this would then be considered by other ships captains' before signing on the seaman as a new member of the crew.

The important insight from this movement is that there was a shared concern to develop the virtue of temperance as an important and respected aspect of character that was needed to help reform the social climate of Victorian England. This was an age when notions of virtue and civility were part of a wider public discourse (Himmelfarb, 1995). Perhaps, this is one of the important historical contrasts with today, where our present public conversation about the drink problem is mainly couched in the language of freedom of choice and healthy consumption.

It will now be argued that unless we return to the cultivation of some notion of temperance as a shared virtue of character we will not successfully tackle today's alcohol problem. First, it is important to explore why temperance is such an enduring and necessary character virtue needed even in contemporary society.

The original and richer meaning of temperance

Temperance is a virtue of character. Aristotle (1925) made it a cardinal virtue because it is one of the most important aspects of character. A modern term for temperance might be self-control or moderation but these terms do not quite capture the original and richer meaning of temperance given to it by Aristotle (Wilson, 1993). Temperance is about the rational control of our bodily desires not to subdue them but to ensure we enjoy them but are not controlled or made repugnant by them. Temperance is the ability to be the master over our pleasures and desires instead of becoming a slave to them. It means not succumbing to the vices of insensibility, where nothing can be appreciated or any pleasure enjoyed, or of intemperance where debauchery, gluttony and drunkenness are uncontrolled and debilitating. The intemperate person is a prisoner of the body's appetites unable to make independent decisions and liable to all types of addictions and intoxications. Acting with moderation is difficult because we are creatures living in the moment, so we are always having to compare the immediate, easy to appreciate, drink of beer or glass of wine with the future, hard to imagine pleasure of no hangover or undamaged liver. Forgoing an immediate pleasure or controlling how much of it we consume is difficult because it requires us to stay in control of our impulses and to think about our future well-being. The mark of a mature

adult is that they are able to control their childhood impulses and can take responsibility for their and others well being. The temperate person is considered good because they are more likely to be responsible people who keep promises, resist temptations and reciprocate in obligations. Intemperate people are inclined to be self-indulgent, self-centered and are less trust worthy members of society. Consequently, acquiring the virtue of temperance is of vital importance to character formation and the development of trusting relationships in society.

Traditional societies have always praised moderation whilst perhaps admitting a certain affection for the occasional drunken party or impulsive gesture because the exercise of willpower is importance in adulthood. We learn from countless small examples of family and friends to exercise self-control and gradually overcome the childish inclination to act instinctively and impulsively. It has to be acknowledged that self-control is easier for some people than others. But everyone needs to make the transition from childhood to adulthood in temperance terms, if one's life is to stand a chance of going well. But few ever acquire perfect self-control it is always an ongoing challenge, states of addiction can be found at any age in life. Nevertheless, the foundations of self-control need to be laid in childhood and adolescence if the vice of intemperance is to be overcome.

What undermines our virtue of temperance?

The acquisition of temperance in today's society is ever more difficult in the face of affluence and a consumer culture which encourages impulsiveness and infantilisation, especially when it comes to drinking alcohol.

However, as these are common trends in most advanced societies the particular problems of the UK are perhaps exacerbated by cultural factors and patterns of family structure, which further undermine the acquiring of the virtue of temperance.

Part of the drink problem is to do with consumer culture in general, and the sophisticated advertising and marketing techniques that are used to create this climate of temptation that undermines our socialisation into living a temperate life. There is nothing new in concern about the excesses of consumer capitalism; critics from Thorstein Veblen, to J. K. Galbraith, to Daniel Bell have noted its effects in previous eras. A more recent analysis in this vein is by Benjamin Barber who claims that marketing and consumer culture are infantilising our characters and are undermining the culture of adult citizens in a democracy. Barber (2007) offers a vivid portrayal of the way that a consumerist mentality has superseded the public good in his book *Consumed: How Markets Corrupt Children, Infantilize Adults, and Swallow Citizens Whole*. Barber extols the producer capitalism of an earlier era, characterized by hard work, discipline, and deferred gratification. This type of capitalism met the real needs of the people. Recently, in the era of consumer capitalism basic needs are met rather quickly, leaving the consumer with lots of disposable income and many options of spending it foolishly.

Barber argues that the rise in consumerism has created a dangerous mentality that values personal choice over the public good, turning children into permanent shoppers and thereby infantilising otherwise mature adults. First comes the consumerisation of the child. This is done by encouraging shopping behaviour in children, training them to become habitual shoppers and even developing brand consciousness. The second stage is trying not to let the child develop into an adult. Marketing strategies seek to

infantilise adults, so that they have no deeper understanding of themselves than the brand names that define them. Divided by their conflicting impulses as consumers and as citizens, people are increasingly drawn into a mind-set of “civic schizophrenia”. Barber claims civic schizophrenia is manifested in three ways: privatisation, branding, and consumer totalitarianism. As people have moved away from being an engaged citizenry, the public sphere has increasingly become privatised, frequently putting public and civic interests at odds with consumer desires. Then he notes in consumer societies, brand recognition is displacing religious and communal identities. Finally, as every sphere of life is taken over by corporate advertising and promotional media, a new consumer ubiquity destroys diversity and undermines democratic pluralism.

Barber does acknowledge that there are some opportunities for resistance inside the culture of consumerism. But, he argues these strategies will fail because they do not address market capitalism’s need to create excessive consumerism and addictive materialism in order to survive. The reform needed, he argues, is to take capitalism back into a needs-satisfying economic system, and a transformation of democracy back into the sovereign regulator of the market and protector of private virtue.

This analysis when applied to alcohol consumption is very persuasive. Like fast food, alcohol is in plentiful and cheap supply. Available, when and wherever, we want to consume it. Children become aware of the drinking culture through television advertising and other television programmes that portray the ubiquitous role of drinking in our culture. They are often introduced to alcohol through branded alcopops, sweet sugary drinks laced with alcohol.

They are increasingly segregated by age and denied the opportunity to socialise with adults, and are often left to experiment with cheap alcohol in peer groups and with little constraint. Alcoholic beverages are heavily branded and advertised in the media and are often associated with fun, extrovert and “cool” lifestyles aimed at young people. Young people are also made particularly anxious about their body image in consumer society, drinking to excess can give them confidence and help them forget about a self-critical body image. Young women in particular are vulnerable, “I feel my legs are fat, getting hammered means I don’t care, I suppose it’s a form of escapism” (*The Truth About Binge Drinking*, 9 p.m., ITV, 2 January 2008). In a world of lads and ladettes, equal opportunities to drink is an implicit message, but the particular vulnerability of women to damage from alcohol is not being made explicit.

The degree and extent of drinking in a society also depends upon the social meaning of drinking and the part it plays in the culture, as well as the problem of individual addiction and private drinking habits. A recent survey has shown that most people in Britain do not believe they could lead their lives enjoyably or successfully without alcohol (*The Observer*, 2008). Many of the adults in the survey claimed they were scared of socialising, relaxing, taking part in any celebration or trying to have a good night’s sleep without drinking. In the social context drinking was functional in that it supported social interaction and social mixing because it decreased inhibitions, anxieties and tensions and helped to facilitate relaxation. The element of intoxication offered the possibility of transgression in social roles and helped people negotiate and come to terms with the stresses of different roles and identities that they played out in everyday life. One of the biggest tensions to be dealt with today is the transition between the producer ethics of hard work, discipline, deferred gratification and deference, and the now pervasive consumer ethics which values, leisure and ease,

self-indulgence, impulse and assertiveness. In many ways, most people in a modern society face a bifurcation of social ethics and the use of alcohol is often used to help people cope with the difficulties of moving between the two in emotional and dispositional terms.

Research by Alcohol Concern has identified different reasons why men and women developed a reliance on alcohol. Male drinking is a cultural way of showing strength and endurance and it also functioned as a symbol of earning power and social status. Women were found to drink more in relation to the emotional context of drinking: coping with the strains of parenthood, having to match their partner's drinking habits, or to help deal with stress of home and career obligations (*The Observer*, 2008).

However, Britain also has problems with its family structures and the dysfunctional patterns of socialisation they can give rise to. Britain has some of the highest levels of family breakdown in Europe in terms of divorce rates, single-parent families, and the highest level of teenage pregnancy. Fewer people are marrying and when they do they are usually older, 28 years for women and 30 years for men on average (Morgan, 2006). There has been a rise in cohabitation, a growth in step-families, and multiple, or sequential relationships, and an increase in people living alone. Many more women are in the labour force and many gender roles have changed. The impact of these changes on socialisation and alcohol consumption are hard to identify but some generalisations can be made. Married men and women have lower rates of alcohol consumption and abuse than do single people (Miller-Tutzauer *et al.*, 1991).

Married young adults tend to drink less than those not married. In general, divorce tends to lead to heavier drinking for both men and women. Children whose parents marry and stay married tend to have lower rates of alcohol and drug abuse, and teenagers of married parents are least likely to experiment with alcohol and tobacco. The fragmentation of families in modern Britain adds many risk factors to the teenagers propensity to drink excessively, including increased family stress, reduced parental monitoring, increased influence of peer groups and weakened attachments to parents, especially fathers (Morgan, 2006).

How can temperance be cultivated today in relation to alcohol?

Much of the debate about what should be done has tended to be focussed on the role of the state. Has the state a role to play in the development of virtues in its citizens? The classical liberal position of Mill (1972) is that the state ought to limit its role to issues of providing security and protection but not to trying to influence the lives we might choose to lead. His famous harm principle, which states that the only justification for coercively interfering with a person is to prevent them from harming others, is the defining statement of the limits to which the state may go in interfering with our liberties. So the state may be justified in trying to restrict drinking that leads to public disorder, but should not interfere with the peaceful consumption of alcohol that could lead to addiction and health damage in the individual. However, in recent years the weakness of this position in liberal philosophy has come to be recognised, and the debate about a more active role for the state in the formation of our virtues has been addressed by several writers (Macedo, 1991; Berkowitz, 1999; Raz, 1986). Raz is of the view that the state is entitled to take a more active role in cultivating the virtue of its citizens in order to promote a morality of autonomy. Consequently:

[...] if the government has a duty to promote the autonomy of people the harm principle allows it to use coercion both in order to stop people from actions which would diminish people's autonomy and in order to force them to take actions which are required to improve people's options and opportunities (Raz, 1986, p. 416).

On this reading of the state's role the promotion of citizen autonomy requires the learning of self-control and addiction avoidance. Autonomy is after all about self-governance and its realisation requires knowledge of life's opportunities and the ability to be able to take advantage of them. Consequently, the liberal state has to involve itself with the socialisation of citizens through family structures and through the provision of education, which should include minimising ill-health and some knowledge about the problems of addiction as a barrier to an independent life. This view has been taken on board in the work on health policy by the Nuffield Council on Bioethics (2007) and in their call for the state to take a stewardship role in health promotion. Its guiding principles for the state's public health programmes is that they should:

- aim to reduce the risks of ill-health that people might impose upon each other;
- pay special attention to the health of children and other vulnerable people;
- aim to reduce ill-health by regulation that ensure environmental conditions that sustain good health; and
- aim to make it easy for people to lead healthy lives by the provision of advice and information.

But such programmes should not:

- attempt to coerce adults to lead healthy lives; and
- seek to minimise interventions that affect important areas of personal life.

Alcohol taxation, licensing of point of sale for alcohol and enforcement of drinking laws are the main focus of the present debate about what to do about the drinking problem. Taxation policy could also be used as an incentive for the consumption of lower alcohol beverages. For example, Australia has imposed lower taxes on low alcohol (less than 3.8 per cent) beer than full strength beer. Low-alcohol beer now accounts for 40 per cent of all beer consumed in Australia (World Health Organization, 2004). The UK government could also reduce the toxicity of alcohol, by lowering taxes on beverages with lower alcohol concentrations, and by reducing the limit for blood alcohol when driving to 0.05 per cent.

Today the state tends to regard alcohol as a health issue and the approach is to alert the public to the health risks with alcohol and to encourage them to be more moderate in their drinking habits. In 2004, the government's, *Alcohol Harm Reduction Strategy for England* was published, identifying four key strands of activity: better education and communication, improving services for health care and treatment, combating alcohol-related crime and disorder, and working with the alcohol industry. These activities have subsequently been developed within the government white paper *Choosing Health* (Department of Health, 2004). The government has praised voluntary schemes such as the Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. Corporate social responsibility is a movement that has

been taken up by the drinks industry and the recent announcement by the BB&PA of new standards for drinks promotions and happy hours is evidence of this commitment.

The health lobby would like the government to go further than putting up drink prices, it would like further restrictions on alcohol availability, an increase in the drinking age, and increased the penalties for public drunkenness to protect people and young people in particular from their own worst instincts. However, the drinks industry has spent a lot of money lobbying for deregulation in recent years and its contribution to the exchequer and the development of inner-city revenues and the tourist industry have so far prevailed against the tide of greater calls for more restriction. There are some tensions between the supermarket retailers who are undercutting prices and the publicans in pubs and clubs who have overheads to maintain before profits can be earned on their drinking licences and who are also bound by legal responsibilities to restrict service to intoxicated customers and to be responsible for public order in and around their establishments.

However, the role of the state will always be remote and circumscribed when it comes to matters of individual moderation and the creation of a culture of temperance.

Conclusion: putting the emphasis back on the virtue of temperance

The contention of this paper is that the modern drink problem is mainly a problem of character that has to be tackled by all the institutions of civil society, the family, religious groups, communities, and of course, supplemented by the drinks industry: brewers, supermarkets, off-licences, pubs, clubs, and wine bars, if the virtue of temperance is to be cultivated more widely.

The virtue of temperance is mainly cultivated in children in the context of family, the example of parents and relatives on the growing child, and the place of alcohol in their lives. A teenager then comes under the influence of peer groups in school, neighbourhood and university. The young adult is further influenced by the community of the drinkers in pubs, clubs, wine bars, and at festivals and other social events. The social meaning of drink is negotiated across the boundaries of adulthood and in taking responsibility for oneself, and in the handling of stress and pressure at work and in modern living. The functioning of these institutions of socialisation will have a large influence on the quality of temperance we achieve in our characters. The role of the family in socialising young people in France, Italy and Spain into moderate drinking habits around the dining table should not be underestimated. If these institutional supports are neglected or become dysfunctional then the growing drink problem is one sign of this malaise. There are however, no quick fixes for shoring up these institutions of socialisation, but at least being aware that they are fundamental influences on the drink problem is important.

Support for the virtue of temperance can also be built upon in the religious communities still functioning in a largely secular society. Joining a religious group and gaining the support and attitudes of a faith community can still have an influential effect on a person's drinking habits. Indeed, the support of faith groups for the virtue of temperance and the place of self-control in human development can be very important. As Taylor (2007) in *A Secular Age* has noted the progressive secularisation of our society is less about the absolute loss of faith in modern societies and more about the choice of faiths that now confront us. In an age of consumer expressive individualism many people are experiencing a loss of self-control in the face of so much abundance

and temptation, an interesting irony given Weber's view that it was the protestant ethic of self-denial that founded capitalism in the first place.

Modern secular living and consumerism have created endless choice and pressure to seek pleasure but in terms of character development our lack of foundations for adequate self-control makes it difficult for us to find happiness. A new accent on moderation is needed but very often the institutional supports for this are weak or sometimes non-existent. The secular equivalent of faith support is in the pursuit of health and fitness through sports and health clubs and the general health education concern with well being for a long life. Ideal body images are projected at us all the time in the media but the route to their attainment is often not grounded in the need for perseverance and self-control. The quickest route to the body beautiful being heavily marketed today is via cosmetic surgery rather than dietary control and a healthy life style.

Amis (1985) in his book *Money: A Suicide Note*, summaries the modern attitude in the character of John Self who has allowed his body to deteriorate and his addictions to increase but is confident they could be taken care of in a quick fix at the health farm or in an extreme make-over without the need to resort to the traditional answer of self-control and self-denial in the face of temptation.

The television media also have a responsibility not to glamorise a binge drinking culture. Several series of binge drinking expose programmes have done much to glamorise this tendency and only a few programme setting out the health issues raised by alcoholism and the damage young people can do themselves have been produced and screened on the channels that are viewed by young people. The media are one of the few organisations with the power to put across a health and moderation message with regard to drinking that will stand out against the tide of alcohol advertising.

Of course, apart from the institutions of civil society, the drinks industry in its widest sense can also play its part in developing a culture of temperance.

More collective responsibility needs to be shown in the drinks industry generally, and the initiatives taken by Portman Group can be taken further to include the tighter self-regulation of alcohol advertising and marketing. Also to be encouraged are new initiatives such as "Pubwatch", which attempts to bring the police and licensees together to tackle anti-social behaviour and violence in the pub and its vicinity (Pratten and Greig, 2005). Pratten (2007) has also pointed out the effect on licensee policy of different types of pub chain ownership, managed estates were found to be more concerned with responsible drinking than rented chain owners who had less direct control of licensees and were only interested in high rental income.

In 1975, pubs accounted for 90 per cent of beer sales but by 2006 this has declined to 58 per cent. Pubs have also failed to exploit the growth in wine consumption, sales are up by 65 per cent since 1990, but 80 per cent of it is sold in shops and supermarkets (British Beer & Pub Association, 2007). Supermarkets are now one of the most important distribution channels in the drinks industry and so have to exercise more responsibility over the sale of alcohol and have been rightly criticised for allowing alcohol to be sold as a loss leader. Supermarkets that claim to have regard to a sense of social responsibility deserve to be shamed when they breach their own codes in this way.

Pubs, clubs and wine bars could make a contribution to temperance as a community of drinkers by welcoming and helping to socialise young drinkers rather than excluding them. They could lobby for young people to be allowed onto their premises in a graduated way. It could be argued that 16-18 year olds should be introduced to the

community of adult drinkers and allowed a couple of low-alcoholic drinks per evening. Age cards and restrictions have had the effect of preventing the 16-18 year old from slipping into pubs as they used to in the past, and prevent young people from becoming slowly socialised into the pub culture in the company of adults. Consequently, they often consume large amounts of alcohol amongst their peers in parks and other places outside any restraining influences. Tim Martin, the CEO of JD Wetherspoon's pub chain, has made this point in opposition to the government's policy of targeting pubs and forcing them to police underage drinking on pain of losing their licences.

In the same way that different classes and women were accommodated into the pub with the bar subdivided into different rooms: lounge, snug, public bar, perhaps a mixed youth and adult bar could be established. This would require a change in licensing rules but for local pubs and clubs but it could also help to restore their falling clientele. Young people need a "great good place", as Ray Oldenburg named places of community gathering, as much as adults. Oldenburg (1999, p. 276) also notes:

In the adult tavern, many a young man learned to detach himself physically from his bottle or glass with quickly diminishing separation anxiety – learned, that is, to drink less like an infant and more like an adult. They also learned that those who overdid their drinking had low status, that the obnoxious drunk was thrown out, and that the pernicious drinking of the pale malt worm at the end of the bar earned that unfortunate person nothing more than solitude.

Today's temperance challenge is a cultural issue to do with the reintegration of young people and adults, and the cultivation of virtues of character that are foundational to the exercise of self-control in the face of the many temptations of consumer society, and accordingly how to judge the purpose and use of alcohol in our lives.

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The responsible shareholder: a case study

Richard C. Warren

Introduction

"...society is fully entitled to abrogate or alter any particular right of property which on sufficient consideration it judges to stand in the way of the public good." (Mill 1982: 436)

Asbestos in its heyday was thought to be a cheap, light, versatile and fireproof insulator, but it is now widely known to be a hazard to human health. This knowledge has been acquired at a very high price in terms of the harm caused to human beings, but we can now choose to use its lessons to save lives in the future. However, for many of the victims of asbestos diseases the key questions are who knew, and when did they know, that this substance was highly dangerous, and what did they do about it? Also, what is the relationship between those who profited from the sale of the magic mineral towards those who are now the victims of its widespread presence in homes, factories and ships? These issues will be explored in a case study of the company, Turner & Newall, an integrated asbestos manufacturer that subjected its employees, communities and customers to this major health hazard. This paper will be limited to an analysis of the position and responsibilities of the firm's shareholders during this unfolding crisis. It will try to identify some of the lessons to be learnt from this tragedy and try to identify the changes in corporate governance that need to be made to stop this from happening again.

In the first section, the general moral obligations of shareholders, as various commentators understand them, will be discussed. Then the rise and decline of the asbestos company Turner & Newall

will be outlined briefly. The main section of the paper presents an analysis of the shareholders' responsibilities towards Turner & Newall given what and when they were told by the company's board. The implications of this set of events for shareholders will then be discussed and some conclusions drawn regarding corporate governance processes in the final section.

What are the general moral obligations of shareholders?

As joint-stock company shares are a form of property, the general obligations of property owners are a natural starting point to begin a discussion about shareholder responsibilities. J.S. Mill is a common lodestar for gaining an understanding of the rights and obligations of property ownership in modern society. For Mill, private property is the foundation of a free society and the law should protect the rights of property owners to do what they will with their possessions. But he added the following caveat: that when labour is mixed with property it shall be the exclusive possession of the owner, but that if the property has been acquired like land, just by purchase, then the exclusive rights of ownership might be qualified if the ownership rights mitigate against the public good. The ownership of joint-stock companies is normally attributed to the possessors of the paid-up share capital of the company, its shareholders. Shares are a form of property, which can be bought, held or sold under a contract in a stock market. As such, the rights and obligations of share ownership are governed by company law.

Today, over 60% of shares are held by financial institutions, which seek the best returns on behalf of their investors, some might say irrespective of issues of conscience. However, there is now a growing sector of the investment market that is guided by ethical criteria in the selection of its investment portfolio. Nevertheless, the general position is still that the shareholder is free to buy, hold or sell their shares as they see fit. The moral responsibility of the shareholder is to fulfil their legal obligations under a contract to buy or sell their shares, the rest is a matter of self-interest in the commercial fortunes of companies and markets. Mill's utilitarian justification for this state of affairs is that the general interests of society are best served by the free play of competition in investment and commercial trade. Although he does note that a private investment decision can, in its public effects, be the cause of harm to others, possibly giving grounds for intervention in the interests of the public good, but that in the case of the stock market, this intervention should only be made if the public interest looks certain to be permanently damaged. Mill's presumption of liberty for shareholders to do what they will with their property is the orthodox view that prevails in our stock markets today.

This conception of the unencumbered shareholder, which reflects the political philosophy of liberalism, has been stoutly defended by Elaine Sternberg in the face of recent criticism (Sternberg 1992). Her defence of the orthodox position is based upon an essentialist view of the ethics of shareholding. She aims to defend the unrestricted rights of shareholders against the recent talk of stakeholder rights and the need to build inclusive structures of corporate governance. Her arguments are built upon setting out a clear definition of the purpose of business, which is to maximise long-term shareholder value by selling goods and or services. The logic of shareholder obligations is derived from this key assertion. The purpose of a company is to increase value for owners, who may for practical purposes, be regarded as the shareholders. The shareholders are therefore entitled to hold the company to account. Employees are accountable to the company; which in turn is accountable to the shareholders. The shareholders

are not, however, accountable to the company, nor to its employees. Shareholders may threaten the longevity of the company if they are disappointed with its performance. The only moral obligations upon the shareholders are to act justly and predictably, and with normal decency. Beyond this shareholders have no other obligations, and may buy or sell the shares at will. There is no distinction to be drawn between the large and small shareholders in regard to these obligations, and the responsibility to other shareholders is limited to the general duty to act with fairness and decency towards others. The responsible shareholder should make it clear to everyone what the purpose of the company is to be, and try to hold the management of the company to account for the achievement of this purpose.

Two recent contributions adding to the growing criticism about the behaviour of shareholders, and providing some suggestions about what ought to be the moral obligations and responsibilities of share ownership and share trading are from Sorell and Hendry, and Charkham and Simpson.

Sorell and Hendry draw upon Kantian principles to analyse the ethics of shareholding and maintain that the motives and behaviour of shareholders are not beyond question (Sorell and Hendry 1994). Some motives for shareholding are, in their view, morally praiseworthy, and some are not: "...we may criticise any shareholder who acts in a way that is inconsistent with shareholding" (Sorell and Hendry 1994: 118). They distinguish between shareholders who are gamblers from those who are investors: the former are scorned, the latter are praised, particularly if they are investing for the longer term. Gambling upon changes in the value of shares, they claim, can have a detrimental effect on the fate of the company. Sorell and Hendry argue that because shares were intended as an investment vehicle to help companies develop, the use of shares for gambling purposes is morally questionable. The responsible purchaser of shares should accept the purpose that they were intended for, and refrain from such potentially damaging speculation. Moreover, shareholders also have some obligations towards other shareholders (although not in law): the shareholder is in a position of joint

ownership, so in moral terms the interests of other owners should be borne in mind when deciding what to do with the shares. This is the case when the shareholders are collectively responsible for the appointment and supervision of directors. A failure to act responsibly in this process can damage the lot of all shareholders in the company. Sorell and Hendry also make the point that the moral position of the controlling shareholders or the substantive shareholders may be different to that of the small shareholders. The small shareholder can buy or sell their shares in the company at any time and the transaction is unlikely to affect the company's fortune, albeit that they should still respect the purpose of the institution of shareholding and not treat it like a horse racing punter. But, the controlling investors' decisions to buy or sell, can and often does, have a major impact on the fate of the company. They argue, therefore, that the substantive shareholders should be under a higher obligation to bear in mind the interests of other stakeholders when they take their decisions.

The shareholders' responsibilities are, Sorell and Hendry claim, conditional upon the company's executive fulfilling their responsibilities towards the shareholders. The shareholders' responsibility would be reduced if less than full disclosure to shareholders has been the policy of the company's board. Less than full disclosure to shareholders may be justified as an act of self-defence in the face of takeover threats, but is not justifiable if the secrecy is not in the interests of the stakeholders. The small, passive shareholders' obligations would be even more diminished compared with those of the more active, large institutional investors, who may well have had the privilege of private briefings and extra information from the company. The obligation of the company to provide shareholders with a profitable return on their investment is a very important obligation, but Sorell and Hendry note, this should not be used as an excuse to override the moral obligations of the company towards other stakeholders, particularly in matters of health and safety. Moreover, if evidence comes to light that the company has harmed other stakeholders, shareholders, they argue, are obliged to act upon this information and take some responsibility for changing the company's policies,

and for ensuring that compensation is paid to the victims.

Charkham and Simpson put forward a similar argument, i.e. that not all shareholders ought to have the same obligations (Charkham and Simpson 1999). They claim that the same principle that governs the taxation system, i.e. the more you have the more you pay, should also be applied to share ownership. They advocate that the significant shareholders in a company (defined as owning more than 0.5% of the equity) should be obliged to vote their shares in the annual general meeting. A failure to do so should be seen as a dereliction of the duty of care that should be accepted by the significant shareholder. The best guardians of companies are in their view the significant shareholders, because they have the necessary power, influence and interest to fulfil these functions on behalf of all shareholders.

These commentators are calling for more responsible forms of share ownership. The unencumbered liberal who exists behind a veil of ignorance, without a known identity or set of affiliations, is being pushed out into the community, and is being asked to take more responsibility for what they own and how it is used. These commentators also want to place some shareholders under a higher obligation to act responsibly depending upon the number of shares they hold. The responsible shareholder will, from this perspective, give due consideration to the interests of other shareholders and stakeholders in their deliberations.

Supporters of the orthodox position maintain that we should ignore the motives of shareholders in the market, and stick with the rights of the unencumbered shareholder who has few obligations besides those to trade lawfully and decently. This debate is a conflict between competing ethical perspectives that may be best reconciled by a consideration of the practical implications of these different shareholder roles for corporate governance. Both sets of commentators are agreed, however, on the need for companies to remain accountable to shareholders, and for the shareholders not to be misled regarding the affairs of the company. They also agree that misleading shareholders will reduce the degree of moral obligation shareholders owe towards the company. The unencumbered

shareholder, if misled, may be content to sell and run, but the virtuous shareholder will probably want to take action to tackle the dissemblers, even more so when the company is actively doing harm.

The case study below highlights some of these issues by putting a spotlight on the actual process of corporate governance in one company over a long period of time. The British system of corporate governance is based upon the principal/agent relationship. The shareholders, as principals, elect their agents, the directors, as their representatives on the board, which in turn appoints or removes the management of the company. There are of course many complications in the operation of this system of governance but this is the basic model. The case to be considered poses some fundamental questions about the effectiveness of this model and the division of responsibilities between principals and agents.

The asbestos crisis and Turner & Newall

Asbestos was used extensively as an insulator in the manufacture of motor vehicles, ships, electrical and power generating equipment and in the building industry. In Britain, the leading firm in asbestos production was Turner & Newall which was formed on February 12, 1920 as a holding company in order to acquire the shares of four other firms: Turner Brothers Asbestos Company Ltd., The Washington Chemical Company Ltd., Newall's Insulation Company Ltd., and J W Roberts Ltd. Turner & Newall was floated as a public company on the London Stock Exchange in 1925 and acquired the majority of the shares of Ferodo Ltd., a brake linings manufacturer soon after. In 1926, Turner & Newall acquired all of the ordinary shares in African Asbestos Mining Company Ltd. These acquisitions made it the largest vertically integrated asbestos based business in the UK.

In 1926, Turner & Newall had 5,000 employees; by 1961, it had 40,000 employees half in the UK and half abroad (Jeremy 1995). Its rate of profit in the post-war era was substantially above the UK average for manufacturing industry. Its sales turnover grew consistently and was over £300m per

year in 1958. In 1965, the company had an issued capital of £65m and profits of over £7m a year. The company was consistently profitable up until the early 1980s; in some years it returned its shareholders a 16% yield on their investment (Jeremy 1995). But in the 1970s the demand for the product began to decline as bad publicity caused a switch to substitutes that were now available instead of asbestos. In 1982 the company, in the face of mounting losses, was saved from bankruptcy and restructured by the Bank of England under a new management team. In 1987 it changed its name to T&N a sign of its movement out of the asbestos business and its diversification into automotive components engineering. In 1997, T&N were taken over by the American engineering company Federal Mogul for £1.5bn.

The shareholders and Turner & Newall

The Turner & Newall case raises the important question of who is responsible for a company that has caused fatal diseases in its employees and the purchasers of asbestos, and has spread this carcinogen in the community at large. The identification of shareholder responsibility amongst this set of company role responsibilities needs to be undertaken in several stages. Much of this analysis will revolve around what the company told the shareholders about the asbestos hazard, and what and when the shareholders might have discovered these facts for themselves. One of the key points to bear in mind is that the asbestos problem emerged slowly, and that with hindsight, it is easy to criticise the initial failure of Turner & Newall executives to act decisively when in the early stages asbestos did not appear to be more harmful than other dust producing substances. However, it will be contended that even when the full facts about the dangers of asbestos were known, the board of this company still kept its shareholders largely in the dark over the degree and extent of the hazard, and that this constituted a grave dereliction of duty towards the company's shareholders as well as towards its other stakeholders.

The first issue to be explored is when and how the shareholders were informed of the dangers of

asbestos. An analysis of this issue is necessarily reliant upon public statements and declarations rather than on informal or private disclosures, which some institutional shareholders may have been given. All the Turner & Newall annual reports and accounts have been searched for statements on the asbestos problem, starting from 1926. The first mention of the asbestos hazard came from the Chairman, Samuel Turner in his speech to shareholders in 1937:

"It is only within comparatively recent years that the Directors have become aware of the danger to health which arises from the continuous contact with asbestos dust, but from the first date when scientists brought this danger to our notice, unremitting efforts have been made to overcome the difficulty. Our efforts have been so completely successful that I can with confidence state that new cases of asbestosis in your Company's factories are extremely unlikely, the cases with which we have to deal at present being simply the ... when unfortunately this danger was not realised. When our plans are completed, the working conditions in our asbestos factories will be second to none, and there will be no special risk of any kind attached to working in them. The new ventilation system evolved at Rochdale has been the subject of congratulations by the Home Office, and will, we hope, in due course become the standard in the asbestos textile industries." (Turner & Newall Director's Report and Balance Sheet 30th September 1937)

Shareholders might have been reassured by this statement and were not informed about the problem again until over 30 years later. The next mention of the asbestos problem was made in the Chairman, R.G. Soothill's statement in the accounts for 1967. The full text of this statement placed under the subheading 'Asbestos in relation to health' is as follows:

"Stock holders may have noted several references during the year to the subject of possible health risks to those exposed to asbestos fibre during the course of their employment.

The hazard of lengthy exposure to airborne asbestos dust has been recognised for very many years: indeed, it has been the subject of Factories Act Regulations since 1931, Turner & Newall has always taken a leading and pioneering part in

establishing working conditions aimed at reducing this hazard to the minimum. Comprehensive and detailed studies of individual health in the Company's factories, in which effective dust control methods are in general use, reinforce the conclusion that this danger to health has been very greatly reduced.

Reference has also been made recently to the occurrence of a rare form of malignant tumour, a condition for which the medical name is mesothelioma. The cause of the disease is not yet understood: the Company, in association with others in the industry, is sponsoring comprehensive medical research into the whole subject of health in relation to asbestos, and in particular into the problem of mesothelioma. There is some evidence that the disease may be linked with asbestos fibre, but very few cases are on record in our Canadian and Rhodesian mining areas, where chrysotile (white) asbestos has been mined for more than fifty years, or in our factories in the United Kingdom, where this type of asbestos has for many years been the principal raw material in use.

The Company will continue to spare no effort in promoting safe working conditions in all its mines and factories. It is collaborating fully with the Ministry of Labour in the review of the Factories Act Regulations which is at present in hand." (Turner & Newall Report and Accounts 1967: 6-7)

This statement is highly contestable in many respects. Asbestos had been recognised as a dangerous substance for nearly 70 years. The first cases of pulmonary fibrosis were diagnosed in 1900, and the diagnosis of asbestosis became accepted as an industrial disease after an inquest on a Rochdale asbestos worker who died in 1930. Regulations to control the risks to workers' health were introduced in 1931. But in the 1950s, further medical studies showed that exposure to asbestos fibres could cause lung cancer and mesothelioma. However, this growing knowledge about the danger of exposure to even small amounts of asbestos went unheeded in the industry. Court testimony in the case of *Chase Manhattan Bank v Turner & Newall* in the USA, has recently indicated that Turner & Newall's management and medical officers were well aware of this growing body of evidence regarding the asbestos hazard. An expert witness, Dr Ozonoff, was asked

to review the medical literature and to state when it became generally known in the medical and scientific communities that asbestos caused asbestosis. He replied, "It's my opinion that it was generally accepted by the medical and scientific community that breathing asbestos fibre could cause a serious and potentially fatal disease of lungs which was then called asbestosis no later than 1930" (Chase v T&N 87 Civ. 4436 (JGK): 602). His view was based upon the fact that the influential Merewether and Price report on asbestos dust and lung disease was published in 1930, and more than two dozen other articles had appeared on this topic prior to this date. The court was later presented with evidence gained during the 'discovery process' from the T&N archive, that the company had tried to suppress the publication of the epidemiological report into lung cancer and asbestos its board had commissioned from the young medical researcher (now Sir) Richard Doll. A letter from the company medical officer, Dr Knox, refusing Doll permission to publish his study of cancer rates in its factory workers, was produced in evidence. In the event, Doll published the study in the *British Journal of Industrial Medicine* under his own name without the company's permission.

Only when damaging media publicity surfaced in the 1960s, did more precautions come into place in the asbestos factories and the dangers of asbestos gain wider acknowledgement amongst customers and communities. A conference in New York in 1964, presenting the research work of Dr Irving Selikoff into the connection between asbestos and lung cancer based upon independent data, was perhaps the catalyst that brought the issue to wider public attention. On 31 October 1965 the Sunday Times published a front-page article entitled, *Urgent Probe into 'New' Killer Dust Disease*. Turner & Newall sought to minimise the problem to its customers in the following terms:

"There is no known health risk associated with the normal handling of processed asbestos goods ... There is no proof that asbestos causes mesothelioma, and it is by no means the sole cause of this disease. The chances of anyone in contact with asbestos contracting this complaint are very small indeed, and it could not be over-emphasised that

this is a rare condition." (Quoted in Tweedale 2000: 187)

In 1967, the company decided to set up the Asbestos Information Committee, along with other asbestos manufacturers, to counter the bad publicity asbestos was beginning to receive. The Committee was advised by the public relations firm, Hill and Knowlton, and given a large budget to extol the safe use of asbestos and to publicise the dust research from the Asbestosis Research Council set up by the industry in 1957. The ARC was also well funded but never conducted epidemiological studies into the asbestos workers' health. Guidance notes from the AIC to its members are in many ways indicative of the nature of this 'front' organisation: it advised asbestos company spokespersons never to be the first to raise the health question, always to make clear their concern, to emphasise rarity of the disease's occurrence, to stress that control measures are effective, to be positive, and to always mention the indispensability of asbestos.

Dr Geoffrey Tweedale and Professor David Jeremy have chronicled in great detail the company's attitudes to the unfolding health hazard at Turner & Newall. Initially, in public and in court, the firm repudiated the term asbestosis, they denied that the disease was caused by asbestos, that there was any risk to the public and posed only a limited risk for some workers. Tweedale characterises the company's longer term response in the following terms:

"Turner & Newall provided significant opposition to the government dust control and medical schemes between the 1930s and 1960s; it neglected to implement such schemes fully both in the UK and overseas; it failed to warn customers; refused frequently to admit financial and moral liability for the consequences of its actions; often paid out token amounts of money for industrial injuries and deaths; tried to browbeat doctors, coroners, and the Medical Board; sought to suppress research linking asbestos and cancer; gave the government inaccurate data about disease among its shipyard workers; and disseminated imprecise information about the 'safety' of asbestos." (Tweedale 2000: 279)

The 1967 Chairman's statement, above, was probably issued because of the rising tide of publicity

about the asbestos hazard in the media at this time and because of the threat of new government regulations. From the 1960s onwards as the dangers and incidence of asbestos related deaths became more well known and widespread, the company's public stance began to shift from that of outright denial towards that of risk assessment and damage limitation.

Even if the shareholders took the Chairman's statement at face value, this was only the second indication that the shareholders had had that they were investors in a company that was manufacturing a product causing major health problems on an increasing scale. In many respects, the directors were not being open and honest with the shareholders. It might be argued that only a limited degree of moral responsibility can be attributed to some of the shareholders if they were kept in the dark about the facts of the hazard for so many years, and, when they were informed, were then given misleading and erroneous information.

Should the recognition of the shareholders' knowledge about the dangers of asbestos begin from the Chairman's statement in 1967? This is a debateable point, because shareholders cannot be assumed to know only what the company tells them. It could be argued that the shareholders should have recognised the hazard independently of the company's statement, as a matter of common knowledge in the public domain, as might be the case when it comes to tobacco or alcohol for example. The issue of whether the danger of inhaling asbestos fibre was common knowledge also arose in the *Chase v T&N* court case. T&N's defence counsel, in cross examination of the plaintiff's expert witness on asbestosis, presented evidence to show that the connection between asbestos fibres and cancer and lung diseases was made plain in articles published in the *Encyclopaedia Britannica* in 1952 and again in 1953 (*Chase v T&N* 87 Civ. 4436 (JGK): 769). The defence counsel went on to suggest that many magazines and other general interest journals, not just scientific journals, were increasingly publishing articles that made the link between asbestos and lung diseases at this time. In other words, a well-informed member of the public in the 1950s should have had some awareness of the growing

association of asbestos with health problems. Perhaps this should apply even more so to the investors in Turner & Newall shares in the 1960s.

Only a few further statements were made to shareholders in the Turner & Newall reports and accounts after 1967. The first time the costs of asbestos-related disease payments were reported upon was in the 1981 accounts, where costs of £2.1m for 1980, and £3.9m for 1981 were mentioned. The difficulty of estimating the costs of compensation settlements in the USA was mentioned in the report and account of T&N in 1994; and in 1996 a £380m charge against profits was made by the company in the accounts for that year. Apart from these ambiguous and uninformative disclosures in the reports and accounts, shareholders were left largely ignorant about the nature and extent of the problems facing the company.

Another point to consider is whether the institutional investors were told earlier about the problems. Institutional investors are often party to private briefings from company directors or have personal contact with the directors in other forums. In that case their knowledge of the hazard could have dawned much earlier. Little evidence exists of shareholder concern being raised at the company's annual general meetings until 1977, when a protestor poured a bag of supposedly blue asbestos (soap powder) over the chairman's head (Tweedale 2000: 250). It is difficult not to draw the conclusion that the shareholders in Turner & Newall took very little action to bring their concerns, if any, to the attention of the company's board of directors. These principals did not seem to care much what their agents were doing. The directors seemed content to keep the problems quiet and do very little about them. As Tweedale has commented:

"... knowledge was available to do much more, as there can be no doubt that Turner and Newall had vast amounts of information at its disposal. The continuing asbestosis problem in the 1940s, closely followed by the appearance of cancer, should have resulted in much tighter regulations in the workplace, either on the company's initiative or in conjunction with government. Ventilation should have been improved and extended, good house-

keeping rigidly enforced; and the workers and unions educated in what Merewether had thought so important -- 'sane appreciation of the risk'. In particular, medical surveillance and dust protection should have been extended to the lagging trades. In the long term, the company should have sponsored well-funded and wide-ranging epidemiological studies and then acted upon the findings. Ultimately, it should have moved as soon as possible to replace asbestos with safer materials." (Tweeddale 2000: 280)

On learning about the asbestos threat the shareholders should have contacted the directors and set in motion these corrective responses much sooner, and have urged them to give more warnings to customers and the public. The responsibility of substantive shareholders should perhaps be greater than that of the small shareholders in bringing these concerns to the attention of the board.

There were 176 shareholders of Turner & Newall in 1969 with holdings of £35,000 or over, holding share capital of £23,450,214. These were mostly institutional investors such as pension funds, insurance companies and banks. There are some 'interesting' substantive shareholders on the registrar's list: Co-operative Insurance Society (£0.441m), Friends Provident and Century Life Office (£0.070m), The Salvation Army Assurance Society (£0.041m), Royal National Pension Fund for Nurses (£0.049m), The Chancellor, Masters and Scholars of the University of Oxford (£0.0426m), The Official Custodian for Charities (£0.899m), and the United Kingdom Temperance & General Trust Corporation (£0.340m). The largest shareholdings were owned by Prudential Assurance Company (£2.365m) and, surprisingly, the Church Commissioners for England (£1.071m). It is difficult to know what degree of responsibility these substantive shareholders might accept for the asbestos problem and the harm it has caused.

The shareholders were not the only parties who can be accused of being slow to react to the asbestos problem. The government was to some extent misled and pressured by the asbestos manufacturers into delaying regulation and not enough countervailing pressure was exerted by the medical profession, factory inspectors or trade unions. After the initial introduction of regula-

tions in 1931, they were tightened in 1969, and a wide-ranging commission of inquiry into asbestos held in 1976. However, the realisation that there was no acceptable level of exposure to asbestos fibres was not made public until the statement of Under-Secretary of State, John Gummer, in 1983. A complete ban on the import, supply and use of all forms of asbestos was introduced by the Labour government in 1997. Eventually the use of white asbestos was banned altogether in the EU in 1999, the ban to take effect from 2005. In 2001 the World Trade Organisation upheld its ruling that France was justified in banning imports of white asbestos from Canada, despite the latter's claim that it can be used safely and that the trade should be protected by WTO rules.

From 1967 onwards the annual number of asbestos disease claimants rose from a few hundred to several thousands as exposure to asbestos fibres was so widespread in homes, factories, offices and ships. Whilst the full extent of the health hazard is now fully recognised in developed nations, those exposed to asbestos in the underdeveloped world are now coming forward in rising numbers with symptoms of fatal diseases. In the UK about 3500 people per year are dying from asbestos related diseases, and this figure is likely to rise to over 5000 a year in the next two decades (FT Guide Health and Safety at Work 1996). The number of people worldwide who will die from asbestos diseases will probably run into millions in the decades to come. Many asbestos companies have shut up shop, or have moved overseas, or have gone into 'technical' bankruptcy.

The problem for the victims is that many do not know where they were exposed and against whom to make the claim for compensation. Nobody wants to accept responsibility for such a widespread and devastating tragedy. Claims are being made by former workers, people who worked with asbestos in other occupations, and by people who lived in the vicinity of its factories, against the manufacturers such as T&N, the distributors, the contractors, and the insurance companies. In October 1995, T&N was ordered to pay compensation for environmental contamination outside its factory in Armley in Leeds to a woman who

contracted mesothelioma when playing as a child near the factory. Further claims are pending against Turner & Newall, who have already paid out about £200m to settle cases out of court without admitting liability.

In the future, claims against Turner & Newall are set to rise, but the policy of only making limited provision to pay compensation encourages observers to think that its defensive and legalistic strategy towards the victims of asbestos will have to be maintained indefinitely. In 1997, T&N was taken over by the Federal Mogul Company of the USA. But claims against the legacy of T&N and the other asbestos companies are set to continue, despite the insurance arrangements (£1.19bn) put in place to try to cap the liability from these claims. In fact, Federal Mogul is now facing ever rising asbestos claims (173,000 personal injury claims were pending in 2000, and its latest estimate of probable liabilities is \$1.6bn payable over the next 12 years). The shareholders of Federal Mogul might well ponder the announcement from the Chairman of T&N, Sir Colin Hope at the time of the takeover, just before his board received a £3m severance package: 'I believe that for all practical purposes we are now asbestos-free' (FT 28.11.96). The collapse of the asbestos companies, together with the increasing failure of their insurance providers such as Chester Street Insurance, could mean that asbestos victims will go uncompensated and be left to the mercy of the welfare state. The question why present shareholders are having to shoulder this burden of compensation might well be asked. Should the shareholders who took their profits and sold out before the crisis broke be allowed to get away with it?

What are the lessons for shareholders and for corporate governance?

The facts of this case indicate that the unencumbered shareholder can sometimes become the irresponsible shareholder. The orthodox model of corporate governance does not appear to have worked as it is supposed to do in this company. As the knowledge about the danger of asbestos increased so too should the volume of the voice

of the shareholder in calling the company to account. Initially, the shareholder's responsibility should have been to urge the company to investigate and take the necessary precautions. But if the company seemed not to be following through on this, the shareholder should then have demanded further action, and if necessary have involved the regulatory authorities in the affairs of the company. The failure of this governance process puts the blame for this tragedy jointly upon the shareholders and the board of directors and makes them jointly culpable in morality, if not in law. A failure of both shareholders and directors to take early and appropriate action in the face of the evidence of asbestos's harmful effects has made the problem, in the event, even worse. The shareholders from the profitable era have been free to cut and run, and it is unlikely that any attempt will be made to link shareholders from this era to the compensation claims the company now faces. The unencumbered shareholder is a player in a game of pass the parcel, where, when the music stops, those left holding the parcel have to pay the bills. Most Turner & Newall shareholders have by now passed the parcel of asbestos compensation on to the shareholders of Federal Mogul.

The case also highlights the fact that the relationship between shareholders and directors that is meant to underpin the principal/agent system of corporate governance is often very weak in practice. Capitalism appears to be out of control and lacking in accountability when a board of directors can effectively keep its shareholders in the dark for so long. If shareholders are not in a position to hold the company accountable the weaknesses of the stewardship model is exposed. The conclusion must be that company democracy is so unrealistic that shareholder power in public companies can only be effective at the moment of the sale of shareholdings.

The point at which the responsibility begins to move from the shareholders across to the State and its regulatory authorities is another issue highlighted by the facts of this case. If it becomes apparent to the regulatory authorities that the company is acting irresponsibly, then a free market in this company's shares should not be allowed to

continue, particularly if the company is presenting misleading statements to shareholders and the market. The State should be obligated to act in these circumstances to prevent a false market in these shares and to exercise proper regulation in the event of the shareholders failing to do so. In the UK, the Bank of England's reconstruction work on the finances of T&N in 1982 did little to fulfil its obligations in these respects, beyond the minimum of keeping the company going in order to maintain employment and compensate its victims in the short run. There may also be a wider obligation for the State to ensure that the stock markets and regulators in other countries are warned about these problems at the same time to prevent them from simply being exported.

It has long been noted by constitutional theorists that countervailing power is essential for questioning and restraining the authority of governments. Corporate governance also needs such processes, and in this case the countervailing forces of trade unions and medical officers were weak and largely ineffective. The countervailing power of the shareholders, in theory, the principals who can make the directors accountable, were, in this case, effectively neutered through ignorance of the problem. The failure of significant shareholders to act and change the company's policy on this issue is also lamentable. This lends support to the view expressed by Sorell and Hendry, and Charkham and Simpson that more active long-term forms of shareholding should be encouraged, and that substantial shareholders should be under a duty to be more active and vocal in corporate governance processes. The lessons of this case would seem to lend a good deal of support to the virtuous shareholder perspective, but further arguments can also be made that there are wider lessons still for our system of corporate governance.

Agency costs are potential moral hazards, and new mechanisms to hold companies to account need to be developed, along with a wider audit role and greater disclosure in published accounts of risk factors. The reforms called for in the 1999 Turnbull Report on corporate risk assessment and reporting are in this respect long overdue. The proposal from the modern company law review

group for the introduction of wider financial and operating statements, which take greater account of stakeholder interests is also to be welcomed. Changes in company law to provide more detailed specifications of directors' duties in a public company are also needed to prevent this situation from arising again. But it should not be forgotten that investors still ought to remain vigilant and keep themselves generally well informed when making investment decisions.

It is contended then that our corporate governance structures are in need of reform, and that the obligations of shareholders need to be reappraised. Where there are burdens to be borne, they should be laid on every shareholder, but the responsibility to improve corporate governance processes should weigh more heavily upon the relatively broad shoulders of the institutional investors. The responsible shareholder needs to be encumbered by the bonds of society and have a sense of commitment to the common good. Shareholding should be an embedded role where the virtues of the investors, either individual or collective, should have a part to play in their deliberations. Responsible shareholders and corporate governance reforms can help restore company legitimacy as institutions that serve the common good in society.

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Against paternalism in Human Resource Management¹

Richard C. Warren

The paper presents an evaluation of the paternalistic model of HRM. The analysis reveals that this conception of the employment relationship is deeply flawed and does not provide a morally acceptable approach towards responsible citizens in a democratic society. Moreover, where the employment relationship is based upon managerial hegemony and secrecy, the danger is that this can become institutionalized as a corporate morality that brings about the unintended consequences of moral indifference and unjust conduct towards employees and other stakeholders. The conclusion of this evaluation is that a wise management will try to open up its decision-making processes and seek the participation of a wide range of stakeholders in the determination of the economic and social purpose of the company. There is another option: the employment relationship can be informed by a communitarian perspective, which aims to strike a balance between the economic interests of employers and employees, and the need for justice to foster mutual cooperation in the pursuit of a common purpose. This conception of the employment relationship will be outlined here as HRM in the 'community of purpose'.²

Introduction

Propositions developed from special cases may yet be generally valid. (Schumpeter 1987)

Relationships in the labour market are in a state of flux today. Prior to HRM (Human Resource Management) there was Personnel Management, which aimed to strike a balance between the demands for economic efficiency on the one hand and the demands for justice in the organization on the other. Implicit in this view of Personnel

Management was the insight that organizational life has two aspects: an economic one and a moral one. Somewhere in the transition from Personnel Management to HRM this point has been forgotten, and the balance has shifted in favour of the demand for economic efficiency and away from a concern with the just distribution of rewards and risks between employer and employee.

One of the current trends seems to be the movement towards a contractual relationship with employees with little expectation that the relationship is anything but a limited economic nexus of

mutual self-interest between employer and employee. Loyalty to the company is no longer emphasized, and employees are only employable because they are useful bundles of skills and knowledge. In global, competitive markets, organizational efficiency and flexibility are the keys to competitive advantage, and HRM policies and practices are about getting people to adapt and accept a strictly contractual relationship. The ideological ground of HRM is expounded by a number of ideologues on both sides of the Atlantic such as Charles Handy and Robert Reich (Handy 1994, Reich 1992), and it forms the basis for the expectations of the next generation of employees.

Another parallel trend in modern industry is for companies to re-consolidate the power and prerogative of shareholders and management as the countervailing forces of trade unions and government regulations continue to diminish in strength. This new power is not always used to increase contractualism in the employment relationship, but instead is often used to re-establish a new paternalism between employer and employee. In these firms HRM policies are designed to elicit employee commitment and team based productivity improvements by the creation of a new moral bond between employer and employee. By imitating the practices of some Japanese and German employers, who do emphasize the moral nature of the employment relationship, HRM in some UK firms has become sophisticated but monolithic.

The first of these trends in HRM policies has been criticized because of its limited understanding of the nature of the employment relationship and because of its long-term destruction of social capital both inside and outside the firm (Warren 1996, NACAB 1997, Fukuyama 1995, Herriot *et al.* 1998). In short, this approach to HRM does not provide a way of life that is acceptable or stable enough for the ordinary person (except perhaps for the young and talented). Work for many people is an important source of identity and meaning in their lives, hence the attractiveness of a possible return to the paternalistic model of the employment relationship which does re-moralize the employment relationship and makes a contribution to the development of social capital

(Anthony 1986). Paternalism, after all, does have the merit of recognizing that economic power is unbalanced between employer and employee; and emphasizes the fact that moral obligations also accompany the employment contract on both sides by trying to maintain the fiction of the free and fair negotiation process. A significant and meaningful identity is given to the employee, and security and stability of employment are offered in return for loyal devotion to the employer. However, this relationship cannot be fostered with all employees; employers therefore tend to create divisive core and periphery labour markets. A dual labour market policy is felt by many HRM managers to be preferable to a free for all in employment contracts and the attendant decline of company legitimacy in society.

The paternalistic model of HRM

Peter Anthony in his book *The Foundation of Management* (1986) puts forward the argument that management in British companies has been reluctant to accept responsibility for the control and direction of its workforce. He claims this has been a persistent and deliberate strategy of avoidance by management which has led to poor economic performance, and to the scapegoating of workers and their trade unions for this persistent failure. Anthony maintains that management must come to terms with the fact that its authority and power, if it is to be considered legitimate, must be based upon moral foundations. The important point is that managerial authority cannot be assumed or conditioned by manipulation of the technical, administrative or social structures of employment; it has to be grounded in the employees' voluntary submission to managerial authority. In other words, the moral dimension of the employment relationship has to be acknowledged as well as the economic dimension.

Anthony wishes to resurrect the paternalistic relationship that existed between master and servant prior to industrialization, which was based upon a network of obligations between these two parties. He points out that despite the self-interested nature of many paternalistic employers in the industrial revolution, they were often also

driven by religious sentiments that required them to subordinate all activities to moral imperatives, including the nature of their relationship with their factory workers. However, over time the corrosive effects of the *laissez-faire* doctrine of following one's own self interest began to undermine the paternalism of the early industrialists, and a philosophy of strict labour control and narrow calculation of self interest became the norm. Paternalism began to be associated with authoritarian employers who combined strict discipline and efficient methods with amiable and sentimental treatment of their employees. This model of paternalism was profitable and yet failed to generate employer obligations. Small wonder that trade unions and workers often found this to be the worst of all employment relations to deal with and campaigned vigorously for its demise. Gradually, Anthony notes, the paternalistic model underwent three transformations; from 'traditional' to 'costed' paternalism, and ultimately evolved into its final form, 'welfare management', which is motivated solely by employer self-interest for profits and gives rise to a manipulative approach to employee relations.

Whilst acknowledging that the paternalistic model ended up in a 'blind alley', Anthony thinks that it should be considered as relevant to contemporary HRM because of its moral benefits in an industrial society. Paternalism offers employees security and protection against a chaotic labour market, and a clear subordinate identity under a more powerful and better educated management. In return, the employees should expect to do as they are told, refrain from making trouble and commit themselves to the prosperity of the company. Paternalism's assumptions about the balance of power in the employment relationship are at least more realistic than those of the liberal view which assumes free and fair negotiation. Employees might well take the view that if employers have the power to get what ever they want it is better to work for those who are at least prepared to recognize some moral obligations under the contract. Paternalism is more than an economic exchange; it is also a reciprocal exchange of obligations, which, if broken, irrevocably damages the nature of the trust relation-

ship. Often the rights and responsibilities in the paternalistic relationship are diffuse and unspoken, more a question of understandings and expectations that, because of their very ambiguity, can help to create a trusting and flexible relationship between employer and employee. An attempt to specify the degree and scope of obligation is the beginning of an attempt to undermine the paternalistic relationship.

It would seem that paternalism is corrupted by market pressures that force the employer to become ever more efficient and profitable, leading to the introduction of bureaucratic techniques which erode and ultimately undermine the generalized trust relationship between employer and employee in the organization. In many industries, paternalistic models of employment have been abandoned and the contractual model embraced as the only practicable alternative in global competitive markets. This implies that a certain market determinism inevitably applies to business organizations, and that the choice of HRM approaches is thereby necessarily narrowed. This argument is demonstrably false, as a variety of different HRM regimes are pursued in equally successful companies, and in different national cultures (Lorenz 1992). Consequently, there is much more opportunity for choice to be exercised over the model of HRM to be implemented in a firm than this deterministic argument would imply. On the important question of the deference involved between employer and employee in a democratic society where differences of status are hard to openly acknowledge, Anthony claims that the nature of the condescension has changed in society such that the open acknowledgment of the dependent nature of the employment relationship need no longer be feared: it is a fact of economic life and should not undermine democratic relationships. In response to the charge that paternalism is a contradiction in the employment relationship, Anthony replies that in complex organizations this contradiction can actually make the relationship work better. He concludes:

The very inconsistency of paternalism, the harsh realities that expose the limitations of the extent of its care, reflect the confusion and contradictions in the employment relationship itself. Not only does

paternalism reflect reality ... by accepting moral responsibility as a part of that reality it mediates between humanity and economic exploitation ... Between the awfulness of one alternative and the ineffectiveness of the other, paternalism is a model that is worth re-examination. (Anthony 1986:77)

The paternalistic model as a practical reality in HRM

There is empirical evidence that in some firms HRM practice has moved in the direction of a new paternalism, and away from a strictly contractual relationship with employees (Wray 1996, Ackers and Black 1991). The authoritarian style of management has been on the increase, and in productivity terms it is often found to be a relatively successful formula compared with collective bargaining and the more sophisticated approaches to HRM (Metcalf 1995). However, a paternalistic management style can move in one of two directions; towards authoritarian paternalism, or towards sophisticated paternalism: both are united by the belief that only one set of interests should be recognized in the organization and that this must be acknowledged by the employees (Purcell 1987). A number of foreign owned companies have introduced what might be termed 'sophisticated' paternalistic employment practices. For example, Honda in its new manufacturing plant in Swindon does not recognize unions, but rewarded its employees with a three hour reduction in the working week for no loss of pay (*Financial Times* 1992) Its employees are involved in daily and weekly team briefings, conditions are the same for all employees and no demarcation lines are accepted. In return, Honda has maintained pay and conditions of employment in the plant despite an increase in the unemployment levels in the Swindon labour market from 3% to 9% in recent years. Likewise, the US firm Hewlett-Packard in its UK plants has deliberately adopted flexible wage and working patterns in order to avoid laying off employees (*Financial Times* 1996). Its 'no redundancy policy' has been maintained through the ups and downs of profitability by the use of a variety of practices such as re-deployments, retraining, voluntary severance

and hiring from the internal labour market. This has helped to build employee loyalty to the company and greater employee commitment to implementation of the HP way. Other companies such as Rank Xerox, Rover Cars, Pilkington Glass, have also struck deals with their workforces that involve flexible working in return for better pay, increased job security and the introduction of common working conditions (*Financial Times* 1993). In some cases (ICI, Rover, Siemens) these have been negotiated with the help of trade unions but in others (Alcan, BT, Yorkshire Electricity Group) unions have been de-recognized reflecting the desire of these companies to make the link between the employee and company even closer (*Financial Times* 1994).

A moral critique of paternalism

Paternalism can be criticized on two counts: it cannot be relied upon to maintain a just balance between employer and employee interests; and it does not adequately respect the moral agency of the employee. Anthony is right about the inequalities of power in the firm and the difficulty of representing employee interests, as the erosion of collective bargaining and union representation have shown in recent years. However, his expectation that management can justly respect employee interests in a paternalist relationship is over-optimistic. The following case study illustrates the weakness of the paternalistic model in justly distributing rewards and risks in the business enterprise.

Asbestos is one of this century's biggest industrial killers, thousands of people have died from either mesothelioma, a cancer of the chest lining or asbestosis, a crippling lung disease. Britain's biggest producer of asbestos and asbestos related products was Turner and Newall, who today are called T&N and are now a diversified manufacturing company. However, Turner and Newall even when they knew of the dangers of asbestos, kept this knowledge from their workers, customers and local communities, and have been very grudging in payments of compensation to the asbestos victims. This seems to be strange behaviour from what might be termed an archetypal

paternalistic company, which was commonly acknowledged to be as caring and benevolent as any cotton industry employer at this time, with strong roots in the community and a management philosophy that was inspired by its founder's Methodist faith and strong sense of personal responsibility. And yet Turner and Newall's moral indifference is manifest in the legacy of their company records, some of which have become available through asbestos related litigation, so that researchers now have an insight into the mindset of this employer during the unfolding of the asbestos crisis (Jeremy 1995). These records reveal that Turner and Newall, on discovering the hazardous nature of asbestos in the 1920s, adopted a "stance of denial ... that asbestos was not toxic or its dangers could be minimized." (Jeremy 1995:264) This stance was maintained towards its workforce and the users of asbestos up until the 1960s when the incidence of asbestos related deaths began to be too widespread to ignore. At this point the company's attitude began to shift from one of outright denial towards one of risk assessment and damage limitation.

In Tweedale and Warren's recent study, an explanation for Turner and Newall's suppression and relative indifference to the facts about the dangers of asbestos is offered based upon the view that it was not the culpability of individual managers that led to this outcome but an institutionalized moral failure in which they were merely actors (Tweedale and Warren 1998). The inspiration for this approach to uncovering the organizational determinants of business ethics derives from the theoretical work of Mary Douglas in her book, *How Institutions Think* (Douglas 1986). The behavior of the company's management and the moral indifference shown to employees and the users of asbestos is explained by a functional theory of institutional ethics, which includes a role for human intentions and the role of self-sustaining processes, and unintended consequences in the organization. Whilst it is not possible here to give full details of the extensive evidence used to support this explanation, its key propositions can be presented in outline to support the argument that paternalistic management practices can lead to injustice.

The explanatory thesis for T&N's corporate morality is as follows: the moral indifference shown to the asbestos victims was an effect of T&N's denial about the dangers of asbestos; this moral indifference was useful for T&N in enabling it to remain profitable and serve the shareholders and its local community; T&N's moral indifference was unintended by those maintaining the denial; and this stance of moral indifference was unrecognized as an effect of the denial; and finally, the moral indifference shown towards the asbestos victims and the denial of the hazards of asbestos were found to be linked by an unseen causal loop (paternalism) which prevented the management from recognizing the injustice they were perpetrating and the fact that other stakeholders' interests should have been recognized in this situation.

The important insight of this case is that the unseen loop in the functional explanation was caused by paternalism, which was the founding philosophy behind the thought world of Turner and Newall. If the company board are the parents and the employees are the children; then parents like to believe that they would not harm their children, but when they do, they want to keep it a secret; or if confronted with the fact the parents will deny its truth or its validity. There is, in effect, a pattern of institutional cognitive dissonance. This largely accounts for the secrecy that was practised in Turner and Newall, and the subsequent attempts it made to deny the dangers of asbestos. Indeed, the paternalism of Turner and Newall generated a paradox: a paternalistic employer displayed persistently and forcefully, moral indifference towards its own employees and the users of asbestos. Moreover, this is not just an isolated or a hard case, similar processes of moral indifference from paternalistic employers can be seen in the Chisso Chemical Company case in Japan, in the Piper Alpha tragedy in the North Sea, and in the case of the Ministry of Defence's treatment of the victims of so called Gulf War Syndrome.

The lesson for management is that paternalism, particularly when decision-making is shrouded in secrecy and coupled with the production of hazardous products or the operation of dangerous

processes in industry, can be a moral hazard. Management power should not be converted into a domination of employee interests in the decision-making processes in the firm. The countervailing forces of trade unions and government regulation are very important constituents in the make up of sound management systems. HRM policies need to recognize the moral hazards of paternalism and build mechanisms of participation from a variety of other stakeholder interests into the decision-making processes of the organization. Openness and accountability to stakeholders and some protection of their rights to participate are important policy objectives so that the truth can come out despite the pressures of the market. For this reason the paternalistic treatment of employee interests is to be resisted and the right to have employee interests represented in decision-making in the firm brought back onto the HRM agenda. However, paternalism also suffers from another deficiency in moral terms regarding the dignity of the parties in the employment relationship.

Respect and dignity under paternalism

Paternalism is also flawed in ethical terms because it does not afford employees appropriate moral respect. Even if economic power is unequally distributed, this need not mean that moral respect has to be unequally distributed. Anthony's failure to appreciate the employees' loss of self respect and dignity in the condescending relationship of master and servant effectively ignores this moral argument against paternalism. To explore this issue in more detail, we need to examine the nature of respect and dignity in work and the moral framework required to deliver reciprocity in this domain.

Freedom and equality have very deep roots in our culture as social values. Both have a Christian heritage: freedom of conscience against the norms of society is fundamental to the Protestant spirit; and equality of man before God is a basic tenet of the Christian creed. Both values are closely woven into our collective consciousness and have done much to create a high regard for the sacredness of the individual in our society. In the realm of

material interests, economic freedom and property rights are often privileged over other kinds of freedom (from want or need), and in this sphere equality of condition and ownership are thought to be impossible to bring about. But in the moral sphere these two ideas are still considered to be very important for the dignity and authenticity of the self. To a large extent, a certain amount of material impoverishment and inequality can be endured if moral freedom and equality are still preserved and the inner self is felt to be dignified and authentic. As Zeldin has noted,

Two worlds exist side by side. In one the struggle for power continues almost as it always has done. In the other it is not power that counts but respect . . . Most people feel they do not get as much respect as they deserve and obtaining it has become more attractive than wielding power. (Zeldin 1994)

Consequently, once the fight for basic access to material conditions of living are secured and some notion of equality of opportunity is accepted in place of the equality of material conditions, then the focus of these aspirations moves into the moral realm of their application, where respect is almost a universal need or craving. To respect is to take a certain delight in the other, and as such, is an aspect of love. To lose respect or be shown disrespect is to be ignored or to be demeaned in the sight of others, and is a shameful experience for the individual and can result in a loss of self respect or dignity. Freedom of the inner self is the quest for autonomy and authenticity of existence, and equality is the need to be given the respect due to the unique individual amongst other individuals. When these aspirations are thwarted or denied then the person feels morally injured. And, whilst the loss of self respect and dignity are felt emotions in the individual, an understanding of why and how these emotions are triggered is often a mystery. Indeed, exploring the mechanisms which bestow and deny respect and dignity to the person is not a well developed study. A good starting point in trying to understand this behavior is Sennett and Cobb's investigation of *The Hidden Injuries of Class* which looked at the intimate experiences of manual employees at work (Sennett and Cobb 1993). They found that the

individual who had risen up the ladder of hierarchy had been allowed the freedom to develop personal resources that others valued. Those lower down the hierarchy did the kind of work that did not help them express enough the qualities that were unique in themselves which would earn them the respect of others. Those in authority in the firm were in a position to judge the freedom and dignity of others because of their badges of ability which were seen and accepted as legitimate by other employees. Indeed, Sennett claims, the drive of many people in organizations is not so much for possessions or power as such, but for these as aids to create an inner self which is 'complex, variegated, not easily fathomed by others' (Sennett and Cobb 1993:258).

The challenge for modern organizations is to recognize and take account of this moral dimension in HRM. Because companies direct whole persons and restrict their freedom, it is important that with management power must go responsibility. Management's power is not that of ownership but of organization, the ability to control the setting and conditions of working life (Flanders 1970). Consequently, works councils and collective bargaining fulfil a moral purpose in addition to a distributive role, they can give the employee a share in the governance of the organization in which they work and help them maintain a sense of dignity underpinned by rights, participation and justice. As Sennett and Cobb argue, 'We can now afford, if that is the term, to recognize a diversity, rather than a hierarchy of talents, that is, do away with shaming; it is no longer necessary, if it ever was, for organizations to make a few individuals into the 'best' and treat the rest as an undifferentiated mass' (Sennett and Cobb 1993:261).

HRM in the community of purpose

The conception of HRM in the community of purpose draws upon communitarian thinking for its guiding principles and underlying values (Sacks 1997, Etzioni 1997). Its guiding principle with regard to the employment relationship is the need to balance economic interests alongside mutual moral responsibilities in the organization. It has a sophisticated and pluralistic conception of the

nature and purpose of the business enterprise. And importantly, it has a moral foundation which guides its management practices and mechanisms of intervention. Conceiving of the company as a community of purpose does not imply that it has only one purpose or that it should contain a harmony of interests, it is a collection of economic interests and a community of moral agents with different purposes. Allan Flanders's depiction of the firm was much the same,

Although there is no inherent common purpose in industry its constituent groups are dependent on each other to achieve their own objectives, and the area of common intent and overlapping purposes can be extended as the quality of their relations improves. This depends, not on preaching co-operation, but on how inevitable conflicts spinning from divergent interests are resolved. (Flanders 1970:150)

In the domain of economic interests, it is clear that the trend towards the non-representation of employees in the firm has to be resisted by management, and representative and participative structures introduced and enhanced. Bargaining power cannot be equalized, but it is important that employee economic interests are recognized and given voice in the firm both on moral and pragmatic grounds. Industrial relations research suggests that instead of hindering management from managing, responsible trade unions make them manage better (Wadhvani 1990, Machin and Wadhvani 1991, Sadowski *et al.* 1995). Union voice asserts workers rights and presses for best practice in companies, and helps prevent management from treating workers as a dumb factor of production. By keeping management on its metal, the slide into a low wage low investment economy is avoided, and businesses are stimulated into investments in training and technology that will increase productivity and competitiveness. Trade unions are, in fact, often lubricants of technological change rather than irritants: they help to raise important issues before implementation and help to overcome the difficulties of managing change in the organization. Indeed, it is often said that many managers would perform much better if they had to explain and justify their actions to

their workforces more often. Through processes of collective bargaining, flexible collective agreements can be negotiated which cover issues such as personal development, technology, pay for skills, teamworking, security of employment, and other incentives for continuous improvement. HRM in the community of purpose, must therefore, include the representation and inclusion of employee economic interests in the management decision-making process.

In the moral domain, in a community of purpose, it is important that the moral agency of employees is both respected and given parity of esteem in HRM policies and practice. Employees are to be regarded not as the property of the firm to be manipulated as just another resource, nor as children in a family, in which the managers are the parents and moral guardians of the children, but as adult moral agents who are capable of deliberation and decision for themselves. The indignity and condescension that many employees feel can be avoided if the wise advice of Mary Parker Follett is followed in respect of the giving of orders and the exercise of authority at work (Graham 1996). Directions and instructions should be based upon the 'law of the situation' and not just on the manager's positional authority in the organization. In this system, directions and responsibilities are arrived at through agreement between employees, and everyone should then understand what is required by whom and when, and, in turn, the task should be performed more effectively. Follett's advice went unheeded for a long time, but recent changes in organizations and new experiments with team working tend to suggest that in high-performance teams work and responsibilities are usually based upon the team members assessment of what the situation demands and who will be best able to fulfil a particular task (Herriot and Pemberton 1995). Often the leader of these teams takes on the role of facilitator or mentor rather than the authority figure who gives out the orders. Often the person who becomes the team leader is not necessarily the best qualified on paper, but rather by competence and interpersonal skills on the job. This advice on how to respect the voice and autonomy of employees in the organization may not be a quick

or an easy system of management to operate, but there are signs that some firms are approaching ever nearer to this moral ideal in their HRM practice (Heckscher 1995).

This is not to say that HRM should be neutral towards the moral character of employees; it must undertake to continue to form their characters and help to foster the public virtues upon which society depends (Sandel 1996). HRM policies and practice should seek to cultivate in all employees the qualities of character necessary to the common good of self government and civility. Above and beyond the contractual relationship are moral bonds between employer and employees in a community of purpose, which imply that a more collegiate approach to the management or the governance of the firm should be the long term aim of HRM practice. A statement of the moral values which should underpin HRM is therefore required, but it need not be a new one; such a statement was made very eloquently in one of the first textbooks on personnel management in 1945, by C. H. Northcott. In his chapter on the aims and principles that should govern the practice of personnel management, the object of personnel management is to "secure the greatest degree of collaboration within each establishment" by ensuring that there is:

1. Justice, implicit in the recognition by the employer of his obligations in respect of the workers' claims;
2. Personality, a principle which lies behind the need of the worker for satisfaction in work and service;
3. The democratic principle which deepens the sense of partnership and the rightfulness of the claim of the workers for status in industry commensurate with position as members of a democracy;
4. Co-operation, the establishment of a relationship so all-embracing as to be the governing factor in industrial relations generally (Northcott 1945:167).

Whilst these moral principles seem to have been dropped from later texts on HRM, the importance of dignity and respect at work today means that these values need to be revived and re-interpreted

in contemporary organizations. The communitarian approach to HRM practice relies on the moral agency (virtue) of the employee to guide their behaviour as much as possible, but should the employee fall short of accepted standards of conduct then management must step in and bring the employees actions back into line. Naturally enough, management must keep and maintain these high standards of conduct themselves and lead by example. HRM policy and procedures are of secondary importance in managerial terms to the creation of co-operative relationships and shared conceptions of conduct that are to pervade the organization. HRM policy and procedures are to be drawn up to reflect and express these shared understandings.

Good management needs to be balanced by democratic mechanisms or it will have a tendency to become closed in the face of competitive pressures from outside and then become authoritarian, and unable to innovate and change. However, management that is open and unstructured to the point of anarchy should also be avoided because a company that faces increased competitive pressures will have little reason to stay together. A good principle of HRM practice is that democratic mechanisms should be maximized and only limited when real and present danger exists in terms of productivity and profitability. Apart from this, openness, debate, participation and accountability should be key objectives of HRM policy. This implies that the role of the HRM professional is to act as facilitator or mediator of corporate dialogue at all levels in the company. HRM professionals need to insist that the employee's moral agency is respected, and that they are given the chance to make decisions based upon discussion and deliberation, and to have their views included in the decision-making processes of the firm. Co-operation can only be achieved when employees are treated with the dignity and respect that they deserve as citizens of the company. But that is not to say that only their views will count, it is also important that other stakeholder voices are heard in the governance structures of the company, and that these are brought together around shared notions of the common good in society.

HRM practice in the community of purpose aims to broker a working agreement between a variety of stakeholders' economic interests and to mediate and show respect to all moral agents in the enterprise. In this way, an ethical middle path can be trodden between paternalism and contract.

Notes

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2. The term 'community of purpose' was coined by the moral philosopher John MacMurray in his book *Persons in Relation* published in 1961. The term has also been used by Charles Heckscher in his study of management loyalty, *White-Collar Blues*, 1995. In this paper the term is used to reflect a communitarian perspective on the need to develop virtues in a community that shares a view of the common good. This concept is more fully developed in Warren, R.C., 'Business as a Community of Purpose', *Business Ethics: A European Review*, 5:2, 1996, 87–96.

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