

THE CORPORATION UNDER ATTACK II: Corporate Social Responsibility

In my last column I had attributed the current ills concerning questions of corporate governance in the Anglo-American form of shareholder capitalism to government regulations and laws, preventing the free operation of the market for corporate control in the form of hostile takeovers. In this column I discuss another threat which it faces in the form of the seemingly innocuous phrase 'corporate social responsibility' to promote 'sustainable development'. I will take up the questions raised by the latter phrase in a future column.

To disentangle the various confusions underlying the notion of corporate social responsibility it is important to recognise that it is based on the moral claims that underlie the so called 'stake holder' capitalism (which is another word for corporatism) found in the continental and East Asian forms of capitalism. They are all ultimately based on denying that there can be a just distribution of property based on contract, just transfers, and first possession- constrained by the necessary expedient of a statute of limitations to rectify past unjust acquisitions- for they view property as arising from the mutual gains provided by social cooperation.

It is argued that much of the existing stock of wealth is the result of social cooperation going back to Adam and Eve. It is in that sense a social inheritance, and belongs to the whole of society. But, largely for efficiency reasons, as the failure of "really existing socialism" has shown, it is inexpedient to rule out some private appropriation of this social wealth. Hence, some of this social wealth can be allowed to be converted into private property, on the terms and conditions specified by the co-owner -society. One of these conditions is to prevent social exclusion from this social wealth of those disadvantaged due to lack of talent or luck who are unable to share in the benefits produced by social cooperation. Hence the State as the co-owner of this social wealth should use its coercive powers to force private owners to give up part of their property or income to the disadvantaged.

This edifice is however based on the myth that, the individual contributions to past and present social cooperation which has generated this social wealth is impossible to trace. Hence, all wealth must be taken to be the wealth generated by society as a whole. But, while there is no doubt that social cooperation has generated the wealth in the world, it is false to claim that no tracing of the individual contributions is available. Everyone who has contributed through work was paid for their contributions in voluntary exchanges. Some of these payments were consumed and some saved and invested, with the resulting assets having the contributor's title to them. To coerce them to give away what is theirs and which they are at liberty to use as they see fit would be unjust. Though undoubtedly everyone has contributed to the generation and accumulation of a society's wealth over the millennia, this does not mean that everything is owed to society. "*Nothing is owed*" Anthony de Jasay rightly notes in his penetrating analysis of this higher nonsense (Before Resorting to Politics). "Everything has been paid for, one way or another, in a manner and to an extent sufficient to call forth the contribution. There is no further common-pool claim overhanging the lot, for no payment must be made twice. He who sees and overhanging claim in favour of 'society' is seeing a mirage, or the wishful image of one"

Equally tendentious is the claim that because of the social cooperation needed to get

the mutual gains in a business or corporation, everyone is a stakeholder, who must be consulted and if necessary assuaged. But a corporation consists of a series of voluntary exchanges based on a contract where the worker has an obligation to perform certain specified tasks in payment for the agreed remuneration. The obligation to consult maybe given by the employer to the worker, as part of the contract, thereby granting them a specific right matching the voluntarily agreed obligation. But there can be no general right to consult ‘stake- holders’, unless one believes that the sharing of the fruits of cooperation cannot be assigned by voluntary contract, and hence this social product has to be shared by continual negotiation or mediation by the co-owner of society’s capital- the State. For the dirigistes, the capital the employer deploys has only been implicitly leased to him, for reasons of efficiency, from society’s capital which is owned by the State on its behalf. But this claim is false. The employer has acquired his capital from his past savings, justly acquired and he can do with them what he pleases. There is nothing which belongs to society which has been leased out to the employer.

Another illegitimate claim is that the economic power wielded by employers and corporations is coercive, as it forces the weak to give in because of necessity to the demands of the strong. But this is to mistake the *actual options* open to the weaker party with their *hopes* for a better deal. The first is part of the set of feasible actions they can take, based on the offer made by the strong, which does not infringe the rules of justice that, the owner is free to dispose of his endowment as long as he does not violate the constraints of harm and obligation. The hope depends upon what turns out to be a false expectation. To use the coercive power of the state to enforce this hope of the weak would be to violate the strong party’s liberty to use their endowments as they wish. It would be unjust.

It is a moral version of this ‘stake-holder’ capitalism to subserve ‘sustainable development’ which lies behind the promotion of ‘corporate social responsibility’. It will have dire results. Because as David Henderson has shown in his devastating critique called Misguided Virtue of this program of what he labels the ‘global salvationists’, the objectives that are to be subserved are unclear, the means to subserve them and to judge their success being even more so.

As long as the pursuit of this moral agenda is not made compulsory in the Anglo-American share holding countries, - as the stake-holder form of capitalism was in Germany and Japan- then as share holder capitalism is compatible with a thousand flowers blooming, companies which favor the corporate social responsibility agenda will have to compete with those interested in the traditional objective of maximizing share-holder value. If share holders prefer these ethical companies, irrespective of their relatively poorer earnings because of their serving many other gods, they will bid up their share price relative to their earnings. If not, their share price will decline compared to their more politically incorrect peers, with the consequent threat to their future survival.

This has already happened to some of the firms and funds which have adopted this moral stance. Thus in the recent stock market bear market, the ethical mutual funds which eschewed holdings of tobacco stocks on moral grounds have found that their performance has been worse than their more economically hard headed peers, as tobacco shares proved more resilient to the downturn than other stocks. Similarly Levi Strauss which created the denim jean , embarked under its CEO Robert Haas on what has been described as “a failed utopian management experiment” in which it “was intent on showing that a company driven by social values could

outperform a company hostage to profits alone”. The outcome was declining sales, profits and share value. As Nina Munk entitled her article in Fortune magazine, this was the way “How Levi’s Trashed a Great American Brand”. If you own shares in a company which claims to be promoting corporate social responsibility, sell them, if you want to preserve *your* wealth! .