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Controversy: Do Corporations Have Any Responsibility Beyond Making a Profit? A Response to Dennis P. McCann

Norman P. Barry
Professor of Politics
University of Buckingham
United Kingdom

Though I am not an Aristotelian there is something the philosopher says that applies to the question of moral responsibility in business. Aristotle claims that institutions are to be understood in terms of their purpose, i.e., the telos that constitutes their fundamental aim. I argue that the purpose of the corporation is to realize long-term owner value, which is why corporations were set up in the first place. However, any departure from this goal, and non-owning managers are skilled at diverting attention away from a corporation's fundamental purpose, is potentially fatal. A manager's fiduciary duty is first to act in the best interest of the owners, yet a manager's immediate self-interest lies in protecting his or her job. I think this tension explains why managers became active lobbyists of anti-takeover legislation throughout state legislatures in the late 1980s. The academic "discipline" of business ethics has proven to be a convenient shroud behind which some purely self-interested, rent-seeking managers have prospered.

None of this should be taken to mean that by pursuing profit, business personnel are exempt from traditional moral restraints on self-interested behavior. To urge that business personnel are absolved from their duty of honoring promises, respecting justly acquired property, and adhering to a society's rules of fair play merely to show an instant return on investment, would be to perpetuate the "myth of amoral business." Respecting these moral obligations, however, does not constrain profit maximization. Indeed, business has developed its own procedures for detecting rule breakers and enforcing moral codes, which are beneficial to all business personnel over the long-term. In an Aristotelian sense, all this is quite consistent with the purpose or telos of business. However, business moralists normally try to impose, either through statutory law or intense moral persuasion, *supererogatory* duties (those that may be ethically desirable but are not morally obligatory) on business agents. Robert Solomon, an author Professor McCann cites, falls prey to this temptation in his discussion of corporate social responsibility. Charities and public-spirited organizations are splendid institutions, but they are not, strictly speaking, businesses. It is damaging to both business and charity if such institutions are intertwined. Too often, business is condemned as immoral simply because it refrains from pursuing supererogatory purposes.

Corporate Responsibility and Supererogatory Purposes

The most recent example of confusion surrounding corporate social responsibility and supererogatory purposes occurred in the United Kingdom. The Body Shop cosmetics franchise, under the inspiring ethical leadership, if not egregious moral vanity, of Ms. Anita Roddick had for many years eschewed shareholder value and pursued some worthy aims, such as the refusal to use animals in product testing and paying First World wages to workers in its Third World plants. Yet the share price eventually plummeted and, ironically, the company was accused by people even more virtuous than Ms. Roddick, of certain unethical practices. Consequently, Ms. Roddick decided to privatize the company to be free from shareholder pressure in its pursuit of moral value.[1] However, it turned out that the restraints imposed by lenders were as onerous as stockholder pressures. Thus she was forced to return to the stock market with the promise to put shareholder value as one of her top priorities. Even with this eleventh-hour solution, the Body Shop's share price has been languishing for years. The point of this example is to show that attempts to make two different human activities (responsible corporate behavior and the pursuit of supererogatory purposes) serve one common purpose will eventually result in failure for both.

I was pleased to see that Professor McCann agreed with most of my strictures on the stakeholder movement. Yet he was unable to accept the full logic of my position, which stems from my defense of property rights. He seems to accept the argument that stakeholderism would turn the boardroom into a fractious parliament but asks, "How different is it from what managers must already face every day, even when strengthened and consoled … by the clear-cut imperatives of the price mechanism?" Of course, managers are not soulless calculators whose work could be more efficiently done by computers. Managers must make choices between competing alternatives but their activities are nonetheless governed by the organization's fundamental purpose—to make money. In the world of the stakeholder, decisions are almost certain to be contemptible compromises between a myriad of mutually incompatible aims. Think of the groups that would have to be courted in a decision about plant relocation, if the stockholders' voices were not ultimately decisive. There is a real difference between the complexity surrounding economic decision-making (and Professor McCann rightly commends Hayek for his understanding of the way the market solves these problems) and moral decision-making. In many cases, moral decision-making is indeterminate, regardless of how superficially persuasive one's moral principles might appear to be.

Ultimately, Professor McCann believes the moral duties of enterprise derive from the moral duties we all have, especially the demand that natural, individual self-interest be constrained by the requirements of the common good, which puts morality on an individualistic basis. Nevertheless, the transition from individual ethics to a company (or quasi-collective) morality is not easily made. Business ethicists typically impose duties on commercial agents that would not be applicable to private persons. These supererogatory duties, perhaps to spend company money on worthy local causes, are not often made of private persons, unless they are very rich. As Professor McCann suggests, one reason for the extra moral duty is that corporations have deep pockets. But this issue raises larger questions, for corporate money is owned by the shareholders. It is not clear to me that the "virtuous" expenditure of these assets should be determined by the managers, which is what normally occurs. It seems to me that morality would be better served if the owners themselves determined the level of corporate social giving. At least they would be faced with the genuine moral dilemma of whether to observe a felt moral principle or to submit to the timeless allure of profit? If the managers are not shareholders, which is often the case, they get a free moral ride when the company acts, under their auspices, for the community. (Of course, there are minor tax advantages in corporate donations, so this kind of morality requires a certain incentive.)

The Danger of Shareholder Activism

There is a danger, as Professor McCann acknowledges, of shareholder activism; which has been a traditional and efficient antidote to managerial breaches of the principal-agent relationship. These days, however, some active and informed stockholders cannot be relied upon to enforce fiduciary duties on managers because they are just as likely to succumb to the latest moral fad. Royal Dutch Shell has been constantly harassed by minority shareholders over its alleged shortcomings with regard to human rights and the environment. Although it originally defeated a motion to establish a compliance committee and to appoint various officers to report on those areas,[2] it was eventually forced to do so—much to the disgruntlement of some shareholders. Shell has been shown to be guilt-free of the charges leveled against it.

Professor McCann makes a telling point regarding management-negotiated compensation packages. This phenomenon is largely a consequence of the fact that top managers sit on each other's remuneration committees and not surprisingly tend to reward one another generously. But this regrettable phenomenon is a result of inactive stockholders. They are dispersed and therefore less able to present a coherent force in opposing management. The final threat to such managerial imperialism is, of course, the takeover and, beginning in the allegedly greedy 1980s, corporate raiders were effective in breaking up managerial power elites. So, various immoral devices, such as "poison pills" (banned under the British Takeover Code), were designed to deter raiders.[3] But in cases where takeovers are irresistible, managers typically succeed in securing highly lucrative "golden parachutes." There may be a sound economic rationale for such actions, given the fact that incumbent managers tend to obstruct the transition process from the old to the new management, thus it can be prudent to buy them out.

These examples of managerial misbehavior illustrate the potentially precarious nature of the principal-agent relationship. Only vigilance by active (but non-political) shareholder groups, combined with the permanent threat of corporate reorganization, can prevent managers from usurping the property rights of owners. Yet Professor McCann insists that managers can be relied upon to deliver morality by being as concerned with the needs of society as they are with fulfilling their fiduciary duties. The case for corporate social responsibility would be acceptable if it were left to the stockholders but that possibility is never discussed by Professor McCann.

Corporations Are Not Persons

Frequently, companies are presented as collective entities that have the same moral duties as individual persons. But this is a risky strategy because, if morality is collectivized, then individual responsibility is diminished and persons are not assigned the blame (or awarded credit) for whatever action takes place within the company. A further movement away from individual responsibility is visible in the tendency (since the famous Ford case in the late 1970s) of the courts to treat the corporation as a moral agent capable of committing criminal offences. While civil law recognizes the corporation as a personalized entity, it is not a surrogate human being capable of *mens rea*. In England, for example, common law judges have taken an individualistic stance and looked for personal culpability in cases of corporate wrong-doing. However, no charge of corporate manslaughter has been upheld thus far in the British courts.

The corporation maintains a curious position both with respect to economics and morality. It is thought to possess legal privileges that it must earn by sacrificing profit on behalf of the common good. Yet it frequently goes unnoticed that when a corporation sacrifices profit for the common good it breaches elementary rules of justice. Corporate largesse is limited, though demands made on business remain steady, which means a company must exercise discretion in giving to one group over another. It is not surprising, given such circumstances, that corporations favor interests with a high public profile because of the favorable media image they generate. I think the example of Coca-Cola mentioned in my previous article fits this description, but there are many other cases where companies deliberately choose high profile issues by which to display their social conscience.

Conclusion

The general point is that sooner or later the most well-intentioned moral schemes come up against the laws of economics. The current Anglo-American model of business, with its stress on shareholder value and individualism, is doing rather well. Its great rivals, Germany and Japan, were once highly praised for their communitarian features but they are being forced to adopt Anglo-American business practices. Investment funds are flowing out of Germany precisely because countries with less restrictive corporate regulations prove to be more propitious venues for quicksilver capital. Freedom, transparency, and honesty are important moral features of Anglo-American capitalism. Capitalist efficiency is often praised but its moral qualities are scarcely noticed.

Notes

1. See Norman P. Barry, *Business Ethics* (London: Macmillan, 1998), 87.
2. See Joseph Johnson, *No Man Can Serve Two Masters: Shareholders Versus Stockholders in the Governance of Companies* (London: Social Affairs Unit, 1998), 5–6.
3. Barry, *Business Ethics*, 133–35.