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Handbook of Business Legitimacy

Responsibility, Ethics and Society

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With 50 Figures and 41 Tables

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Foreword

Corporations have an enormous impact on our lives, in multiple ways. Decisions made by business leaders modify our options, our opportunities, and our environment. Often in a positive way, but sometimes negatively. However, unlike governments, these people have not been elected, and they cannot be revoked if a large majority or people dislike their decisions. Although we are, as consumers, employees of even entrepreneurs, not totally powerless, the balance of power between individuals and corporations is not equilibrated. As a consequence, the legitimacy of business in society is an important issue. The topic is not new, but major evolutions related to digitalization, sustainability, and the multiplicity of stakeholders who challenge business activities have made it more complex.

As one of the most prolific authors in the fields of business ethics and the philosophy of management, Jacob Dahl Rendtorff has an excellent overview of the complexity of problems related to business legitimacy. For this collective initiative, he has brought together many specialists from all over the world. And yet, we observe a strong European input in this handbook. There may be different reasons for this. Jacob is currently on the board of the European Business Ethics Network (EBEN) and he has organized EBEN conferences in the past. So, it is not surprising that many people from our network have contributed to the handbook. But there is perhaps a deeper, more fundamental reason. From the start, some 40 years ago, business ethics as a discipline has been understood in Europe in a broad sense, not so much merely in terms of compliance with regulation and moral principles, but rather in terms of meeting social expectations. This handbook on business legitimacy is essential to better understand this broader and interdisciplinary conception of business ethics.

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Preface

Welcome to the *Handbook of Business Legitimacy: Responsibility, Ethics and Society*. This handbook gives a comprehensive and scholarly overview of the different dimensions of business legitimacy in theory and practice. Today, in a complex globalized world, business legitimacy is essential for business and society, business ethics, and corporate social responsibility. Concepts of legitimation of business activities are important responses to expectations and justifications of the activities of business corporations, organizations, and institutions. Indeed, business legitimacy is a growing field of research in business studies, economics and business administration, sociology, political science business strategy, public relations, and philosophy of management.

This handbook presents different theories and practical approaches to business legitimacy in an interdisciplinary perspective of the social sciences and business with focus on political, social, ethical, legal, and economic concepts of legitimacy. In the contemporary global economic market and society, legitimacy is constantly challenged, and legitimacy and legitimating concepts are constantly challenged by social and economic change. The handbook explores the different dimensions of business legitimacy with focus on corporate sustainability, ethics, and responsibility regarding the place of business in society and the engagement of business with the expectations of the various internal and external stakeholders of the business corporation.

Moreover, this handbook provides coverage of the state of the art of research and practice of business legitimacy. The handbook is a central reference work for the study of business legitimacy in an interdisciplinary perspective. With comparative integration of sociological philosophical, theological, ethical, economic, legal, political, linguistic, and communication theoretical approaches, the handbook clarifies the relation between business organizations and their social and economic environments. This research implies investigation of how relations between company and environment are formed by legitimating notions in public spaces and public relations. Thus, notions and concepts of business legitimacy are changing, and these transformations have impact on the epistemological as well as practical dimension of business research and practice at the macro, meso, and micro levels.

In addition, the handbook includes investigation of historical and classical dimensions of the development of business legitimacy, providing a comprehensive assessment of the concept's evolution and identifying the most influential authors and their works. The handbook presents systematic approaches and major themes developed in the concept of business legitimacy. The different parts of the handbook include conceptual, empirical, or case studies. The different parts of the handbook deal with the different topics to which business legitimacy has been applied, with how legitimacy is relevant in various operational areas of the firm, and with the legitimacy theory's responses to some of the most important issues that businesses and organizations currently face.

Accordingly, the handbook searches to present researchers, students, and practitioners in business and management to the theory and practice of managing legitimacy and public relation in the perspective of research in business and society, corporate social responsibility, and business ethics. The handbook presents the major theories of business legitimacy related to corporate social responsibility and business ethics – relating them to corporate practices and emerging trends and requirements of legitimacy. This includes presentation of the major schools of business legitimacy, including business legitimacy and responsibility, the strategic conception of business legitimacy, the international view of business legitimacy, corporate citizenship and business legitimacy, the communicative view of business legitimacy and ethical conception of business legitimacy, business legitimacy and human rights, and business legitimacy and stakeholder management.

Moreover, the handbook presents these theories in relation to social, cultural, and legal developments in Europe, the United States, Asia, and other parts of the world. In recent years, there has been a fast and tumultuous development in requirements of legitimacy of business in society. Changes in business legitimacy requirements imply that legitimacy has become a license to operate for a firm so that legitimacy is not only about business and society but indeed also about business for society. In many cases, reporting procedures and accountability programs for corporate and social values are introduced into an organization in order to respond to more complex and increased requirements for business legitimacy. In addition, with increased requirements for business legitimacy corporations are changing their role in society not only through new partnerships with governments but also by making ethics, social responsibility, and participation in governance processes part of their core management strategies.

Indeed, corporate boards, management, and stakeholders consider leadership and management of business legitimacy as a means to ensure not only the responsibility and integrity of the organization but also to increase sustainability, efficiency, and competitiveness of the firm in a complex democratic society. This development of business legitimacy can be summarized as an evolution towards a new economy of legitimacy and corporate citizenship that integrates business with stakeholders from civil society, labor organizations, business, government, and international bodies. With business ethics, values-driven management, and corporate citizenship, business corporations aim at contributing to governance, sustainability, and development of society and they become responsible for long-term social processes of sustainable development in collaboration and dialogue with their stakeholders.

Thus, this *Handbook of Business Legitimacy: Responsibility, Ethics and Society* is an essential reference work for students and scholars of business and society, business ethics, organizational sociology, public relations, communication corporate social responsibility, and sustainability studies. Important dimensions of the analysis of business legitimacy in the handbook are corporate social responsibility (CSR), corporate citizenship, public relations, public affairs, stakeholder engagement, globalization and trust in the framework of responsibility, ethics, and legitimacy of corporations. In this context, there is focus on the role of communication and public relations for legitimate management and leadership. In particular, the handbook focuses on how to manage ethics and responsibility in the framework of legitimate decision-making in democracy in a global and cosmopolitan society.

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Introduction: Business Legitimacy in the Conflict of Interpretations

Business legitimacy is essential for business and society, business ethics, and corporate social responsibility. Concepts of legitimation of business activities coordinate expectations and justifications of business and society. Business legitimacy is an important field of research in business strategy and organization, business sociology, public relations and communication, business ethics, leadership studies, and philosophy of management. This *Handbook of Business Legitimacy: Responsibility, Ethics and Society* presents different theories and practical approaches to business legitimacy in an interdisciplinary perspective of the social sciences and business with focus on different political, social, ethical, legal, and economic concepts of legitimacy. In the contemporary global economic market and society, legitimacy is constantly challenged, and legitimacy and legitimating concepts are constantly challenged by social and economic change. Thus, it is the aim of the *Handbook of Business Legitimacy* to explore the different dimensions of business legitimacy with focus on corporate sustainability, ethics, and responsibility with regard to the place of business in society and the engagement of business with the expectations of the various internal and external stakeholders of a business corporation.

Business legitimacy implies that a company must take into consideration legitimating concepts and values to be able to exist and prosper in a society. In this sense, there is a close relation between basic ethical principles and business legitimacy (Rendtorff 1998, 2002, 2003, 2008, 2014a, 2015c; Rendtorff and Kemp 2009; Jørgensen and Rendtorff 2018; Jørgensen et al. 2018). Business legitimacy is a precondition of a company's license to operate in society and relations to the different internal and external stakeholders of the company, including investors, owners, employees, customers, suppliers, local community, state, and international society. In this context, there is an important link between business legitimacy and values in management (Pedersen and Rendtorff 2004; Mattsson and Rendtorff 2006; Rendtorff and Mattsson 2012; Rendtorff 2015b, 2016, 2017b, 2019a, b, c). However, the interrelation between a company and the rest of society changes with society's evolution and is mediated by changing legitimating concepts, values, and processes. This is expressed by the importance of business ethics for business legitimacy (Rendtorff 2009, 2010b, 2011a, b, c, 2012, 2014c, 2017a, b, c). Moreover, business legitimacy is important for the definition of reflective management, visions for authentic leadership, and for the rationality of management. Therefore, justification of business legitimacy is an important dimension of the philosophy of management (Rendtorff 2010a, 2013a, b, c, d, 2014b, 2015a, 2017c, 2019d).

The philosophy of science, epistemology, and methodological ideas presented in this handbook are based on concepts of philosophical hermeneutics of Paul Ricœur (Rendtorff 2014b). According to Ricœur, scientific truth and discovery take place in a conflict of interpretation with interaction between different approaches, positions, and concepts of a scientific develops field. Accordingly, the ontological truths and structures of business legitimacy through a dynamic confrontation between different interpretations, fields, theories, and practices of business legitimacy in this comprehensive presentation of the concept of business legitimacy.

In this introduction, we will present an overview of this *Handbook of Business Legitimacy: Responsibility, Ethics and Society*, which presents the most important dimensions of business legitimacy in the tensions and interactions between basic ethical principles, values and management, business ethics, and sociology and philosophy of management. This introduction presents short summaries of the 23 parts of the *Handbook of Business Legitimacy*: (1) Definition and Conditions of Business Legitimacy; (2) Classical Theorists of Business Legitimacy; (3) Business Legitimacy from the Point of View of Religion and Theology; (4) Organization, Business Legitimacy, and Business Ethics Theories; (5) Sociology, Societal Change, and Legitimation Paradigms; (6) Public Governance, Co-creation, Innovation, Taxation, and Business Legitimacy; (7) Law, Reflexive Law, Business Legitimacy, and Corporate Social Responsibility; (8) Public Relations, Marketing, the Public Sphere, and Business Legitimacy; (9) Communication and Public Constructions of Business Legitimacy; (10) Philosophical Dimensions of Corporate Citizenship and Business Legitimacy; (11) Business Legitimacy as Institutionalization of Responsibility; (12) Management of Corporate Social Responsibility and Business Legitimacy; (13) Accounting, Accountability, Stakeholders, and Business Legitimacy; (14) Legitimation Strategies for Business Corporations; (15) Organizational Identity, HRM, Employee Motivation, and Business Legitimacy; (16) Business Economics, Finance, Governance, and Business Legitimacy; (17) Legitimation with Different Forms of Practice of Legitimacy in Complex Societies; (18) Conflicting Notions of CSR and Business Legitimacy in Globalization; (19) Business Legitimacy, Electronic Economy, Digital Work Life, and Surveillance; (20) Business Legitimacy in Different Parts of the World; (21) Polycentric Dimensions of Business Legitimacy in Complex Societies; (22) Sustainable Development, Ecology, the Anthropocene, and Business Legitimacy; (23) Business Legitimacy and the Sustainable Development Goals (SDGs).

Definition and Conditions of Business Legitimacy

J.D. Rendtorff presents a definition of business legitimacy based on institutional theory, business ethics, and corporate social responsibility in ▶ Chap. 1, "The Concept of Business Legitimacy: Learnings from Suchman." This chapter describes the different levels and dimensions of business legitimacy, as this field of research has developed since the classical work of Mark C. Suchman. The chapter analyzes the different perspectives and stages of development of business legitimacy in terms of institutional theory, business ethics, and corporate social responsibility in a critical perspective. The content and development of the concept of business legitimacy include the rationality of legitimacy, the way of legitimization as well as the weighting of legitimacy and of legitimization, and the types of legitimacy conflicts that emerge in the relation between business and society (Rendtorff 2000a). The chapter analyzes the role of business ethics, corporate social responsibility, and corporate citizenship in the stages of cognitive, moral, and pragmatic legitimacy, where legitimacy is societal acceptance and expectations of corporations. Such research on business legitimacy with focus on responsibility, ethics, and society aims at clarifying how the interrelation between company and environment is mediated by legitimating notions in public spaces and public relations and social transformations at the macro, meso, and micro levels of business and society.

A. Suchanek analyzes the definition of business legitimacy in ▶ Chap. 2, "The Problem of Corporate Legitimacy." The chapter begins with a discussion of the problem of legitimacy and argues that this problem became relevant as the corporation was institutionalized as a political actor. In this sense, the emergence of concern for business legitimacy is closely linked to the idea of the generalized acceptability of actions as a central dimension of the ethical focal point. In this context, the starting point is increasing gap between morals and profits. The moral problem is defined as the problem of the function of rights and responsibilities of corporations in relation to their existence on markets of business economics. The chapter places legitimacy within the perspective of game theoretical approach as presented in the concept of order ethics focusing on the rules of the game of businesses. In addition, an important topic is the problem of the game theoretical approach in relation to expectations of companies. It is here that this approach focuses on the concept of focal point. The game theoretical approach to the focal point looks at the concepts of perceptions and assumptions and it looks for a constitutional focal point. Moreover, the chapter defines the ethical focal point as shared understandings of what is socially desirable with regard to expectations of behavior. Thus, the concept of ethical focal point becomes essential to understanding legitimacy in the context of the game theoretical approach as the foundation of a generalized conception of business legitimacy of corporations.

F. Lohmann discusses the anthropological basis of business ethics and work ethics for the theoretical concept of business legitimacy in ▶ Chap. 3, "Anthropological Underpinnings of Business Ethics and Work Ethics in Relation to Business Legitimacy." This chapter focuses on the human dimension behind economic theory, business, and management. In particular, the chapter discusses the anthropological dimensions of the concept of neo-classical economics, but also of other economic concepts, for example, behavioral economics. The chapter argues that homo economics must be seen in relation to other concepts like homo moralis and the intuitive agent of behavioral economics. Even though these models are at work at the descriptive and empirical level, they do apply directly to concept of legitimacy, which is a normative concept. The chapter argues that the legitimacy is dependent on the descriptive analysis based on anthropological studies of homo economics.

However, even at the normative study level, there are different models of legitimacy reflecting the different anthropological dimensions of economic activities. In addition, these models cannot be reduced to anthropological description. Thus, business legitimacy is dependent on anthropological views of humanity and conceptions of the human dimension of economic activity.

E. Grimi presents the epistemological and ontological conditions for business legitimacy in language and values in ▶ Chap. 4, "Language, Morality, and Legitimacy." The chapter provides a philosophical analysis of the principle of legitimacy as the foundation of business legitimacy. This implies the discussion of the relation between language and morality in relation to the principle of legitimacy. A focus is the role of legitimacy in philosophy of language and its consequences for concepts of responsibility and political authority. The chapter is inspired by Aristotelian philosophy and the philosophy of language of Elisabeth Anscombe. The principle of legitimacy is defined as the concept of power in society. This is related to visions of the good and just government and the legitimate political structures. On this basis, the chapter provides a historical overview of cognitive and non cognitive approaches to legitimacy from Aristotle to Hobbes and the modern contractualist tradition. We can say that we move from traditional natural law approaches to modern contractualist concepts of legitimacy. This can also be interpreted as a move from substantial to formal and democratic concepts of legitimacy. In this context, it is important to stress the complexity of the principle of legitimacy, for example, with the discussion of legality and legitimacy. At the end of the historical and conceptual analysis, the chapter stresses that legitimacy cannot be reduced to a formal legal concept. Legitimacy is a moral concept based on political authority of the common good. This position is clarified with a discussion of epistemological and metaphysical realism of J. Haldane and Anscombe. As suggested by Anscombe, practical truth is practical judgment and here we find a connection between the legitimacy of judgment and the moral basis for legitimate action. In this context, the chapter states that the premise of legitimacy is morality. Moreover, civil obedience is needed to respond to problems of legitimacy appealing to individual consciousness (H. Arendt). From this point of view, it is important to stress that legitimacy is about truth and convictions; hence, legitimacy is an element recognized by a multitude of subjects. Therefore, the result of the moral deconstruction provided by Anscombe is the reduction of legitimacy to an element of moral philosophy focusing on human virtues. Accordingly, legitimacy following Anscombe and MacIntyre is based on human flourishing and eudaimonia. In the virtue of legitimacy, language, morality, and legitimacy are intrinsically linked since virtue and happiness are essential elements of a good government. Thus, this chapter provides a corrective to social constructivist and legalist approaches to legitimacy with focus on the nuances of the principle of legitimacy.

Classical Theorists of Business Legitimacy

M. Aßländer analyzes the classical liberal concept of business legitimacy as it is developed in Adam Smith's philosophy of economics and of liberalism in ▶ Chap. 5, "Adam Smith and Business Legitimacy." The chapter shows how Adam Smith's concepts of the market and of the invisible hand as well as his concept of the moral sentiments that are behind human economic exchange can contribute to the understanding of legitimacy of business ethics at the different economic markets. In particular, when dealing with business legitimacy, it is important to understand Adam Smith's concept of the bourgeois virtues at economic markets, which is linked to his concept of moral sentiments. Dealing with virtues, trust, integrity, and accountability are concepts of business virtues that can be traced back to a virtue interpretation of Adam Smith's moral philosophy and theory of economic action. The virtues are important for just competition between nations and creation of wealth in business and society. Thus, the chapter provides foundations for business ethics research on the concept of business legitimacy from the point of view of philosophy of economics.

K. Steigleder analyzes business legitimacy from the point of view of Immanuel Kant's philosophy in ► Chap. 6, "Kantian Moral Philosophy, Universality, and Business Legitimacy." The chapter provides a presentation of the Kantian moral theory and its conception of universality applied to the right to pursue profits and the rights of affected people. Indeed, it is from the perspective of Kant's moral philosophy applied to business legitimacy, the function of sustainable national economies to protect the rights of people. Therefore, rights must be protected by the state, and business strategies should contribute to support the moral norms of society. This means to respect rights and dignity of human beings. Thus, the chapter presents the market economy in the perspective of Kantian moral theory. With Kantian moral philosophy applied to business legitimacy, it is possible to define minimum moral conditions for economic interaction. Business legitimacy from the Kantian perspective is to be taken at once as a strictly (morally) normative concept and as a minimum standard of moral rightness. The chapter stresses the normative dimensions of business legitimacy, and the Kantian approach is related to K. Homann's macro-ethical theory, based on order ethics. This perspective is further applied to financial institutions. In addition, the chapter presents the micro-ethical dimensions of Kantian moral philosophy applied to business legitimacy.

Ø. Larsen presents Max Weber's classical theory of business legitimacy in ► Chap. 7, "Max Weber's Sociological Concept of Business Legitimacy." This chapter discusses the concept of business legitimacy based on Max Weber's thought with the help of an in-depth investigation of Weber's sociology of religion. Instead of looking only at the "Protestant Ethics and the Spirit of Capitalism," this chapter is much more comprehensive and looks at Weber's analysis of Protestant business legitimacy in the perspective of his work on the sociology of religion. This perspective opens for confrontation with Weber's concept of Protestant ethics. The chapter rightly refers to the concept of legitimacy in sociology and to the concept of the legitimate social order in Weber's writings. As the chapter proposes legitimacy is related to the business ethics of a religion. Here, an important insight that it is among the world religions only in the Protestant religion that business receives the function of providing salvation, as it is suggested by the Bourgeois ethics of business as a kind of virtue of salvation. The comparison between Protestantism and Confucianism is very important and relevant for the understanding of business legitimacy. This chapter provides the basis for understanding the role of the difference between morality and religious traditions in the formation of the concept of business legitimacy. With this understanding of business legitimacy, the chapter provides the foundation for the conception of business legitimacy in the "Protestant Ethics and the Spirit of Capitalism." Thus, this is the basis for relating business legitimacy to the other forms of legitimacy in Max Weber's sociology, based on political power structures and the ideas of charismatic, rational, and tradition legitimacy. With this, the analysis of business legitimacy in the tension between Confucianism and Protestantism provides the basis for a political concept of legitimacy, which can be considered the framework for business legitimacy.

C. Sløk focuses on the Protestant tradition of business legitimacy in relation to contemporary concepts of business legitimacy in ► Chap. 8, "Guilt, Responsibility, and Leadership." This chapter discusses the relationship between responsibility and guilt. Contemporary leaders are characterized as having no ethical remorse for their actions and the chapter addresses this important question. It analyzes responsibility without guilt in an ethical perspective and also in the perspective of psychopathy. Psychopathy is action without any moral consciousness. Here, the chapter discusses psychopathy in the leadership literature and presents the dark triad of psychopathic leaders. The chapter also discusses this from the perspective of theology and philosophy of guilt, taking into account responsibility and bondage. In the analysis, the chapter both touches on the Old Testament and critical philosophy of guilt as a social technology as proposed by Nietzsche and Freud as binding between persons. Moreover, the chapter discusses Protestant ethics' conception of guilt as an original sin and a part of human nature as opposed to the dissolution of guilt by contemporary leadership. This is related to contemporary discussions of postmodernism.

Business Legitimacy from the Point of View of Religion and Theology

G. Harste presents the foundations of business legitimacy in religion and theory in ► Chap. 9, "Business Legitimacy, Modernity, and Organizational Systems: Corporate Spirit, Esprit De Corps, and Corpus Spiritus Throughout History." The chapter presents an analysis of the concept of business legitimacy and legitimation in relation to the sociological history of organizational systems. In this context, the analysis of legitimacy is based on presentation of the views of major sociologists and their conceptions of the historical and social development of business legitimacy. From this point of view, it is important to discuss different concepts of work ethics, cooperation, and organizational communication in different organizational systems. Indeed, the archeological and historical perspectives help to understand the foundations of medieval constructions of legitimacy in the historical development of Christianity's concept of organizations and organizational forms. The chapter demonstrates how different figures of legitimacy find their origins in Christian thought, theology, and religion. These forms and figures are still here as being reproduced in modern secularized society.

G. Baruchello presents in ▶ Chap. 10, "Business Legitimacy from a Catholic Perspective: Thomas Aquinas, Papal Encyclicals, and Human Rights," the concept of business legitimacy in the perspective of the Catholic tradition in economics, business, and ethics. The chapter discusses the social doctrine of the Catholic Church as the basis for understanding contemporary economic ethics and legitimacy of business. This implies analysis of the ethical history of economics and business in the perspective of the concepts of the Catholic Church. The chapter presents the market economy in relation to economic systems from the viewpoint of Thomas Aquinas' theology and philosophy with special emphasis of economic ethics and legitimacy. After this discussion of theology, ethics, and religion, Baruchello presents the market economy, economic systems, and business practices in the perspective of Thomas Aquinas' theological philosophy. Later, the chapter elaborates on the Papal Encyclical letters in relation to their conception of economics and business.

C. Sløk presents a theological theory of the foundations of business legitimacy in personal responsibility and feeling of guilt in ▶ Chap. 11, "Theology, Responsibility, and Business Legitimacy." The chapter demonstrates the theological origins of the concept of business legitimacy. This includes understanding of how the theological ideas of Protestantism and of, in particular, reformer Martin Luther and his Protestant ethics of reformation are important in the contemporary concepts of love, guilt, and responsibility behind concepts of business ethics and business legitimacy. This is important for the development of the concept of responsibility and of legitimacy of action and activities in business corporations. In addition, the analysis looks at love, responsibility, and accountability in relation to economics and business. Moreover, the chapter proposes a modern concept of justice relating to discussions of economics and the market of business organizations as the foundation of contemporary ideas of business legitimacy.

J.D. Rendtorff discusses the relationship between economics and religion in ▶ Chap. 12, "Capitalism, Religion, Business Legitimacy, and the Ethical Economy." This chapter addresses the difficult problem of legitimacy of corporations in modern society from the perspective of the relation between economics and religion. In perspective of the religious foundations of economics, the chapter discusses different approaches to economics, based on different economic theories and concepts of the economy. The debate about legitimacy of the economics of the firm represents in modern economics the place of intersection between economic values and other values. With this approach, the chapter discusses modernist economics of neoliberalism and welfare economics from the point of view of social legitimacy of economics. In addition, the chapter presents institutionalist alternatives to neoliberalism and welfare economics in the context of search for a more sustainable transformation of economics in society.

J. Fischer investigates the relationship between religious and cultural dimensions of business legitimacy in ▶ Chap. 13, "Religion, Culture, and Business Legitimacy." The chapter builds on a case study of the concept of business legitimacy with regard to religion and culture. The chapter applies the theory of Suchman as a framework of the understanding of the moral economies of religious and cultural legitimacy. The argument is that there is a changing relationship between business, culture, and legitimacy. The Danish business corporation Novozymes constitutes a case example of this. When Novozymes is acting transnationally, it has to comply with requirements of Hindu vegetarianism, Halal, and Kosher in some countries. It is in this context that the conceptualization of religion relates to the pragmatic, moral, and cognitive categories as proposed by Suchman in relation to the biotechnology business sector, which is considered as a controversial business sector. Measures of compliance, regulation, certification, and standardization are relevant to regulate the legitimacy of business on such religiously and culturally determined markets. There is moral and religious dimension to the economy when a Kosher compliance and inspection requirement is necessary to maintain and create legitimacy of a business organization. This is indeed the case of transnational corporations like Novozymes operating in controversial industries, where extra care is needed to maintain and develop business legitimacy.

Organization, Business Legitimacy, and Business Ethics Theories

G. Scalzo and K. Akrivou present the virtue ethics view and the common good conception of business legitimacy in ▶ Chap. 14, "Virtues, the Common Good, and Business Legitimacy." This chapter provides an overview of the relation between business legitimacy and virtue ethics. The chapter begins by stressing the importance of the concept of the common good in relation to virtues and trust. Moreover, the chapter discusses the concept of business legitimacy in light of institutional theory as the basis for understanding business legitimacy from the point of view of the tradition of virtue ethics. The paradigm of virtue ethics in business legitimacy creates a better relation to stakeholders with focus on sustainability and transparency. This is contributing to holding people responsible for their actions. Based on the essential dimensions of institutional theory as the framework for virtue ethics analysis, the chapter goes on to present the concept of virtues and virtue ethics strategies for the common good in relation to stakeholders. The major concepts of institutional and organizational legitimacy, including Suchman's distinction between pragmatic, cognitive, and moral legitimacy, are presented as a possible framework for application of the virtues in the tradition of humanistic management. Here, seeing business legitimacy from the virtue ethics perspective, the concepts of the common good and of ethical communication become important concepts for understanding eudemonia in business legitimacy.

P. Francés-Gómez discusses in ▶ Chap. 15, "Social Contract Theory and Business Legitimacy," different ethical dimensions of the social contract theory in relation to business legitimacy in the framework of business ethics theories. The chapter gives an overview of the role of social contract theory in relation to ethics and business legitimacy. Social contract theory in business legitimacy can be defined as use of the concept of contract to determine justification in business ethics. This use of the contract approach in business ethics is also called contractarian business ethics, since ethics is considered to be justified on a basis of a social contract between stakeholders, members of a firm, or within society. Because of the presentation of the different dimensions of social contract in business and contractarian business ethics, the chapter relates business legitimacy to the conceptualization of the basic function of business in society as based on a social contract. Thus, the chapter analyzes business legitimacy from the point of view of the most important contributors to business ethics and social contract theory, including Thomas Donaldson and Tom Dunfee, who present the concept of integrated social contract theory. The chapter also discusses John Rawls' concept of a theory of justice and the role of justice in social contract theory. Moreover, contract theory includes approaches from Kantian constructivism, which provides foundation for Rawls' social contract theory in relation to the field of business legitimacy.

A. Brink and F. Esselmann present in ▶ Chap. 16, "Value Positioning and Business Ethics: Keeping Promises as Business Legitimation," an analysis of business ethics at economic markets based on the concept of accountability and reliability of promises and promise keeping. It is essential for a good economic market that promises can be kept and that actors on economic markets can trust each other. In this sense, this chapter provides an analysis of promise keeping as an important subjective and intersubjective dimension of economic interactions at economic markets. The chapter presents the role and necessary function of keeping promises in different concepts and theories of business ethics. Thus, this is an analysis of the scope and definition of the concept of keeping promises in relation to business economic theory in the perspective of creation and maintaining business legitimacy.

K. Høyer Toft can be said to present a negative approach to the concept of business ethics in ▶ Chap. 17, "Ethical Blindness and Business Legitimacy." Ethical blindness is a concept in business ethics and business legitimacy that characterizes the lack of business ethics in corporations and business organizations. The chapter discusses ethical blindness in relation to business legitimacy. This includes a discussion of the definition of the concept of ethical blindness in the perspective of ethical theory of organizations. With this, the chapter relates ethical blindness to important concepts of organizations theory, including blindness with regard to sense-making and the social and organizational context, where individual employees follow a particular instrumental sense-making and framing of their job and role in the organization. This means that they become unable to see the moral problems of organizational action in a particular social context. Overcoming ethical blindness means to engage in ethical organizational framework that is built on a normative theory of political CSR, which can help establish a good workplace. Thus, to deal with potential ethical blindness in organizations is essential for business legitimacy.

Sociology, Societal Change, and Legitimation Paradigms

M. Green analyzes the paradigms of management and accounting research in ▶ Chap. 18, "Mainstream Management and Management Accounting Scholarship: Aspects of Legitimacy." This looks at the different aspects of legitimacy in mainstream management accounting scholarship. The chapter considers philosophy of sciences and scientific method from the point of view of legitimacy research. It therefore demonstrates how science and scientific method are subject to social evaluation and implies social normativity in the management sciences. This means that the chapter is important for discussion among researchers and students about legitimacy values of scholarship and research in management sciences. The chapter thus discusses the concepts of legitimacy in mainstream management research, going from positivism, objectivism, and functionalism towards new managerialism, neoliberalism, and new public management, including a kind of legitimacy crisis of management research. In this context, the chapter demonstrates how mainstream management research combine functionalism and positivism with mix methods and different perspectives on organizations. Thus, the chapter critically argues for more awareness of subjectivism, power, and control of research and proposes the need for emancipating strategies (Habermas) in management research and in the self-reflection of management about its own conditions of research.

S. Holmström presents in the perspective of systems theory the theoretical foundations of legitimacy in ► Chap. 19, "Society's Megatrends and Business Legitimacy: Transformations of the Legitimizing Business Paradigm," different legitimizing strategies that are in function in contemporary business management. The different legitimizing paradigms are based on the different relations between business organizations and society that are affected by the struggle for legitimacy of business corporations. The chapter implies a reconstruction of the course of history with regard to business legitimacy. Moreover, different concepts and theories of historical and social development of business legitimacy are presented in the perspective of modernization of society. In this context, the chapter provides a presentation of the different challenges of legitimacy in society, in particular, with focus on the different concepts of rationality that is at stake in different discursive formations. Theoretical basis of the historical and social development of legitimacy is that the rationality of business legitimacy has a communicative and discursive dimension. This includes a performative concept of legitimacy that moves beyond the opposition between markets and economic profit and the environment of the market external dimensions of society and nature. It is characteristic of the construction of legitimacy that business corporations relate reflectively to its environment in searching for legitimacy. Thus, business reflectivity is essential for the construction of business legitimacy.

D. Tänzler presents a theory of reflexive self-regulation of corporations in ► Chap. 20, "Corruption, Norms, and Business Legitimacy." This chapter studies corruption in the perspective of the possibility of reflexive management and the possibility of self-regulation as a new form of organizational practice leading to business legitimacy. The chapter shows how business must go beyond pure economic concerns and also include other values like transparency, accountability, responsibility, and sustainability as key concepts of new governance. In order to acquire business legitimacy, anti-corruption policies became important and necessary. The chapter presents case studies of corruption on this basis. These cases are related to non directive business legitimacy and reflexive management. On this basis, the chapter defines business legitimacy as formal and substantial. The chapter ends with the conclusion that substantial business legitimacy must have a stronger stakeholder orientation. Thus, the chapter provides a theory of how to deal with violations of norms of corruptions through active self-regulation.

R. Tapaninaho and J. Kujala present the paradigm of stakeholder value creation in ► Chap. 21, "Stakeholder Value Creation: Legitimating Business Sustainability." This chapter shows how a paradigm of value creation and stakeholders in relation to business legitimacy may be developed in order to improve business legitimacy in organizations. Indeed, the presentation of the requirements of different stakeholder conceptions in relation to legitimacy and value creation is needed to improve stakeholder management of business legitimacy. In the context of legitimacy of business sustainability, stakeholder value creation also receives importance for legitimation of sustainable management. Stakeholder orientation with a multiple value orientation complicates business sustainability, but it also points to the problems and difficulties of business legitimacy. The chapter presents different stakeholder models of the firm in relation to business legitimacy, and this documents the relevance of stakeholder perspectives for conceptualizing business legitimacy. Thus, according to the stakeholder paradigm of value creation for legitimating sustainability, business legitimacy is constructed in relation to different stakeholders at complex and differentiated economic markets with different contexts of legitimation.

Public Governance, Co-creation, Innovation, Taxation, and Business Legitimacy

A. Krogh and J. Torfing discuss the new concept of co-creating governance in relation to public governance in ► Chap. 22, "Legitimacy in Co-creating Governance Networks." This chapter presents an overview of the conception of co-creation in public governance related to the collaborative networks in governance processes. The chapter also relates this to the role of private companies as contributors to legitimacy in public governance processes. The chapter begins by describing the process from government to governance related to the contemporary reemergence of nation-state politics. Co-creation is defined as a process of creating public value in a manner in which two or more actors provide solutions to shared problems. The authors determine this as a procreative governance strategy to deal with wicked problems. These new collaborative forms of governance are then considered in different perspectives, including historical dimensions of public governance, analytical definitions of interactions of network governance, as well as in relation to legitimacy of participating private business actors. Finally, the chapter looks at meta-governance strategies for creating legitimacy of private-public collaborative networks. In all these different dimensions, co-creation is essential for successful private-public relations. The chapter gives a description of governance networks as sources of legitimacy where private companies also contribute to governance networks. In the conclusion, the chapter relates this to SDG partnerships and business networks.

L. Li Langergaard looks in ► Chap. 23, "Public Sector Innovation, Social Entrepreneurship, and Business Legitimacy," at the concept of business legitimacy in relation to social entrepreneurship and CSR. The idea of the chapter is that we can also observe legitimacy challenges in relation to social entrepreneurship and public sector innovation. The concept of business legitimacy receives a more complex application when this concept is elaborated in relation to the different elements of the public sector, private sector, and the NGO sector. The chapter studies the concept of business legitimacy as an important element for normative mediation between different sectors. These normative legitimacy requirements emerge between the different sectors of public organizations and institutions, private companies, and NGOs. In particular, the chapter applies institutional legitimacy theory, including Suchman's strategic approach to the study of the relation between public sector innovation and social entrepreneurship. In this context, the chapter proposes a critical discussion of political CSR in relation to the problem of deliberative legitimacy applied to the private sector, and the chapter is critical towards the application of a normative concept of legitimacy in the private sector.

L. Lauesen and T. Bjerre gives a presentation of the possibilities of legitimacy of public companies in ▶ Chap. 24, "Publicly Owned Company Legitimacy: Opportunities and Challenges." This chapter discusses business legitimacy of publicly owned companies with a case study of a Danish water company. The chapter provides a historical overview of business legitimacy in publicly owned companies and elaborates on dilemmas faced by Danish publicly owned companies. The challenge is that such companies tend to have natural monopolies, which give them a natural license to operate. This is for example the case with the water company that needs to distribute water among citizens. However, with discourse of neoliberalism and new public management, there has been a challenge to the traditional legitimacy of publicly owned companies that now needs to demonstrate legitimacy at markets while at the same time taking care of the common good of society. This dilemma is analyzed with the help from institutional theory. The chapter rightly states that the institutional approach to legitimacy combines strategic and cognitive approaches, and here the chapter contributes with a great new approach by moving from Mark C. Suchman to the political concept of legitimacy with focus on procedural legitimacy and social license to operate. This gives us an important framework for understanding publicly owned companies and their legitimacy challenges. This approach is applied to the case of Water and Waste in Svendborg, Denmark, with analysis of pollution of the ground water and the necessary cleanup of this water.

F. Scarpa and S. Signori discuss the essential role of taxation for business legitimacy in ▶ Chap. 25, "Ethics of Corporate Taxation: A Systematic Literature Review." Peer review: This chapter provides a systematic review of the literature of corporate taxation ethics related to ethical responsibility and the role of corporations in society. The chapter presents issues of tax behavior, corporate tax minimization strategies, and ethical responsibilities of corporate taxation related to theories of corporate taxation ethics in a philosophical perspective. The chapter documents the importance of this overview by the fact that there has been increased focus on corporate taxation ethics by a wide circle of stakeholders including states, NGOs, civil society, and other stakeholders. Indeed, extended media coverage has contributed to this focus on taxation implying increased concern about legitimacy issues in relation to business and multinational enterprises with regard to taxation. Moreover, the chapter provides a discussion of the ethical responsibilities related to taxation, including methodology, literature review, ethics of tax evasion, ethics of tax avoidance, and the general issues of ethics of tax practice. After having present the definitions of ethics of tax evasion, tax avoidance, and other corporate tax related issues, the chapter gives a very good presentation of the different moral arguments related to tax and tax avoidance. This comprehensive review includes major ethical theories like liberalism/libertarianism, utilitarianism, Kantianism (the categorical imperative), the ethics of justice (John Rawls), social contract theory, and virtue ethics theory. Thus, the chapter documents increased focus on public interest and responsibility in relation to the definition of business legitimacy.

Law, Reflexive Law, Business Legitimacy, and Corporate Social Responsibility

J. Brinkmann and M. Kochupillai provide in ▶ Chap. 26, "Law, Business, and Legitimacy," an overview of a comprehensive concept of business legitimacy in relation to law and business law. In the analysis of legitimacy and law, the chapter focuses on the importance of power in the concept of business legitimacy. In this context, the chapter emphasizes the role of eventual vulnerabilities of the firm searching for business legitimacy. These vulnerabilities are linked to other concepts like trust and recognition, which help to create and organize business. Trustworthiness is for example an important dimension of business legitimacy in this context of creating business legitimacy. The chapter then applies the developed concept of business legitimacy based on power, trust and vulnerability to selected cases of human rights, intellectual property rights, EU-organic plan regulation, etc. With the analysis of these cases of application and development of business legitimacy through the law, the chapter demonstrates interplay between different concepts of legitimacy in contribution of law to business legitimacy.

K. Buhmann presents in ▶ Chap. 27, "Business, Human Rights, and Reflexive Regulation: Multi-stakeholder Development of Standards for Responsible Business Conduct," the legitimacy of multi-stakeholder dialogue in the context of the United Nations. The chapter discusses reflexive law in a concise form with the good example of the international developments in particular in the context of the United Nations (UN) Global Compact; the UN Protect, Respect and Remedy Framework; and the UN Guiding Principles on Business and Human Rights. This chapter suggests that legitimacy of reflexive law emerges in the international community following the different efforts to create a transnational legal framework for business legitimacy.

In this context, the Buhmann demonstrates how soft law as UN norms and human rights contributes to create and construct business legitimacy. With this, we can use the concept of reflexive law to understand contemporary developments of the UN law-making on the legitimacy of human rights and business. Thus, the analysis of the UN multi-stakeholder developments draws legal philosopher Jürgen Habermas and legal theorist Günther Teubner to define and develop the concept of reflexive law as essential for contemporary developments of law and legal theory.

G. Enderle presents human rights as important dimensions of business legitimacy and corporate citizenship in ► Chap. 28, "Wealth Creation, Human Rights, and Business Legitimacy." The chapter gives an overview of the concept of human rights in business related to the idea of wealth creation of business. The chapter argues that business legitimacy in relation to fundamental wealth creation of business is fundamentally related to human rights. Business can only create wealth when it also relates to the protection and promotion of human rights. In the defense of human rights as essential for business legitimacy, the chapter refers to the UN guiding principles on business and human rights. The concept of legitimacy of business is defined as a moral concept in contrast to more pragmatic conceptions. The chapter confirms that business legitimacy research has become more important the last 20 years. Indeed, sustainability and support of human capabilities is an important dimension of wealth creation related to human rights. Human capabilities are a part of the improving of business legitimacy by respecting human rights and remedying human rights violations. Accordingly, the basic concepts of the UN guiding principles – protect, respect, remedy, and promote human rights – become essential for the wealth creation of business through human rights.

C. Malecki analyzes CSR in the law on business in ► Chap. 29, "The French PACTE Law or Two-Speed Corporate Social Responsibility (CSR)." This chapter presents the legal situation of CSR regulation in France with a detailed analysis of the French PACTE law as an example of a two-speed CSR regulation approach. The focus of the chapter can be seen to be an interaction between CSR, financial and non financial reporting, and an explanation of how this contributes to the development of CSR with the law. PACTE is an abbreviation of Action Plan for Corporate Growth and Transformation. This is a law of 22 May 2019, which aims at integrating CSR and sustainability concerns in the law and legal regulation in France. The focus of the chapter is both CSR and corporate growth. The French civil law and civil code is thus improved as a generalization of CSR. The law aims at making companies grow and be more responsible with impact on society. The law also combines concern for the environment with focus on social and environmental responsibility. Thus, the chapter gives an example of legal regulation and the legal approach to CSR in relation to business growth.

Public Relations, Marketing, the Public Sphere, and Business Legitimacy

K. Mogensen presents in the relation of the business corporation to the public sphere in ► Chap. 30, "Dialogue and Business Legitimacy." The chapter begins with the discussion of two mental models for justification of business legitimacy relating to the public arena and to the corporate legitimacy diamond. Indeed, the discussion of the corporate legitimacy diamond and its relation to human dignity constitute an extremely valuable contribution of this chapter. The chapter emphasizes how important human dignity and human rights are for corporate diplomacy and in this sense respect for human dignity is essential for the acceptance of legitimacy understood as response to social expectations in society. The definition of the concept of legitimacy diamond is based on the idea of the public arena as a point of departure, and adding a corporate diplomacy level of the dialogue of big business with public stakeholders. The chapter takes into consideration the post millennium quest for human dignity and localized trust. This focus on trust and dignity is essential to highlight dialogue and communication as dimensions of business legitimacy. The chapter goes on to analyze dialogue and public relations with help from authors like Parsons, and Boltanski and Thévenot, focusing on community and legitimizing ideology as well as orders of worth. Thus, this chapter points to the importance of respect of dignity and human rights in corporate diplomacy as a contribution to business legitimacy.

M. Haase gives a general overview of the research linking legitimacy in business and corporation in relation to marketing studies in ▶ Chap. 31, "Legitimacy-Related Research in Organization Studies, Stakeholder Theory, and Marketing Studies." Marketing studies can be considered as an important dimension of business legitimacy in relation to the external public sphere. The chapter provides an overview of the concept of business legitimacy in regard to research in marketing as related to the public sphere. This includes presentation of the most important authors with relevance for business legitimacy and marketing, including neoinstitutional theory (Suchman, Scott), philosophy, sociology (Weber, Parsons), procedualism in political theory, and other theorists like Deephouse and Epstein who have had central importance for the developments of the theoretical dimensions of business legitimacy. On this basis, the chapter presents the different levels of legitimacy in order to construct a multilevel concept of business legitimacy. With this, the chapter moves to discussion of legitimacy in management and organization theory, including taking into account stakeholder theory (Freeman and Philips). Finally, the chapter relates the different dimensions of legitimacy research in neoinstitutional theory and stakeholder theory to marketing theory and practice with a discussion of the role of Austrian economics in the section of marketing studies and marketing research.

N. Nielsen discusses ▶ Chap. 32, "Public Relations and Business Legitimacy." The chapter presents the concept of business legitimacy in relation to the field of public relations with its different theoretical, methodological, and conceptual dimensions in relation to legitimacy creation of the firm with regard to stakeholders and the public sphere. This is an important framework for proceeding with case studies of firms. Nielsen applies the concept of business legitimacy to understand the development of public relations, and the chapter shows how public relations relate to the formulation of business legitimacy in the context of strategic priorities of the firm. In particular, the chapter discusses the two-way symmetry model that is based on Jürgen Habermas' concept of the public sphere that defined the public sphere as the center of the forceless force of the good argument. Thus, this effort to achieve business legitimacy is an essential dimension of the search for public acceptance and corporate communication with stakeholders.

K. Alm and J. D. Rendtorff present an activist analysis of critical public intervention in the context of whistleblowing and business and human rights in relation to business legitimacy, journalism, and undercover investigation in ▶ Chap. 33, "Human Rights Violations at the Workplace: Uncovering and Documenting – Günter Wallraff's Activist Whistleblowing Method." The aim of this chapter is to provide a theory of activist whistleblowing for justice and dignity as the framework for detecting injustice and human rights abuses in business and organizations. This is important for trust and business legitimacy. Alm and Rendtorff suggest that whistleblowing is an important field of human rights in business and whistleblowing is essential for creating public awareness of human rights abuses and democratic engagement in promoting human rights in business. In order to develop such a theory we use the activist work and controversial life of the German journalist and writer Günter Wallraff after a confrontation with the dominant concepts of whistleblowing in relation to business and human rights. This analysis focuses on business legitimacy in the perspective of freedom of expression and employee rights in relation to human rights abuses and organizational wrongdoing.

Communication and Public Constructions of Business Legitimacy

M. Schultz and P. Seele presents in ▶ Chap. 34, "Business Legitimacy and Communication Ethics: Discussing Greenwashing and Credibility Beyond Habermasian Idealism," the important issue of the role of ethics with regard to communication, media theory, and public construction of business legitimacy. The chapter is based on a critical discussion of communication philosopher Jürgen Habermas' approach to discourse ethics and conception of communication as a discourse based on the forceless force of the better argument. Nevertheless, looking at practices of greenwashing in order to achieve business legitimacy, we can observe limits to Habermas' framework and the chapter shows how legitimation practice challenges the idea of free and open communication. The chapter presents critically the idealist dimensions of Habermas' theory and political CSR and shows the practical limits to these ideas the responsible political corporation. Accordingly, the chapter uses Habermas discourse approach to the public sphere and communication concepts of legitimacy to investigate how legitimacy is lost, found, and regained in the context of construction of business legitimacy in corporations and organizations. Moreover, the chapter discusses some of the implications of digitalization of business legitimacy in the context of corporate communication. The chapter is aware of the potential idealist dimensions of the business legitimacy approach to communication and the political corporation.

P. Aagaard discusses in ▶ Chap. 35, "Legitimacy, Political Organization, and Communication," the issue of political communication and public organizations in business and politics. The chapter analyzes political organizations in terms of institutional theory. The chapter takes up the important question of legitimacy in publicly governed organizations. Public organizations and institutions face increasing challenges of legitimate communication with stakeholders. In this context, the chapter analyzes public legitimacy in the perspective of communication theory. An important part of this problem is the question of the function of the public sphere with regard to influence and formation of the different dimensions of the legitimacy of public organizations. In particular, it is important to evaluate the different kinds of institutional forms of public-governed organizations with the focus of institutional theory. The chapter presents the different institutional forms and modes and approaches to agency in publicly governed organizations. Thus, this chapter addresses an important point of legitimacy in public organizations and it gives a good overview of communication and organization.

P. Kjær and M. Blach-Ørsten analyze in ► Chap. 36, "Journalism and Business Legitimacy," the role of business journalism in relation to business and companies. The chapter focuses on the way that journalism can improve or criticize the legitimacy of business corporations with regard to reputation of businesses in the public sphere. This issue of journalism and business legitimacy is an integrated part of the discipline of business journalism. The chapter proposes a categorization of creation, maintenance, and disruption of business legitimacy as a framework for the study of journalism of business legitimacy. This provides a theory of the form of legitimacy of journalism institutions. The theoretical framework for the study of journalism and business legitimacy is the institutional theory of Suchman, which can help to develop scholarship on journalism and business legitimacy. The chapter combines agenda-setting perspectives with the institutional approach to business legitimacy. This implies categorizations of forms of legitimacy and with an adequate typology of mediatization as well as a media organization typology.

F. Frandsen and W. Johansen discuss how to deal with business legitimacy in crisis in ► Chap. 37, "Crisis Communication and Organizational Legitimacy." The role of crisis communication in organizations is to help to maintain and restore legitimacy in organizational crisis. The chapter presents the most important dimensions of the concept of organizational legitimacy in the context of a business crisis. In this context, Suchman's theory of strategic legitimacy is a major reference for the definition of business legitimacy, which is related to the theory, and practice of crisis communication. In order to understand these theoretical aspects of business legitimacy in practice, the chapter uses the legitimacy of a large Danish company, namely the Danish Bank, as illustrative case of the theoretical developments regarding the creation and maintenance of business legitimacy. The case of the Danish Bank is illustrative since it illustrates how a bank business strives to receive legitimacy in the development of a society.

Philosophical Dimensions of Corporate Citizenship and Business Legitimacy

A. Lorch and C. Schank present in ► Chap. 38, "Business Legitimacy in the Social Market Economy: Individual and Corporate Economic Citizenship," corporate citizenship as a discussion of the different corporate responsibilities in the context of the social market economy. There is a close connection between the social market economy and the emergence of search for corporate citizenship in the context of advanced capitalism. When dealing with the concept of business legitimacy, it is important to be aware of the fact that the social market economy functions as a necessary foundation for the social political developments of capitalism. Moreover, in order to promote corporate citizenship, it is important to be aware of the social and economic conditions of search for legitimacy based on corporate citizenship. Thus, framework conditions and market boundaries contribute to definitions of corporate citizenship. In this context, the chapter looks at the economic order in the perspective of ordoliberalism as the theoretical foundation of republican business citizenship. With this, the chapter suggests a close link between ordoliberalism and business citizenship where ordoliberalism contributes to the promotion of business legitimacy.

C. Neuhäuser and S. Siebke propose in ▶ Chap. 39, "Dignity, Corporate Political Responsibility, and Business Legitimacy," an analysis of the relation between human dignity and the political responsibility of corporations. The chapter applies concepts of human dignity and human rights to corporations. This implies that human dignity should be taken seriously as an essential concept in business. Two cases are analyzed: The Volkswagen Diesel Gate and the Rana Plaza incident in Bangladesh, which is the terrible Rana Plaza building collapse. In analyzing these cases, the chapter takes seriously the concept of collective personality of transnational corporations. With this idea, the link between collective action and concepts of human rights and dignity becomes essential for understanding and conceptualizing business legitimacy. In addition, the chapter understands business legitimacy by drawing on Hegel's concept *Sittlichkeit* as ethical norm and custom or moral sensibility of a political and economic market community. Ethical norms in society are based on mutual recognition of individuals in the different spheres of society. Moreover, the chapter relates this concept of recognition to the idea of justice in relation business responsibility and legitimacy. Thus, the conceptualization of human rights of businesses is used to define strict moral duties of transnational corporations as foundation of corporate citizenship and business legitimacy.

J.D. Rendtorff discusses the philosophical foundations of the concept of corporate citizenship in ▶ Chap. 40, "Philosophical Theory of Business Legitimacy: The Political Corporation." This chapter addresses the concept of business corporation as a good citizen as a fundamental political-philosophical legitimacy strategy. Such a strategy of business legitimacy is based on a democratic-republican formulation of theory of legitimacy in business ethics. Thus, the chapter defines the concept of good citizenship in the light of a democratic corporate ethics as the basis of legitimacy. In addition, good corporate citizenship and the political firm are suggested as foundation of the definition of corporate social responsibility (CSR). The argument is that it is necessary to assume the notion of good citizenship to make sense of CSR, which can be considered as an argument for political CSR. The chapter discusses legitimacy strategies, legitimacy in the democratic-republican conception of corporations, cosmopolitan legitimacy of corporate citizenship, and examination of the role of good corporate citizenship in contemporary society.

J.D. Rendtorff proposes basic ethical principles as the foundation of philosophical theory of business legitimacy in ▶ Chap. 41, "Principles of Business Ethics and Business Legitimacy." The chapter discusses ethical principles of protection of the human person can be applied in business ethics. Basic ethical principles can be understood as the basis of protection of basic economic rights of the human person. Thus, the chapter shows how the values of autonomy, dignity, integrity, and vulnerability are foundational in business ethics as the basis for business legitimacy. The chapter suggests that these concepts can have fundamental significance both at the individual and at the organizational levels. These principles provide foundation for ethical standards of sustainability in a future global culture of human rights. The chapter gives a brief outline of the meaning of the concepts in business ethics illustrated by some examples of the uses of the concepts in different fields of business ethics as the foundation of business legitimacy.

Business Legitimacy as Institutionalization of Responsibility

M. Bonnafous-Boucher can be said to develop a stakeholder-based historically oriented legitimation paradigm of institutional analysis in ► Chap. 42, "Past Legitimacy and Legitimacy Under Construction." The chapter conceptualizes the path leading to business legitimacy by searching to understand the historical premises underpinning concepts of sustainability and responsibility in society in relation to the market. In particular, it is important to look at dimensions of legitimacy of the corporations in democracies on a historical basis. It is necessary that firms relate to their stakeholders and their environments in order to achieve, maintain, and develop business legitimacy. Here, the historical approach to business legitimacy integrates stakeholder analysis paradigms in the historical perspective. Moreover, the chapter focuses on understanding the stakeholder management and corporate institutions from the point of view of historical development. The chapter analyzes the role of representative democracy for understanding legitimacy. Moreover, stakeholders and civil society contribute to the formation of business legitimacy. Stakeholder theory and concepts of globalization and internationalization of corporations and liberal economies are required in order to understand formation of business legitimacy in contemporary economic developments.

J. D. Scheuer presents in ► Chap. 43, "Change, Institutional Theory, and Business Legitimacy," the problems of translation, change, and legitimacy in the perspective of neo-institutional theory and with regard to stakeholder management in a legitimate business organization. Translation practices are about translation of ideologies and discourses. Translation studies also concern how proposed ideas, norms, and values are translated, realized, and institutionalized in business practices and organizational practices. The chapter elaborates specifically translation and institutionalization of stakeholder concepts and stakeholder management in organizational processes of change in private business and public organizations. In particular, translation research in institutional theory can be used to approach analysis of negotiation and organizational identity with regard to the organization or institution as a boundary object in different social worlds and contexts of implementation of translation practices.

I. Jensen presents in ▶ Chap. 44, "Corporate Legitimacy and Institutionalization: From Corporate Innocence to Responsibility for Complex Impacts," a sociological analysis of the significant changes in the history of CSR and legitimation with focus on changed relation between responsibility and legitimacy in the perspective of institutionalization of different norms of social responsibility in business organizations and firms. Roughly, this development can be characterized as the development from the socially innocent company in the 1950s to global and collective responsibility of business in contemporary society. Thus, the chapter analyzes the changed values and norms that have had an impact on companies and the praxes of different agents in the last 70 years. As theoretical basis, the chapter proposes the theories of Sartre, Searle, and Habermas. These authors propose different concepts of institutionalization and of social responsibility as a result of interactions between many different agents. Moreover, we see historical development of the concept of legitimacy over this period of time. Thus, there is a change in the concept of legitimacy as acceptance of norms to collective responsibility. With this, the chapter proposes critical reflections about the foundations of institutions. Sartre contributes to understand the practice of agents behind institutional practices. Searle observes the dimension of institutionalization of social reality. Habermas provides understanding of the discursive processes justifying democratic social legitimacy. Thus, Searle talks about agentive functions, social facts, and collective intentionality institutionalization, while Habermas refers to the social coordination mechanism. Before analysis of specific historical developments, Jensen gives a summary of the concepts of the three social theorists. Sartre provides a conception of institutionalization of legitimacy as an institutionalized coordination mechanism that is realized in praxis. At another level there is a communicative coordination with discursive processes that involves normative an ethical validity criteria. At a third level this involves communicative and discursive processes that express the collective intentions and questions the legitimacy of corporate material impact, and at a fourth level we can observe communicative and discursive processes that initiate or change institutional coordination mechanisms. Based on the theoretical foundation the chapter provides a categorization of different periods of institutionalization of normative priorities, ending with the contemporary period where the Sustainable Development Goals (SDGs) have moved into the center of legitimate priorities. Thus, this approach to institutionalizations and changed conditions of legitimacy help us to understand the movement from the innocent company to the collectively and globally responsible company in the democratic process of society.

Management of Corporate Social Responsibility and Business Legitimacy

Y. Fassin, S. Liekens, and M. Buelens give an overview of the concept of social responsibility of the most important management thinkers in ▶ Chap. 45, "Major Management Thinkers on Corporate Social Responsibility." The chapter looks at a selection of the most prominent management thinkers or management prophets, including Frederick Taylor, Henri Fayol, Max Weber, Herbert Simon, Michael Hammer, James Champy, Henry Mintzberg, Geert Hofstede, Charles Handy, Elton Mayo, Douglas McGregor, Abraham Maslow, Peter Drucker, Michael Porter, Gary Hamel, C.K. Prahalad, John Kay, Tom Peters, Daniel Goleman, Rosabeth Moss Kanter, Chris Argyris, and Peter Senge. The selection is impressive although there is bias for men and for North America. The chapter makes clear that although many management thinkers did not use the concept of CSR, there may be an implicit vision of CSR in the conception of management theory. Based on the selection of management thinkers the chapter provides a systematic investigation of the concepts of CSR, business ethics, and stakeholder management in their theories. The overview is presented in some very clarifying schematic tables that give an important illustration of the scope of the concepts. With this illustration and overview, the chapter is very important for the *Handbook of Business Legitimacy* in order to understand the foundations of concept of business legitimacy in relation to the environment of the corporation. Thus, the chapter addresses the dimensions of the tension between acceptance of CSR as important and more skeptical views on CSR and business ethics. In the discussion, the chapter looks at this theme, but it also includes discussions of value and purpose, responsibility for the good, stakeholder management, and empowerment. The chapter stresses that most management thinkers are aware of the importance of good relations with the environment. Therefore, from this perspective, it can be argued that business legitimacy is essential for the views of management thinkers.

J. Delventhal gives a definition of the practice concept of legitimacy in ► Chap. 46, “Legitimacy, Institutions, and Practical Responsibility.” The chapter is a contribution to the theoretical analysis of the concept of responsibility in relation to institutional governance. The chapter presents the practice of responsibility in relation to the expectations of businesses in global governance. The problem area concerns the rationality of CSR in the different frameworks of different institutional dynamics. This relates to the concept of sustainable business legitimacy. Here, the chapter presents different concepts of sustainable legitimacy and universality of responsibility in the process of governance. Important authors like Jonas, Jaspers, and Heidbrink are discussed in the chapter as contribution to the discussion of the foundation of practical responsibility for legitimacy. The chapter also discusses the scope of universal responsibility as a means towards sustainability in the phases of reflection, prioritization, and collaboration. The chapter argues that responsibility needs to be situated and embedded in the context of sustainability in order to ensure a good practice of responsibility.

S. Carson discusses the relation between CSR and social legitimacy in ► Chap. 47, “Corporate Social Responsibility (CSR) as Social Legitimacy Management.” This chapter provides an analysis of CSR in relation to legitimacy management and business legitimacy. Such an analysis of social responsibility business can be built on social contract theory in relation to legitimacy management. An outcome to the chapter is a determination of the relation between CSR and legitimacy management. This approach follows the idea of the changed role of business in society, and it also discusses the relationship between legitimacy management and collective agency. Collective agency and responsibility is essential in a structured management of business legitimacy.

A. Ijabadeniyi discusses the perspective of reputation management on CSR in ► Chap. 48, "Transcending the Instrumental Logic of Social Responsibility: A Corporate Reputation Perspective." This chapter deals with an effort to overcome the instrumental logic of social responsibility when dealing with the problem of corporate reputation. The chapter contributes with discussion of CSR and legitimacy related to the concept of corporate reputation, which is often used in marketing and communication studies. The chapter focuses on CSR and ethical business practices in relation to the concept of corporate reputation. Accordingly, the chapter discusses strategic legitimation approaches and relates them to different concepts of reputation. Important are stakeholder's role in reputation and other dimensions of reputation than traditional market-driven concepts of reputation. Here, the chapter stresses that business ethics and responsibility overcomes the instrumental logic of CSR because reputation is dependent on stakeholders and therefore management should rely on CSR as a manner of improvement reputation. There is a social and strategic construction of reputation based on CSR, but this also has an institutional dimension following Weber and Suchman. This opens for the importance of corporate citizenship in order to improve and create business legitimacy in relation to CSR performance reputation. The chapter elaborates on the different dimensions of CSR – philanthropic, ethical, legal, and economic. Here the chapter provides a framework for CSR and corporate reputation arguing that reputation is essential for financial performance but cannot be reduced to instrumental reputation.

Accounting, Accountability, Stakeholders, and Business Legitimacy

G. Rusconi and M. Contrafatto discuss accounting and business legitimacy in ► Chap. 49, "Stakeholder Theory, Accounting, and Business Legitimacy." The chapter begins by presenting recent scandals in the business world related to accounting and finance of business. These scandals show need for developing ethical systems and concepts of accounting for business organizations in order to gain business legitimacy. In this context, business legitimacy of ethical systems of accounting can be defined with the help of Mark C. Suchman's concept of strategic management and legitimacy. The concepts of pragmatic, cognitive, and normative concepts of legitimacy can be applied to conceptualized legitimation and legitimacy strategies in business accounting. The chapter addresses a legitimacy gap in the accounting systems and argues for an ethical system's theory of accounting. In particular, the chapter presents a demonstration of the relation between stakeholder theory and legitimacy theory. With this, business economics needs the necessary ethical foundations for legitimacy of accounting and accounting theory. Thus, the chapter emphasizes the important ethical dimensions of accounting and accounting systems which are often-forgotten practical search for business legitimacy.

S. Kacanski shows the relations between social network analysis, governance, and accounting in ▶ Chap. 50, "Corporate Governance, Social Network Analysis, and Business Legitimacy." The chapter combines empirical and theoretical approaches to corporate governance and network analysis. In this context, it is relevant to focus on general methodology of corporate governance and network analysis that can be used for country analysis. This includes indication of legitimacy challenges with regard to corporate governance and network analysis which can work as a theoretical framework as a general framework for analysis of legitimacy in corporate governance networks. Thus, there is also a possible applicability of the theoretical framework for specific empirical analysis. With this approach, this chapter proposes an analysis of how social network theory can be used in relation to understanding legitimacy and corporate governance, including business legitimacy in the field of accounting research and practice.

L. San-Jose, X. Mendizabal, and J. Retolaza analyze the social dimension of accounting in relation to legitimacy in ▶ Chap. 51, "Social Accounting and Business Legitimacy." This chapter discusses the legitimacy of social accounting and this includes the problem how it is possible to monetize social value and create legitimacy on that basis. The chapter presents different financial indicators and it relates very well to the theory of legitimacy from Suchman to Suchman and Deephouse which is very important in the discussions of legitimacy. The chapter also presents very good analysis of different indicators of concepts of disclosure, stewardship, impact investment, and the common good. There is also a discussion on social return on investment and sustainability reporting in the perspective legitimacy of social accounting.

Legitimation Strategies for Business Corporations

M. Frostenson presents the multiple normative challenges of business legitimacy in complex society in ▶ Chap. 52, "Business Legitimacy and the Variety of Normative Contexts." This chapter discusses a complex problem in the discussion of legitimacy, namely how to see business legitimacy in different normative contexts. In fact, here the challenge is that the normative contexts in different systems may be very different and heterogeneous. In order to discuss this problem the chapter addresses the different dimensions of right and wrong in relation to different normative contexts with regard to the emergence of legitimacy and legitimation. Here, corporations face the complexity of legitimation processes and the normative contexts. The chapter draws on institutional theory and also on different approaches to organization theory. It is indeed a challenge for multinational companies to operate in different normative contexts. Thus, contemporary businesses need to develop strategies to deal with polycentricism and complexity of different normative contexts of strategy and business economics.

A. Hansen presents how business legitimacy has become an important concept in service marketing in an analysis of different legitimizing strategies in ▶ Chap. 53, "Legitimizing Catchwords of Service Marketing: The Role of Academia." The chapter presents the challenges to businesses and business corporations in service marketing and legitimation in relation to the academic discipline of service marketing. The chapter looks closer into some of the legitimation problems of the difference between the service academic world and the role of the customer. Looking at the confrontation between academic leadership conceptions of service marketing and specific customer logics of the practice of legitimation in service marketing, it emerges that service marketing is basically driven by economic market logics of justification. With this, the chapter argues that there is a move of legitimation and creation of social authority in academia with regard to the basic concepts of service and legitimation of service marketing.

J. Møller discusses legitimacy in business start-ups in ► Chap. 54, "Deficit of Legitimacy in Startups: Main Consequences and Strategic Solutions." The chapter presents the consequences of different strategic conclusions in business start-ups. Strategy of innovation in start-ups includes an important dimension of legitimacy. The chapter elaborates on evolutionary theory and institutional concepts of entrepreneurship and the importance of social relationships for legitimacy of innovation. An important theoretical perspective on empirical legitimacy strategies is institutional theory that can be used to understand legitimacy deficit of start-ups and innovation for business legitimacy.

K. Sund analyzes changing conditions of legitimacy in complex economies in ► Chap. 55, "From Cooperation to Competition: Changing Dominant Logics and Legitimization in Liberalizing Industries." This chapter discusses the transition from logics of cooperation to logics of competition within strategic groups in liberalizing industries. The chapter is based on institutional theory and gives a case analysis of the post offices legitimation situation from the move from cooperation to competition. The chapter includes institutional theory as an important basis for business legitimacy and in particular to the concept of legitimacy as proposed by Suchman as the basis for understanding changed logics of business legitimacy moving from cooperation to competition.

Organizational Identity, HRM, Employee Motivation, and Business Legitimacy

A. Wæraas presents in ► Chap. 56, "Organizational Identity and Corporate Social Responsibility (CSR) Legitimation," the use of business legitimacy to improve organizational identity. The chapter looks at fundamental concepts of CSR, legitimation, and organizational identity. Thus, the chapter demonstrates the role of concepts of environmentalism, CSR, sustainability, and altruism in the formation of a normative identity of organizations. This normative identity is also essential in the definition of the "who we are" of an organization. Here the chapter focuses on the fact that many organizations have a utilitarian and pragmatic approach to identity. There is also a symbolic dimension of identity contributing to the construction of business legitimacy. The chapter presents models of public organizations (municipalities in Norway) and private companies (Fortune 500 companies) that demonstrate how these companies use identity to form a mission and vision. Thus, there is a close link between moral legitimation and the concept of business legitimacy.

M. Neisig presents in ► Chap. 57, "Human Resource Management and Business Legitimacy: Changing Roles and Legitimacy-as-Process," the function of business legitimacy in human resource management. The chapter shows how business legitimacy is an integrated part of management of the people and personnel of organizations and that this is important to ensure the robustness and endurance of organizations. With current social developments towards sustainable transformation of the economy, the role of sustainability and responsibility in human resource management can also become important for business legitimacy. The chapter evaluates different paradigms of management practices with relation to the different focuses of HRM, including sustainability and legitimacy of HRM. In this context, the chapter focuses on how management contributes with strategies for legitimacy as an important dimension of different elements of HRM. In this context, the chapter demonstrates how business legitimacy is integrated in the epistemology and ontology of HRM. Thus, business legitimacy of management of human resources is based on a concept of legitimacy as emerging in a legitimizing process with regard to essential stakeholders of the HRM process.

M. Thejls Ziegler discusses the challenge of employee motivation with regard to business legitimacy in ► Chap. 58, "Motivating Employees in a Globalized Economy: The Moral Legitimacy of Applying Gamification in a Corporate Context." The chapter explores a new field of business legitimacy studies, which is the problem of using gamification in HRM for motivating employees. The chapter presents a detailed analysis of HRM and legitimacy taking into account neoliberal criticisms of gamification as management manipulation of employees. In this context, the chapter also elaborates on the big picture of development of HRM before and after the financial crisis. Gamification is defined as a more recent method applied by management for fertilizing persona commitment to work life. The chapter presents different cases of using games for training employees, for example, in Delta, General Electric, and other US companies. Thus, the chapter demonstrates how the concept of legitimacy becomes polarized in the context of HRM use of gamification.

A. Scupola discusses HRM, SMEs, and new technology in ► Chap. 59, "Business Legitimacy and Adoption of Human Resource Information Systems in Danish SMEs." This chapter presents literature review, empirical material, and a case study of business legitimacy and adoption of human resource information systems in Danish SMEs. The chapter provides a useful case study of use of new technology models in human resource management. The chapter discusses the adoption of technology in relation to human resource information systems and this is considered in the framework of technology, organizational and environmental application. The chapter demonstrates legitimacy issues and ethics and CSR concerns in relation to adoption of human resource management systems. The chapter shows how adoption of new technology can contribute to create agile organizations including improvement of business legitimacy.

Business Economics, Finance, Governance, and Business Legitimacy

G. Aras presents the contemporary challenges of sustainability for business legitimacy in ▶ Chap. 60, "Finance, Sustainability, and Business Legitimacy." The chapter demonstrates the challenges of defining business legitimacy on a close relation between finance, sustainability, and business legitimacy. The chapter provides an overview of legitimacy challenges related to the need for a new theoretical framework of sustainability facing global risks in the economic age of transition towards sustainability. The chapter defines sustainability as one of the most important issues of our time with regard to business legitimacy. Moreover, the concept of sustainability include the triple bottom-line with its environmental, social, and economic dimensions. In addition, the chapter presents a model for integrating the different societal, environmental, and organizational dimensions of sustainability integrated with the challenges of finance. The chapter suggests four dimensions of sustainability in a model of transformation of a new society of sustainability. This is documented the emphasis of the need of companies to legitimize themselves in society. Thus, in order to explore sustainability challenges of business legitimacy, we can combine legitimacy theory, institutional theory, and stakeholder theory with regard to clarification of the norms leading to legitimacy.

J. Wieland and D. Fischer present the relation between transaction cost theory and business legitimacy in ▶ Chap. 61, "Transaction Cost Theory and Business Legitimacy," by discussing the role of business legitimacy in transaction cost economics. Dealing with transaction costs economics it is important to be aware of the changed conditions of legitimacy in society and ask the question how these conditions affect economic theory and economic science. Transaction cost economics has attempted to integrate institutional conditions of economic action in economic theory and research. The chapter presents a detailed analysis of how business legitimacy has an impact on transaction costs and the institutional environment of the business corporation. The chapter discusses stakeholders in relation to economics and the distinction between ethical expectations, legality, and legitimacy in particular between economics and legal regulation. This analysis shows how transaction cost economic analysis of the firm needs to integrate ethics and ethical expectation. Thus, this chapter provides an overview of transaction costs theory and business legitimacy.

T. Talaulicar discusses in ▶ Chap. 62, "Corporate Governance and Business Legitimacy," the relation between corporate governance and business legitimacy. The chapter provides a definition of business legitimacy reaching back to Suchman's definition institutional theory. The chapter discusses codes and standards of corporate governance related to indicators, performance and in relation to the tensions between shareholders and stakeholders. Following Suchman, corporate governance is seen as a measure that can contribute to provide legitimacy. If we professionalize corporate governance, we can contribute to provide legitimacy of the business corporation. In this context, the chapter rightly emphasizes that social norms and institutions are contributing to the formality of creation of business legitimacy. In this context, the chapter discusses legitimate systems of corporate governance providing the good standards for corporate governance, and it is important to notice that this contributes to form the specificity of corporate governance systems. In addition to the discussion of the improvement of standards, the chapter also discusses the legitimation of new forms of corporate governance as contribution to business legitimacy. Thus, with this, the chapter clarifies the relations between business legitimacy and corporate governance.

E. Jonsson analyzes the role of boards in corporate governance processes for legitimacy in ▶ Chap. 63, "Corporate Governance and Corporate Legitimacy: The Role of Boards." The chapter gives an overview of corporate governance with regard to the role of the boards in achieving legitimacy. The chapter presents important aspects of compliance and performance, stakeholders, and corporate legitimacy related to the discussion of the role of the boards in corporate governance with the aim of achieving business legitimacy. The chapter addresses the dominance of the shareholder perspective in relation to the firm's license to operate in relation to the foundations of corporate governance. The discussion of agency theory and its possibilities and limits is very important in this context. Here, the chapter also includes a discussion of transaction cost scholar Williamson's economic institutionalism. One perspective here is the dimension of agency and the limits of stakeholder performance. Moreover, the chapter problematizes the role of boards in relation to legal theory and institutional theory as well as stakeholder theory. The conclusion mentions very rightly the importance of moving corporate governance towards stakeholder theory and institutional theory.

A. Prinz investigates the role of business legitimacy for economic theory of finance in ▶ Chap. 64, "Finance, Economic Theory, and Business Legitimacy." The chapter evaluates the different contributions of the different economic theories to business legitimacy. This includes an analysis of the different concepts and theories of the firm in relation to business legitimacy. The chapter moves beyond traditional theories of the firm and introduces other theories of social norms enforcement in economics that contributes to value maximization. Business legitimacy means that economic markets of finance must be open to social dimensions of economics to take into account the impact of the business environment on business legitimacy of the firm.

Legitimation with Different Forms of Practice of Legitimacy in Complex Societies

T. Gössling and T. Straub provide in ▶ Chap. 65, "NGOs, Institutions, and Legitimacy: Empirical Findings and a Research Agenda," an overview of the concept of business legitimacy in relation to NGOs and involvement of NGOs in legitimacy construction and creation of businesses legitimacy. This perspective includes an empirical focus of research questions with regard to theory and empirical applications of theory with regard to the interaction of NGOs and businesses in the creation of business legitimacy. The focus of the chapter is the use of empirical examples to illustrate theoretical points and theory development with regard to development of business and NGOs in legitimacy creation. The theoretical focus of the chapter is institutional theory with Suchman's concept of legitimacy. In this context, the concept of moral legitimacy can explain NGOs in their interaction with business. Moreover, the chapter uses the resource-dependency perspective for understanding business legitimacy and NGOs in the selected regions of Moldavia. Thus, empirical examples function as the basis for conceptualization of a general conception of business legitimacy in the relation between businesses and NGOs.

P. Beyer presents the function of values-based management for improving business legitimacy in ▶ Chap. 66, "Values, Values-Based Management, and Business Legitimacy." This chapter gives an overview of how to use value-based management for improving business legitimacy in complex societies. The chapter provides a practical guide to the dimensions of management of values in business administration and in business corporations. The chapter also presents practical guidance for business legitimacy and suggestions of how to develop business legitimacy in an organization which needs to develop and improve values-based management. Thus the chapter provides tools to understand the practical dimensions of implementing business legitimacy with values-based management in organizations.

E. Pezet and J. Poujol present in ▶ Chap. 67, "Working in the Brand Economy," the legitimacy requirements of changed conditions of work, labor, and experience in the contemporary brand economy. Moreover, the chapter discusses what happens to business legitimacy when the concept of work enters into the brand economy. A normative concept of business legitimacy in complex societies implies investigating a humanist approach to management and HRM, including a discussion of the relation between the Marxist and the Hegelian approaches to the concept of business legitimacy. From this point of view, the chapter introduces the Hegelian dialectics between master and slave as relevant for understanding the dimensions of HRM in relation to the development of legitimacy in complex societies. In order to define the concept of working in the brand economy, the chapter draws on Hannah Arendt's concept of "animal laborans" as definition of a worker that is reduced to an element in an industrial economy. The problem is that most workers are not free at work and reduced to mere instruments of their employers. Here, the new brand economy includes a huge challenge to the concept of work and expresses the need for a humanistic concept of work for this brand economy in order to deal with business legitimacy with regard to the creation of new work conditions in complex societies.

Conflicting Notions of CSR and Business Legitimacy in Globalization

K. Mogensen presents the concept of corporate public diplomacy as an essential concept of public relations of the relation of the firm to its environment in ▶ Chap. 68, "Legitimacy Issues in Corporate Public Diplomacy." The chapter clarifies the definition and content of the concept of public diplomacy in relation to the concept of business legitimacy. Corporate diplomacy can be defined as a new development of business responsibility, trust, and sustainability in the process of globalizations. The chapter emphasizes how the concept of business legitimacy includes an approach to internationalization of corporations that has to relate to state governance in areas of limited state power. The concept of corporate public legitimacy is important for the conceptualization of global responsibility of multinational corporations. Thus, the chapter proposes a historical and conceptual review of the different dimensions of corporate diplomacy in the context of globalization.

S. Azizi analyzes corporate social responsibility in relation to developing economies in ▶ Chap. 69, "Political Corporate Social Responsibility (CSR), Development, and Business Legitimacy." The chapter presents a critical interpretation of the concept of political CSR in relation to business legitimacy. Global society faces political turn in relation to CSR in developing countries. The problem is whether political CSR really can replace states as political actors for construction of society. The chapter shows how the turn in political CSR has been the focus on corporations as moral and democratic actors that assume political roles in society in order to achieve business legitimacy. The chapter argues for the necessity of case studies in relation to this application of the concept of political CSR. In particular, there is the challenge of multinational corporations that are playing an increasing political role in society. The chapter here follows Suchman's concept of legitimacy and goes on to address different concepts of the political role of corporations and indicates the necessity of criticizing the concept of political CSR and indicates the problem of political CSR becoming instrumental instead of moral. In addition, the theory of political CSR emphasizes the need of reconceptualization that is embedded in democratic mechanisms of discourse, transparency, and accountability, as suggested by Scherer and Palazzo. The chapter points to the problems of this concept of CSR and shows some problems of the political turn of CSR in the case of globalization.

U. Mulkhan develops this challenge for business in the Anthropocene in the context of human rights in ▶ Chap. 70, "Eco-justice Perspective and Human Rights-Based Approach to Responsible Business in the Indonesian Mining Industry." This chapter presents the eco-justice perspective and human rights focused discussion of responsible business in the Indonesian mining industry. This topic is an important topic as a case study of business legitimacy. Both international and domestic private companies operate in Indonesia in order to do mining. Since many stakeholders are involved in the mining industry, it is important that there is a focus on human rights and environmental justice. Although historically, there have been many problems of respect for the environment and human rights in the Indonesian mining industry, the chapter rightly addresses the need for more business concerns with social and environmental issues. In addition, it is important to be aware that this concerns all stakeholders of the company, including employees and their families, local community, customers, civil society, and the Indonesian state. While there historically were problems of human rights in this case study of business, legitimacy shows that it is necessary to develop a human rights-based approach, which is combined with eco-justice and respect for the environment. With interviews as documentation the chapter shows that a good relation between companies and communities is about to be established. Here, the UN guiding principles for human rights are integrated with the UN sustainable development goals (SDGs). In this context, the chapter gives some proposals for different aspects of good mining practices involving concerns for ethics and values of local communities and stakeholders in mining. In addition to the UN guiding principles and SDGs, we can here mention CSR standards, for example, the ISO26000 guidelines, which however may also encounter difficulties of implementation in local context. Thus, the chapter argues that the Indonesian mining industry is aware of the environment as a crucial issue. However, the approach to CSR remains instrumental rather than moral, founded on the concern to avoid the destruction of the environment. This is important to take into account when applying the eco-justice and human rights perspective in Indonesia.

Business Legitimacy, Electronic Economy, Digital Work Life, and Surveillance

W. Gonzalez presents the contemporary legitimacy challenges in ▶ Chap. 71, "Electronic Economy, Internet, and Business Legitimacy." This chapter about the electronic economy, internet, and business legitimacy gives an overview of the problems of business legitimacy in relation to the electronic economy. The chapter starts out by defining the concept of business legitimacy and then relates to the challenges of the electronic economy. The chapter relies on well-established definitions of business legitimacy and gives a presentation of business legitimacy in relation to the development of different issues in the electronic economy. The chapter shows how the configuration of the electronic economy includes an element of business legitimacy with its different elements of economic, scientific, technical, and social dimensions of the economy. From there the chapter presents an overview of the different dimensions of the electronic economy linked to the concept of business legitimacy. It is essential to this chapter to demonstrate that business legitimacy is a precondition of the electronic economy. This is illustrated by the case of copyright law, and finally the chapter contains a summary of the different dimensions of business legitimacy.

S. Wong presents the challenges for legitimacy of digital labor in ▶ Chap. 72, "The Future of Work, Digital Labor, and Business Legitimacy." The chapter discusses the future of work in the context of polycentric legitimacy requirements of an economy of digital labor and demonstrates the challenges to business legitimacy in the so-called gig economy. The chapter analyzes how the working conditions in the gig economy with new digital possibilities and challenges change and pose new ethical problems of business legitimacy. This includes the role of online labors engaging in this economy. The new gig economy changes the employee-employer relationship with increased power to the employers as the result. This leads to new form of hiring, new employment forms, and new employment paradigms, based on concepts of flexibility, but also with challenges of low payment and insecure working conditions. With these challenges of the new gig economy, contemporary legitimacy challenges face the complexities of a society with many normative dimensions.

K. Moulaï analyzes surveillance in the context of the contemporary electronic society in ▶ Chap. 73, "Video Surveillance in Working Contexts and Business Legitimacy: A Foucauldian Approach." The problem of video surveillance in the working environment can also be considered as a part of new digital society. The chapter addresses the dynamics of video surveillance as a subjectification process of the body of the worker in the context of what Foucault calls discipline and disciplinary society. The problem is to which extent it is legitimate to practice surveillance of employees in the context of the surveillance practices of society. There is an extended form of social control in the new media, and surveillance is really at the limits of moral discipline in contemporary society. The chapter discusses the potential illegitimacy of surveillance of employees in the combined perspective of philosophy and business sociology. The techniques of the body as proposed by Foucault include cyberviolence, time, production, and control of vision. The new techniques of supervision can be seen as application of the gaze of surveillance to the context of work life.

P. Bandyopadhyay and B. Pandey discuss legitimacy in the context of labor unions in ▶ Chap. 74, "Legitimacy of the Right to Form Digital Labor Union/ Association in Developing Economy." This chapter seeks to apply the concept of legitimacy in relation to aspect of the developing economy in India, focusing on the digital labor union/association. This analysis is based on the use of the concept of legitimacy in order to understand legitimacy of right to form digital labor union/ association in developing economy in the context of the struggle for free labor rights of employees of businesses in the developing countries. Business legitimacy is at the center of the analysis, and the chapter provides definition of legitimacy of rights and associations in the digital economy.

Business Legitimacy in Different Parts of the World

M. Siltaoja, C. Egri, O. Furrer, M. Haapanen, R. Alas, and K. Sinding present strategic dimensions of corporate environmental responsibility in ▶ Chap. 75, "Configurations of High Corporate Environmental Responsibility with Regard to Business Legitimacy: A Cross-National Approach." This chapter proposes an analysis of configurations of responsibility in relation to environmental responsibility as the basis for strategic business legitimacy in the Nordic countries. The chapter presents a theoretical framework of different strategies of corporate responsibility in relation to environmental responsibility. The theoretical framework based on institutional theory and stakeholder theory is applied to a large empirical framework with relevant methodology and techniques of analysis. There is focus on strategies and models for adoption of environmental responsibility in these companies in the Nordic countries. The chapter has compiled data from Nordic companies that is presented from the point of view of business legitimacy, stakeholder theory, and institutional analysis.

M. Storchevoy and K. Belousov present the aspects of business legitimacy in Russia in ▶ Chap. 76, "Evolution of the Russian Digital Media Market: Legitimacy of the Illegal." This chapter discusses the legal and illegal dimensions of business legitimacy with a case study about copyright and business legitimacy in the Russian digital market. The chapter analyzes how what is illegal may become legitimate while still being illegitimate. This is an important challenge and perspective for business legitimacy. The chapter gives a good overview of the development of media copyright law in Russia and how intellectual rights are developed. This is done with a description of the developments of the copyright protection and legal initiatives for legitimacy in the different parts of the industry of the Russian market for media products like music, films, CDs, and other digital media. The chapter illustrates how new legitimacy develops in the context of evolving markets of business and how legitimacy moves in the tension between ethics and law, ethical and non ethical, and legal and illegal, where what is legal and what is considered ethical is not always the same thing.

S. Horiguchi analyzes norms of business legitimacy in Japanese cultural tradition in ► Chap. 77, "Japan, Business Ethics, and Business Legitimacy." This chapter is a good presentation of CSR policies in Japanese companies in relation to business legitimacy. The chapter explains how Japanese companies work with CSR policies and how they relate this to management and to the concept of legitimacy. Moreover, this includes a presentation of explicit and implicit CSR and how this distinction applies in Japan. The chapter focuses in particular on the concept of Kyosei as framework of responsibility in Japan. In addition, the chapter relates to different cultures by relating the concept of business legitimacy to Hofstede's concept of business culture. Finally, the use of institutional theory provides a framework for understanding business culture and business legitimacy in Japan.

A. Hennig presents different dimensions of business legitimacy in China in ► Chap. 78, "Business Legitimacy in Asia: Focus on China." The chapter discusses business legitimacy in the Asian context with focus on China. The chapter mentions that Daoism and Confucianism are important moral and intellectual traditions that influence the social and political values of China during centuries. These doctrines have recently been accomplished by values from communism and socialism that influence perceptions and conceptions of business legitimacy. In this context, there is a close relation between traditional Chinese philosophy and conceptions of responsible business and the ethical climate in China. The chapter gives a historical overview of the liberalization of business in China in the context of these traditional values and philosophies. At the same time, the traditional values of search for a virtuous and harmonious society need to deal with contemporary problems of poverty and environmental degradation. The concept of business legitimacy in China needs to deal with these social and environmental challenges. Therefore, the concepts of organizational and institutional legitimacy need to be considered in the larger perspective of a good society. Business legitimacy is about embedding the organization in a larger social system. With this, the chapter demonstrates the move from organizational to political legitimacy in China with special focus on the concept of the institutional legitimacy of responsible business. Accordingly, in China, this institutional concept of legitimacy implies a strong compliance with the state's socio-political vision in order to deal with social and environmental problems.

Accordingly, the chapter shows how the search for harmonious society with Confucianism and Daoism has been a driver for responsible business behavior. This traditional philosophy influences the socio-political vision of government and contributes to shape the concept of business legitimacy in China.

M. Rasmussen analyzes the relation between legitimacy and leadership in Greenland in ▶ Chap. 79, "Practicing Legitimate Leadership in Territories of Interactions in Greenland." This chapter provides perspectives on business legitimacy studies in the context of leadership in Greenland, both theoretically and empirically. The chapter begins by defining leadership in Greenland as focused on collective interactions. The scope of analysis is empirically a study of legitimizing leadership practices in Greenland from the point of view of ethnographic studies based on phenomenological methods of interpretation and sense-making. Theoretically, the chapter proposes a model for studying legitimacy, based on Suchman's theory of legitimacy combined with ethnographic study of leadership practices. The chapter also touches on Stacey's concept of responsive leadership processes in organizational settings and contexts. Thus, this chapter represents an empirical application of Suchman with ethnographic methods to the study of leadership and management practices in Greenland.

Polycentric Dimensions of Business Legitimacy in Complex Societies

S. Holmström discusses the complex strategies of legitimization of business companies in differentiated societies in ▶ Chap. 80, "Legitimizing Practice Forms During Transformation of a Legitimizing Business Paradigm: Changing Strategies and Reasons." The chapter presents the changing strategies and rationalities for different legitimacy activities during the process of legitimation of business organizations. The chapter presents different ways of legitimizing that are proposed by different companies in the different contexts of management, including stakeholder management and CSR and other business and society relations. In the context of polycentric, differentiated societies, the chapter discusses different forms of analytical strategies that businesses use for achieving legitimacy. For example, the legitimizing paradigm of blindness as a defense strategy, which is just one of many ways an organization deals with legitimizing and legitimacy. Indeed, the concept of the reflective organization is important as a way to understand the different rationalities of legitimizing for business legitimacy in the context of highly complex, differentiated, and polycentric market economies.

L. Thompson provides a discussion of the necessity of a more open and complex concept of business legitimacy in polycentric contemporary society in ▶ Chap. 81, "Intersectionality and Business Legitimacy." The chapter documents the importance of intersectionality for business legitimacy. Intersectionality means expanding parameters of social justice and inclusion. Moreover, intersectional thought promotes the full development of human capabilities and freedom for all. Thus, the chapter shows the importance of intersectionality for business legitimacy. The chapter gives a precise overview of the new current of intersectionality in ethics, social studies, and philosophy and shows why this concept is important for business studies and for the research on business as a human institution. The chapter highlights the concept of intersectionality as a critical, humanist and radical activist approach that was in the beginning proposed by post colonial African American scholars who want to expand the western concept of feminism that they thought were too limited. They were critical towards arbitrary, socially constructed hierarchies based on social constructions of class, gender, ethnicity, sexual orientation, or other essentialist categorizations and classifications reifying human dignity and worth in society. The chapter suggests that the concept of intersectionality helps to be aware of the need for social justice in business performance and economic development. With this emphasis on intersectionality as an activist ethical assertion, the chapter gives a good overview of the dimensions of intersectionality as concept to ensure full flourishing of humanity and human potential with positive emphasis on human differences rather than oppression and destruction. The chapter presents shortly critical theory, critical race theory, equity and equality studies, and different waves of feminism, gender and sex, gender studies as different theoretical and practical approaches that rely on intersectionality. The roots of the concept imply human rights movements, slavery critique, and civil rights and human equality studies in the United States.

M. Thejls Ziegler analyzes the cultural and societal developments of business legitimacy in contemporary society in ▶ Chap. 82, "Cultural Contradictions of Business Legitimacy." The chapter proposes a description of the informal and formal dimensions of business legitimacy, related to the cultural contradictions of capitalism and the new left. The chapter relates stakeholder theory and order ethics to these cultural contradictions of late capitalism in order to demonstrate the difficult sociological conditions of business legitimacy. In addition, the chapter proposes a distinction between formal and informal dimensions of business legitimacy. The discussion of the new left in relation to the contemporary challenges of business legitimacy shows the difficulties of finding a relevant concept of business legitimacy, being able to overcome contradictions in the definition of business legitimacy.

Lars Fuglsang presents the vision of legitimacy for innovation in complex societies in ▶ Chap. 83, "Innovation, Bricolage, and Legitimacy." Bricolage can be said to be the important condition for innovation in contemporary economic markets. This chapter presents the literature on bricolage, innovation, and legitimacy, which is very relevant for the handbook. The chapter shows how bricolage is a practice-based ground for innovation, and this is something that is not always controlled beforehand. After presenting the concept of bricolage the chapter discusses the legitimacy of the practice of bricolage in innovation. This includes legitimacy theory on the basis of the sociological approach by Mark C. Suchman and relates this to other concepts of legitimacy. The chapter presents the concepts of pragmatic, cognitive, and moral legitimacy from Suchman's theoretical perspective and applies this to the concepts of bricolage and innovation, which are essential for business legitimacy challenges in the contemporary knowledge economy.

Sustainable Development, Ecology, the Anthropocene, and Business Legitimacy

O. Jakobsen and V. Storsletten present in the foundations of an ecological concept of sustainable economics in ▶ Chap. 84, "Ecological Economics and Business Legitimacy." The chapter provides an overview of the emerging field of ecological economy from the perspective of the tradition of ecological economy for ecological transition for sustainable development. The chapter begins with philosopher of sciences Imre Lakatos' distinction between a hard core and a protective belt in order to discuss the possibility of revolutionary change with ecological economy for a sustainable transition in society. Moreover, the chapter focuses on the need for the transition from the present capitalist economy with bad consequences for the environmental and social health of the planet towards a more sustainable and ecological economy. The fundamental question of ecological transition and ecological economy is whether we can overcome ideology and make another ecological and environmentally friendly economy possible. The chapter discusses this question in dialogue with important authors like sociologist Mannheim and philosophers Ricoeur and Levinas who present the possibility to overcome present ideology with a utopia of a better society. The discussion is important for the discussion of a new kind of business legitimacy. Indeed, the problem of transition towards ecological economy is essential in our present society. Thus, the focus of this chapter is the possibility to move towards an ecological utopia breaking with the ideology of the present system in the transition towards sustainable development.

A. Havsteen-Mikkelsen analyzes the conditions of business legitimacy in the area of the Anthropocene in ▶ Chap. 85, "Aesthetics of the Anthropocene: And How They Can Challenge Business Ethics." The chapter describes the Anthropocene challenges to business legitimacy. The chapter demonstrates the critical dimensions of the Western lifestyle with the global environmental crisis and the global climate crisis as a result. In this situation of global crisis moving towards an apocalypse, global business responsibility for economic transformation towards sustainability receives increased importance. With this background, the chapter describes how contemporary art challenges business legitimacy and puts emphasis on the responsibility of all humanity. Aesthetics of the Anthropocene is built on awareness of the Anthropocene where climate crisis is an essential challenge to business organization and capitalism because capitalism uses all resources and explores the world. Thus, the chapter argues that art combined with critical non-philosophy exploring the limits of established concepts can contribute to raise awareness about the global responsibility. The artistic project creates a community of contribution that addresses the global responsibility of humanity.

R. Torelli and F. Balluchi discuss environmental ethics and business legitimacy in ▶ Chap. 86, "Business Legitimacy, Agricultural Biodiversity, and Environmental Ethics: Insights from Sustainable Bakeries." This chapter presents analysis of the relation between biodiversity, ethics, and agriculture in relation to the agricultural industry. The focus of analysis is the bakery industry with its different stakeholders with different moral values and ethical claims. The chapter is structured as a case study of agricultural biodiversity with focus on sustainable transformation and ethical relations to nature. The chapter looks at the behavior of different stakeholders in relation to production and sales activity in order to understand the dynamics of business legitimacy in environmental business.

J.D. Rendtorff presents the relation between sustainability, innovation, and business legitimacy in ▶ Chap. 87, "Sustainability, Basic Ethical Principles, and Innovation." This chapter shows how a phenomenological ethics of the body can be integrated into an environmental philosophy of business ethics and sustainability. The chapter proposes the concepts of autonomy, dignity, integrity, and vulnerability as the foundation of sustainable development and sustainable innovation. This analysis demonstrates that environmental ethics can be regarded as an effort to go beyond anthropocentric ethics towards a broader conception of environmental ethics by incorporating stakeholder theory and ethical principles as the basis of a broader ethical concern for animals, nature, and the environment. Finally, the chapter explores the basis for innovation and organization in an ethical theory of sustainability.

Business Legitimacy and the Sustainable Development Goals (SDGs)

B. Hollstein gives a pragmatic argument for the ethical foundation of transformation to sustainability in ▶ Chap. 88, "Role of Corporations in the Great Transformation to Achieve Global Sustainable Development Goals: A Pragmatist Perspective." The chapter presents the pragmatist economic ethics in relation to corporate work with the SDGs for global development. The problem is how corporations can be change agents in the economic transformation and contribute to a more sustainable future. The chapter considers the SDGs a moral compass for the future. On this basis, the theory of Hans Joas of pragmatist action theory is applied for understanding corporate contributions to social justice in globalization. The question is whether it is possible to realize the goal sustainability in a pragmatist perspective. Here, the chapter discusses the SDGs in relation to intergenerational justice. What is important in pragmatism is that the pragmatist action theory helps us to understand how values become reasons for action. This relation between values and action is justified by the development of some of the most important concepts of pragmatist economic ethics. Hans Joas has defined this based on the work of Mead and Dewey. Pragmatism presents the relation between values and action in corporations as founded on concepts of embeddedness, understanding of the human person as a concrete embodied person, realization of the social character of norms, and ethical practices. Thus, we can develop a pragmatist economic ethics of the great transformation based on the normative claims of the relation between value and action. Here, corporations are change agents. Although they have stable economic institutions, they contribute to changes with new narratives, cultures, and balances of stakeholders for intergenerational structures. Corporations face complexity and uncertainty pragmatically modifying institutional practices with value changes. Here, corporations can act as change agents for SDGs.

O. Hustad analyzes partnerships and business legitimacy in ▶ Chap. 89, "Cross-Sector Partnerships as a Source of Business Legitimacy in the Sustainable Development Goals Era." This includes discussion of the concept of cross-sector partnership as a source of legitimacy in the era of the SDGs. From this perspective, the chapter goes deeper into the analysis of the SDGs and specifically Goal number 17 and presents how this goal requires business legitimacy through partnership to confront global challenges of the Anthropocene. The chapter introduces globalization and the Anthropocene as two drivers of legitimacy of partnerships that make partnership so important for legitimacy in the present conditions. In addition, the chapter analyzes how there may be governance gaps that partnership between business, governments, and NGOs can fill. This analysis is based on institutional theory combined with Mark C. Suchman's concept of legitimacy. This includes analysis of contemporary applications of a definition of legitimacy going beyond the initial definition of legitimacy in institutional theory. In this context, empirical developments of formation of partnerships between business and NGOs have an impact on this concept of institutional theory and legitimacy.

M. Frostenson analyzes the possibility of accounting for SDGs in ▶ Chap. 90, "Accounting Systems and Integration of Sustainable Development Goals (SDGs) into Corporate Operations." This chapter presents SDGs as a company guide for reporting SDG compass and other tools that facilitate the process of business legitimacy in society. The chapter discusses this in the perspective of important authors of accounting theory, Miller and Power. They refer to accounting roles and consider the process of accounting as a social process of institutionalization and construction of norms and subjectivities. The chapter analyzes the managerial and instrumental approach to SDGs, which is the attempt to integrate SDGs into accounting practices and scientific development of concepts. However, there may be a danger of losing ethical site of the SDGs through the transformation of the SDGs in the accounting process to become standards of accounting as governance through goals. Thus, the chapter elaborates on accounting of SDGs as this kind of business governance through goals. Here, accounting becomes a tool of integrating the SDGs in business operations. Accounting technologies are calculative instruments and accounting systems are systems that can be used to transform SDGs to quantitative accounting measures. In addition, the aim of the SDGs in accounting is to provide socially and environmentally acceptable conditions for growth and company development. The tools for this in accounting are the SDG compass and UN global compact, integrated with the global reporting initiative. As stated in the chapter, the UNDP Denmark has been important for contributing to developing an accounting scheme with the SDG-accelerator, which is a system of performance indicators aiming at integrating the SDGs in an accounting system. However, the danger of this may be SDGs become a system of meta-governance following the general idea of governance through goals in the accounting system rather than focusing on the internal dimensions of the accounting system of transparency, facilitation, control, and monitor. It seems like there is the danger that accounting for SDGs become accounting presentation of performance evaluation rather than a traditional form of accounting. This dimension of social accounting of the SDGs may be unavoidable with the dimensions of territorializing, mediating, adjudicating, and subjectivizing that shape and constitute accounting systems. Thus, with territorialization and performativity, accounting can help to give measures for mediating performance and account for it with a subjectivization of practice. This can lead to the subjectivation and responsibilization of individual actors for SDGs. However, as suggested in the chapter such integration of SDGs in accounting may also lead to potential arbitrary account of performance and loss of ethics and responsibility, since the forms of accounting as calculative technology of governance replace the ethical ideals of the SDGs. Thus, a critical ethical awareness of such processes of translation needs to be present in order not to lose sight of the importance of the ethical dimensions of the SDGs.

M. Valeva, H. Katz, and Y. Lurie present the social dimension of the relation between sustainable development and business legitimacy in ▶ Chap. 91, “Social Innovation Through Tradition: The Many Paths to Sustainable Development.” The chapter presents an analysis of social innovation in relation to tradition with regard to sustainable development. The chapter looks at sustainability in different communities and regions. This includes different concepts of communities in the comparison between Germany and Israel with regard to economic development and sustainability. The chapter also presents shortly SDGs in relation to sustainability, business, and entrepreneurships. The chapter looks at the sustainability in relation to regional/local development. The chapter introduces the concept of multiple modernities in relation to the concept of sustainability. Here, it is interesting that the chapter discusses the tension between innovation and tradition in relation to sustainability.

N. Eccles and B. van der Merwe give a critical analysis of the aim and scope of the SDGs in ▶ Chap. 92, “The 2030 Agenda for Sustainable Development, the SDGs, and Corporations: A Critical Reflection.” In the center of the critical reflection of the chapter is an analysis of the SDGs in the perspective of critical theory as a presentation of the SDGs as an expression of a neoliberal and capitalist concept of growth, which does not really change anything in the world. The chapter suggests that the SDGs do not really present a critique of the agenda of economic of modernist capitalism. Rather there is a great legitimacy risk for the environmental movement connected to the global marketing of the SDGs. Unfortunately, there is a dominant capitalist governing rationality implied in the SDG agenda. This means that there are many problems of legitimacy involved with the apparent alignment with human development of the SDGs. The problem of the role of corporations in the SDG agenda is that this does not really move beyond capitalism and business as useless. In order to really embed ethical practices in the activities of corporations, we need to be aware of the critical management approach to the agenda of the SDGs. Here the chapter mentions the problem of the unity of the SDG agenda where the agenda seems to deny all contractions. There is indeed a kind of legitimacy shroud of the

SDG agenda. The problem is that the illusion of unity makes all eventual disagreement and inherent contradictions of the SDG agenda invisible. Another problem of the SDG agenda is the concept of economic growth as a development goal. The chapter suggests that the SDG agenda still has economic growth as a kind of mathematical social science transformation of the world as a dominant dimension of the agenda. This means that a capitalist and neoliberal concept of economic growth is in the center for the agenda of the SDGs. There is no room for a dematerialization of the concept of growth and there is no deep vision of circular economy in the SDG agenda. Moreover, there is a potential value realization crisis of the agenda since many countries cannot live up to the values of the SDGs of democracy, human rights, etc. Nevertheless, this seems to be forgotten in the mechanistic concept of economic growth of the SDGs, not being open to the laws of entropy, the Anthropocene, or to the fact that there are simply planetary limits to growth of capitalist economic systems. Thus, from this point of view the chapter illustrates that SDGs are rather a legitimizing cover-up for capitalist corporations than an implication for real social change of the corporation. The irony of the SDGs may be that world businesses use SDGs as legitimation for capitalist and neoliberal activities.

Conclusion

Thus, with all these different contributions, the *Handbook of Business Legitimacy: Responsibility, Ethics and Society* attempts to propose a comprehensive coverage of state-of-the-art research and concepts, and ideas of business legitimacy that make the handbook a central reference work for the study of business legitimacy. Through an interdisciplinary perspective with comparative integration of sociological, politological, philosophical, theological, ethical, economic, legal, and linguistic and communication theoretical approaches, the handbook clarifies how the interrelation between company and environment is mediated by legitimating concepts in public spaces and public relations, communication, business strategy and organization, business ethics, leadership, and philosophy of management. In addition, the handbook provides a comprehensive assessment of the legitimacy concept's evolution, identifying the most influential authors and their works. The handbook presents systematic approaches and major themes developed in the concept of business legitimacy. The different parts of the handbook deal with the different topics to which business legitimacy has been applied, with how business legitimacy is relevant in the various operational areas of the firm, and with the legitimacy theory's responses to some of the most important issues that businesses and organizations currently face. Accordingly, the handbook is an essential reference work for students and scholars of business and society, strategy and organization, business ethics, business sociology, public relations and communication, corporate social responsibility, and sustainability studies.

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Jacob Dahl Rendtorff

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Part I

Definition and Conditions of Business Legitimacy

The Concept of Business Legitimacy: Learnings from Suchman

1

Integrating Sociological, Ethical and Critical Perspectives

Jacob Dahl Rendtorff

Contents

Abstract

This chapter discusses the development of the concept of business legitimacy from the work of Mark C. Suchman and beyond. This is based on research on corporate social responsibility, corporate citizenship, and corporate governance as essential elements of ethical business legitimacy. In this context, the concept of business legitimacy is presented in the perspective of critical theory. Even though

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the chapter begins with institutional theory, it also integrates institutional theory into the general normative discussions of critical hermeneutics of business ethics and corporate social responsibility. With this, the concept of business legitimacy aims at combining the sociological and constructivist approach from institutional theory with the normative and ethical approach from business ethics and political CSR.

Keywords

Business ethics · Business legitimacy research · Corporate citizenship · Institutional responsibility · Public relations

Introduction

This chapter discusses the development of the concept of business legitimacy from the work of Mark C. Suchman and beyond. This is based on research on corporate social responsibility, corporate citizenship, and corporate governance as essential elements of ethical business legitimacy (Rendtorff 2019c). This perspective develops and continues recent research on the concept of business legitimacy (Rendtorff 2019a: 45–60). In this context, the concept of business legitimacy is presented in the perspective of critical theory. Even though the chapter begins with some learnings from Suchman, it is also important to emphasize that this chapter moves beyond Suchman since it starts with institutional theory, but it integrates institutional theory into the general normative discussions of critical hermeneutics of business ethics and corporate social responsibility (Rendtorff 2019a: 45–60). With this the concept of business legitimacy aims at combining the sociological and constructivist approach from institutional theory with the normative and ethical approach from business ethics and philosophy of management (Rendtorff 2009a, b, c, 2010a, 2013a, b, c, d, 2014a).

Here the chapter searches to combine descriptive, positive concepts of legitimacy with moral and normative concepts of business legitimacy. In his article "Legitimacy" in the *Encyclopedia of Ethics*, A. John Simmons (1992/2001) writes that "[P] hilosophers have generally identified legitimacy with a certain kind of moral authority in the legal or political realm. More specifically, legitimacy is the moral property of states, regimes (rulers, governments), or laws which makes them genuine, rightful, or authoritative . . . Most conceptions of legitimacy associate the legitimate with 'the lawful' and/or with 'the accepted' or 'the acceptable' . . . Positive legality is at most a necessary condition for legitimacy . . . Legitimacy requires moral legality or positive legality within a morally justified constitutional scheme."

Seen in this perspective, the critical approach based on the concept of business legitimacy is broader than traditional approaches of descriptive sociology since it involves a normative approach to corporate social responsibility and corporate governance in relation to business legitimacy as a basic concept in philosophy of management (Rendtorff 2019a). At the same time, this critical approach does not consider business ethics and philosophy of management in isolation from the social and political context of the social embeddedness of the economy (Rendtorff 2009a, b, c, 2010a, 2013a, b, c, d, 2014a). With this critical approach, the concept of business legitimacy can be considered from both normative and descriptive perspectives, but indeed also from strategic perspectives of constructing and maintaining legitimacy. A company must take into consideration legitimating notions to be able to exist and prosper in a society: legitimacy is a precondition of the company's license to operate in society, and of the supply of necessary resources – ranging from investments, committed employees, business partners, and sales/consumption to political support and support from an increasing range of diverse stakeholders (Rendtorff 2019a). However, the interrelation between a company and the rest of society changes with society's evolution and is mediated by changing legitimating notions and processes.

In the contemporary discussions of business legitimacy, the company's ethical, social, and societal responsibility is reformulated towards broader value orientations expressed in the triple bottom line, which balances social, environmental, and economic considerations; in societal commitment where the company assumes tasks that were previously reserved the state (Rendtorff 1998, 2002, 2003, 2008, 2014c; Jørgensen and Rendtorff 2018; Jørgensen et al. 2018; Rendtorff and Kemp 2009). Formerly, the room for legitimate decision-making rested relatively stable and indisputably on notions of shared, taken-for-granted norms. Today, legitimacy has grown discursive and subject to continuous negotiation in communicative processes between a long range of positions. Therefore, critical research on business legitimacy is needed.

A company must justify itself in legitimizing processes characterized by fluid, ambiguous norms and ethics statements to an extent so that communicative competences and practices are a fundamental precondition for navigating in a society that grows increasingly dynamic and diverse (Rendtorff 2019a). The prioritization of legitimacy and legitimization has grown from the periphery and today are at the center of a company's existence and prosperity, including its ethical and political profile. Only a few decades ago, a company's legitimacy was more or less given by common norms, by control and by central regulation via law. Today, legitimacy and legitimization are basic mechanisms in fundamentally new forms of political governance that rely on mutual reflections and continuous tests of legitimacy. These can be identified in most regions characterized by the specific structures, ethics, and values of the modern society, which emerged with the social differentiation in Europe in the seventieth century and today dominate Western-oriented regions. However, different societal, political, and cultural forms foster different notions, ideas, and ideals as to the interrelation between society and company.

As globalization increases with challenges of sustainability and response to global problems, the interdependence between previously separated societal forms, conflicts between legitimating notions are activated. Globalization not only poses a challenge for companies to navigate in a diversity of inherent conflicts of legitimacy. It also requires the ability to relate to different and even conflicting perceptions of legitimacy at the same time in a globalized public space. This is a growing trend with the rise of social media, which entails global connectivity. Accordingly, the contents as well as the rationality of legitimacy, the way of legitimization as well as the weighting of legitimacy and of legitimization, and the types of legitimacy conflicts have changed and this is an important challenge for developing sustainability in the intersection between the two pillars of corporate social responsibility and corporate governance (Rendtorff 2019a). Therefore, it is necessary to clarify how the interrelation between company and environment is mediated by legitimating notions in public spaces and public relations; how and why these notions have changed radically; how these transformations strike on the epistemological as well as practical dimension of business companies; and the problems involved in these transformations at the macro-, meso-, and micro levels of organizational interactions.

The Aim of Business Legitimacy Research

The aim of this approach to legitimacy is to develop a critical theory with theoretical and practical understanding of the institutional dimension of business ethics and corporate citizenship and political CSR through the processes of legitimation where the company achieves social acceptance and recognition in society. Indeed, we can consider this in the perspective of Suchman's sociological approach to business legitimacy and propose an argument taking up some of the aspects of legitimacy from the point of view of institutional theory (Suchman 1995).

Essential research questions to ask in relation to the concept of business legitimacy are: (1) What are the challenges of business ethics confronted with increased complexity and new social expectations to corporations in an age of globalization? (2) What are the principles of strategic management business ethics and corporate social responsibility (CSR) that should be used by firms to respond to these challenges? (3) What is a theory of corporate legitimacy and how should we define the relations between good corporate citizenship and business ethics in the global process of transition towards sustainability?

The response to the problem of business legitimacy is the search for a comprehensive institutional and normative, critical theory of responsibility, ethics, and legitimacy of corporations in a globalized society. The focus is the idea of corporate citizenship as basis for reflective political responsibilities of companies (Rendtorff 2019a). This approach to strategic management and business ethics is based on a concept of reflective business ethics including the four ethical principles of protection of the human person: autonomy, dignity, integrity and vulnerability in the framework of sustainable development (Rendtorff 1998, 2002, 2003, 2008, 2009b, 2008, 2014c; Jørgensen and Rendtorff 2018; Jørgensen et al. 2018).

Such a critical normative theory of business ethics and corporate citizenship implies an approach to ethics at different levels of society, individuals, organizations, and market institutions. The idea is that business ethics and corporate social responsibility should not only be applied at the level of human personal choices. Rather it is indeed necessary to construct common values and concepts of responsibility for business organizations and institutions in order to critically scrutinize the old saying that "good ethics is good business" as a reaction to the opportunistic challenge of economic theories of individualist utility maximization.

Suchman's Institutional Perspective on Business Legitimacy

These normative dimensions of business legitimacy relate to different aspects of the general problem of the social legitimacy of corporations, which is analyzed in the perspective of institutional theory (Suchman 1995). The rise of institutional theory in 1980s and 1990s made it a very dominant approach to organization theory and this inspired Mark C. Suchman in his classical and legendary paper: *Managing Legitimacy: Strategic and Institutional Approaches* (1995). The foundation of such analysis may be the search for legitimacy in corporations was here proposed by Suchman (1995). He defines legitimacy as an effort to adapt to the internal and external environment of the organization. The discussion of legitimacy has been marked by a tension between a strategic and an institutional definition and there has been very little dialogue between the two theoretical traditions. With these forms of legitimacy, legitimacy can be conceived as a "process where the organization justifies to a peer or subordinate system its right to exist" or as a "congruence between the social values associated with or implied by (organizational) activities and the norms of acceptable behavior in the larger social system." Or it can be determined as a "generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions" (Suchman 1995).

We can say that following Suchman legitimacy is a multilevel construct. This implies to look at legitimacy judgments at the individual and collective level. Moreover, it is important to remember that legitimacy is a concept from institutional theory. Indeed, Suchman distinguishes between three fundamental aspects of legitimacy: Cognitive, moral, and pragmatic legitimacy, where legitimacy is identified as generalized perceptions and expectations to the business firm (Suchman 1995). Here, legitimacy relates to expectations and judgments at the individual and at the collective level. As a multilevel construction, legitimacy refers to a construction of a relationship, where legitimacy is formed as a relation between and an environment of a firm.

It is important to remember that Suchman's article emerged out of a research project on the role of the nuclear industry in society. The problem was the social justification of the activities of the industry. In order to find applicable concepts of legitimacy for corporations and business systems, we can say that Suchman interpreted three forms of authority from Max Weber in a new way. Weber mentions traditional legitimacy, charismatic legitimacy, and rational legitimacy (authority). We can say that Suchman reinterprets these forms of legitimate authority in the organizational context with his three other dimensions of legitimacy of cognitive, moral, and pragmatic legitimacy. In Suchman's perspective, Weber's concepts of legitimacy are transformed into dynamic concepts of institutional developments of the organization.

Moreover, Suchman defines legitimacy from the three dimensions as a relation between cognitive, moral, and pragmatic legitimacy (Suchman 1995). Here, it is important to stress that the ontology of the social construction of business legitimacy can combine the three dimensions in a more integrated holistic concept of legitimacy where cognitive legitimacy can embed both pragmatic and moral legitimacy. Accordingly, it seems that creation and maintaining cognitive legitimacy is most advantageous for achieving legitimacy of an organization.

Thus, focusing on cognitive legitimacy, business legitimacy emerges in the relation between the beholder and the object of legitimacy. From this point of view, legitimacy becomes a relation between a legitimacy object, i.e., an organization and an audience that evaluates the legitimacy of the organization. It is in this context that cognitive legitimacy becomes the most stable kind of legitimacy, which indicates the ontology of the organization. Accordingly, cognitive legitimacy is viewed as the most fundamental dimension of legitimacy, which is very difficult to change. In contrast to this, pragmatic legitimacy is much more a construction of an image or appearance of the organization. Pragmatic legitimacy summarizes the efforts of an organization to achieve respect, trust, and acceptance even though there may be deep ontological mistrust related to the activities of such an organization. In the same sense, moral legitimacy may be less constant since moral norms and perceptions may change over time and require readjustments of the organization with regard to creation and maintaining of legitimacy (Suchman 1995). Thus, defined as an ontological fact, cognitive legitimacy may be central for defining legitimacy. However, this makes it also difficult to improve and create legitimacy as a social construction, due to the ontological stability of cognitive legitimacy.

Here, it is important to take into account that legitimacy changes over time and that there is a temporal development of legitimacy through legitimation. Legitimacy can be gained and lost over time and this is critical for sustainability of the organization. Legitimacy is a dimension of strategic management and development of the firm in order to create, maintain, and enlarge its social acceptance. The legitimacy of different organizations changes according to context and culture (Rendtorff 2019a). From the perspective of the environment of the firm corporate social responsibility and corporate governance aim at increasing business legitimacy of the firm. Legitimacy is relevant both in the internal and external environment of the organization. Internally, legitimacy is about the practices and structures that characterize the organization. Externally, it relates to the performance of companies that are dependent on the organization and its environment. The performance of companies is dependent on the organization and its environment. Organizational agency and the property perspective cannot be passively confirming to institutional perceptions. Rather, it depends on how organizations behave in activity creating legitimacy in the social, political, and environmental field in relation to the complexity of sustainable development.

This means that legitimacy can be defined as perception based on expectations. Legitimacy is not only the collective level but also a judgment at the individual level, based on social expectations. We can see different perceptions and expectations of the legitimacy in different industries and environments of firms. The expectations of legitimacy are based on a property, process and perception view of legitimacy. There is a multilevel model of expectation and perception of legitimacy in organizations. This means that perception and expectation legitimacy combine cognitive, discursive, and emotional dimensions of the different stakeholders' perceptions and expectations of organizations.

Because of Suchman's three dimensions of justification of business legitimacy, the critical question is whether the concept of legitimacy research provide an understanding of ethics, CSR, and good corporate citizenship (Rendtorff 2019a). The central challenge is whether there can be a normative and critical concept of business legitimacy that moves beyond the descriptive presentation of the legitimacy challenges of a company. Here, an epistemological and ontological tension constitute a theory-method gap in the analysis of legitimacy. This is because legitimacy research moves in the field between normative and descriptive analysis, situating normative justifications in a broader social context. Here, it is important to stress that legitimacy research looks at institutional changes within the different micro-, meso-, and macro-levels of organizational interaction with the environment. In this context, we can distinguish between different descriptive from normative approaches and levels and spheres of legitimacy, including historical, social, political, economic, and legal legitimacy.

Legitimacy, Democracy, and Deliberative Rationality

Thus, democratic justification of legitimacy seems to be an implicit assumption in Suchman's conception of legitimacy (Suchman 1995). In order to clarify this conception of legitimacy, we can turn to the concept of communicative rationality in critical theory (Raulet 2011). Legitimacy in communicative rationality and democracy is related to Jürgen Habermas political and social philosophy (Habermas 1962, 1973, 1981). This implies a combination of micro-, meso-, and macro-perspectives on the concept of business legitimacy. With his hermeneutical and critical theoretical philosophy, Habermas begins with the communicative encounter between human beings as essential for social and political normativity. In his work on the historical genealogy of the critical public sphere, Habermas emphasized that the basis of legitimacy is the free rational discussion among free and equal subjects according in free and domination free dialogue based on the willingness to listen to each other's arguments and positions.

In his work on the public sphere, Habermas also presented the structural change of the public sphere where capitalist economic systems and instrumental rationality challenged the communicative rationality of the public sphere (Habermas 1962, 1973, 1981). In the crisis of advanced capitalism, this implies increased legitimacy and legitimation problems where a social, economic, and political crisis means that it is increasingly difficult to find legitimation and justification for current political and social systems in the perspective of democratic communicative rationality (Raulet 2011). However, according to Habermas, both in political and social systems, but also in organizations, this is the only way it is possible to justify legitimacy of social and organizational systems. Therefore, the basis for legitimacy in organizations is the discourse rationality of democratic communication as presented by Habermas.

Scherer and Palazzo provides the application of Habermas' concept of deliberative and communicative rationality to the field of political CSR as an important dimension of business legitimacy in the article *Toward a Political Conception of Corporate Responsibility: Business and Society seen from a Habermasian Perspective* (Scherer and Palazzo 2007). In the framework of Habermas' critical theory, a political concept of CSR as the basis for business legitimacy is founded on Habermas' vision of the ideal speech situation, where ethical discourses are integrated parts of political and practical deliberations in democratic societies. The critical basis for ethics is the ideal speech situation where ethical consensus emerges in dialogue in order to reach consensus on universally accepted norms and values. Firms searching for business legitimacy are in this perspective actively engaging in corporate governance processes based on ideal speech situation, founded on the vision of the primacy of democracy for business legitimacy (Scherer and Palazzo 2007, 1098).

Thus, the discourse ethics conception of rationality mediated through deliberative democracy can be proposed as a basis for dialogical conception of CSR and business legitimacy (Rendtorff 2019a). Business acquires legitimacy in communicative dialogue with their stakeholders about policies and decisions (Scherer and Palazzo 2007, 1103). Legitimacy of business in a democracy implies recognition in political democracy of the norms and values of the political corporation. A corporation does not only achieve legitimacy at economic markets, but cannot avoid being considered as a democratic political actor, dependent on democratic political processes, submitting values and decisions to the democratic political processes in society (Scherer and Palazzo 2007, 1107).

Business Legitimacy, Critical Theory, and Critical Hermeneutics

The concept of methodology of business ethics for the study of business legitimacy can on the basis of institutional theory and the epistemology of communicative rationality be conceived as "critical hermeneutics," i.e., a critical theory which is combined with an interdisciplinary institutionalist approach to economics and social sciences (Rendtorff 2019a). Critical hermeneutics as form of critical theory mediates between structural and intentionalist explanations of causalities of actions in institutional theory (Rendtorff 2015b). However, it is as suggested also important to go beyond mere institutional analysis and propose a normative perspective of applied ethics integrating description of legitimacy challenges with analysis of ethical argument as basis for a legitimacy approach to business ethics and CSR (Rendtorff 2009a, c, 2011a).

Critical hermeneutics implies a critical analysis of the ideology positivist and post-positivist approaches to CSR and business legitimacy. In the perspective of Habermas' concept of critical hermeneutics, analysis of business legitimacy implies the critical normativity of the ideal speech situation (Scherer and Palazzo 2007, 1100). Positivist paradigms of business legitimacy research of business ethics and CSR can be said to focus on strategic and pragmatic legitimacy in order to describe causals relations and descriptive analysis of processes of strategic legitimacy. In this context, studies of business legitimacy and CSR are close to natural sciences (Scherer and Palazzo 2007, 1096). When we use critical hermeneutics in the study of business legitimacy, critical analysis moves beyond the positivist, instrumental, and descriptive approach by combining strategic analysis with ethical and normative conceptions of business legitimacy and CSR.

Accordingly, from the point of view of critical hermeneutics, ethics can be defined as a normative study about what norms should guide decision-making and corporate social responsibility in business and economics. In the perspective of business legitimacy, this means that critical analysis implies critique of ideology of pragmatic, performative concepts of legitimacy based on instrumental justifications (Rendtorff 2019a). The normative study of business legitimacy based on the intrinsic value of ethics applies simultaneously at the micro- and macrolevels of organizational behavior, business systems and market structures, and influences the political economy of different societies or states. Business ethics applies a critical evaluation of formulations of guidelines and codes of conduct for companies at national and international markets.

This broad approach to business legitimacy in the perspective of business ethics and deliberative rationality does imply a critical evaluation of performance management, instrumental conceptions, and neoclassical economics of efficiency and utility and it implies a broader interdisciplinary, institutional, and historical perspective on the norms and values of corporations (Rendtorff 2015a, b, c). Although it recognizes the explanatory potential of this tradition, critical hermeneutics as critical theory does not think that descriptive positivist economics is sufficient (Rendtorff 2019a). We need discussion about goals and values and business ethics emerges as a kind of normative economics to accomplish the insights of business economics. Business ethics therefore agrees in considering normative economics as a science of conversation based on theoretical arguments about ethical principles, values, and good business practice.

Business Legitimacy and Integrative Economic Ethics

Scherer and Palazzo contributes to this ethical evaluation of the economy and business practice when they emphasize that globalization and the need for global sustainability implies changed condition of legitimacy. The contemporary requirements of respect for human rights and sustainability in the global economy has put an increased emphasis on moral legitimacy in contrast to cognitive and pragmatic legitimacy (Scherer and Palazzo 2011: 914). The changed conditions of legitimacy imply that businesses are no longer only dependent on the economic market and they are no longer isolated to the economic sphere. The focus on moral legitimacy comes from the fact that business corporations are dependent on discursive processes between business and society. Businesses take part of processes where they are held morally and politically responsible (Scherer and Palazzo 2011: 914).

This means that they take part of processes of political justification where moral legitimacy is integrated with pragmatic and cognitive legitimacy. Accordingly, we can talk about integration of economic ethics with political and societal values. In this context, it is possible to adopt the concept of "integrative economic ethics" in order to mediate between ethics, political, and economic rationality (Ulrich 2008). This integrative approach can be considered as the application of political CSR, "democratic business ethics," critical theory and critical hermeneutics as the basis for ethical reflection on the foundations of economics as a truly value-creating science. In this perspective, business ethics based on legitimacy integrates the rationalities of law, economics, and politics in order to promote sustainability and the good life of humanity.

Integrative business ethics is not only about external limitations on business activity, but it also implies internal guidance for economic value-creation. It implies not only a deontology of correct business rules but also an argument for the morality of just institutions of free economic markets. Thus, integrative business ethics aims at formulating principles for corporate social responsibility of the good citizen corporation. As a response to the increased demands of political CSR and political legitimacy in deliberative democracy, business ethics is defined as a critical practical rationality integrating ethics in the disciplines of economics and the social sciences.

Such a discussion of the relation of economics and ethics in the perspective of critical hermeneutics aims at a justification of the rationality of business ethics, CSR values-driven management in business institutions (Pedersen and Rendtorff 2004; Mattsson and Rendtorff 2006). It is possible to perceive the emergence of a close link between ethics and economics in the new strategies of corporate social responsibility and values-driven management. However, there remains a tension between ethics and economics. Therefore, there is a need for external political and legal constraints on economic markets. Ethics is the foundation of economic action in the perspective of critical business legitimacy.

At the same time, we should admit that there is an ethical dimension within economic notions of utility and efficiency, which should be taken into account when dealing with the ethics of economic markets. Therefore, there may be an economic dimension to ethics, and ethics and economics are in a "dialectical relation" where they mutually shape one another (Neuman 2003). In the light of economic anthropology, this implies a critical examination of the concept of "Homo Economicus" of egoistic utility maximizing individuals in traditional economic theory (Sen 1987). Economic anthropology should rather be considered as based on interactions between individuals in complex networks of reciprocity in social community. In this perspective, economic action is based on the vision or aim of the "good life with and for the other person in Just institutions" (Ricœur 1990, 202).

So, ethics of business corporations is not restricted to the economic market, but integrated in the political and social processes of society. Therefore, Habermas' concept of deliberative democracy can be applied to the discursive participation of businesses in social processes. Business must refer to a vision of the common good of society when they try to justify their economic activities. In the perspective of discursive ethics, this vision is evaluated in the Kantian perspective of universal rules of the categorical imperative. Utilitarian welfare analysis is only possible in the perspective of this framework of deontological limitations of action. It is the task of Kantian determinate and reflective judgment as the bridge between micro and macroeconomic rationality to make the convenient application of ethical theories and principles to concrete situations of choice and decision-making in business organizations (Paine 1994).

This is the basis for the concept of the rationality of ethical decision-making, CSR and values-driven management in the perspective of critical "democratic business ethics." Therefore, as a part of discursive processes of political democracy, business ethics is not only about internal market behavior but also about finding external principles of political governance to regulate the activities of businesses on economic markets (Rendtorff 2009a, c, 2011a). In order to acquire legitimacy, businesses are in close interactions with different social and political processes in their global environment. With moral evaluation of business activities, businesses are held responsible for human rights and sustainability issues in global society far beyond their performance as economic actors in economic systems. Accordingly, with integrative economic ethics, it is necessary to adopt John Rawls' concept of "justice as fairness" and respect for basic political liberties as well as political and social rights in deliberative democracies as the ultimate horizon of democratic business ethics of political corporations (Lütz and Lux 1979; Ulrich 2008).

Business Legitimacy, Organizational Institutionalism, and Economic Rationality

With the emphasis on moral legitimacy as the core of legitimacy, it is possible to revisit organizational institutionalism (Deephouse and Suchman 2008). In fact, it can be argued that the emphasis on reputation and status as a part of organizational legitimacy emphasize that moral legitimacy has become central to business legitimacy. In general, this is underlined by the increased focus on the relationship between culture and legitimacy in institutional theory. Beginning from Weber's multifaceted account of legitimacy, Parsons focused on legitimacy as "congruence with social laws, norms and values" (Deephouse and Suchman 2008: 50). From there legitimacy has been defined with concepts like rational effectiveness, legal mandate, collectively valued purposes, means and goals with focus on the latter which suggest the importance of normative and moral legitimacy (Deephouse and Suchman 2008: 50). Moreover, from Meyer and Rowan to Scott, there is a focus on institutional theory as essential for the cultural support of the organization as basis for practical legitimacy in sociopolitical contexts.

Taking into account the classical Weberian perspective of the relation between legitimacy and economic rationality, legitimacy theory focuses on the impact of different views of the firm and economic life in different theories of management and economics in the twentieth century. These views include concepts of business legitimacy based on environmental legitimacy, normative and cultural isomorphism, professional legitimacy, taken-for-granted, and other forms of legitimation. It is important to analyze these views of legitimacy in some of the most influential theories of economics and management in order to promote an institutionalist and stakeholder-oriented view on corporate legitimacy, which is based on the idea of the good citizen corporation. This moral approach can be distinguished from other possible views on the legitimacy of the firm in modern society. From the point of view of communicative rationality, discursive processes and stakeholder dialogue can be viewed as the critical normative basis of the concept of good corporate citizenship (Habermas 1981; Scherer and Palazzo 2007).

These ideas makes it possible to escape the Weberian iron cage" of instrumental rationality opening for market regimes based on "integrative business ethics" with a broader social basis in the social and institutional dimensions of society (Rendtorff 2019a). Legitimacy is founded on the social community and the human life world based on views on justice as fairness, protection of rights, and the promotion of the common good for society (Ulrich 1998: 416). Thus, according to these moral views of the legitimacy of business in society, responsibility, integrity, trust, and accountability emerge out of the idea of democratic business ethics based on democratic political processes in society where the license of operate and good business of the firm is to be a good servant of society.

With this critical and normative approach, analytical and descriptive approaches to legitimacy must study the fact that many modern corporations have introduced ethics and compliance programs and values-driven management taking into account all the firm's stakeholders in the discursive processes in society (Rendtorff 2019a). In many cases, reporting procedures and accountability programs for corporate and social values are introduced into the organization as basis for creating a process of business legitimacy. The corporate boards see them as a means to ensure not only the responsibility and integrity of the organization but also efficient management, competitiveness, and legitimacy of the firm in a complex democratic society. However, critical management of business legitimacy implies that organizations moves from social construction of popular brand images to democratic dialogue of business legitimacy, based on communicative action.

Business Legitimacy in the Process of Business Politics

Thus, there is a close relation between the different aspects of legitimacy in the internal and external environments of the firm. There are also "macro" and "micro dimensions of legitimacy, which means that the process of creating and maintaining business legitimacy is a multilevel process between institutional stability and instability (Bitektine and Haack 2015). Taking into account the manifold of the institutional environment and participation in discursive processes corporations take part of institutional processes, which shape and transform their legitimacy as corporations and political institutions. These processes happen in processes of cognition and communication where business legitimacy is formed according to evaluations and judgment determined by different institutions in society (Bitektine and Haack 2015: 51). In particular, social institutions like media, governments, legal regulation, and juridical systems contribute to this validation and evaluation of business legitimacy of different organizations and institutions. These institutions influence the institutional stability, change, and transformation of business legitimacy and contribute to define the dynamics of institutional change in society (Rendtorff 2019a). Thus, we need to look at the sociopolitical and law-making processes in order to understanding the institutional stability, change, and developments in society.

Political and legal developments seem here to confirm the emergence of a new concept of corporate citizenship and moral and political concept of CSR. Considering the United States, we can see that the US-government and legal system, US-corporations, and researchers from the different fields of economics, law, philosophy, and political science have, in particular, contributed to the institutionalization of ethics and compliance programs in US companies and thus creating a moral and normative environment for the political corporation. In the United States, the 1991 *Federal Sentencing Guidelines for Organizations* were very important for developing a policy framework for corporate citizenship, corporate ethics, and corporate social responsibility (CSR). These guidelines have been confirmed by a lot of legislation following many scandals and the guidelines were much needed after the financial crisis (Rendtorff 2019a).

The legal requirements of the 1991 US *Federal Sentencing Guidelines for Organizations* imply a concept of responsibility where not only individuals are held responsible for their actions, but also where the board of the firm and managing directors as representatives of the firm have responsibility to institutionalize ethics and compliance programs in the corporation. The use of criminal law to make ethics regulation can be interpreted as an effort to ensure ethical behavior in the institutions of US business life so that institutional norms can support individuals in complying with the laws and custom of society (USSG 1995; USSG 2017).

In Europe, the European Community have also introduced important policy initiatives concerning corporate citizenship, for example, we can mention the ethics, politics, and legal regulation implied in the EU recommendations on CSR as have been proposed in the European Commission's Green Paper *Promoting a European Framework for Corporate Social Responsibility* published in 2001 (European Commission 2001 and later). In the policy of the European Union, it was since the beginning argued that CSR should be of a "voluntary nature" and the concept of "stakeholder" is seen as very important in the efforts to include different parties in European stakeholder forums concerning CSR decision-making. This definition has recently since 2016 been improved with the focus on "social impact" as a core element for measuring the level and validity of business legitimacy of a corporation. This has led to increased focus on business ethics and many corporations work to integrate CSR in their strategies for corporate performance, business ethics, values-driven management, and corporate governance.

These developments in the USA and Europe have had a global impact. As normative basis for international business conduct, integrative business contributes to establishment of such international regimes of good norms for values-driven management and multinational business practice. We are moving towards the creation of a critical cosmopolitan view of business ethics and CSR considering the firm as a world citizen with global political responsibilities in the post-national constellation (Rendtorff 2009a, c, 2011a). Many international organizations, business, and corporations have contributed to the establishment of such an international regime of business ethics. The Caux-Round-Table discussions with continuous updating of the ethical Caux-principles involving businesses from most continents are examples of such institutionalization of values with proposals for international guidelines for multinational business contributing to the institutionalization of business legitimacy (Caux Principles for Business 1994; Rendtorff 2014b).

The principles of UN Global Compact initiated by Kofi Annan in 1999 have been essential for setting norms of good corporate citizenship at the global arena. Today, we also have the program of business and human rights by the United Nations and the different principles find a common expression in the UN Sustainability Goals (SDGs) from 2015 (Rendtorff 2015a, b, c, 2017a, b, c, 2019a, b, c, d). In addition, most European governments and business leaders now look at developments in America in order to formulate appropriate guidelines and compliance programs for ethics and values-driven management in European business life.

Following a number of international guidelines and recommendations, the UN has with the business for human rights principles and the sustainable development goals gathered to agree about principles and rules of conduct with regard to the respect for human rights in multinational corporations. These policy developments can be interpreted as efforts to contribute to the institutionalization of corporate ethics, citizenship, and CSR as a central element in the agency and governance of the firm. We may say that these institutionalizations of norms and values at micro- and macrolevels imply that the firm is not only conceived as an economic and legal subject but also as an ethically responsible actor.

Normative and Moral Legitimacy: Business Legitimacy as Moralization of the Firm

In this process of the institutionalization of business legitimacy as political CSR, corporate citizenship and business ethics in USA, EU, and UN and the whole world – a *moralization of the firm* – it is possible to distinguish between: (1) economic responsibilities, (2) legal responsibility, and (3) ethical responsibilities (Carroll 1979; Schwartz and Carroll 2003; Carroll and Buchholtz 2002). But the critical, moral dimension of business legitimacy as implies a mutual dependencies between the different dimensions of CSR. The relation between the different kind of responsibilities should conceived not as a pyramid (Carroll 1991) but as an integrated concept (a Venn-diagram) and it should not be isolated to one single domain (Schwartz and Carroll 2003). The different responsibility should be integrated in an integrity strategy for organizational leadership and governance. With the three-dimensional perspective on business performance including economic, legal, and ethical (philanthropic) responsibilities, corporate citizenship emerges the good management of the tensions and requirements of the different kind of responsibilities.

We can illustrate the development of corporate responsibility towards corporate citizenship in political CSR by emphasizing different features of behavioral activities of business legitimacy (Carroll 1979; Schwartz and Carroll 2003, Jensen 2000; Verstraeten 2000). These dimensions illustrate the process of creating and maintain business legitimacy in a dynamic perspective. There is a development from an economically and legally sound organization towards the ethically and morally responsibly corporation that seeks to act as a good corporate citizen with a proactive attitude towards the common good in society.

Types of Business Legitimacy I: The Economically and Legally Responsible Corporation

The original economic concept of the firm, as ideal type, can here be *named the economically and legally responsible corporation*. This is a company that sees the market as the defining value of the corporation. The aim of this business is defined as economic success on the basis of minimum compliance with legal regulations. The focus of management is defined as rational strategic planning in relation to economic markets. The focus of search for legitimacy is here based on economic and legal criteria with strict reference to business economics criteria. This business model follows the ethical norms of the economic market and its values as neutral, and the business model is based on objective scientific economics.

The social understanding of this concept of the firm is that it conceives actions as limited to what stakeholders and owners can accept. This model of economic legitimacy emphasizes that the requirement of legitimacy means that the company should not go beyond the limit of action. At the level for strategy of action, the company should here seek economic profits and search to be committed to defensive adaptation by cost externalization and economic management.

With regard to social pressure, this model of legitimacy includes that the company maintains low profile if the action of the corporation is criticized, uses PR in order to improve image and avoid criticism. Information is only published, when it is legally demanded by the external environment of the firm. Moreover, the firm tries to stay away from public spotlight. In addition to this with regard to its attitude to legal and political activities, the firm that follows this model of legitimacy wants maintain status quo, and in addition, this firm is actively engaged against legislation that internalizes costs and is critical towards increased tax burden.

This firm tries to keep lobby activities secrete. With regard to the concept of corporate citizenship and the broader view of corporate citizenship, the firm that follows the model of being an economically and legally responsible corporation does not have any comprehensive social responsibility programs. This kind of firm only contributes to social responsibility, when the corporations has a direct advantage of philanthropy. And in this context, this firm is most likely to consider contributions to philanthropy not as an institutional responsibility, but rather as the responsibility of individual employees.

This kind of firm is a good example of the traditional and cognitively dominating idea of the business firm as a legal and economic institution and instrument of transaction without any cultural or institutional substantial content.

Types of Business Legitimacy II: The Ethically and Socially Responsible Corporation

The model of the *ethically and socially responsible corporation* in contrast to the ideal type of the economically and legally responsible corporation seeing both the market and the state as important agents who define the values of legitimacy of the corporation and its activities. The firm's aims and the means of the business corporation is considered to be economic success with respect for the economic market and legal regulations but also for the ethical custom of society.

The management focus is therefore broader than a pure legal and economic approach and the implied rationality is based on traditional strategic and economic methods. This involves an openness towards new methods of ethics and rationality (Rendtorff 2019a). In this model of search for business legitimacy, the company is marked by an increasing willingness to search legitimacy beyond market criteria. This involves a focus on ethical norms and this means that the company is aware of a necessity of a definition of legitimacy norms in a socially oriented perspective. This company seeks to avoid doing things that are contradictory to prevailing social norms.

This ideal type of the business corporation in search for legitimacy accepts legal and economic demands, but is also willing to go beyond those demands and related to the stakeholders that are affected by those actions. We can say that the involved strategy for action that is proposed by this company includes a strategy of reactive adaptation. This means that if possible, externalized costs are identified and there is a beginning effort to compensate for such costs (e.g., environmental costs).

With regard to acceptance of social pressure, the company accepts responsibility for solution of concrete problems (Rendtorff 2019a). Moreover, the business firm admits errors in earlier practices and makes an effort to convince the public that the corporation works to find a better practice. With regard to the concept of legal and political activities, this model of a business firm expresses willingness to work with external partners to improve legislation and adaptation to social norms and laws. Thus, the company has less secrecy with regard to pressure and lobby activities.

The company has some conception of philanthropy going beyond individual responsibility. Accordingly, the business contributes to noncontroversial and well-established aims that also employees support. In addition, the business firm has a tendency to consider philanthropy as a kind of advanced sponsorship activity.

Types of Business Legitimacy III: The Proactive Corporation Searching for Corporate Citizenship

At a more advanced level, the conception of business firm as *The proactive corporation searching for corporate citizenship* searches for corporate citizenship based on ethical and responsible political business legitimacy. This model of the firm defines the important agents who define the values of the corporation as involving democratic activities at market, state, public discussions, and institutionalization of stakeholders (Rendtorff 2019a).

The aims and means of the legitimacy strategy of this company is based on a search for economic success, legal responsibility, proactive search for legitimacy, and for respect as a good citizen in society. This requires a broad management focus going beyond rational strategic planning in relation to economic markets with use of values-driven management, CSR, business ethics, management based on the triple bottom-line, and compliance with global norms of sustainability.

In its search for legitimacy, this business model accepts its role as a good corporate citizen as it has been imposed by the social and political system. The ethical norms imply that the company uses ethics and moral thinking to have reflectively conscious opinions about social and political issues in society. Concerning the social acceptance of the actions of the corporation, it is here considered important to conceive good citizenship as willingness to be held accountable for its actions with regard to other groups than those groups that are not affected by the actions of the corporation.

The strategy for business action is proactive adaptation. The company activity takes leading positions in evaluation of products and procedures. Actions and activities of the company are evaluated from ethical perspective and the company anticipates social changes. The strategy for response to social pressure involves that the company communicates openly and self-critical with government and political publics. Moreover, the company works for improvement of existing legislation and company practice and this model involves that the proactive business firm protests critically against situations that do not serve the common good.

In its conception of legal and political activities, this model of the proactive company search for good corporate citizenship does not mix directly in politics regard laws where the corporation has direct individual interests (Rendtorff 2019a). Instead, the company helps as oriented towards good citizenship the legislator and the state to make relevant laws that contribute to the common good. Indeed, this company tries to be open and honest about lobby activities. Concerning contribution to philanthropy, this company contributes with to topics of great importance for society and supports groups and organizations that are not likely to give any benefits in return to the corporation. Considers philanthropy as an important social activity.

We see accordingly, how the business corporation can move from a pure economic instrument to a complicated and bureaucratic institution with little real content based on field experience. It is the task of critical hermeneutic theory of business legitimacy to analyze the dilemmas and tensions at each of these stages of development. From the point of view of critical historical analysis, we can get a good view of the tensions and possibilities of this development of corporations.

Business Legitimacy as Stages of Development

Such different business models of stages of development towards business legitimation show that recent developments of corporate citizenship, business ethics, and political CSR is the convergence between the different responsibilities of the firm. Arguing for a selective use of elements of different political theories as major steps towards the concept of the good citizen corporations, there is a common ethical framework for decision-making while at the same time respecting the fundamental differences between the ethical theories (Rendtorff 2019a).

The movement in business ethics as justification of business legitimacy from rational choice theory over stakeholder theory, virtue ethics, Kantian universalism, and integrated contract theory to the republican theory of business ethics may be viewed as steps towards a framework for judgment in business ethics as the basis for good corporate citizenship and political CSR in modern complex societies. This social responsibility and responsiveness are in the forefront of the license to operate of the firm (Crane and Matten 2016). Responding to expectations of different stakeholders the good citizen corporation is involved in public reasoning and deliberative public communication. Democratic and discursive business ethics aims at making democratic values the core of values-driven management of responsible corporations.

With corporate developments of values-driven management and business ethics, there is an established basis for dealing with the concept of the good citizen corporation as a politically responsible social actor. This issue concerns the ethical and legal foundations of the idea of corporate social responsibility considered in the framework of an institutional concept of corporate identity and personhood. In this context, we can propose a collectivist and constructivist concept of corporate identity as the foundation of the organizational integrity of the good citizen corporation.

At the institutional level, organizational integrity can be considered as a result of efforts to establish successful strategies of values-driven management. This is also the basis for trust and accountability of corporations and it makes it possible to formulate an institutional and communicative concept of social legitimacy of corporations. Accordingly, it is possible to propose a meditative concept of corporate intentionality finding a way to overcome the oppositions between the collectivist and the nominalist view on corporate social responsibility as based on political responsibility in deliberative democracies.

This position can be considered as a critical hermeneutical and an institutional concept of corporate social responsibility, which constitutes the theoretical foundation of the concept of the "Good Citizen Corporation." This view on corporate social responsibility represents a criticism of a concept of responsibility, where it is not possible to ascribe any institutional ethical responsibility to corporations (Laufer 1996). Such a concept of institutional responsibility can be considered as an expression of good intention and high standards of integrity.

Business Legitimacy as Organizational Integrity and Good Corporate Citizenship

Thus, from this perspective of institutionalization of business legitimacy, the notion of organizational integrity is defined on the basis of the ideas of business ethics, values-driven management, and corporate social responsibility (Rendtorff 2019a). This is conceptualized as the foundation of good corporate citizenship. The analysis can be proposed as the theoretical justification of the moral and legal professional responsibility of management.

The notion of integrity emerges as the foundation of the idea of a virtuous and responsible organization. It may be emphasized that there is a close connection between individual and organizational integrity. Integrity strategies should be distinguished from compliance strategies because they deal with values and ethics rather than rules and regulations.

Institutionalization means that instruments of values-driven management constitute an important institutional dimension of this responsibility. There should be formulated strategies for implementation of organizational values program according to specific values, histories, and contexts of specific firms. Moreover, integrity expresses organizational commitment to justice and fairness with regard to different stakeholders (Carter 1996). Indeed, there is also close link between leadership, ethical judgment, triple bottom-line management, and the evolvement of organizational integrity. Establishment of organizational integrity and managerial judgment contributes to formulate a framework for coping with organizational dilemmas in daily practice of leadership. Organizational integrity in judgment is aiming at the ideals of openness, honesty, wholeness, and thoughtfulness.

Thus, programs of values-driven management are useful tools in order to promote a culture of integrity, accountability, and trust in organizations (Rendtorff 2011b). It is important that genuine trust relations should be considered as important results of values-driven management and ethics in organizational culture. Due to globalization and greater public awareness, there has been established a stronger link between accountability, trust, and social expectations of corporations.

The need to build trustworthy business practices includes management of problems of corporate governance, accountability, and transparency as a deep crisis of public trust and social acceptance of corporations (DiPiazza Jr and Eccles 1997)˙ Therefore, it is necessary to discuss the significance of trust in order to restore corporate image, develop good corporate governance, and to get social acceptance of business in democratic society. Trust should not only be considered as an instrument of economic action but rather seen as an important social glue and informal lubricant of business organizations.

To consider business practices as based on ethical values moves trust in the center of business legitimacy as the background for accountability and integrity of corporations (Solomon and Flores 2001; Hartman and Desjardins 2008). This is due to the fact that generalized mistrust and opportunistic behavior constitutes the limits of fair business practice and cannot be considered as the basis for internal unity and external legitimacy of business corporations.

Therefore, an ethical definition of trust considering that what is trustworthy is based on the accountability and responsibility of the firm (Bidault et al. 2002). To trust someone implies means to hold that person or organization accountable over time believing that they will perform actions of integrity and honesty. Moreover, trust may be developed out of mutual expectations and promises for reciprocity and collaboration in the future. Thus, there is a close connection between integrity and the accountability of transparent business institutions.

Business Legitimacy as Self-Reflective Corporate Citizenship

An application of the critical theory of business legitimacy in relation corporate citizenship is possible in the different fields of business ethics (Rendtorff 2019a). Here, business legitimacy can be defined as self-reflective deliberation about values and ethics. In the framework of institutionalization of business legitimacy, it is possible to analyze the concepts of corporate social responsibility and sustainable development based on the triple bottom line as a framework for justice and basic ethical principles. Corporate social responsibility, business ethics, values-driven management, and social and ethical accounting were presented as strategies to include different stakeholders.

This framework can be applied in relation to internal and external constituencies of the firm. Internal constituencies include owners, investors, management, and employees. Among external constituencies emerge relations to other businesses, consumers, marketing, and public relations and to local community. Moreover, in the perspective of sustainable development and concern for a triple bottom line of economic, social, and environmental responsibility, the relations of the firm to the environment as a stakeholder need to be included into the ethics of the firm.

Concepts of corporate social responsibility, stakeholder justice, and sustainable development emerge as a practical application of the concept of the good citizen corporation in business ethics. The idea of "justice as fairness" is an appropriate framework for inclusion of stakeholders in corporate decision-making. Basic ethical principles of autonomy, dignity, integrity, and vulnerability can be seen as important expressions of the concept of justice as fairness. These basic ethical principles are directed towards protection of human persons in organizational structures in bioethics and business ethics (Rendtorff 1998, 2002, 2003; 2008, 2009b, 2014c; Jørgensen and Rendtorff 2018; Jørgensen et al. 2018; Rendtorff and Kemp 2009). Here it is emphasized that the principles of business ethics should have concrete application in corporations. Therefore, it is considered important to move from corporate social responsibility to corporate social responsiveness as based on the political responsiveness of business in society (Frederick 1994).

Corporate social responsiveness lays emphasis on the company's practical contribution to social management rather on its capacity to talk about it. Corporate social responsiveness is not only about government initiative to make incentives for social responsibility, but also proposals for corporations to make concrete contributions to social betterment. Business ethics is not only about ideal theory, but about must realize in concrete practice and make a difference for good management strategy (Rendtorff 2015a, b, 2017a, b, c, 2019a, b, c).

Implications for Legitimacy of Public Relations

Thus, the concept of legitimacy is therefore very important for understanding the ethics and practice of public relations (Rendtorff 2019a). While organizations in the classical theories were conceived as closed rational systems, the increased focus on business legitimacy implies a new conception of the corporation as in close interaction with its external environment. Corporations must be conceived as open systems, where it is not the material or technological relations, but ethical values, cultural norms, as well as symbols and epistemological conceptions in the surroundings of the corporation that are decisive for its development (Suchman 1995). The concept of business legitimacy is in this conception of organizations. As we know from Weber, in contrast to traditional, charismatic, authority-based and rational forms of legitimation, modern organizations are supposed to be based on rational strategic planning. Nevertheless, as we have discussed, legitimacy no longer only founded only on rationality, but modern society requires a broader conception of legitimacy that include ethics and democratic values. Moreover, common to the different kinds of theories of legitimacy we can see that legitimacy emerges as the process by which an organization justifies it rights to exists in relation to other organizations and in relation to society (Suchman 1995: 575). We may say that organizational legitimacy is based on values and cultural norms that constitutes the rights to existence of this particular organization.

From the point of view of public relations, business legitimacy means to create the presuppositions to conceive and judge organization according to a number of pre-given values and norms. In this sense, legitimacy related to public relation may be conceived as a cultural construction that is more or less integrated in fundamental conceptions of society. Organizations that use a pure administrative and technological concept of management and do not reflect consciously about these relations of legitimacy as relations of public relations are very vulnerable in relation to their external environment. Therefore, there is increased focus on both pragmatic moral and cognitive legitimation of the activities of the corporation. The use of ethics as a part of public relations is an important instrument to develop and influence this process of legitimation and values-driven management contains elements of practical, moral, and cognitive legitimation of the activities of the corporation in order to "naturalize" the corporations as solid elements of society.

Thus, public relations should be defined as a matter of management and an important part of business legitimacy (Rendtorff 2019a). What is needed is a public relations office as a part of the executive office of the firm. This office does not only deal with formulation of values as a part of the identity of the corporation and with communication of these values, but it is also concerned with stakeholder relations and with protecting the brand and the image of the firm in crisis situations. Moreover, public relations offices work proactively in order to promote the ethical image of the corporation with regard to the general public, to governments, local community and the civil society with consumers, nongovernmental interest organizations, and other stakeholders. In the critical perspective of business legitimacy, public relations should be based on the democratic interaction in communicative dialogue, following Jürgern Habermas' ideal of domination free-dialogue.

Moreover, a public relation is a process of communication in which the firm creates its image, profile, and identity to the general public. In this course, the firm can act defensively trying to avoid being a part of the public debate or it can act proactively trying to construct a public dialogue about its values and product. According to our emphasis of the role of the firm as political actor in society and our definition of the firm as an ethical actor searching for social responsibility relations to the public are important for democratic communication in business legitimacy. Public relations are about sustaining and enforcing the social legitimacy of the firm as a good corporate citizen.

Jürgen Habermas has in his work on the public sphere mentioned above described the function of the public sphere in modern society. The ideal of a public sphere is a place where different actors meet for open-minded and serious discussion of political issues of society. Each citizen is considered as a moral person and as such a citizen of the public sphere of society. This vision of the public sphere is inspired by the idea of the Greek Agora where citizens gathered to discuss the future of the city-state. In the age of the enlightenment emerged "public spaces of discussion" at which place citizens gathered to discuss issues of public interest (Habermas 1962). Nevertheless, in modernity this ideal of citizenship in the public sphere has been exposed to immense pressure because the economic and technical system on the one hand and the private sphere of personal interest dominate the authenticity of civic discussion in the public sphere. Habermas had the fear that citizens in late modernity are reduced to consumers and that the public sphere is so commercialized that there is no room for genuine political discussions. In mass society, there is the danger that public discussion is replaced by one-way manipulation of citizens by mass media.

Given this danger, the maintenance of dialogue in a free public sphere is of primary importance in modern societies in order to protect the democratic citizenship. The public space institutionalizes the possibility of critical discourse and this requires obligations of legitimacy for actors in community (Habermas 1962). In public relations, legitimacy is defined as the institutional dimension of honest search for truth and action based on practical rationality. Habermas argues for the ideal of communicative reason based on the respect for the better argument and willingness to listen to all voices in the debate. This view of the public sphere is opposed to an instrumental and strategic use of communication in the public sphere exclusively in order to promote self-interest and commercial gain. This view of the public defends the possibility of argumentative communication as central to public debates (Habermas 1962).

We can argue that it is an important charge of the ethics of public relations that corporations contribute to maintenance and evolvement of this public sphere. There is no real opposition between having a strategy for public relations and respecting basic principles of argumentative communication. The ethics of public relations insist on the deontological values of good corporate citizenship. This signifies respect for truth and honesty and strong moral integrity of the firm. Respect and dignity imply that the corporation is faithful to its values and that it follows the virtues of good communication when entering in to the public sphere. The rhetorical devices of ethos, pathos, and logos contribute to trustful communication in which the corporation searches to establish legitimate relations to the environment and to important stakeholders.

The public sphere is the place where business life intersects with civil society and the sphere of governmental policy. Corporations encounter actors from civil society and from the political system in this public sphere, and it is the place where different actors are promoting their general social legitimacy. Many miscellaneous civil society organizations advocate themselves as stakeholders of the firm. They are of very different type and scope and they have different activities and focus (Crane and Matten 2016). Some of them may be very critical towards corporations, constantly challenging the legitimacy of capitalist economies. Trade unions are stakeholders with strong claims in the corporations, and they are traditionally very strongly organized in solid structures. Interest organizations usually select some narrow scope of focus like the protection of the environment, workers' rights, fair trade practices, and they confront corporations with these interests. Often, they have alternative and loosely coupled organization structures based on networks and voluntary engagement by participants (Crane and Matten 2016).

According to the urgency, power and legitimacy of civil society organizations corporations are often challenged in the public sphere by these organizations, in particular in cases of crisis and when corporations do not respect legal rules or ethical custom of the society. In these cases, aggressive stakeholders can be quite painful for the corporations, that have to be respondent to their criticisms. In general, civil society organizations argue against the corporations in the name of society or the public, though in fact it is not clear whom these organizations represent. They are also confronted with problems of legitimacy and accountability, and sometimes, these organizations have difficulties who are their legitimate stakeholders. Moreover, in cases where civil society organizations work too closely with corporations in stakeholder dialogue, there is the danger that they lose their independence and function as kind of privileged consultants for the corporations.

The ethical field of business legitimacy of the public sphere of civil society is very fluid and difficult to manage. Suddenly there are new issues and the firm cannot control its image in the public debate. Indeed, there is a temptation to try to manipulate the public and follow the rhetoric of mediatization of the public by all kinds of commercial means. Although a strategy of deception in some case can be economic, it is difficult to justify from the point of view of the ethics of stakeholder dialogue, communicative interaction, and respect for good arguments. Moreover, in cases where it goes wrong such a strategy may be very risky because a bad image of not being accountable, credible and trustworthy can stay with the organization for ages. In addition, from the perspective of Habermas' critical hermeneutic philosophy, it is a moral requirement always to say the truth.

Managing Reflective Business Legitimacy in Globalization

Having developed this framework of reflective business legitimacy in the public sphere on the basis of the combination of the combination of the sociological institutionalism of Suchman with the approach to business legitimacy in the tradition of business ethics and CSR, it is possible to address the question of the strategic dimension of business legitimacy in globalization (Scherer et al. 2013). Scherer, Palazzo, and Seidl can be said to combine the framework of Suchman an approach to legitimacy based on corporate citizenship and reflective deliberation in their article: *Managing Legitimacy in Complex and Heterogeneous Environments: Sustainable Development in a Globalized World*. The authors try to argue for a reflective approach to legitimacy in the context of search for sustainable development in globalization (Rendtorff 1998, 2002, 2003, 2008, Rendtorff 2014c; Jørgensen and Rendtorff 2018; Jørgensen et al. 2018; Rendtorff and Kemp 2009). The argument fits very well with the concept of reflective corporate citizenship since corporations need to deal with sustainability problems in order to deal with the societal expectations to corporations in contemporary environments of globalization.

As society face the contemporary challenges of responding to the need of sustainable development in an area of the Anthropocene with increased challenges of climate change, environmental degradation, poverty, and inequality, businesses have to apply their business strategies to maintaining and creation legitimacy in a world economy in transition. This is in particular a challenge due to fragmentation and political and cultural differences in a global environment. Accordingly, the strategy of reflective legitimacy meets other strategies of manipulation, adaption, and moral reasoning where companies face the complexity and even contra dictionary dimensions of demands for sustainability. This is for example the case when companies need to follow the 17 SDGs (Sustainable Development Goals) of the United Nations, where different sustainable development challenges are integrated in a common framework. Here, different concerns may conflict and corporations need to find acceptable legitimacy strategies in order to increase their sustainability performance (Rendtorff 2015a, b, c, 2017a, b, c, 2019a, b, c, d).

In this context, with Scherer, Palazzo, and Seidl, it is possible to reformulate the legitimacy strategies of Suchman of pragmatic, moral, and cognitive legitimacy in the context of sustainable development and adoption of the SDGs (Rendtorff 2015a, b, c, 2017a, b, c, 2019a, b, c, d). We can follow the definition of legitimacy of as social acceptance of actions in the process of social construction of legitimacy by corporations. In the post-national constellation of globalization, corporations combine cognitive legitimacy strategies with isomorphic adaption and strategic manipulation. Isomorphic adaption means rather passively to adapt to societal pressure in order to maintain legitimacy (Scherer et al. 2013: 263). In contrast, strategic manipulation involves active intervention in order to improve political strategy of the corporation. At a third level, the moral reasoning strategy involves a process of deliberation where corporations engage in an open reflective process with stakeholders about the norms and societal expectations to be included in legitimacy contribution to sustainable development of the corporation.

Thus, following Scherer, Palazzo, and Seidl, it is important to emphasize that although not fully replacing adaption and strategic manipulation, moral reasoning and deliberation are essential part of reflective business legitimacy. The ethical dimension of corporate citizenship is becoming more important with the present developments of SDGs as guidelines for responsible business management and CSR. We need to rethink the legitimacy of business ethics and CSR in the framework of the SDGs. In the context of globalization and a cosmopolitan world order with global responsibility, business combine the different legitimacy strategies with responsible ethical reflection and deliberation. This is necessary because of the many challenges, paradoxes, and contractions that corporations face with the complexity of globalization. With complex cultural and social conditions, challenging reflective deliberation businesses need to combine different legitimacy strategies in order to improve reflection capacities. The reflective legitimacy strategy combines deep reflection with capacity of both contextual and structural solutions to sustainability challenges (Scherer et al. 2013: 277). This is a much-needed response to contemporary, global sustainability challenges.

Conclusion

To sum up, the stages of developments of different levels of corporate citizenship responsibility in firms show that the contents as well as the rationality of legitimacy, the way of legitimization as well as the weighting of legitimacy and of legitimization, and the types of legitimacy conflicts have changed. We can say that the development of the concept of political CSR with the responsible and proactive corporate citizenship includes the stages of cognitive, moral, and pragmatic legitimacy, where legitimacy is considered a generalized perception of an organization (Rendtorff 2019a).

This implies an interdisciplinary perspective with comparative integration of sociological, political, philosophical, theological, ethical, economic, legal, linguistic, and communication theoretical approaches to the changed forms of business legitimacy as moral legitimacy. Such research on business legitimacy with focus on responsibility, ethics, and society aims at clarifying how the interrelation between company and environment is mediated by legitimating notions in public spaces and public relations. Moreover, it searches to understand how and why notions of legitimacy have changed radically and how these transformations strike on the epistemological as well as practical dimension of business companies; and the problems involved in these transformations at the macro-, meso-, and microlevels.

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The Problem of Corporate Legitimacy

2

Andreas Suchanek

Contents

Abstract

This chapter aims at clarifying the underlying problem which is addressed by the concept of corporate legitimacy. In a first step, it is defined as the question, what corporations can reasonably assume from society regarding the public acceptability of (value-creating) actions which put costs (risks, burdens, harm) on others? As such, legitimacy is reconstructed as a constitutional ethical focal point, where ethical focal points are defined as a shared understanding regarding societally desirable, mutually aligned behavioral expectations, constituting

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an infrastructure of social cooperation. In a volatile, uncertain, complex, and ambiguous world, this shared understanding is at risk to erode. Companies are expected to contribute to it, which is, at the same time, aggravated due to the pressure of competition.

Keywords

Corporate legitimacy · Focal points · Do no harm principle

Introduction

There were times when the problem of corporate legitimacy was not existent. Obviously, this was the case when corporations as "actors," with rights and responsibilities, did not exist. And when in socialist regimes private corporations weren't allowed to operate, they had plainly no "license to operate." And corporate legitimacy was also not a topic, when corporations produced goods and services under market conditions operating under a set of regulations, provided and enforced by a government, the legitimacy of which could, in principle, be taken for granted.

The role of corporations in society was in need to be reconsidered, when due to environmental problems, and later due to globalization and digitalization, more and more problems occurred, which were no longer reliably regulated by governments. As Kofi Annan put it in the year 1999, when he initiated the Global Compact: "I propose that you, the business leaders gathered in Davos, and we, the United Nations, initiate a global compact of shared values and principles, which will give a human face to the global market. Globalization is a fact of life. But I believe we have underestimated its fragility. The problem is this. The spread of markets outpaces the ability of societies and their political systems to adjust to them, let alone to guide the course they take. History teaches us that such an imbalance between the economic, social and political realms can never be sustained for very long" (Annan 1990). Corporations were no longer perceived only as actors in the economic system, subject to market forces and oriented toward profits, thereby led by the "invisible hand"; they became a *political* actor (Scherer et al. 2014), and as a consequence, the problem of their legitimacy became a relevant topic.

In this chapter, this problem will be reconstructed from the following basic reformulation of the well-known problem of social order: *What can we (reasonably) expect from each other?* It will be argued that (an important part of) an answer to this question can theoretically be captured by the concept of focal points and that legitimacy can be seen as a *constitutional ethical focal point*. As such, legitimacy stands for societally generalizable acceptability of actions (institutions, positions, behavioral expectations, and more), *even when they cause some harm to others or ask burdensome things to do or bear*. In this way, legitimacy facilitates social cooperation and avoids or mitigates conflicts. For corporations, as well as for all other actors, the existence of which depends on social acceptability; legitimacy is a valuable resource, more precisely an asset, for their operations.

Being an (ethical) focal point, legitimacy presupposes a *shared understanding* about what is perceived as legitimate and where the boundaries of these accepted rights to act are. As a *constitutional* (ethical) focal point, legitimacy refers to an inventory of normative and empirical concepts – norms, values, ideas, interpretations, etc. – which can be used to enable social cooperation or "tame" social conflicts. The key challenge, which will be elaborated, is that this inventory is volatilizing, sort of. And this poses a fundamental problem for corporations as well as their stakeholders and society in general. Part of the "problem of corporate legitimacy" will be that corporations are in need and at the same time supposed to contribute to legitimacy as a kind of "infrastructure" for social cooperation and value creation. This is all the more challenging, since corporations are, from their functional environment, only limitedly equipped with the means to generate and maintain their legitimacy. More specifically, they operate, as a rule, under the pressure of time and competition, which restricts their room for maneuver to invest in institutional and cultural prerequisites which typically have the character of a collective good. At the same time, increased expectations combined with more transparency intensify the pressure to adhere to higher social and ecological standards. Taken together, this leads not only to a *widening gap between morals and profits* but also to the challenge to *maintain a shared understanding as to what reasonable rights and responsibilities of corporations are with regard to the maintenance of their legitimacy.*

The line of argumentation is as follows: In the next section, the metaphor of a game and the associated distinction of moves, rules, and understanding of the game will be explained as a heuristic scheme to systematize some of the following considerations. Section "Focal Points" explains the concept of focal points as a prerequisite for cooperation. Building on that, section "Legitimacy" derives a concept of legitimacy as *constitutional ethical focal point which refers to the right, and acceptability, to do some harm when it can be justified*. In a next step, the challenge of applicability of this normative concept in a complex world is discussed. Building on that, the actual question of corporate legitimacy is taken up (section "Corporate Legitimacy"). It will be argued that the crucial problem is the tension of normative expectations from society and competitive pressure combined with increasing difficulties to bridge them by public discourse – thus maintaining working focal points.

Actions, Rules, and Understanding

In his Constitutional Economics, J. Buchanan occasionally used the metaphor of a game to introduce a conceptual difference: the distinction between *moves in a game* and *rules of a game* (see, e.g., Buchanan 2008). This simple heuristic distinction helps to clarify that actions are always embedded in a framework, an order, which coordinates and aligns them. A change in the rules will imply different sets of actions; conversely, new actions may imply the need for a change in the rules.

Buchanan, and many other social philosophers, argued that the key function of rules is to structure mutual behavioral expectations, making them consistent and thus creating reliability, which is the basis for social cooperation (as well as value creation). Without laws, regulation, contracts, and other forms of social rules, social cooperation cannot take place, especially not in a society which is built on a high degree of division of labor (Brennan and Buchanan 1985).

To explain legitimacy, it is helpful to introduce a third layer, which is related to the *individuals' "mental models"*, the understanding of the game. In his book *Structure and Change in Economic History*, D. North (1981) argued that the overcoming of the free rider problem in a society cannot be explained by an economic argumentation which is based merely on the classical behavioral assumption of rational self-interested actors. To cope with this problem without abandoning completely the rational choice approach, he suggested the concept of "ideology" or "shared mental models" (Denzau and North 1994). This is the realm of beliefs, convictions, arguments, values, and also expectations. This level refers to the *interpretation* of rules but also to perceptions of and assumptions about the embedding contexts as well as to the question how the game can and should be played.

Understanding of the game	⇨	Order of expectations/communication
Rules of the game	⇨	Order of actions
Moves in the game	⇨	Actions

The importance of this distinction between rules and understanding is expressed, e.g., in the following quote from David Hume: "[I]n order to form society, 'tis requisite not only that it be advantageous, but also that men be sensible of its advantages" (Hume 2000, 3.2.2). In a similar vein, one can say: in order to form society, 'tis requisite not only to have rules but also that men understand (are familiar with) and accept these rules. Rules are bound to individual mental models; that is, the meaning and *legitimacy* of rules are dependent on the individual perceptions and interpretations: on the one hand their *subjective* understanding, including individual assumptions about how others may perceive and interpret the rules, and on the other hand, the *shared* understanding.

Therefore, the distinction between rules and understanding allows to differentiate between the order of actions (rules) and the order of communication or expectations (shared understanding). Both levels are related, but cannot be reduced to each other.

As a consequence, successful social cooperation – a good game, as it were – requires to a certain extent a shared understanding. This relates especially to shared ideas about (1) how the game *should* be played, shared goals and values, and (2) how it *can* be played, shared perceptions on reality. It will later be argued that this is one of the most fundamental challenges of legitimacy: the eroding base of a shared understanding with regard to essentials of social cooperation and the rights and responsibilities.

It should be noted that the notion of a shared understanding is not meant to be encompassing – a universally shared "comprehensive doctrine" (Rawls 2005, passim). As J. Rawls convincingly argued, in our modern society, pluralism has to be seen as a fact (Rawls 1987, 1 ff.). It would be inappropriate to ask for a completely shared understanding between all members of a society regarding societal, political, and economic values. People will, and can, have different ideas about a good life, about the world, and more and still cooperate successfully. However, some shared ideas, beliefs, perceptions, and interpretations of "the game" and its rules are strictly necessary in order to achieve cooperation. More specifically, social cooperation needs a compatible set of beliefs from which mutually consistent behavioral expectations can be derived. The "rules of the game" are, as mentioned before, a framework which are a necessary foundation for this task, but their functioning in turn builds on some shared interpretations and assumptions of these rules, especially with regard to their legitimacy. Cooperation cannot take place, if mutual behavioral expectations aren't sufficiently aligned.

To specify this challenge of aligning expectations as basis for successful cooperation, be it in concrete interactions or on a generalized, societal level, the concept of *focal points* will be explained in the next section.

Focal Points

In his book *The Strategy of Conflict*, Thomas Schelling (1980) introduced focal points as a solution to a particular problem in pure coordination games, namely, the need to coordinate the actions of different individuals, which presumes to coordinate their *expectations* about the others' behavior and, more precisely, their *expectations about the others' expectations about their behavior*. Based on Schelling's ideas, one can describe the most basic form of focal points in the following pure coordination game:

		Actor 2	
		Place A	Place B
Actor 1	Place A	I **1, 1**	II 0, 0
	Place B	III 0, 0	IV **1, 1**

Two actors, 1 and 2, want to meet at 2 pm, but they forgot to make sure whether they should meet at place A or B; put differently, there was a partial shared understanding to meet but a *lack* of a shared understanding with regard to a crucial element as prerequisite for successful cooperation. Assuming that both at least shared the perception that they'll meet at either place A or place B, the question is as to whether there exists a unique cue that *aligns their expectations*. This focal point has obviously a *value* for both since it *enables cooperation*.

Schelling describes focal points accordingly as elements "of each person's expectation of what the other expects him to expect to be expected to do" (1980, 57), that is, a "point of convergence of expectations" (Sugden and Zamarrón 2006, 610). The challenge is to have a *shared* cue on which the actors can orientate their behavior, building on the expectation that this perception itself is shared. It is worth noting that in everyday life this convergence of expectations is often taken for granted, that is, without second thoughts. Obviously, this can also lead to misunderstandings and misalignments, typically when one assumes falsely that the other share one's own interpretation of the situation.

Concrete focal points can be found everywhere: landmarks can serve as focal points, as do traffic lights. They both align expectations (also those about the others' expectations) and thus enable coordinated action. Typical focal points in companies are key performance indicators – not only do employees know that they have to take them into account; they do also know (intuitively) that the others expect them to do so. Similarly do (good) company slogans work, if they are actually referred to and substantiated by the leaders of the company?

When focal points are solutions for a pure coordination game – as it was discussed at first by Schelling – they are self-enforcing. However, there are two systematical reasons why focal points might not "automatically" lead to corresponding actions. The first is a cognitive one, namely, different mental models which lead to different interpretations of the situation and hence to different expectations; travelers may have this kind of experience when they are for the first time in a different culture; they may simply not know what others might expect from them; experiences are similar for new members in an organization when they don't know the company culture. Second, in mixed-motive games, where conflicts are prevalent, incentives exist to deviate from focal points, even if they are perceived as focal points. For example, in a business interaction, which is based on mutual trust, responsible behavior from each side is expected; however, sometimes this expectation may not be met, although both sides understand that it is mutually expected (and a *legitimate* expectation).

This second, more complex, case of focal points was elaborated by D. Kreps (1990). His basic idea was that, due to the inevitable incompleteness of rules and contracts, a relevant problem of interactions is how to deal with unforeseen contingencies, where it is not possible to specify contractually how each partner in an interaction will (have to) behave, but one party might have an opportunity to realize benefits at the others' expense (an obvious problem for behavioral expectations). This type of situation can more generally be characterized as a conflict, which is not (sufficiently) regulated, neither by formal rules nor by informal ones. According to Kreps, focal points can be interpreted as basic principles or values, which establish a *shared understanding* between the interacting partners on how to deal with this type of situation. Based on the *reputation* of the players, these focal points provide – to a certain extent – a reliable structure for behavioral expectations, thus building the basis for a mutually beneficial cooperation. Put differently, reputation serves as an incentive to act according to the others' expectations, even when it comes at a cost, because it signals reliability of the actor and increases her attractiveness as a partner of cooperation.

It is worthwhile to note that no single actor has perfect control over focal points. No one can be forced to share it, although strong reasons or incentives might exist. The relevance of this aspect will become clearer when the question of corporate legitimacy will be taken up.

Legitimacy

In the following, the concept of legitimacy is elaborated in several steps. In the first subsection, freedom and the necessity of a social order is explained as a starting point for the reflections to come. In the second subsection, legitimacy is defined as a constitutional ethical focal point. Next, the content of the concept is discussed as the generalized authority or social acceptability to act in a way which implies some potential or actual burden (costs, risks, harm) on others for justifiable reasons. In the fourth step, the challenge of making legitimacy a concept that can be used in the real world – that is to say, connecting normative and empirical assertions – is discussed.

Freedom and the Necessity of a Social Order

In this reflection on (corporate) legitimacy, the *fact of freedom* is assumed as starting point. There exists an encompassing and ongoing discussion about whether free will exists; see, e.g., Fischer et al. (2009). For the purpose at hand, it will be assumed that human beings are free; otherwise the whole context of normative deliberation would presumably need a change. According to this assumption, human actors are, in principle, gifted to develop and realize their own intentions. However, they are also *embedded* in reality, in time, and in the social dimension. Especially the last aspect is crucial for legitimacy, because it means that individuals interact with other individuals who are also free.

As a consequence, individual freedom can only be realized in cooperation with others, be it in a constructive way that some individual goals cannot be achieved alone or be it in a negative way that others do not impede or obstruct one's actions. Therefore, if an individual wants to pursue her interests, it is beneficial when this is *accepted* by others, at least to a certain extent. A fortiori, this is also true if one wants others to behave in a certain way, e.g., as a superior. The less these others accept that request, the more costly – and sometimes impossible – it will become to enforce it.

Based on this "fact of freedom," the fundamental question arises: *What can we expect from each other regarding our use of freedom?* This question can be asked empirically or in a normative way. The latter leads to the following qualification, namely: what can we reasonably, or legitimately, expect from each other?

Expectations are necessarily built on regularities, be it natural laws or, as in the case of human actions, social laws in an empirical or normative way. As for the latter, there exists a crucial difference to natural laws. Social laws are a kind of constraint of freedom which can be disregarded; these laws, the "rules of the game," can be neglected or broken, which cause a specific kind of problem unknown in the world of natural sciences. That is, it is part of the human capability of acting freely to *constrain* oneself by one's own will and to adhere to certain rules, norms, principles, etc. This willingness – and the according abilities – is a key factor regarding the social relevance of legitimacy.

In other words, society can only exist when there is some sort of alignment of individual actions as well as expectations. This idea is mirrored in the following definition of legitimacy offered by Suchman in his often quoted article, "*Legitimacy is a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions*" (1995, 574; the emphasis is taken from the original).

The alignment of these "perceptions and assumptions" about the propriety of actions is done by orders, or frameworks, which were referred to in section "Actions, Rules, and Understanding" as the two levels of "rules of the game" and "understanding of the game." Furthermore, focal points were explained as concepts describing the alignment of expectations, thus enabling cooperation. Building on that, legitimacy will now be defined as a *constitutional ethical focal point*.

Legitimacy as a Constitutional Ethical Focal Point

Legitimacy as a Focal Point

Intuitively, legitimacy can be captured as an actor's *right* (entitlement, allowance) to use their freedom in certain ways which are *accepted* by those who are concerned. Reformulated using the concept of focal points, the actor has the *expectation* to have the right (allowance) to do certain things which are (should be) accepted by others, be it those who are directly concerned or be it those who are bystanders or observers, respectively. Furthermore, the latter know, maybe unconsciously, that they are expected to accept this right. This set of expectations is complemented with the expectation of the concerned or third parties that the constraints which define the boundaries of this right are observed by the actor – put differently that the legitimized actor uses her freedom *responsibly;* and again, it is expected that the legitimized party knows and respects these expectations in turn. This can be derived that responsibility means to respect legitimate expectations (cf. Suchanek 2017).

To illustrate, the government is legitimized to raise taxes, and it can expect to find acceptance from the taxpayers. The latter can expect that the government will do so only in an acceptable way without exploiting them, that is, the government will observe certain constraints on their behavior, typically in form of formal and informal rules which define their (legitimate) room for maneuver.

Another example are the rights of a manager A to request certain tasks to be done by an employee B. Assuming that these tasks are covered by the employment contract (and further background regulations), the manager can expect the employee to accept this request; would the task be beyond the legal boundaries, the employee can expect that she need not necessarily do it. Furthermore, it should be added that third parties C can expect that they will not be harmed in their legitimate rights by the request or its execution.

These examples demonstrate the elements of legitimacy: aligned expectations and a structure of – mostly legal but also informal – rules and values which enable cooperation. As will be discussed later, this alignment is especially important when one party is asked to accept some kind of burden. This "acceptance" can either refer to the individual's actual willingness to fulfill a request or to act accordingly *only* for external reasons, possibly with some reluctance. Legitimacy as focal point is only limitedly referring to the actual willingness of B but to the right of A to expect it (assuming that legitimacy is actually given or justifiable, respectively). That is, legitimacy, as a focal point, implies that B knows that A (and others) expects from him to accept the request – it is a *shared understanding*. Therefore, legitimacy has incentivizing effects, which is why it is often seen as a resource (see, e.g., Ashforth and Gibbs 1990). This incentive effect is in principle the stronger – the more B is willing to recognize the legitimacy of A's right. This is the reason why societies and also governments invest so much in forms of education and communication which aim at legitimacy and its prerequisites.

This character as a resource – mostly as an enabler for cooperation or avoidance/mitigation of conflicts – can further be clarified by extending the illustration: if B doesn't perceive A's request as legitimate, this will lead to conflicts which adversely affect social cooperation. In the case of an employment relationship, B may simply refuse to do the task or work to rule or even may sabotage. It should be noted, however, that this may also happen for other reasons than B's nonrecognition of the legitimacy of A's request. Another aspect of legitimacy – often the one which is in the focus of discussion – is the question whether A is actually entitled to request certain things from B. As explained earlier, the request may go hand in hand with some harm done to B or C, and to be legitimate, there has to be a base which offers the justification and implies acceptability.

It is key to understand that and how this justifying base needs a shared understanding – not in the way of an encompassing comprehensive shared mental model but in a way that this base can serve as a focal point which aligns the expectations and leads to mutually perceived recognition and acceptance, to reliable mutual expectations, and, as a consequence, to successful cooperation.

Legitimacy as an Ethical Focal Point

Not all focal points foster social cooperation for mutual advantage, although they might create a set of shared beliefs on how to act in particular situations. Bad leaders may create focal points which align expectations, and hence actions, but in an unfair, irresponsible, and unsustainable way. Or specific actions or events may create a focal point for members of a group which create deep and enduring mistrust.

In contrast, ethical focal points are aiming at enabling and maintaining sustainable social cooperation for mutual advantage. Examples for such focal points are moral principles, norms, or values such as the Golden Rule, the norm "do no harm," the categorical imperative, values like respect or fairness, human rights, the concept of common good, etc. These ethical focal points (should) provide tokens, which can be reasonably expected to guide mutual behavioral expectations or what to take appropriately into consideration as an actor as well as a person who is concerned by these actions.

As said before, ethical focal points are typically not an equilibrium in a coordination game but rather a (focal) principle which deals with conflicts, aiming at avoiding them or coping with them in a reasonable manner. This aspect leads to considerable complications because often do incentives exist to deviate from an ethical focal point. Ethical focal points, then, do not necessarily coordinate actions directly but express a shared understanding as to how one *should* behave (since it is expected as the "right" way) which implies a couple of theoretical as well as real challenges.

In order to reconstruct these challenges in the present context, society shall be defined as *venture for mutual advantage, which is marked by shared as well as conflicting interests, beliefs and perceptions (Rawls 2009, 84 and passim)*. In order to realize this venture, *contributions* from every member are needed, namely, to render some kind of services which create value and to follow certain norms and principles which enable or maintain a civilized way of living together – e.g., not stealing, not lying, keeping promises, etc. Later on, these norms and principles will be interpreted as elements of an *inventory* to which legitimacy refers.

The problem is that these contributions have *(opportunity) costs*: that is, in many situations one can realize (short-term) benefits or avoid burdens at the expense of others or the future. Still, it might be a focal point to realize successful cooperation – and to expect mutually that everyone should and will cooperate – but it is no longer self-enforcing like in the pure coordination game. Instead it might have the form of the well-known prisoners' dilemma, where the pareto-superior outcome of cell I can be an ethical focal point but having adverse incentives working against its realization:

		Actor 2	
		Contribution	No contribution
Actor 1	Contribution	I 1, 1	II −1, 2
	No contribution	III 2, −1	IV 0, 0

Thus, *an ethical focal point is a shared understanding regarding societally desirable, mutually aligned behavioral expectations* which are, however, not "automatically" self-enforcing but continue to be desirable *and generally expected to be shared (as an ethical focal point)*. Whether one can actually expect others to "contribute" depends on their willingness but also on the concrete empirical circumstances of the situation – *ultra posse nemo obligatur*. In the real world, various reasons can exist as to why an actor might not contribute: other values or obligations of a higher order, a lack of competencies or knowledge, external circumstances which impede a contribution, and also opportunistic behavior. Therefore, in many situations expectations have to be adapted, and various norms, claims, or values as well as empirical circumstances have to be considered to derive concrete behavioral expectations.

On the other hand, it would hardly be possible to make any strategic plans and undertake any long-term investment, if uncertainty prevails whether particular situational circumstances may lead to expected actions ("contributions") or not. Social cooperation is basically building on *reliable* expectations or behavior which is predictable. This is possibly the most basic function, or "reason" (Brennan and Buchanan 1985), of rules, especially those which specify mutual rights and obligations regarding one's use of freedom. Consequently, rules and regulations can, as long as they actually foster social cooperation, also be interpreted as ethical focal points, which are typically supported by various means – e.g., sanctions – to strengthen their reliability and hence their character as an actual focal point.

Ethical focal points can lose their function as a focal point, if they are no longer seen as an actual orientation for behavior. If individuals perceive the reference to a specific focal point only as cheap talk and neither institutions nor reactions support the further existence of this focal point, it becomes – at least for the time being and as a focal point – meaningless. A typical example is when actors in business or politics invoke values like fairness or respect, and no one perceives this as meaningful in any regard. Conversely, working focal points are embedded in routines, incentives, and generally an institutional environment that supports their function to align behavioral expectations.

The more complex a society becomes, the more complex the order of actions; the web of institutional norms and regulations have to become in order to coordinate the manifold individual interactions as well as maintaining a general consistency between these many specific rules. Furthermore, the task of "managing" these rules, which is classically the realm of politics, has itself to be well regulated, because only then one can expect that it will, in principle, find acceptance, that is, *legitimacy*. This leads to the last part of the definition of legitimacy, its character as *constitutional*.

Legitimacy as a Constitutional Ethical Focal Point

A key challenge of any social order is to maintain *consistency*. If various regulations exist which are mutually incompatible, they will not be able to fulfill their function, namely, being the base for deriving reliable behavioral expectations. In a similar vein, it is important for successful social cooperation that not only moral norms and values exist but also ways how to weigh and possibly prioritize them in case of conflicts. It deserves to be mentioned that conflicts are not always negative; they can also promote the common good, namely, in the form of performance competition. Conversely, not all forms of cooperation are desirable from the viewpoint of society, for example, cartels, organized crime, and other examples of cooperation, to the detriment of third parties. This hints at the complexity of the task to maintain consistency. A considerable part of legal sciences and ethics is dedicated to work on this consistency and provides helpful models, arguments, concepts, etc. to avoid what might be called *relevant inconsistencies* (for a systematic explication of this concept, see Suchanek 2015, 2017). With regard to the law, a constitution can be seen as a means to maintain the consistency by defining the most fundamental rights as well as procedures on how to avoid, mitigate, or reasonably cope with relevant inconsistencies.

In a somewhat similar vein, one might see legitimacy as a concept which tries to hold together various ethical focal points to the extent that the latter are related to the structure of rights and responsibilities of actors in a society which are the base of mutual behavioral expectations and a fortiori of corresponding behavior. This constitutional character means that legitimacy, howsoever indirect, refers to foundational sources of itself which *justify* it, thus generating acceptability. It should be kept in mind that this refers to *working* focal points which actually orientate behavior.

Over the course of history, various sources of legitimacy existed and partly continue to exist. Classically, religions provided this source, as long as the members of society had a *shared understanding* of the rightness of the particular religion; other sources were the natural law or the laws of history (K. Marx). With the advent of the modern society, the universal acceptance of external sources declined, and as a consequence, the ultimate source of legitimacy was located within society: *consent* became the foundation of justification. This is why legitimacy is seen here as a *constitutional* ethical focal point: it refers, at least indirectly, to the basic normative foundation of the social order.

While consent is the ultimate source of legitimacy, it needs to be operationalized for everyday use. This is done by the existing structure of laws, regulations, directives, contracts, and so on – the “rules of the game.” But legitimacy is not confined to refer to these formal institutions; it is not tantamount to legality, although its etymological root is from the Latin word for law, “lex.” Instead, it comprises *also* informal rules, social and moral norms and values, which often specify the “spirit of the law.”

In order to get a better understanding as to how legitimacy works in everyday life, it is furthermore important to see that it is plainly impossible to expect everyone to be an expert of the law or to have an encompassing – and the same – understanding of the informal norms and values of a society. Mostly, legitimacy works based on familiarity, habits, taken-for-grantedness, etc., especially as long as no deeper conflicts or crises arise, in which it turns out whether legitimacy actually works as a “reservoir of support” or of “goodwill” (Dogan 1992, 123).

Therefore, it might be helpful to assume that legitimacy draws on an *inventory* of shared beliefs, convictions, perceptions, and so on, which are “organically” coupled. This expression shall characterize that the elements of the inventory aren’t structured rigidly but relate to each other in a systematic but flexible way. If, for example, a particular action is not perceived as legitimate, it is possible to refer to another, more fundamental norm, principle, reason, etc. which builds on or creates a *shared understanding* on how to cope with this conflict.

One of the most fundamental challenges of legitimacy is the question how it is possible to represent and include all interests, thus building common ground for all individuals to be willing to contribute to social cooperation and at the same time accept the burdens that come inevitably with it. This is the point where it is important to integrate the role of the two orders into the picture again. On the one hand, the *rules of the game* provide a historically evolutionary grown structure of checks and balances as well as conflict-mitigating procedures; on the other hand, it is always necessary that individuals subjectively *understand*, or are sufficiently familiar, with these rules which demand a corresponding *(shared) understanding of the game*. In former times, the church or a ruler was in a position to represent the interests of society in a sense that they (and their decisions) were accepted in this position and hence legitimized. Modern societies do no longer have such a unique position, even if governments can be seen as a proxy, sort of. However, it has to "earn" its legitimacy typically by getting confirmed by the people – or it will eventually be substituted by another government. A prerequisite for this process to secure legitimacy is a complex institutional setting (rules of the game) and high demands with regard to the educational system (a sufficient understanding of the game).

To summarize this section, legitimacy is a generalized concept which enables and eases social cooperation and, especially, avoids or mitigates social conflicts by drawing on a shared understanding about how the game should and can be played, that is, which rights and responsibilities the members of society have, what they are allowed to do – and what accordingly should be accepted – and where, which, and why constraints should be observed, be it with regard to actions or to expectations toward others. This alignment of expectations was captured in the concept of a constitutional ethical focal point.

Criteria of Legitimacy

To function as a constitutional ethical focal point, legitimacy entails four criteria which must be (sufficiently) fulfilled:

(a) Consistency
(b) Continuity
(c) Incentive compatibility
(d) Understandability or familiarity

ad (a): *Consistency*, as the first and most general criterion, is, in an elementary sense, rooted in logic, that is, it is kind of a formal prerequisite to develop reliable expectations about the future. Basically, consistency refers to the feasible plans of individuals how to live and cooperate in society. If they are not consistent, conflicts will occur. Furthermore, these plans have also to be consistent with the empirical conditions which constrain their realization.

As discussed earlier, the presumably most relevant elements of the "inventory" of legitimacy, which form the basis and ensure consistency, are legal provisions, all the more since their consistency is continuously checked and discussed in the courts, by law scholars, etc. Other important sources, which provide (first-order) focal points for consistency checks, are moral norms, values, and principles, which also are the reason for the difference between legality and legitimacy. Some actions can be legal and yet be perceived as illegitimate, because they fulfill the letter of the law but are not in line with values such as fairness.

Perfect consistency is impossible in a contingent world, where scarcity, change, lack of knowledge, etc. prevail; presumably, it would even be detrimental to life. Nevertheless, it works as a criterion which has strong heuristic power. However, it is always dependent on what is looked at to be consistent, that is, it is also a matter of the frame, or the narrative, which assumptions, premises, beliefs, etc. are taken into consideration, especially when acceptability is at stake.

ad (b): C*ontinuity*, as consistency over time, is vital because expectations do always rest regularities in order to derive what might happen in the future; and these regularities are based on the past. Therefore continuity is important for any legitimacy-seeking actor or any institution to be accepted in that concerned persons get familiar with it and learn how to integrate its existence into their mental models. As Suchman observes, “continuity and credibility are usually mutually reinforcing” (1995, 575).

The relevance of this criterion becomes more evident by recognizing that focal points, especially more complex ones, need time to get established, that is, to be made consistent with various empirical circumstances as well as other normative orientations (norms, values, etc.) in order to function properly. This, again, demonstrates their character as an asset and implies that following (ethical) focal points, even if it is not in the immediate interest of an actor, is an investment.

ad (c): *Incentive compatibility* can also be interpreted as a specification of the first criterion, in that legitimacy has to be consistent with basic conditions of human nature. Nothing can be assumed to be (reasonably) acceptable, and hence legitimate, if it is for those, who have to accept it, against their (reasonable or itself acceptable) self-interests. It should be noted that “interests” has to be interpreted in a wide sense, that is, it includes the whole range of Maslow’s hierarchy of needs (Maslow 1943), including the individual’s capability to reflect these (own) needs and re-prioritize them, e.g., abstaining from fulfilling basic needs for a higher degree of self-actualization.

Again, it is a matter of degree, to which extent this criterion can be substantiated. Obviously, it would create deep conflicts, if this compatibility criterion would be interpreted in a way that all kinds of individual interest, or even all first-order desires, are allowed to enter the equation, so to speak. Put differently, some interests, or expectations toward others, can themselves to be said to be illegitimate. And it would be inappropriate to seek consistency with these interests, although one still has to take them into account for the simple reason, namely, because they exist. These interests are one of the main reasons why legitimacy often has to go hand in hand with some kind of power, to “convince” others that some actions are to be accepted or done. At the same time, this creates the incentive for some individuals to get this power.

ad (d): The last criterion, *understandability* or *familiarity*, clarifies that and why legitimacy is strictly related to the “understanding of the game.” If people are expected to accept something due to its legitimacy, they need to understand it, at least in a certain sense. This is not to say that individuals are conscious about the legitimizing structures or can explain it. Actually, in many cases, legitimacy relies on a more intuitive understanding, which corresponds to Weber's legitimacy by tradition (1978, Chap. I, §7). However, as soon as a tradition is no longer existent in a familiar way, rationalization and explicit communication, possibly justificatory arguments, are needed.

This is the point, where the inventory of (first-order) focal points is needed. There are many ways to "convince" others to accept some burden (in the aforementioned broad sense), but not all of them are legitimate, mostly because they might not pass the generalizability test which is tantamount to the fact that third parties might object to it.

Legitimacy as Acceptable Right to Harm Others

After having explained the formal property of legitimacy as a constitutional ethical focal point, this section serves to make a proposal with regard to the content of legitimacy, related to the question of "legitimacy for what?" (Suchman 1995, 574). Again, it starts with the idea of freedom and the implied question in a group or society of free individuals: what can we expect from each other regarding to the use of freedom?

The proposition for the most basic answer to this question is: *we can expect from each other not to get harmed by their use of freedom*. This idea refers to vulnerability as a constitutive element of being human which plays also an essential part in any trust relationship. Most definitions of the trust relationship refer to this element. For a discussion, see, e.g., Misztal (2012). Furthermore, the no harm principle is one of the most basic and universal ethical norms and can be found in many cultures. It can also often be found in elaborated systems of formal laws. For example, Article 4 of the Declaration of the Rights of Man and of the Citizen, passed by France's National Constituent Assembly in August 1789, states: "La liberté consiste à pouvoir faire tout ce qui ne nuit pas à autrui." (Liberty consists of doing anything which does not harm others.) Many laws and regulations state, mostly in their first, most general paragraphs, that certain rights are granted, provided they do not harm the rights of others.

For a better understanding of the relevance of this principle, the concept of "harm" needs to be interpreted broadly. It does not only include direct physical or psychical harm but also manifold forms of burdens, which one would prefer not to bear: doing things which one is not inclined to do, bear (additional) costs or risks, and accept constraints in one's scope of action. In the most general sense – which becomes nearly tautological – harm means the *disappointment of expectations which one claims to have rightfully (or legitimately).*

However, it would be impossible to take this no harm expectation as an unconditional norm that has always to be fulfilled. Put differently, it is inevitable that we put sometimes some burden on each other. Examples abound: the physician who cuts with a knife in a human body during an operation, the employee who is laid off, customers who have to pay higher prices, citizens who have to pay higher taxes, defendants who are sentenced to a fine or to be imprisoned, etc. This is precisely the point, where the question of legitimacy emerges: Is it acceptable to bear the burden and why? Legitimacy, then, means the *right of an actor to use her freedom in a way that harms others because there exist reasons, which are societally acceptable*. The word "acceptance" or "acceptability" itself suggests that some kind of burden is involved.

Taking as given that no external authority exists which can give this justification that differentiates legitimate from illegitimate harm, the remaining reasons for it are accepted norms and, ultimately, a *shared understanding of (the situational application of) a shared (set of) goal(s) or value(s),* which can then be said to be part of the aforementioned inventory.

In other words, the willingness of B to grant the right to act in certain ways to A (i.e., to legitimize her), even if it implies some harm to B, comes with two basic qualifications: first, this harm has to be (over-)compensated by benefits to B (or to others which B accepts as beneficiaries); second, this right is not unconditional but constrained in a way that B's legitimate rights are preserved. Again, these considerations do also, at least indirectly, refer to the fundamental role of trust in social cooperation, since B can also be seen as trustor and A as trustee.

It should be noted that it is part of this definition that expectations from B can also be improper and actually illegitimate. If a boss expresses expectations with regard to an employee, e.g., that a salesperson should make at least 25 contracts until the end of a month, and this is not possible with regular (legal and legitimate) means, this expectation may drive the employee into irresponsible behavior, thus creating harm (to customers, the salesperson, and even the company itself) in an irresponsible way. This consideration demonstrates again the character of legitimacy as a focal point.

Values and Reality

So far, legitimacy has been described as the alignment of intentions and expectations in a way that social cooperation is promoted and social conflicts are avoided or "civilized" in a constructive manner. Seen this way, legitimacy is the idea of a reasonable shared understanding or (societal) *consent*, including ways to maintain or create consent in dissent.

However, in order to *apply* this idea to the real world of social interactions, it is necessary to systematically integrate empirical conditions in this logical model of universalizability. Among the many questions, which may arise, are: How should conflicting norms or values be weighted and prioritized? How to deal with illegitimate expectations? How should benefits and costs of social value creation be distributed? How to deal with actors who misuse their rights? Or to use again the metaphor from section "Actions, Rules, and Understanding"? How to play the game, especially if basic conditions change disruptively, as it is the case with globalization, digitalization, or ecological conditions? These questions are important to consider, because one key function of legitimacy is, as said before, to deal with conflicting interests, claims, and expectations by providing a shared base on how to constructively cope with them. This, however, is not only a matter of shared ideas about the common good, basic moral norms and values, etc.; it is also necessary to find some common ground on how to *apply* them subject to given empirical constraints. It is rarely the case that someone is *against* fairness, sustainability, respect, or other moral values. Conflicts typically occur with regard to the question, what they imply concretely and, especially, what can be derived as specific behavioral expectation. Actually, it is mostly due to empirical circumstances that the question of harm comes up at all. If no constraints from reality were existent, it would be reasonable (and rational) to avoid harm in general.

One might think that ideally all members of society should have a shared understanding of a good society and its prerequisites, what empirical constraints exist and how to deal with them, what is implicated with regard to individual contributions as well as institutional structures, and which focal points coordinate these contributions and legitimize the according rights. Obviously, this picture doesn't correspond with the conditions of reality; individual mental models are rather different from each other – which, by the way, can be an important source for societal progress. Therefore, legitimacy can be seen as a regulative idea, a beacon, as it were, which needs to be maintained and updated continuously. This is holds true all the more, when society is undergoing profound changes.

Dealing with this "fact of pluralism" (Rawls 1987, 1 ff.) implies the relevance of public deliberation (cf. Palazzo and Scherer 2006). The challenge, however, is to take the aforementioned criteria appropriately into account. For example, when incentive compatibility as a key constraint for any social order (institution, rule, regulation, etc.) is neglected in a public discourse, the use of normative concepts will become more and more shallow, and these concepts may lose their function as ethical focal points as described in section "Legitimacy as an Ethical Focal Point." Likewise, abstract deliberations, which are not connected with the understanding of ordinary people, will also not support legitimacy as a focal point. These few remarks do already hint at the problems, which are discussed in the next section.

Corporate Legitimacy

In a simplified way, the question of *corporate* legitimacy might be approached with the following questions: What are the rights and responsibilities of corporations? What are the institutionalized and normative sources of those rights? What are firms allowed to do – and what should accordingly be accepted by their stakeholders and the public? And what is expected from them, that is, what are their responsibilities, where (corporate) responsibility is understood as respecting legitimate expectations of concerned parties? It is "respecting" and not "fulfilling," because in some situations it is plainly impossible to fulfill expectations even if they are, in principle, legitimate. In this case, however, "respecting" means to offer reasons as to why one did not fulfill these expectations. For an extensive elaboration of this reconstruction of corporate responsibility, its premises and implications (see Suchanek 2015).

Although these questions, in substance, were always relevant, they weren't a topic for academic discussions for a long time. Classically, legitimacy was a concept for the political discourse, and the academic discussion took place only within the realm of political science and philosophy. The question was whether a political actor or political institutions deserve legitimacy, which was drawn from sources like God, natural law, history (K. Marx), or the people (democracy) and transferred through authoritative bodies and institutionalized procedures. For corporations, there was no need to discuss their legitimacy. Rules and understanding of the game, to make again use of the metaphor, could be assumed to be taken for granted. Corporations were not seen to be involved in the political realm. In a sense, their actions were implicitly assumed to be legitimate, since they created value for "the wealth of nations" subject to given regulations and the pressure of competition. Accordingly, there was no need for an academic discourse about corporate legitimacy. In economics, for example, it was, often implicitly, assumed that the rules of the game are given as well as a background culture which accepts corporations. The standard assumption was that competition and the logic of markets would discipline them in a way as if an "invisible hand" would align their contributions to society with public and stakeholders' expectations, expressed in the demand curve and the (implicit) background assumption that other claims from stakeholders were dealt with via contracts and law. In a sense, Milton Friedman (1970) expressed this perspective pretty neatly, when he argued that in a setting where the government provides the rules of the game and markets are competitive, companies *are (and should be) expected* to strive for profits; for him it was obvious that this has to happen by adhering to the law and "without deception and fraud" (ibid., 126).

However, with globalization in the 1980s and later, and further intensifying with digitalization, the game changed substantially. These developments opened up many new opportunities for companies to change their supply chains, tapping or even creating new markets and so on; digitalization allowed to create completely new business models, thereby at the same time threatening established ones, thus creating conflicts. Hand in hand with these developments, the competitive pressure increased implying that regulations need to be adjusted. Due to the transnational character of these changes as well as their sometimes disruptive nature, national governments were no longer in a position to completely fill the role of the authoritative body which sets and enforces the "rules of the game," thus providing and enforcing an encompassing and reliable legal infrastructure for legitimacy orientations. Furthermore, various corporate scandals led to intensified regulation as well as calls for corporate responsibility. To use the metaphor of a game again, globalization and digitalization have led to a pluralization of playing fields with different sets of rules and cultures (understandings), which is a considerable challenge for companies, especially with regard to maintaining *consistency.* At the same time, a "retreat of the state" (Strange 1996) can be observed.

As a result, the classical societal division of labor, namely, that politics is responsible for the rules of the game and business for actions within the (economic) game, becomes more and more obscured; corporations are increasingly seen as political actors (Scherer et al. 2014). Mostly, this dispute focused on the question of corporate (social) *responsibility*. But the arguments made earlier suggest that the question of responsibility needs to be *embedded* in the larger picture of institutional settings which define the actors' rights and responsibilities, thus maintaining a sufficient level of consistency.

Put differently, corporations do no longer find an institutional and cultural infrastructure, which offers them a clear framework for their core business, in a way that they – and all other members of society – can take it as granted and build their mutual behavioral expectations on it. Instead, corporations are more and more expected to provide this infrastructure in part of themselves. At the same time, it becomes less clear what they are allowed to do *legitimately* and how a legitimacy check can be done. To be sure, this is not everywhere a problem. In many respects, daily business proceeds as usual. But especially the developments in the IT industry hint at the changes in the division of labor between the economic and political sector.

Referring to legitimacy as a constitutional (ethical) focal point, the problem of corporate legitimacy can be formulated as follows: *the inventory of (ethical) focal points, which serve to align specific societal expectations regarding the room for discretion of corporations and their actual orientations becomes more complex, more elusive and hence less effective.* Put differently, *functional focal points, on which corporations can build their license to operate, are eroding, get lost or need to be adapted*.

To put it in simpler terms, the society knows less what to – legitimately – expect from corporations, and corporations know less what is *legitimately* expected from them and further what they can expect from their stakeholders and society in general or, maybe more specifically, which expectations from which stakeholders should be given which weight in order to maintain legitimacy.

To use again the metaphor of the game, the teams of soccer – or another discipline – are not only expected to play against each other in a regular and fair way; they are also expected, within unclear limits, to help create, maintain, enforce, and adhere to new rules and a changing, and rather heterogeneous, understanding of their stakeholders.

While it is difficult to imagine that something like that might happen in the case of soccer, this metaphorical description seems plausible, when it is transferred to society in times of globalization and digitalization. Corporations are expected to create value; they have to make profits, subject to the pressure of competition; and at the same time they are more and more asked to invest in the infrastructure, which enables this "game." It is a key aspect of the problem of corporate legitimacy whether these investments (in the infrastructure of societal cooperation) are aligned with their incentives. This is not tantamount to reduce their responsibility to a business case. However, responsibility cannot sustainably assumed when it leads systematically to losses and competitive disadvantages.

Put differently, there is a fundamental tension between morals and profits. To a certain extent, this tension is inevitable. The degree and severity depend on the two orders of action and expectations (see section "Actions, Rules, and Understanding"). On one hand, normative expectations which are directed toward corporations are rising. They should observe higher social and environmental standards, be compliant with all rules, and maintain high levels of responsibility, sustainability, and integrity. Additionally, they are scrutinized by many – often nongovernmental – organizations, a circumstance which has many advantages but may cause a problem, if the expectations cannot be met when empirical constraints are taken into account. The latter refers to the fact that the conditions of today's business are, as a rule, characterized by a sometimes extremely high degree of competition and economic short-termism which is itself, at least partly, due to the fact that both frameworks, that of rules and of a shared understanding, can no longer be taken for granted and allow free riders to compete in an unfair way. The logic of the prisoners' dilemma in its negative dimension prevents long-term investments, the payoffs of which are uncertain and may not incur within the periods under consideration.

Furthermore, an elementary strategy to maintain and create legitimacy, (contributions to) public discourse in order to create a better foundation for a shared understanding, faces also the problem of adverse conditions. It is less the problem that the basic values are going lost. At least nominally, most moral values and principles like fairness, respect, and others are still accepted. The critical question is what they imply in concrete situations of complex supply chains, doing business in corrupt environments, and so on. There is a danger of a widening gap between those who are not familiar with the empirical constraints of business situations but request high normative standards and those who are in these situations and lose the belief in the relevance of normative concepts because they cannot see how to apply them in their situation.

This increases the odds that some corporations will contribute to actions and developments which undermine the conditions for their own future license to operate, for a fair competition, and for sustainable ways of societal value creation and that other corporations experience increased pressure to act in a similar way.

Outlook: Cultivating the Inventory of Legitimacy

In this chapter, legitimacy has been defined as a constitutional ethical focal point, that is, the core of a shared understanding in society on how to cooperate and how to cope in a reasonable way with conflicts. Building on this, the problem of corporate legitimacy has been narrowed down to a widening gap between profits and morals, more specifically, a gap between normative expectations toward corporations and the incentives for them to invest in the fulfillment of these expectations, which aggravates the maintenance of the foundation of legitimacy, a (sufficiently) shared understanding about mutual rights and responsibilities and their meaning in everyday life. Corporations are increasingly seen in a position where they get transferred societal, including political, duties without sufficient clarification whether (a) they have the resources, competencies, *and incentives* and (b) which and how checks and balances, which secure appropriate inclusiveness, participation, feedback, and, as a consequence, acceptability, might work.

It is worthwhile to remember that single actors (here corporations) cannot control legitimacy, much less than governments, although they influence various conditions to maintain it or contribute to its erosion; acceptance is ultimately always up to those from whom it is expected.

However, even if corporations cannot "produce" the infrastructure from which legitimacy expectations are drawn, they nevertheless, and inevitably, influence it. More specifically, corporations can indeed actively undermine their legitimacy by *not* fulfilling what is widely perceived as a legitimate expectation. Typical examples are noncompliance or the unjustified non-fulfillment of promises, the consequence of which is illegitimate harm to some stakeholders.

Therefore, it seems safe to say that corporations *can* do something to invest in legitimacy as a condition of their license to operate, namely, to *avoid relevant inconsistencies* of their actions with widely held societal expectations of responsible behavior (in this regard, cf. Suchanek 2015, 2017). It is then up to their stakeholders to reward and support those companies in order to prevent that corporate irresponsibility pays off. Ethical focal points, and hence legitimacy, will also erode if the corresponding behavior is punished.

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3 Anthropological Underpinnings of Business Ethics and Work Ethics in Relation to Business Legitimacy

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Contents

Abstract

There is a strong human factor in business. Therefore, it is an important task for anyone who deals with economics – scientists as well as business people – to think about questions of anthropology: what are the important traits of human character and decision-making and how do I account for them in my own economic theory or business model? The chapter presents the understanding of human being and acting that is typical for neoclassical economics, the so-called *homo economicus* model. It then turns to various criticisms of that model and contends that there are two other significant anthropological models in current theory of economics: the other-regarding, moral person with specific interests in justice, solidarity, and integrity, and the "intuitive agent" of behavioral economics. It is argued that even though it has been tried to deduce norms and rules of business legitimacy directly from anthropological findings, anthropology cannot replace ethics. Still, observations with regard to human motivation and decision-making are an indispensable underpinning of any economic theory and policy.

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Introduction

Business is done by human beings and it is addressed to human beings. Therefore, there is a strong human factor in business. This is even more the case when it comes to questions of business legitimacy. Legitimate business is defined by rules, and these rules are rules of human conduct. Hence they are dependent on certain conceptions of human behavior from which conclusions are drawn with regard to what can and should legitimately be expected from human actors in business. Or to put it otherwise: notions of legitimacy always have anthropological underpinnings, given that anthropology deals with the conceptual framework of the human being (*anthropos* is the Greek word for human being).

This is well-known both in economic theory and in business ethics. The long-stemming debates on the *homo economicus* are nothing else than debates on the anthropological underpinnings of business and its legitimacy. The following contribution tries to shed some light on these debates. It starts by giving some examples for anthropological preconceptions that can be traced in important works of economic theory (section "Economic Theory and Its Dependence on Anthropological Assumptions: Some Examples"). It then presents what is used to be called the classic model of the *homo economicus* (section "The *Homo Economicus* Hypothesis") and the criticism it has attracted because of its supposed shortcomings with regard to an evidence-based approach to human conduct and motivation (section "Criticism of the *Homo Economicus* Hypothesis"). A short conclusion (section "Conclusion") will sum up the debates and present anthropological research as an important task for economic theory as well as business ethics.

Homo Economicus and Its Discontents

Economic Theory and Its Dependence on Anthropological Assumptions: Some Examples

There are books that openly deal explicitly with the anthropological underpinnings of business. Werner Sombart published a large volume in 1913 that traces a history of the "economic man" ("Der Bourgeois: Zur Geistesgeschichte des modernen Wirtschaftsmenschen"; Sombart 2003). Pierre Bourdieu held a university course entitled "Economic Anthropology" that was published posthumously in 2017 (Bourdieu 2017). However, the impact of anthropological presuppositions on economics can be shown even more convincingly by looking into classics of economic theory that don't deal with anthropological questions explicitly.

The first example to be presented here is Murray N. Rothbard's "Man, Economy, and State" (Rothbard 2009). Following his teacher Ludwig von Mises and his highly influential book *Human Action* (Mises 1998), Rothbard begins his "Treatise on Economic Principles" with a chapter on "Fundamentals of Human Action" (Rothbard 2009: 1–77). He is very clear in stating the axiomatic character of these anthropological considerations for his theory of economics: "The present work deduces the entire corpus of economics from a few simple and apodictically true axioms: the Fundamental Axiom of *action* – that men employ means to achieve ends, and two subsidiary postulates: that there is a *variety* of human and natural resources, and that leisure is a consumers' good" (Rothbard 2009: LVI). And it could easily be shown that this is indeed the case. There is, e.g., a close connection between Rothbard's apology of a free market – which attacks, among other government actions, government intervention in favor of future generations (Rothbard 2009: 1037) – and the anthropological hypothesis that "man prefers his end to be achieved in the shortest possible time" (Rothbard 2009: 15).

Rothbard is very outspoken on the relevance of anthropological considerations for his theory of economics. This is true for Friedrich Hayek as well. Hayek, who was Mises' student and collaborator in the 1920s, states the following about his own academic journey: "Yet, though I still regard myself as mainly an economist, I have come to feel more and more that the answers to many of the pressing social questions of our time are to be found ultimately in the recognition of principles that lie outside the scope of technical economics or of any other single discipline. Though it was from an original concern with problems of economic policy that I started, I have been slowly led to the ambitious and perhaps presumptuous task of approaching them through a comprehensive restatement of the basic principles of a philosophy of freedom" (Hayek 2011: 49–50). Hayek laid down these basic principles in his landmark book *The Constitution of Liberty*, and he is very clear in saying that they are based on "assumptions [. . .] concerning individual human nature" (Hayek 2011: 120).

The relevance of such anthropological assumptions for economic theory is also very well traceable in Gary Becker's work. "The combined assumptions of maximizing behavior, market equilibrium, and stable preferences, used relentlessly and unflinchingly, form the heart of the economic approach as I see it" (Becker 1976: 5). "[A]ll human behavior can be viewed as involving participants who maximize their utility from a stable set of preferences and accumulate an optimal amount of information and other inputs in a variety of markets" (Becker 1976: 14). Becker is reluctant to speak of "human nature" (Becker 1976: 282), and he makes clear that the economic approach is only one among many others when it comes to understanding human behavior (Becker 1976: 14). Still, he contends that "the economic approach provides a valuable unified framework for understanding *all* human behavior" (Becker 1976: 14), and he tried to make a case for this all-encompassing value of the economic interpretation of human actions in many public contributions (Becker and Becker 1997) that include far-reaching statements about human motivation. For example, Becker describes love and altruism between humans as largely having an "as if" character, given that self-interest is the dominant human incentive for action (Becker 1976: 253, 286).

Becker's so-called economics imperialism was already advocated in the beginning of the twentieth century by Philip Wicksteed who claimed that the economics of utility maximization "run as a universal and vital force through the administration of *all* our resources" (quoted Lutz 1999: 151). Becker himself refers, among others, to Adam Smith and Jeremy Bentham in order to show the long tradition of interpreting human behavior this way (Becker 1976: 8, 282), and a last paragraph in this exemplary overview shall be dedicated to Smith. There is at least one of his statements that hardly any introduction into economics forgets to quote: "It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest" (Smith 1976: 26–27 [I.2.2]). Mostly, this quote is made with the purpose of emphasizing that Smith already was making a case for the dominant place of self-interest in human thinking and acting and particularly in economic transactions. There is, however, very good reason to put this statement into the larger context of Smith's work and his thoughts on human psychology and to warn against an oversimplistic reading of Smith (cf., e.g., Sen 1987: 22–28). There is also good reason to warn against an identification of Smith's and Bentham's theories: "Smith's project was an ethical one. Bentham derailed it and brought economists to think only of *P*, Prudence" (McCloskey 2005: 30).

Within this article, the main point to be stressed is, however, that Smith indeed builds his economic theory upon general assumptions about the nature of humankind. The division of labor, as the basic principle of economic progress, is beneficial because human beings are, unlike animals and as part of their nature, in need of cooperation: "In civilized society he stands at all times in need of the cooperation and assistance of great multitudes, while his whole life is scarce sufficient to gain the friendship of a few persons. In almost every other race of animals each individual, when it is grown up to maturity, is entirely independent, and in its natural state has occasion for the assistance of no other living creature. But man has almost constant occasion for the help of his brethren, and it is in vain for him to expect it from their benevolence only" (Smith 1976: 26 [I.2.2]). This anthropological assumption is the cornerstone for Smith's entire economic theory.

The *Homo Economicus* Hypothesis

It is the task of economical science to describe and explain human behavior in order to allow a forecast of future behavior, which then enables adequate policy measures in politics and business (Kirchgässner 2008: 1–10). Forecasts require some kind of predictability and therefore the use of generalizations and rules. Economists achieve these required generalizations by using models, and arguably the most important model for standard economics in recent times has been the so-called *Homo economicus* hypothesis.

The term *homo economicus* has its own complicated history (Persky 1995; O'Boyle 2010), but we will focus here on its content. According to this hypothesis, human behavior can be generalized under the following rules: the individual agent as point of departure (methodological individualism), self-interest as dominating human motivation, utility understood as saturation of self-interest, and maximizing of utility as the standard of rationality. This is the standard model of rational economic man (REM) as it is, e.g., underlying Gary Becker's economic work, from which was quoted in the previous part of this contribution.

In response to criticism, and also in order to render the model closer to reality, REM was modified many times. Suffice it here to mention the REMM model (Jensen and Meckling 1994) and the RREEMM model (Lindenberg 1985). REMM ("resourceful, evaluative, maximizing man") adds resourcefulness, creativity, and ingenuity to REM: "Human beings are not only capable of learning about new opportunities, they also engage in resourceful, creative activities that expand their opportunities in various ways" (Jensen and Meckling 1994: 5). This is seen as a contrast to the "highly mechanical behavior posited by economists" (Jensen and Meckling 1994: 5). RREEMM ("resourceful, restricted, expecting, evaluating, maximizing man") is supposed to be a "universal model of man" way beyond economics alone (Lindenberg 1985: 100) and emphasizes in particular the influence of the evaluation of future constellations on the choice-making in the present. Both variations stick to the primacy of self-interest and maximizing and can, therefore, be considered as variations of REM, not alternatives.

Criticism of the *Homo Economicus* Hypothesis

Once the model of "economic man" was established, it quickly was criticized, either as too simplistic or downright wrong. Joseph Persky quotes John Kells Ingram in a book from 1888, criticizing that John Stuart Mill's political economy "dealt not with real but with imaginary men – 'economic men' . . . conceived as simply 'money-making animals'" (Persky 1995: 222). It took, however, several decades until criticism became widespread. This criticism is part of the current crisis of economical science and the controversy about the real-life value of its models – aptly labeled as a conflict between truth and precision (Mayer 1993). The axiomatic assumption about standard human behavior in economical science, once introduced exactly because of its supposed closeness to "real-world" human beings, is under pressure because observation and experience show a much more complex picture of human psychology and behavior, casting doubt on the predictive value of the model (Manzeschke 2010).

In the following, the main points of criticism will be enumerated, emphasizing particularly the discontent with the anthropological assumptions of the standard theory.

Historical Embeddedness

It is a claim of the adherents of the *homo economicus* hypothesis that human beings always and everywhere behave according to these assumptions. It is, therefore, a first point of critique, even before looking deeper into the assumptions themselves, to point out their historical embeddedness. *If* human behavior is universally structured as supposed, then it is at least worth mentioning that for thousands of years of human history of ideas, the dominant character of human self-interest remained undiscovered. Certainly, philosophers like the ancient sophists embraced the pursuit of self-interest as the way to happiness, but their view was not common sense in Greek antiquity (Annas 1993). Aristotle's image of the human being as an *animal sociale* was, for an antique as well as a medieval public, a much more compelling anthropological assumption. The same can be said about his specific economic theory which emphasizes the intrinsic and not extrinsic value of goods. Nature – not human desire – is, according to Aristotle, the measure of economic value (Meikle 1995). The power of desire is not neglected by him, but it must and can be tamed by the practice of virtue.

The Christian Church in its first millennium was even more critical of self-interest as the driving force of human thinking and acting, and, like Aristotle, it praised the positive effects of the community for human flourishing. Individual property was disapproved, taking instead the ascetic life of a monk as exemplary fulfilment of God's commandments. The turning point came only in the thirteenth century, when Aquinas, at a time when the Church began to lose its grip on human conscience, argued in his *Summa Theologiae* that individual property can be ethically justified. Individually owned property, he argues, assures better care and therefore more welfare due to the strengthening of responsibility that comes with personal ownership. Still, Aquinas made sure that this justification is only valid if the gain made out of personal ownership is used for the common good.

It needed the growing individualism of the Renaissance movement and its valorization of human desire to obliterate this condition (Hirschman 2013a). However, it took centuries and the "atomism" (Taylor 1985) of modern societies until self-interest was fully acknowledged as a dominant and legitimate driver of human behavior. Mandeville's "private vices, public benefits" is still closer to Aquinas than to Gary Becker.

Given this intellectual history and the complete vindication of human desire and self-interest it brought about, it is understandable that Pierre Bourdieu spoke of this shift as a "symbolic revolution" and a "radical transformation" (Bourdieu 2017: 88). Even more, he castigated the coming into power of the *homo economicus* as some kind of original sin (Bourdieu 2017: 92–93).

One may or may not agree with Bourdieu's critical evaluation of the *homo economicus*. In any case, the relatively short period since its inception (Wood 2002: 3) makes it rather difficult to believe in its universal validity and, conversely, in the obsoleteness of alternative understandings of human behavior.

Methodological Individualism

The classical *homo economicus* is an individual person, and, as such, he is the starting point of the standard model. Despite the frequent use of Robinson Crusoe analogies in neoclassical economics (Hewitson 1999: 145–167), this does not mean that a person isolated from society is thought to be the ideal incarnation of humanity. Friedrich Hayek called such an understanding of methodological individualism "the silliest of the common misunderstandings" (Hayek 2010: 52), and indeed we have seen above that, e.g., Adam Smith starts his thoughts on the importance of self-interest by reflecting on the necessity of cooperation in a human society. Hayek himself states for his "true" individualism that it is "starting from men whose whole nature and character is determined by their existence in society" (Hayek 2010: 52). Therefore, societal embeddedness is not absent from the *homo economicus*. Still, the influence of society on economic decisions is rather neglected. Hayek contends "that there is no other way towards an understanding of social phenomena but through our understanding of individual actions directed towards other people and guided by their expected behaviour" (Hayek 2010: 52) and that a human being undertakes these individual actions "by his own choice" (Hayek 2010: 58). There is a basic assumption about individual freedom and choice at the bottom of the *homo economicus* hypothesis. However, there is not much reflection about the fact that these choices, even when they are conscious and thus seemingly "free" (subconscious factors, as they are emphasized by behavioral economics, are another topic to which I will come later in this contribution), are shaped at least *also* by the surrounding society, be it in the form of belief systems, ideologies, social setting, or status (Zelizer 2011: 9). So-called holistic methodologies criticize this lack of reflection as a decisive shortcoming of neoclassical economics.

Steven Cohn, in his heterodox introduction into macroeconomics, gives an example of an unexpected outcome of an economic policy measure and then goes on: "Why has this occurred? [...] Do the answers lie in the nature of human nature or elsewhere, perhaps in the nature of society? The holist methodologies of heterodox economics invite this question, as well as attention to the broader issue of where tastes and preferences come from. The methodologically individualistic approach of neoclassical economics, on the other hand, discourages this question and rules out inquiry into the origins of tastes and preferences" (Cohn 2015: 19). This critique is brought forward in particular by feminist (Hewitson 1999; Fineman and Dougherty 2005; Fineman 2005) and Marxist (Varoufakis 1998) economists.

Self-Interest and Utility

The standard model of *homo economicus* has an individualistic bias not only with regard to the methodological priority of the individual person and her "free" choices. It is also characterized by what may be called evaluative individualism: self-interest, in addition to being the dominant motivation for each human action, supposedly is also, through the notion of utility, the currency by which each decision and each judgment is measured: will it provide a positive outcome for me or not?

It is here, with regard to evaluative individualism, that the connection between neoclassical economics and utilitarianism comes to the surface. And, hence, the criticism of the underlying anthropological assumption is the same for both. Once again, this criticism can easily be dismissed if it argues too superficially. The primacy of self-interest does not mean that *homo economicus* is by definition egoistic, selfish, and could not be interested in shaping society according to ethical principles like justice. Bentham, e.g., has quite something to say about other-regarding pleasures like benevolence, and John Stuart Mill makes a strong case for justice as a tool of social utility.

The difference to other types of morality and their underlying assumptions about human conduct comes to the fore when we ask about the justification of benevolence and justice. Benevolence may be helpful for others, but from a utilitarian point of view, this is not what produces enough motivation to take action. It is not the pleasure others may gain from my benevolence that ultimately makes me help others; it is the pleasure I take myself. Therefore, the action of helping is only a tool to make myself happy, in the pursuit of my own self-interest. As a result, benevolence is motivated extrinsically. The same is true for actions of justice and – ultimately – for Mill's advocacy for justice as a social norm: in a society governed by justice, I will prosper in the long run, and, therefore, I have a personal interest in upholding justice as a social norm. It is useful for me.

Therefore, the difference of utilitarianism – and, by affinity, of the *homo economicus* theory – to other types of morality is not a difference in content but in motivation. According to utilitarianism, the decisive factor in human moral psychology is neither the common good nor the notion of moral obligation but the notion of personal happiness, the pursuit of self-interest. This evaluative individualism is a basic anthropological assumption of neoclassical economics, and, thus, it is a main target for critique.

Are human beings really mainly motivated by their personal self-interest? This underlying assumption of the rational, economic man is contested from different sides. First of all, there are two conceptual problems: (1) If *all* human actions, even obedience to the law or personal sacrifices, supposedly are motivated by self-interest, the notion of self-interest loses its explanatory character. Actions would then be regarded as self-interested in the same way birds have wings – it is part of their definition. And it would be a tautology to emphasize it (Hirschman 2013b). (2) In addition, usefulness with regard to self-interest is highly subjective: someone may consider an action useful for herself which others may detest. This gives rise to the problem of comparing and measuring individual utility functions – a problem which was never solved by philosophical utilitarianism. Attempts to distinguish between better and worse types of self-interest and to establish categories like "enlightened self-interest" transgress the principle of methodological individualism and the utilitarian claim to approach human decision-making and acting by observation alone, without any privilege given to pre-established moral rules.

In addition to these conceptual problems, the self-interest hypothesis is criticized for its reductionism. Human psychology and conscious incentives for action are much more complex than mere self-interested reasoning. This point was already made by John Stuart Mill in his "Remarks on Bentham's Philosophy": "The prevailing error of Mr. Bentham's views of human nature appears to me to be this – he supposes mankind to be swayed by only a part of the inducements which really actuate them; but of that part he imagines them to be much cooler and more thoughtful calculators than they really are" (Mill 1985: 16–17). Mill invokes in particular "social interests" that don't get due attention in Bentham's raw variation of utilitarianism: "There are, there have been, many human beings, in whom the motives of patriotism or of benevolence have been permanent steady principles of action, superior to any ordinary, and in not a few instances, to any possible, temptations of personal interest. There are, and have been, multitudes, in whom the motive of conscience or moral obligation has been thus paramount. There is nothing in the constitution of human nature to forbid its being so in all mankind" (Mill 1985: 15).

By overstating the importance of self-interest for human decision-making, the *homo economicus* model fails its purpose to explain and therefore predict human behavior in a sufficient manner. Everyone agrees that the importance of self-interest for human motivation is not to be neglected, but current critics bring forward at least three other interests that shape human conduct: the interests in justice, in solidarity, and in integrity.

(1) The importance of justice – researchers speak of an "inequity aversion" (Fehr and Schmidt 1999) and a "justice sensitivity" (Baumert and Schmitt 2016; Schlösser et al. 2018) – for human decision-making has been shown by experimental economists in various game experiments like the ultimatum game and public goods games. The fact that test persons, all over the world and independently of their respective local culture, tend to accept monetary losses in order to show their disapproval of unjust and selfish behavior – somewhat misleadingly called "altruistic punishment" – is interpreted as a refusal of the self-interest theory in its reductionist version (Gintis et al. 2005). Based on these observations, it has been proposed to speak rather of a *homo reciprocans* than of the traditional *homo economicus* (Dohmen et al. 2009), and it has been argued that this widespread interest in reciprocity is, much more than competition, the decisive factor for human cooperation (Nowak and Highfield 2011). It is especially with regard to the justice motive that social psychologists speak of a "myth of self-interest as the cardinal human motive" (Montada and Maes 2016: 110).
The notion of justice sensitivity leads us directly from justice to solidarity. Feelings of justice or injustice presuppose imagination, "projective role-taking" (Karniol and Miller 1981: 83–84). The perception of kindness and its underlying concept, which is closely connected to reciprocity (Falk and Fischbacher 2006), "is based on interpersonal comparisons" (Falk and Fischbacher 2006: 310). Furthermore, it has been observed that "the decision to cooperate is rarely grounded in strategic considerations" and that people strive for justice in their cooperation efforts even when no sanctioning mechanism in the sense of direct reciprocity is involved (Schlösser et al. 2018, quote: p 2). On the other hand, when there is a punishment option, the sanction is triggered by the strong negative emotions caused by free riding (Fehr and Gächter 2002: 139).
(2) There is, therefore, good evidence for the importance of role-taking and empathetical emotions in human conduct. The free rider is, after all, sanctioned because I imagine myself in her place and consider her behavior inadmissible – a case of negative empathy. However, we usually speak of empathy rather in the sense of (positive) sympathy and solidarity. The universal existence of such a feeling was already postulated by the Chinese philosopher Mencius, who

claimed that nobody would passively stand by when seeing a child about to fall into a well. In more recent times, a much-quoted study claimed to show that a public health system in which people give their blood for altruistic reasons, without being paid, is superior to a market system (Titmuss 1970). Further research on blood donation has shown a more complex picture, but it still stands that humanitarian motives indeed are one of its driving factors (McLean and Poulton 1986; Ferguson 2015). Experimental economists invented the "solidarity game" in order to test the occurrence of gift-giving between humans and found out that it can be motivated by both, either self- or other-regard (Büchner et al. 2007; Bolton et al. 2010). Broader psychological research suggests that there is, indeed, convincing evidence that empathetical solidarity as other-interest can be considered to be a universal complement to self-interest when it comes to motivational sources of human behavior (Batson 2011).

It should not be forgotten that this anthropological assumption of a natural feeling of solidarity toward others has, in fact, a long history in economic thinking. The Greek *oikonomia* and the Christian common good are constructed on this anthropological foundation. It is also worth mentioning that "solidarism" (Koslowski 2000) is an important source for German "ordo-liberalism" and its success as an economic policy after World War II. Recent economic concepts like an "economics for the common good" (Lutz 1999) and a "capitalism beyond mutuality" (Rangan 2018) presuppose this universal interest in solidarity. Such concepts usually entail a critique of the traditional *homo economicus*, such as the following statement: "when self-interest is pursued without compassion for others, when interconnectedness is disregarded or when the mutuality of all humanity is forgotten, greed results" (Peralta and Mshana 2016: 9).

(3) "The market needs support from institutions it cannot create. One of these [. . .] is 'virtue': moral behavior, including telling the truth" (McLean and Poulton 1986: 440). Human interaction is impossible without trust and the corresponding interest in integrity. Likewise, the self-interest hypothesis would be self-contradictory without some element of truth and honesty: everyone who makes a statement, including the proponents of the self-interest hypothesis, wants to be believed, and this interest in credibility would be vain if there was only instrumental communication (Lutz 1999: 162).

In line with this anticipation, experimental economists and psychologists have identified "trustworthiness expectations" and "betrayal sensitivity" as characteristic traits of human interaction (Thielmann and Hilbig 2015). Even more than justice sensitivity and solidarity, their existence in human consciousness contradicts the primacy of self-interest as it is assumed by the *homo economicus* hypothesis. Someone who uses other people only as tools in his or her quest for personal gain is not considered to be trustworthy. And an "as if" trustworthiness in the sense of Gary Becker's understanding of love and altruism (see above 2.1) would be judged even worse, as a betrayal of trust. It is here that any attempt to explain moral, other-regarding behavior as camouflaged strategy of personal utility maximization falls short.

> Given the basic need for trust in any economic interaction, it is not surprising that integrity is a main requirement in any code of conduct and CSR declaration and that the "honorable merchant" in his exemplary trustworthiness is a long-standing business role model (Lütge and Strosetzki 2019).

Self-interest certainly is a driving factor in human decision-making and action. However, human consciousness is far more complex than that. In addition to the traditional *homo economicus* hypothesis, valid anthropological assumptions in economy must take into account human striving for justice, solidarity, and integrity as well.

Rationality

The *homo economicus* is considered to be a rational person: he maximizes his utility by calculating consequences and evaluating them in terms of self-interest. This part of the *homo economicus* hypothesis is criticized from two sides: (1) From a more general perspective, it is contested that rationality, even as economic rationality, should be reduced to strategies of maximization. (2) Starting from psychological observations and considerations, the idea of a *homo rationale*, as it is underlying neoclassical economics, is questioned. This is the standard objection of recent behavioral economists.

(1) The critique of understanding rationality only in terms of maximization has several facets. By asking for the historical, sociological, and intellectual roots of this understanding, a Marxist reading considers it to be "an attempt to produce a theory which will under no circumstances recommend that those who currently have social and economic power should be stripped of it" (Varoufakis 1998: 93). James C. Scott set the tone for the current revival of an "economics of subsistence" (Scott 1976: 15) by reintroducing the rationality of the peasant into economic theory: "Living close to the subsistence margin and subject to the vagaries of weather and the claims of outsiders, the peasant household has little scope for the profit maximization calculus of traditional neoclassical economics. [. . .] To begin instead with the need for a reliable subsistence as the primordial goal of the peasant cultivator and then to examine his relationships to his neighbors, to elites, and to the state in terms of whether they aid or hinder him in meeting that need, is to recast many issues" (Scott 1976: 4–5). Urged by the ecological imperative of sustainability and the growing insight into the natural limits of the earth, Scott's "economics of subsistence" has merged into the movement of "post-growth economics," which typically criticizes "the growth-based conception of utility" (Ferguson 2019: 39) in neoclassical economics.
(2) The purely instrumental understanding of rationality in terms of self-interest, as it is presupposed in the *homo economicus* hypothesis, has been criticized over and over again. Max Horkheimer famously spoke of an "Eclipse of Reason" in modernity, tying this decline to the "reduction of reason to a mere instrument" (Horkheimer 1947: 54). "It attaches little importance to the question whether the purposes as such are reasonable" (Horkheimer 1947: 3). Amartya Sen applied a similar critique to modern economics, when he called, in a lecture from the 1970s, the economic man a "rational fool" because of the narrow scope of his

mind: "A person is given *one* preference ordering, and as and when the need arises this is supposed to reflect his interests, represent his welfare, summarize his idea of what should be done, and describe his actual choices and behavior. Can one preference ordering do all these things?" (Sen 1979: 14–15). In Sen's footsteps (Hirschman 2013c: 249), Albert *Hirschman* recalled "the incredible complexity of human nature, which was disregarded by traditional theory for very good reason but which must be spoon-fed back into the traditional findings for the sake of greater realism" (Hirschman 2013c: 261). Hirschman criticizes especially that the "possible existence of wholly *noninstrumental* activities" (Hirschman 2013c: 253) is explained away by the standard economic vision of human nature. "But as economics grows more ambitious, it becomes of increasing importance to appreciate that the means-end, cost-benefit model is far from covering all aspects of human activity and experience" (Hirschman 2013c: 256).

Complementing this critique of a too narrow-minded *homo economicus*, Sen's and Hirschman's demand for greater realism also has a common positive side: by speaking of "commitment" (Sen) or "love, benevolence, and civic spirit" (Hirschman 2013c: 261), both emphasize the nonrational sources and motives of human activity. In this, they agree with behavioral economists. The nonrational constraints in decision-making were one of Daniel Kahneman's and Amos Tversky's research topics already in the 1970s. Reinhard Selten states that "rationality has limited control over behavior" (Selten 1990: 652) and that "bounded rationality is not just another kind of utility maximization or something close to it" (Selten 1990: 657). However, by speaking of a "bounded rationality," he still sticks to the traditional idea of rationality as the guiding principle of human action. The concept has been employed also by other behavioral economists (Gigerenzer and Selten 2001). Kahneman uses it as well, but he goes further than Selten. For Kahneman, intuition and reasoning are "alternative ways to solve problems" (Kahneman 2003: 1469). The human being is an "intuitive agent" (Kahneman 2003: 1470), and Kahneman brings the respective findings of empirical psychology in direct contrast to the neoclassical model of *homo economicus*: "psychological theories of intuitive thinking cannot match the elegance and precision of formal normative models of belief and choice, but this is just another way of saying that rational models are psychologically unrealistic" (Kahneman 2003: 1449). Behavioral economics, therefore, gives a double account of "misbehaving" (Thaler 2015): people "misbehave" by not functioning according to long-standing scientific assumptions, and behavioral economists "misbehave" by paying more attention to real-world psychology than their colleagues.

"What is natural and intuitive in a given situation is not the same for everyone" (Kahneman 2003: 1469): the *homo* of behavioral economics, acting rather according to intuition and emotions than on rational grounds, is a highly subjective actor. This is particularly true when we take into account happiness economics as a recent branch of behavioral economics. Happiness is understood as resolutely *individual* well-being, without any normative, "objective" framework for the choices that lead to (more) happiness. Therefore, happiness research deals a lot more with subjective preferences than neoclassical economics. "Directly measurable subjective happiness and derived 'objective' decision utility (as commonly used in economics) enter economic research from different sides" (Frey and Stutzer 2002: 173).

Despite this focus on subjectivity, behavioral economists claim that their understanding of human decision-making and acting still offers enough space for generalizations (Kahneman 2003: 1449), thereby allowing for predictions and adequate policy measures. From an ethical point of view there is, however, the problem that the "intuitive agent" is highly susceptible to manipulation, given his lack of rational, critical thinking. He can be "nudged" into decisions (Thaler and Sunstein 2008), and not all of them will stand the test of reason. It is, therefore, a notable suggestion to reintroduce the notion of autonomy into behavioral economics (Binder and Lades 2015). Speaking of human autonomy brings the methodological individualism of neoclassical economics back, and it implies a critique of the idea of behavioral economics that rationality is always bounded.

Conclusion

The preceding analysis of *homo economicus* and its discontents allows to distinguish three different concepts of human decision-making and acting that can be found in current economic theory:

(1) The neoclassical model of *homo economicus*
(2) The *homo moralis*, as it is established by a number of findings in experimental economics and psychology, with justice sensitivity, empathetical solidarity, and trustworthiness expectations as main character traits
(3) The "intuitive agent" of behavioral economics

All three concepts get at least some support on the empirical and descriptive level. There are overlaps but also sharp distinctions between them. What does this mean for the question of business legitimacy? Questions of legitimacy cannot be answered on the descriptive level. Rules and norms cannot be deduced just by looking on actual behavior. This remains true, even if fallacies like this happen over and over again. They happen also with regard to our three concepts: (1) Neoclassical economics, with its anthropological focus on self-interest and utility maximization, brought about a model of business legitimacy that understands profit-making as the main and legitimate goal of business. (2) Emphasizing the other-regarding *homo moralis* seems to offer a direct path to a business model of corporate social responsibility. (3) The focus on the "intuitive agent" has been used to justify libertarian paternalism.

Shortcuts like these should be avoided. On the other hand, notions of morality and legitimacy without any relationship to "real" human beings are worthless. Without being a direct source of legitimacy, anthropological observation and interpretation gives valuable insights and is a helpful tool when it comes to policy judgments – be it in science, in business, or in politics. Anthropological reflection is indispensable for questions of legitimacy, at the same time it has no ethical value in itself. One possibility to get over this dilemma is to look deeper into what we mean when we speak of legitimacy. A legitimate action does not need to be morally perfect. There may be other options of action that would deserve more moral praise. Still, a legitimate action has some, albeit maybe weak, justification to be done. We speak, in this sense, of "legitimate self-interest." We could also speak of "legitimate solidarity." Many people seem to think that it would be an exaggeration of solidarity, even if desirable, to follow Peter Singer's suggestion (Singer 2016) that people in the global north should give most of their income for charity in order to help those who are worse off in other regions of the earth. Still, there is a notion of legitimate solidarity: it would not be morally acceptable to keep everything for one-self, while others are suffering. It is more difficult to construct a similar notion of legitimacy with regard to the third anthropological concept. Still, "legitimate use of intuition" could, likewise, mean to recur to one's intuitions in a justifiable manner, without acting on intuition alone. In all these cases, it remains to be seen and must be decided by ethical judgment where the border lies between legitimate and illegitimate self-interest/solidarity/use of intuition. However, there wasn't any interest in asking the question of their legitimacy if they would not be observable forms of human conduct.

Put this way, each of the three anthropological concepts has its own legitimacy. All three are "legitimate" ways of thinking about the human character in their own right. Therefore, a model of business legitimacy should pay attention to all of them and to the empirical observations that stand behind them. Observe the observations! This certainly is a rather modest anthropological "foundation" for business legitimacy. But to ask for more would mean to confuse the discipline of anthropology with ethics. Ethical considerations and not anthropological observations are at the heart of each legitimacy question.

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Language, Morality, and Legitimacy

4

Elisa Grimi

Contents

Abstract

In this essay we will try to highlight the interweaving of language and morality and also the principle of legitimacy that derives from it. In her famous essay *Modern Moral Philosophy* (written in 1958 and which later became the modern manifesto of a neo-Aristotelian type of ethics), Elizabeth Anscombe highlights the need for a philosophy of psychology as well as the abandonment of a specific language in moral philosophy. Taking a position against the consequentialist conception of morality, she implicitly stands opposed to the principle that consequences define legitimacy; it is precisely when the binomial language-morality fails that the principle of legitimacy loses its substance; a political authority can lose its moral legitimacy if she/he betrays the common good. Starting from a specific language adopted, a morality is derived from it. In fact, depending on what is considered to be a good or an evil, a specific moral action follows. In this perspective, responsibility and awareness of which goods need to be shared in common play a central role, and an ontological foundation is discovered.

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Introduction

In the first place, we will analyze the principle of legitimacy, where this expression originates, what it consists of, and the variations to which it is subject given the historical-social context in which it is used. Then, working from the conclusion of the logical process in order to arrive at the point of origin, we will investigate the concept of “epistemological realism” and then retrace the deconstruction with respect to the language used in the moral field proposed by Anscombe and the relative exhortation of the importance of a philosophy of psychology. Finally, we will analyze the Anscombian proposal of a virtue ethics, as an expression of human “flourishing” – a term of Aristotelian inspiration – where the same legitimacy finds its home.

On the Principle of Legitimacy

Among the many elements that mark the development of the history of a people, an essential element is the development of the power of the ruling legislator within that society. The grounds for the justice of that ruler attaining the power they possess is referred to as the principle of legitimacy. Throughout history, even granting the fact of the legitimacy of the ruler, the source of that legitimacy has been a constant point of inquiry – and when there is no longer a consensus about the fundament of power, this inquiry becomes a catalyst for political change. An ever-present example of this fact might be seen as follows: one can ask how power has been attributed to a monarch or a political party, criticize with respect to the adopted process, and then work to effect change. If there is no mechanism for effecting that change, the corporate frustration of the people may even boil over into revolt. Thus, the “legitimacy” of the conferral of power is ultimately the basis for the stability of a state and its progress.

In order to see that this is so, we need not look only at political structures. Consider a lottery winner: the win is valid if all the rules are respected, the procedure, the authenticity of the ticket, the price, the place where it was sold, etc.; if everything is in order, the victory is legitimate. Or even in sport, think of the “lawful” concession of a penalty kick; it is awarded as an act of restorative justice in order that the contest might be held legitimately. A moment’s glance to any aspect of our social interactions manifests the centrality of the existence of a “principle of legitimacy.” This principle has as its object “the justification of the work of power and, in a more general sense, the title on the basis of which a political power is accepted." (Vd. Sorgi (2006). Sorgi is the reference used for the historical analysis of the principle of legitimacy, proposed in the following paragraphs, as will be mentioned in the text.)

Giuseppe Sorgi recalls that the principle of legitimacy is to be understood in the historical context in which power tends to transform itself into a state order with a juridical-administrative structure, at the same time as the Enlightenment project of the so-called codification: that is, it passes "from a criterion of moral, theocratic and customary legitimacy, to a title of legitimacy understood formally, in which the state as a body is authorized to be the source of the law because it is legitimated in this by a hypothetical original agreement between individuals. Thus, we pass from a "cognitivist" conception of the political-juridical order (justice) to a "non-cognitivist" conception (validity) as in Hobbes' contractualism" (*Ibidem*).

How to understand the post-Enlightenment movements requires some unpacking. We overlook here the different nuances that the principle of legitimacy has assumed following the French Revolution, the Napoleonic Empire, and the Restoration. Instead, our area of inquiry is that of the emergence of the liberal-democratic system between the late nineteenth and early twentieth centuries. Here, we see in the emergence of new economic and social classes the increased gap between a legal-formal legitimacy of the liberal rule of law and a substantial legitimacy (see Marxism and sociological doctrines, elitist, and currentist). Sorgi observes that it would be necessary at this point to consider Hans Kelsen's pure doctrine of law or Carl Schmitt's theorization of a legitimacy of a "material" type as opposed to that of a "formal" type. For the purposes of our analysis, it is sufficient to recall the correction made to the formal legitimacy following the world wars of the twentieth century and the different forms of totalitarianism: with Gustav Radbruch and Hans Fritz Welzel, we witness the rebirth of natural law, and therefore we temporarily return to a reassessment of a morally founded principle of legitimacy.

Subsequent political-legal theories, however, have highlighted the risk of a legality that was merely formal, underlining the importance of a system of shared values. Consequently, critical issues are raised: those who advocated a return to the critical-rational roots of Enlightenment modernity, those who called for a contractual model, those who stressed the importance of a reference to local authorities, those who made realistic criticisms in the wake of Charles Taylor and Michael Walzer, or those who called for the integration of minorities in political decision-making. With regard to this last point, Hannah Arendt's proposal of "civil disobedience" is significant. She writes: "it would be an event of great significance to find a constitutional niche for civil disobedience – of no less significant, perhaps, than the event of the founding of the *constitutio libertatis*, nearly 200 years ago." (Vd. Arendt (1972). Also in this passage, the force of Arendt's thought emerges. As Boella points out: "Arendt loved conceptual counterpoint because it allowed her to think of reality from the contradictions that tear it apart," from the "Introduction" to the Italian edition, p. XIV.)

It is a fact that the legal-formal system became established by renouncing any prelegal legitimacy. With the progressive dissolution of the traditional seat of the principle of legitimacy, that is, the state and its passage to global or local centers of power, there are no longer any formal legal principles of a general or material nature. What happens – observes Sorgi – is therefore the emergence on the one hand of "theories that transpose on a supranational level the juridical-formal principle of the legitimacy of the work once of the individual states" and on the other hand "critical theories of such a "universalism" that propose a model of continuous negotiation between states and powers" (Sorgi 2006, p. 6305). There is also the hypothesis of a legitimacy based on nonnegotiable confessional authorities, as happens, for example, with the Muslim religion. In this regard, it is significant to note the difficulty of arriving at the definition of a human right that can be universally accepted: the history of the *Universal Declaration of Human Rights* (1948), which in fact did not find immediate consensus in many Arab states (see "Cairo Declaration", 1990) (Vd. Grimi 2019a), is such a case in point.

In outlining the complexity with which the principle of legitimacy has been understood over time, it is interesting to shed light on the comparison and related analysis of the binomial "legality-legitimacy." In *Treccani* we read as a definition of "legitimacy": "Being legitimate, that is, conforming to law, to the provisions of the juridical system" ; and according to *Treccani*, "legality" is "being conformed to the law and to what is prescribed by it" or "a situation conforming to the laws". If we want to deepen the relationship between legality and legitimacy, the analysis proposed by P. Jean-Louis Bruguès O.P. in the *Dictionnaire de morale catholique* (Bruguès 1991, pp. 203–204) is particularly interesting and already anticipates the final part of the present essay (in the analysis of the term "legitimacy," the theme of the "common good" is already included, a theme which we will come to at the end of the reflection). We read: "legality is a characteristic of law. A legal precept is considered legal when it has been adopted by the competent authority, in full respect of the constitutional forms that govern the political life of the group in question. In a democratic regime, for example, a text takes on the value of a law when it is voted on by the legislative power, promulgated by the executive power and declared in conformity with the spirit of the laws by the judicial power," (Id., p. 203) while "legitimacy is a property of law and ethics; sometimes this ambivalence can cause confusion. Political authority is said to be legitimate when it receives its power according to the forms provided for by law (an election, a designation by the higher authority, etc.). However, legitimacy means first of all conformity with moral value. In this case, authority is said to be legitimate if the measures taken by it are aimed at promoting the common good. A legal provision is morally legitimate when it respects that objective" (*Ibidem*).

Bruguès introduces a decisive variable in the definition of "legitimacy." If, in fact, legality is placed on the level of law, then when dealing with legitimacy – in addition to law – ethics must be considered. In this light, legitimacy means "conformity to moral value." Going back to the analysis, it means that if we define what is legitimate, we do it by virtue of what is considered good/bad; if legitimacy concerns the political sphere, the nature of this good will be common, that is, universal. In essence, Bruguès, in proposing a definition of "legitimacy," outlined the criterion of acting. Following his reasoning, he goes so far as to affirm: "The harmony of community life requires that a positive predisposition of moral legitimacy be recognized to what is prescribed by law. The principle is to obey the positive law. However, the individual conscience can reach the certainty that a certain legal norm can damage a moral value. In such a case, legality and legitimacy are at odds with each other." Bruguès then goes on to observe how legality and legitimacy can obviously not coincide, as in the case of a political authority, which came to power in perfectly legal forms but loses its moral legitimacy when it betrays the common good in a serious and repeated manner. Once again, the fact that there is a good that can be put in common and therefore be valid for all plays a key role in its analysis.

We must now analyze the relationship between the language we assume and morality. Let us therefore reflect on the concept of epistemological realism.

Epistemological Realism

John Haldane in his essay *Mind-World Identity Theory and the Anti-Realist Challenge* (Haldane 1993) defends epistemological and metaphysical realism. In this essay Haldane refers to Thomas Aquinas, pointing out on the one hand that the intellect is directly in tune with reality (*adaequatio rei et intellectus*) and that the forms or natures that give the world a structure and concepts that "form thought" have an identity. It is therefore possible to speak of epistemological realism – as opposed to an epistemological idealism – for which the world exists ontologically independent of thought, and the concepts and what they represent are intrinsically connected. From this perspective, there is a link between mind and reality, the latter being ontologically independent. Therefore, the mind is not needed for reality to exist; it exists in itself: it is the famous "primacy of *esse*" of this properly Thomist perspective. Haldane also underlines the irreducible character of the intention (or concept) (Vd. De Anna 2001), a theme that also recurs in the thought of G.E.M. Anscombe and which, starting with Thomas, reveals a formal identity between the mind and the world. Mario Micheletti, one of the leading scholars of philosophy of analytic religion in Italy, wrote a sharp analysis in this regard: "Aristotelian-Thomist theory [. . .] is not *exclusively* an externalist theory because "reflexive consciousness" is an internalist criterion, and it is a naturalized epistemology because it takes as its starting point the natural operations of cognition, but it is nevertheless a decidedly normative theory, because of its teleological character: the cognitive faculties function in the way they function because they are ordered to achieve the truth" (Micheletti 2017, p. 41).

And it is to this understanding in particular that Anscombe's theory of action is ordered toward. In this Aristotelian framework for action, truth is not a neutral observation of reality, but on the contrary, it judges the value of reality by evaluating what is good and what is bad, without a renunciation of the ability to know "practical truth" (that is to say, the knowledge of how things are actually) (Carli 2003, p. 175). Practical truth is a practical judgment, a judgment that ends with an action. Aristotle's practical syllogism is for Anscombe a strong area of interest for understanding practical reasoning and human action. (Vd. Aristotle, *De Anima*, III, 10, 433 a 15; *De motu amimalium*, 7, 701a. For further information, please read: Grimi

(2012a).) She says that it is "one of Aristotle's best discoveries" (Anscombe 1963, § 33). Even still, Anscombe is also critical of the practical syllogism: while for Aristotle practical syllogism also applies to cases in which the conclusion of reasoning is abstention from action, for her it is instead only that in which the conclusion is an action and it is demonstrated by the premises that are therefore so to speak "in active service" of action (*Ibidem*).

As I observed recently in my guide to reading Intention (Grimi 2019b), a practical syllogism only regards the judgment of the intellect about some action, that is, when desire arises, and it consists of the reasoning that the agent does to achieve what she/he wants. In this sense, the desired object is the principle of action that moves the agent, and the reasoning must terminate in it. One does not reason to know how to reach the desired object, but rather to actually reach it. Anscombe, referring again to Aristotle, points out that when the reason says that an action is immediately practicable and desire tends to it as it is good, the individual acts immediately. Aristotle writes: "For in the case of things produced the principle of motion (either mind or art or some kind of potency) is in the producer; and in the case of things done the will is the agent – for the thing done and the thing willed are the same" (Aristotle, *Metaphysics*, VI (E), I, 1025 b 20–30). Correct action is therefore the truth of the *phronesis*, for which the aim is to act well – and this is what desire tends to. Along with Anthony Kenny, it seems safe to conclude that the theoretical reasoning is the one that moves from "true to true," while the practical one moves from the goodness of something mentioned in the premises to a good conclusion, so it moves from "good to good" (Grimi 2019b, p. 82; Kenny 1979, p 146).

In the Anscombian analysis, therefore, one finds a criterion of action. Intentional action means a directionality and judgment of the subject on what he considers to be good. The other criterion is the choice, the decision, and the intention that moves to action. What is emphasized from the perspective of "epistemological realism" is the fact that we are faced with a reality in which it is presupposed that there is something we call good or evil in it. In such a conception, the premise of morality is likened to a language; consequently, the premise of legitimacy is morality. Language-morality-legitimacy are intrinsically connected. It should be noted, however, that the perspective of epistemological realism is far from a situation ethics which starts with a subjective feeling as the basis of legitimacy. If, in fact, we act by virtue of something that we believe to be good or bad, legitimacy is an element recognized by a multitude of subjects. Without an epistemological realism, the passage from the single to the multiple would in fact be very difficult.

In fact, reality is ontologically independent. Otherwise, legitimacy would be subject to continuous variation, while its statute is an objectively recognizable validity. Such a state would be a de facto anarchist government. In this light, Arendt's concept of "civil disobedience" deserves further consideration: paradoxically, it would propose itself as legitimate, if not even as legally necessary. It is no coincidence that an epistemological idealism generates a vision of the idealized state, for instance, the conception of the German state developed by German idealism.

Moral Deconstructionism: Anscombe and the *Modern Moral Philosophy*

Anscombe began her famous essay *Modern Moral Philosophy* (Anscombe 1958) with three theses. The first is that, considering the lack of an adequate philosophy of psychology, it does not seem fruitful to deal with moral philosophy; the second is that it would be good to abandon the concepts of "moral obligation," "moral duty," "what is morally right and wrong," and the moral sense of "duty," since the term "moral" is steeped in misleading nuances; and, finally, the third is that it suggests that moral philosophers should be omitted from Sidgwick onward as irrelevant. It can be said that for Anscombe it is necessary to return to the action itself, it is necessary in fact to provide an explanation of "why an unjust man is a bad man, or an unjust action is a bad action," and therefore "to provide such an explanation is part of ethics, but this cannot be initiated without having a solid philosophy of psychology." What is now of most interest to us is the second of the three theses. We will not be dealing with what a philosophy of psychology can consist of, which has also challenged many people, but we will be focusing on the consequence that follows necessarily from this need. (About the philosophy of psychology, read S. Cremaschi. According to his perspective, the psychology of philosophy to which Anscombe refers should not be subject to misinterpretation. He writes in this way, commenting on the first thesis put forward by Anscombe: "Even what is the "philosophy of psychology" is far from obvious. Psychology as a discipline is apparently out of the question, since it was the object of contempt on the part of Wittgenstein and his school as a form of pseudoscience. On the other hand, since the idea of mental acts was the focal point of the post-philosophical practice that Wittgenstein advocated and which he was supposed to "show" in the book he had designed and failed to write before he died, or that the secret after whose discovery philosophy as a discipline would finally disappear would be how the mind manages to grip the world was one of the main unwritten doctrines circulating among Wittgenstein's followers, the preliminary discipline proposed by Anscombe under the name of "philosophers of psychology" must not be hastily identified either with philosophical anthropology or with a "new" science of the mind, but rather should be left to its uniqueness" (Cremaschi 2010, p. 52). This is a lecture he gave in Rome during the conference "Intention di Anscombe e il rinnovamento della filosofia morale," February 28-29, 2008 – Pontifical University of the Holy Cross. This note refers to n.1 of the chapter I have dedicated to the essay "Modern Moral Philosophy," in (Grimi 2012b, pp. 250–251). The analysis I present of the following two paragraphs refers to the chapter of my book cited here.) A philosophy of psychology is preparatory to a real deconstruction of what was the moral language of the Oxonian University of that time. Anscombe succeeds in doing this, thus creating an "apparent" tabula rasa in the eyes of her colleagues, calling for an abandonment of those concepts – such as "moral," etc. – which no longer seem to have any effective content. In reality, hers is a tabula plena: on the one hand, she never ceases to be realistic, anchored in that Aristotelian-Thomist perspective that never ceases to be a reference in her pages; on the other hand, she exhorts the need for a philosophy of psychology, as if to say that the mind is certainly full of content that derives from reality and that precisely for this reason, we must abandon that language used in ethics that now turns out to be devoid of content.

Facing the second thesis, Anscombe wonders if there is any possibility of maintaining a concept of ethics centered on the notion of law without having to admit a divine legislator. To do this, she examines different perspectives. According to the first, in the wake of Kant, it would be a question of dealing with the idea of self-regulation. Anscombe excludes this hypothesis as absurd; what is done for itself can be considered as something admirable, but the concept of legislation is different. A second perspective, analyzed below by Anscombe, is that of the contractual origin. This perspective deserves to be considered specifically. With regard to this source of moral law, Anscombe examines the hypothesis that language is what guarantees that we have entered into a contract (language would be proof of our commitment to various contracts). (Cf. language as proof of commitment to a contract; see Clarence I. Lewis, who proposed, at the same time of the draft of the "Modern Moral Philosophy," the idea of "pragmatic contradiction" as a source of constraints to moral judgments; Karl-Otto Apel (1929, pp 258–260), whose theory for which the contents of moral judgments are derived from the need to avoid the "performative contradiction,"; Cf. theories that argue that using language for the purpose of making promises or fulfilling linguistic acts one is led to the knowledge of the particular circumstance; see authors such as Price, Kant, and Whewell, and for a more recent study, see Searle (1964). This note refers to n.10 of the chapter I have dedicated to the essay "Modern Moral Philosophy," in Grimi (2012b), p. 256.) To prove the validity of such a theory, it would be necessary to develop it, but it suggests to Anscombe that it would remain something approximately formal and it would be difficult to arrive at "more specific issues such as the prohibition of homicide or sodomy" (Anscombe 1958, p. 38). So the question seems to emerge that in the language used, there is already intrinsically a sort of moral orientation, precisely what is good and what is bad or rather – Anscombe will specify developing the third perspective – what is right and what is unjust. As a third hypothesis, Anscombe puts forward the idea that human virtues are the source of norms, and the "man" who possesses the complete series of virtues is the "norm," just as the fact that a "man" who has, for example, a complete series of teeth is a "norm" (*Ibidem*). In this sense, however, the term "norm" would not be very different from the "law," approaching an Aristotelian vision rather than a legalistic conception of ethics. In this Anscombe finds nothing negative, even if it would be good to recognize that she is conceiving the notion of "norm" as meaning "law not including God," which would entail the elimination of the notion of "duty." Anscombe should not use the term "duty" in an emphatic style or in a special "moral" sense; on the contrary, her proposal is to discard the term "wrong" and use notions such as "unjust" (Cf. the perspective of Anscombe, text by Foot (1978).

However, "if the term "unfair" is simply determined by facts, it is not the term "unfair" that determines whether the term "wrong" can be applied, but the decision that the injustice is wrong, together with the diagnosis of the "factual" description as implying an injustice" (Anscombe 1958, p. 40); it remains to be explained, therefore, that the man who makes the absolute decision that the injustice is "wrong" does not in fact then have the basis for stating that anyone who does not make a similar decision is making a false judgment. Anscombe finds herself in a sort of relativistic *impasse*, which, however, brings out the problem at its root when one assumes an ethical conception.

The problem must therefore be moved from the moral duty to what is considered just/unfair – and in this regard, Anscombe does not fail to recall that (common) sense for which the extermination of the Jews by Hitler must be universally recognized as an abomination. In fact, it is necessary in Anscombe's perspective to get rid of notions such as "moral obligation" or "moral duty" which, if used with audacious carelessness, can lead to the greatest disasters. It is interesting to reflect on conscientious objection. It is an example that summarizes the steps taken so far: legitimacy – epistemological realism – the problem of language used in morals. In fact, conscientious objection presupposes something that is believed to be right/wrong and that this can be recognized by another person; if not, universally, then it presupposes an objective point of view as much as a subjective one, and it concerns the principle of legitimacy precisely because if forbidden it would no longer be considered as a legitimate objection that must therefore be respected. Interesting as Brugues observes, he writes: "Conscientious objection is always a personal decision. Very dramatic cases can arise. The importance of denied moral values, the serious and repeated nature of offenses can lead to the conviction that legal authority is threatening the good of a community. The moral duty of personal resistance then becomes a duty of rebellion (cf. *Popolorum Progressio*, 31). The person must warn her/his fellow citizens and, together with them, demand the repeal of a law that clearly offends good and truth. In the most serious cases – and history gives us many examples – the right to rebellion is transformed into the right to tyranny, that is, to the elimination, even by force, of a legal authority that has lost all moral legitimacy. The upheavals that occurred in Eastern Europe in 1989–1990 highlight the moral and political strength of those who, at the cost of serious personal suffering, had become the "dissidents" of totalitarianism" (Bruguès 1991, pp. 203–204). The subject, in fact, by virtue of what she/he considers to be just, acts, in which case she/he starts from a personal consideration, from a judgment proper to her/his conscience, to reach an action such as the objection. We will now see how action is directed toward an ever-greater flourishing of the subject, so let us now analyze the decisive proposal of Anscombe for a virtue ethics.

A New Language: Metaphysics of Action and Virtue Ethics

Let us begin by recalling Anscombe's filial relationship to Ludwig Wittgenstein. For him, in fact, linguistic expression reflects thought; there are no mysterious properties of thought that language cannot express. Wittgenstein writes: "When I think in language, there aren't "meanings" going through my mind in addition to the verbal expressions: the language is itself the vehicle of thought" (Wittgenstein 1958, p. 329). Thinking is not something that can take place without language, no more than it is possible to perform a piece of music without music (Vd. Carli 2003). And it is precisely because of this loyalty that Anscombe arrives at the necessity of the elaboration of a philosophy of psychology, intent, as already mentioned, not yet fully satisfied in the philosophical disciplines, and of the abandonment of a now empty language in moral philosophy, in order to propose a new language that focuses on the importance of virtues. It is no coincidence that she is one of the initiators of the contemporary trend of virtue ethics, which certainly has its origins in classical culture (see precisely Aristotle).

Anscombe underlines the importance of the virtues, and it is no coincidence that the devotees of MacIntyre have to go back to her to understand her thought. As Mario Ricciardi observes in a targeted review on the theme of virtue ethics: “Anscombe claimed that making moral philosophy presupposes adequate moral psychology (i.e., the kind of things that Aristotle or David Hume dealt with and that many contemporary moral philosophers neglect). That this does not happen is surprising, since this is not a refined theoretical thesis, but the banal caution that should push us, before pressing the buttons of a strange device, to be certain that we have understood what it is. The work to which Anscombe alludes is a type of conceptual reconstruction, a description. The theory of virtues deals with this. Only once we have understood how the device works can we evaluate whether or not we should use it and advise our loved ones to do the same. This is the object of virtue ethics: after having understood what virtues are, to choose whether one should be virtuous” (Ricciardi 2001, p. 64). Now, as already mentioned, what exactly Anscombe meant by the philosophy of psychology is not entirely clear since she herself highlights the lack of it, and even Ricciardi’s observation does not reveal the secret. However, he does indicate the method followed by Anscombe, which is to arrive at an understanding of the origin of an action from the description of the action itself. Far from a utilitarian type of ethics, the Anscombian proposal is that of the flourishing of the subject, that is, of the exercise of virtues in order to achieve full realization. In this perspective, virtue and legitimacy are intrinsically connected. The principle of legitimacy, in fact, finds its foundation in the human flourishing, in other words, in something that unites the whole human species. Let us take here, however, the starting point from the perspective of MacIntyre (1999) for which, as Ricciardi notes, “the ethics of virtues can also be placed adequately within a vision of the world that assumes no transcendent guarantee of ethics, and considers human beings as an animal species among others, obviously endowed with its own distinctive characteristics” (Ricciardi 2001, p. 73). Anscombe in speaking of flourishing has in mind the concept of “eudaimonia,” the Aristotelian *telos* toward which the action of man desires are directed, whose essence is reason and virtue. As Ricciardi notes, it is the action of man, whose essence is the reason and virtue. In this light, it is possible to indicate a metaphysical opening in the proposed theoretic of Anscombe.

Conclusion

Language, morals, and legitimacy are therefore intrinsically linked. Acting according to virtue encapsulates a true and proper metaphysics of action. Starting from what the subject considers to be good, she/he moves to action in respect to what is legitimate. The very principle of legitimacy therefore identifies the potential of a government that places at the center a good that can be shared, put precisely in common. With regard to the nature of this good, one cannot fail to refer to the essence of man who acts according to an end, with a directionality, by virtue of a flourishing. Recalling a study (Geach 1967) by Elizabeth Anscombe's husband, the well-known philosopher and logician Peter Geach, "what is good" is not a prescriptive term but has an attributive function, that is, it always goes hand in hand with the object to which it is attached; for this reason, an analysis of the general concept of what is good would be abstract: it is formed in virtuous action, in the action that yearns for the flourishing of the subject, for her/his full happiness.

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Part II

Classical Theorists of Business Legitimacy

Adam Smith and Business Legitimacy

5

Michael S. Aßländer

Contents

Abstract

Especially neoliberal economists use Adam Smith to justify laissez-faire capitalism where governments have to abstain from economic regulations and where pure profit maximization is sanctified as the only true motive in business. Smith is far away from defending such kind of capitalism. For him commerce and liberal economy are legitimized by their positive effects on individual morality, at the one hand, and by the benefits they provide for society, at the other. He believes that a system of natural liberty fosters virtues like prudence, temperance, or industriousness and thus contributes to the development of a noble character of the citizens. Furthermore, he is convinced that commerce generates independence, creates economic wealth, and improves governmental order. Nevertheless, as we will show in the following, such system depends on the morality of its citizens as well as on governmental oversight and intervention in cases where

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market results are undesirable. Thus, business can only be legitimized when it is based on individual morality and appropriate governmental supervision.

Keywords

Commercial society · Natural liberty · Business legitimacy

Introduction

Commonly, Adam Smith is seen as the founding father of modern economic science. With his *Wealth of Nations*, first published in 1776, Adam Smith lays the theoretical foundation of modern market economy and endorses the ideas of free enterprise and economic liberty. Although Smith' demands for economic liberty have to be seen in the historical context of mercantile economy and have been maybe less radical than contemporary liberals assume, his *Wealth of Nations*, nevertheless, opened the pathway to a liberal economic understanding as it is accepted by many economists today. By referring to Smith's writings, contemporary liberals argue that governmental oversight is obstructive for economic development and therefore has to be reduced to a minimum. By quoting that it "is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard of their own interests" (Smith 1981, I.ii.2), liberals argue that enhancing one's own utility is the only legitimate motive in the economic context. And with reference to Smith's well-known metaphor of the "invisible hand", which ensures that the egoistic and utility-maximizing behavior of the single economic actors have also positive outcomes for the whole society, they try to legitimize profit maximization as the best objective in business.

Although such interpretation of Adam Smith is commonplace, it is obviously wrong (Werhane 2006). Neither did Adam Smith believe that self-interest should be the key driver of economic behavior nor did he believe that the invisible hand frees individuals from accountabilities and moral responsibilities even in the economic context. As Emma Rothschild and Amartya Sen rightly state: "The principle of the invisible hand, in its twentieth-century sense, was quite un-Smithian" (Rothschild and Sen 2006, 363).

Smith's advocacy for political and economic liberty was neither intended to release governments from their responsibility nor to legitimize pure egoistic and self-interested behavior of economic citizens. It would be a misrepresentation of Smith to present him as an advocate of an economic system which promotes "self-interest as socially productive behavior" (Sen 2011, 259; 2016, 294). Smith clearly rejects such "vices-to-virtues argumentation" as it was made popular in his times especially by Bernard Mandeville (Hühn and Dierksmeier 2016). Although Smith always argued against arbitrary governmental intervention and legal overregulation in economic life, and although he strongly opposed the mercantile doctrines in the economic theories of his time, he, nevertheless, was by no means the theorist of "laissez-faire-economy" (Sandmo 2016, 238–239). When proposing his system of "natural liberty," Smith was aware that such political and economic system has to be based on the moral integrity of the citizens and that governments have to be the guarantor of justice and legal certainty. Therefore, such "system of natural liberty was no more than a guide to policy" and had to be "implemented with the greatest circumspection" (Rothschild and Sen 2006, 363).

Economy, like other spheres of human life, for Smith was by no way a "moral-free space." As Smith outlines in his *Theory of Moral Sentiments*, also economic activities have to be judged by an "impartial spectator" to evaluate their appropriateness and to prove their social acceptability. Equally in the economic context, man has to "humble the arrogance of his self-love, and bring it down to something which other men can go along with. (...) In the race for wealth, and honors, and preferments, he may run as hard as he can, and strain every nerve and every muscle, in order to outstrip all his competitors. But if he should justle, or throw down any of them, the indulgence of the spectators is entirely at an end. It is a violation of fair play, which they cannot admit of. This man is to them, in every respect, as good as he: they do not enter into the self-love by which he prefers himself so much to this other, and cannot go along with the motive from which he hurt him" (Smith 1984, II.ii.2.1). Thus, for Smith, self-interest has to be moderated always by self-command and a sense of appropriateness of one's behavior (Coker 1990; Paganelli 2008).

Although it is not the benevolence of the butcher that we expect our dinner, but his self-love, we do expect that he neither cheats nor outsmarts his customers and that he abides by the rules of fair business practices (Werhane 2006). It is obvious that our natural ability to sympathize with others, as it is described by Smith in his *Theory of Moral Sentiments*, was not intended as a principle of benevolence (Griswold 1999, 260) but characterizes a psychological principle which allows men to judge the appropriateness of other people's behavior. And by putting oneself in the position of an impartial spectator allows an actor to judge about the propriety of his own intention and actions. This does not mean that only benevolent, considerate, and accommodating behavior is appropriate. "Within this judgements generated by the impartial spectator, there would be room for the proper pursuit of self-interest" (Mehta 2006, 246; see also Hühn and Dierksmeier 2016; Werhane 2000; 2006).

Thus, Smith's advocacy for economic liberties and legal deregulation, his belief in self-love as characteristic element of human decision-making in the economic context, and his imagination of a spontaneous order in a system of natural liberty have to be seen against the backdrop of their moral preconditions. Although Smith believes that a commercial society can help to promote virtues like precaution, prudence, frugality, or foresight, he also sees that commerce might endanger other virtues, like honesty, loyalty, sincerity, or sense of community.

If we ask the question about business legitimacy from a Smithian perspective in the following chapter, we have to ask the question about the moral preconditions of commerce and for the way of how business affects the morality of a society. In other words, asking for business legitimacy in the context of Adam Smith's writings means to ask for the legitimacy of what Smith calls a commercial society.

And indeed, as Ryan Hanley puts it, “Smith, we might say, justifies commercial society by its public effects” (Hanley 2009, 18).

To legitimize commercial society, based on the idea of natural liberty and free enterprises, Smith by and large uses two courses of argumentation. On the one hand, he is eager to show how commerce contributes to the development of character and strengthens individual virtues. In this vein, it is interesting to note that he sees virtuous behavior, on the one hand, as a precondition of a functioning commercial society but, on the other hand, also believes that market forces, economic necessities, and trade relations force individuals to act more virtuous than people in less developed economies. The second way how Smith wants to legitimize his idea of a commercial society is to show the positive effects of commerce for society. In the course of this, Smith remains fair and discusses the advantages but also the disadvantages of developed economic freedom and growing commerce. Nevertheless, he believes in the positive effects of a liberal economy when it is embedded in a system of governmental oversight and based on the morality and honesty of the economic players (Evensky 2016, 84). To elucidate this, the following chapter is structured as follows: in a first step, we will outline Smith’s conception of natural liberty as basis of a commercial society. As we will show, Adam Smith prefers a system of natural liberty not because he believes in an “invisible hand” which transforms the egoistic ambitions of the individuals to a contribution to the common wealth, but because he distrusts the “visible hand” of superior authorities to direct economic affairs more efficiently. Subsequently, we will outline how such liberal order might enhance the virtues of people living in a commercial society. In a next step, we will discuss the positive effects on society which legitimize a commercial system based on natural liberties. By and large Smith sees three positive effects of a liberal economy: it creates material opulence for the benefit of all layers in society; it encourages individual freedom, independence, and autonomy; and it promotes peace and stabilizes international relations. We will discuss these aspects in turn. However, Smith sees also negative effects of such commercial society. It tends not only to corrupt moral virtues but leads also to the intellectual impoverishment of the nation. Thus, we will discuss these negative effects of commerce in the subsequent section. In a last step, we will summarize our findings and explain Smith’s conception of a legitimized business society.

System of Natural Liberty

Smith believed in a harmonic order and – expressed in his well-known metaphor of the invisible hand – that individual efforts, undertaken for most parts in one’s own interest, may contribute to the wealth of the whole society. However, this assumption of a harmonic world order where individual liberty leads to positive outcomes for all is not a pure metaphysical one but is backed also by another line of argumentation. Smith believes “that a system in which individuals make their own choices about how to live, or where to work, or how to use their money, is more just than a system in which those choices are the objects of government regulation." He is convinced "that the liberal system is not the worst of all systems; it is less inefficient at least, than the system of regulation" (Rothschild 2002, 156).

Smith clearly expresses this understanding in his *Theory of Moral Sentiments*: "Every man is, no doubt, by nature, first and principally recommended to his own care; and as he is fitter to take care of himself than of any other person, it is fit and right that it should be so" (Smith 1984, II.ii.2.1). For Smith the right of each person to lead one's own life is a fundamental principle of justice which might be infringed only in exceptional cases. In his *Wealth of Nations* he compares this right with the right of the free practice of religion and argues that "people feel themselves so much interested in what either relates to their subsistence in this life, or to their happiness in a life to come" (Smith 1981, IV.v.b.40); therefore governments have to abstain from infringement in the regular economic affairs of their citizens. To hinder a man "from sending his goods at all times to the best markets, is evidently to sacrifice the ordinary laws of justice to an idea of public utility." Smith believes that such "act of legislative authority (. . .) can be pardoned only in cases of most urgent necessity" (Smith 1981, IV.v.b.39). In general, "law ought always to trust people with the care of their own interest, as in their local situations they must generally be able to judge better of it than the legislator can do" (Smith 1981, IV.v.b.16). This does not mean that social interests should be neglected or that private utility should rank before the common good. The argument is that legislators often know less about a specific situation than the affected parties, and therefore the affected parties are in a better position to judge their own interests and possibilities (Mehta 2006, 251).

Smith sees freedom as a fundamental right of individuals. However, for Smith freedom is not an end in itself. For him the way how freedom may be exercised is limited by moral considerations and other principles of justice. As long as such other fundamental principles are not violated, Smith sees no sound reason of why governments should interfere in the affairs of their citizens. Smith, therefore, recommends to abolish superfluous and arbitrary mercantile regulations of trade and commerce and thus to foster private initiative in business. "All systems, either of preference or of restrain, therefore, being thus completely taken away, the obvious and simple system of natural liberty establishes itself of its own accord. Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his industry and capital into competition with those of any other man, or order of man" (Smith 1981, IV.ix.51). In that way, Smith believes, the government would be discharged from a duty it never could perform, namely, to steer economy efficiently. For the proper performance of such task "no human wisdom or knowledge ever could be sufficient" (Smith 1981, IV.ix.51). Each attempt to supervise the economic affairs of private people, even if intended to serve the interests of society, fails, due to lack of knowledge of the supervisors. In this vein, Smith is especially concerned with the free circulation of labor and capital which is unreasonably restricted by governmental regulations (Smith 1981, I.x.c.42-60). Like John Locke (2004, 17), Smith believes that labor is the original property of the poor man and thus "to hinder him from employing his strength and dexterity in what manner he thinks proper without injuring his neighbor, is a plain violation of this most sacred property. It is a manifest encroachment upon the just liberty both of the workman, and of those who might be disposed to employ him. (. . .) To judge whether he is fit to be employed, may surly be trusted to the discretion of the employers whose interest it so much concerns" (Smith 1981, I.x.c.12). Legal interventions to regulate labor markets, therefore, have to be seen as a violation of people's natural rights.

However, for Smith this does not mean that economic liberty should remain without governmental oversight (Hühn and Dierksmeier 2016). It is the primary task of each government to guarantee legal security and to protect people against the violation of their rights. As Smith has noted already in his *Lectures on Jurisprudence*: "The first and chief design of every system of government is to maintain justice; to prevent the members of a society from encroaching on one another's property, or seizing what is not their own. The design here is to give each one the secure and peaceable possession of his own property" (Smith 1982, i.1). While Smith believes that regulations concerning the circulation of labor or the employment of capital are infringements of the natural rights of the citizens, he sees other governmental regulations, especially concerning the public order or the security of people as necessary governmental tasks: "Such regulations may, no doubt, be considered as in some respect a violation of natural liberty. But those exertions of the natural liberty of a few individuals, which might endanger the security of the whole society, are, and ought to be, restrained by the laws of all governments" (Smith 1981, II.ii.94).

All in all, Smith's foundation of a system of natural liberty rests on three pillars. Firstly, he sees it as the inviolable natural right of every person to regulate one's own affairs without political paternalism insofar as she does not violate other fundamental principles of justice or the equal rights of others (Werhane 2000). Such right should be overridden only in cases of extreme emergency and in cases where higher values are at stake. Secondly, Smith distrusts the ability of the lawgiver to orchestrate the economic activities of its citizens and to judge their objectives and capabilities to reach them. Thus, he believes that leaving economic decisions to individuals, knowing best about their aims and their abilities, would be more effective than to regulate economy by governmental orders. Thirdly, Smith believes that such liberal order would not only discharge governments from tasks they never can accomplish sufficiently (Schmidtz 2016, 210) but would benefit all layers in society since it allows every individual to pursue its own goals in life and to do what fits best with his abilities and personal skills. Thus, the individual efforts to increase one's own material wealth would also contribute to the common wealth. "Smith (. . .) considered that commercial society brought enormous benefits overall that made it worth defending and improving in the direction of his 'system of natural liberty' (. . .): namely prosperity for ordinary (poor) people, as well as justice, freedom from artificial restrictions and from feudal relationships of domination, and increased scope of moral self-development" (Wells and Graafland 2012, 322).

The Commercial Society as Teacher of Virtues

In a commercial society, man strives for improving his economic conditions and his material wealth. But how can he do this best? Smith's answer is: by leading a virtuous life and making prudent decisions. The ideal of Smith is not the reckless homo economicus but the sober and industrious citizen who uses his talents prudently (Hanley 2009, 112).

Smith was firmly convinced that a system of natural liberty gives rise to specific virtues in a commercial society. Bourgeois virtues like prudence, temperance, or industriousness are not only compatible with the interests of commerce but encouraged by the demands of a commercial society (Wells and Graafland 2012). Thus, for example: "Whenever commerce is introduced into any country, probity and punctuality always accompany it. These virtues in a rude and barbarous country are almost unknown" (Smith 1982, 326; see also Smith 1982, 328). For Smith, such virtues follow from practical considerations and are a demand of prudence. In this vein, the "prudent man" for Smith becomes a kind of role model in the commercial society (Winch 1992, 105). Although Smith believes that, in opposite, e. g., to benevolence, prudence is not a noble virtue (Smith 1984, VI.1.14), he nevertheless sees several beneficial effects of prudent behavior in the business context. Thus, the prudent man strives for security and avoids to expose his health, fortune, or reputation to any sort of hazard; he studies seriously to gain the relevant knowledge in his profession and develops his talents; he is always sincere and avoids falsehood; he is capable of friendship but carefully selects his companions; he cultivates an inoffensive and polite style of conversation and avoids any kind of rudeness; he is modest and frugal in his way of life and sacrifices the enjoyment of the present moment for the greater enjoyment in the future; he lives within his income and increases his wealth by consistent industry; and he does not interfere with other people's private matters and does not take on responsibilities beyond his duties (Smith 1984, VI.1.5-13). This list of characteristics of the prudent man is hardly surprising but seems to be a common description of the "virtuous tradesman" at this time. Thus, for example, in his *Autobiography*, Benjamin Franklin describes nearly the same "virtues" as preconditions for economic success (Franklin 1998, 84–85). Smith summarizes: "The man who lives within his income, is naturally contented with his situation, which, by continual, though small accumulations, is growing better and better every day. (. . .) He (. . .) does not go in quest of new enterprises and adventures, which might endanger, but could not well increase, the secure tranquility which he actually enjoys. If he enters into any new projects or enterprises, they are likely to be well concerted and well prepared. He can never be hurried or drove into them by any necessity, but has always time and leisure to deliberate soberly and coolly concerning what are likely to be their consequences" (Smith 1984, VI.i.12).

For Smith, prudence "is both a moral and an economic virtue" (Griswold 1999, 203). He sees prudence as a virtue that allows for regarding one's own interests without being reckless or selfish (Mehta 2006, 259; Montes 2016, 144). Thus, the prudent man not only chooses an honorable route to regulate his own economic affairs by cultivating secondary virtues like industry, temperance, and probity but also cultivates virtues which are important for communal life, like sense of friendship or respect of privacy (Hanley 2009, 126). For Smith leading a virtuous life does not conflict with pursuing economic wealth. Quite the opposite, for him civic virtues are the preconditions for the economic success of the citizens of the commercial society and a precondition for exercising one's freedom responsibly. While Smith argues, on the one hand, that such virtues are necessary for succeeding in economic life and therefore required by a commercial society, he assumes, on the other hand, that such virtues are also cultivated and fostered in a commercial society. Only the thoughtful merchant, humbly listening to his customers, knows about their wishes; only the farsighted entrepreneur, carefully observing the markets, knows about his competitors and detects their strategies; and only a manager who knows about his employees, suppliers, and financial capacities can choose a right strategy for his company (Wells and Graafland 2012).

A second important virtue fostered in a system of natural liberty is temperance. If people are responsible for organizing their own lives, thus Smith believes, they will develop a sense of economy. Due to the fact that they are exposed to the scrutiny of their fellow citizens, they will avoid extravagances and idleness since such "vices" endanger their reputation in a commercial society. As good reputation is the currency in a commercial society, the individual actor is forced to avoid the appearance of laziness, negligence, or unreliability in his businesses (Wells and Graafland 2012; Sombart 1987, 162–163). The prudent man avoids civic vices "by locating himself in an identifiable community that provides a context for his pursuit of position and reputation. As a result, his love of esteem takes a more admirable and morally salutary form than the vain man's love of praise" (Hanley 2009, 122). Such man is far away from seeking admiration by any means but seeks reputation due to his professional skills and his integrity, "and though his talents may not always be very brilliant, they are always perfectly genuine" (Smith 1984, VI.i.7). The more people become dependent on each other in a developed commercial society, the more they are forced to observe the judgment of their fellow citizens concerning their reliability as a business partner. However, as Wells and Graafland (2012) observe correctly, such effect is likely only in face-to-face relations and has no moderating effect in an anonymous society.

Smith also believes that market relations in a commercial society foster tolerance, impartiality, and civility since business relations abstract from personal characteristics or believes. In business relations the focus lies on market transaction, regardless of the age, religious belief, gender, or origin of the business partner. "Everyone is equal before the market and everyone is equally a stranger" (Wells and Graafland 2012, 334).

The Moral Effects of Commerce on Society

Smith's argumentation for economic liberalism rests on the idea that free market exchange without paternalism and arbitrary infringements of the government has positive effects for the whole society. In the eyes of Adam Smith, there are three main effects which make appear a system of liberal commercial order favorable to other systems. A first point is that Smith believes that free commerce, deregulation of legal restrictions, and the abolition of trade barriers will increase the material opulence of the nation. Although he sees that the material wealth is not distributed justly, he, nevertheless, argues that the increased opulence of a civilized society benefits all layers in society. This helps to overcome poverty and enables even the average worker to attain some modest comfort. An equally convincing argument in favor of economic freedom, for Smith, is that such system would reinforce also individual liberties. It is Smith's argument that the more professional relations in a developed commercial society based on natural liberty will replace the former personal dependences of the ordinary man from his superiors by the more impersonal interdependencies of the market relations. Such "liberation" from paternalism and despotism, then, gives rise to the development of an independent character and a noble spirit of the former dependent ordinary people. A last argument which Smith makes in favor of a liberal order is that it fosters peaceful and just relations. Since people rely on the assistance of others, they have to treat them at least "professional". Furthermore, an increased frequency of market interaction reduces the likeliness of being cheated since more frequent transactions stabilize honest and trustworthy business relations. We will discuss all three aspects in the following.

Material Opulence

Smith believes that commerce by and large has positive effects and contributes to the civilization of a society. Like his friend David Hume (1987, 260–264), he believes that developed markets stimulate industry and productivity since the agricultural producers as well as the manufacturers have now the possibility to exchange their surplus produce against other products which stimulates improvements in the production process and thus benefits the whole society. Smith sees also some positive effects resulting from the "commercial spirit" of the merchants which always search for new business opportunities. In opposite to the "country gentleman", the merchant looks for profitable investments and business success and is inclined to invest his money in new projects and production improvements and, by doing so, contributes to the prosperity of the whole nation.

For Smith the division of labor, as main characteristic of a developed economy of a civilized country, creates an increase of productivity and thus leads to an overall reduction of prices for consumer goods. "It is the division of labor which increases the opulence of a country" (Smith 1982, 212). Already in his *Lectures on Jurisprudence*, Smith lists the comfort of the average worker in Great Britain which he has reached due to this increased opulence: He wears well-prepared woolen coats, has leather shoes, uses different plates and cups in his kitchen, he lives in a brick house with glass windows, he uses a coal stove to heat, and he has bread and beer for his diet (Smith 1982, 211–212; see also Smith 1981, I.i.11). Smith believes that his standard of living differs less from the luxury of the British nobles than it differs from the bare living conditions of the people in uncivilized countries, and he concludes that “a common day laborer in Britain has more luxury in his way of living than an Indian Sovereign” (Smith 1982, 211).

Although Smith believes that a liberal economic system is a means of “liberating the poor from desperate need” (Schmidtz 2016, 208) and helps to increase the standard of material comfort of the laboring class (Winch 1978, 87), he is also aware that such opulence is not shared equally, and he is “deeply concerned about the inequality and poverty that might survive in an otherwise successful market economy” (Sen 2016, 287–288): “The division of opulence is not according to the work. The opulence of the merchant is greater than that of all his clerks, tho’ he works less; and they again have six times more than an equal number of artisans, who are more employed. The artisan who works at his ease within doors has far more than the poor laborer who trudges up and down without intermission. Thus he who, as it were, bears the burthen of society has the fewest advantages” (Smith 1982, 213).

Interestingly, for Smith, the overall increase of opulence is not an argument to outweigh questions of social justice. Even if the common worker participates in the opulence of his country and even if he is better off than the Indian sovereign, for Smith this is not an argument to legitimize social inequalities. Smith takes it for granted that “[n]o society surely be flourishing and happy, of which the far greater part of the members are poor and miserable. It is but equity, besides, that they who feed, clothe and lodge the whole body of the people, should have such a share of the produce of their own labor as to be themselves tolerably well fed, clothed and lodged” (Smith 1981, I.viii.36).

But despite all his own skeptical remarks concerning the unfair distribution of wealth, he sees more advantages of a liberal economic system than disadvantages. He believes that now the “common people have better wages” and, given the increase of work opportunities in a civilized society, that nobody “will be so mad as to expose himself upon the highway, when he can make better bread in a honest and industrious manner” (Smith 1982, 205). Thus, he is convinced that a commercial system based on the principles of natural liberty leads to new chances even for the average worker and thus allows him to participate in the opulence of his nation, an “opulence which extends itself to the lowest ranks of the people” (Smith 1981, I.i.10).

Individual Freedom

In a commercial society, social relations are transformed from former hierarchical interrelations into pure market relations. In a market system, the former direct dependence of the ordinary people from the landowners and the aristocracy is replaced by buyer-supplier relations which create a system of mutual dependences of all groups in society. For Smith such mutual dependence of all groups in the society seems to be preferable since this limits the execution of arbitrary power and abolishes a highly degrading kind of dependence (Winch 1978, 78–79; Rothschild 2002, 10). Schmidtz cogently illustrates this kind of degrading dependence: “In a feudal system, you live where your lord tells you to live. You grow what the lord tells you to grow. You sell your harvest to the lord at a price of the lord's choosing. If you want to leave, you need the lord's permission. When you meet your lord, you bow. Your lord does not see you as his equal. For that matter, neither do you. As market society supplanted this system, the effect was liberating for all, especially the poor" (Schmidtz 2016, 211).

Smith argues that in the state of a "pre-market" society, the revenues of the landowners could be spent only for the maintenance of his servants. In contrast, in developed market economies, the revenues are used to purchase commodities on markets. Thus, the purchaser contributes indirectly to the maintenance of all the laborers producing his goods. However, he only contributes to a very small proportion to their maintenance. "Though he contributes, therefore, to the maintenance of them all, they are all more or less independent of him, because generally they can all be maintained without him" (Smith 1981, III.iv.11). In a market system, everybody depends on many others, but nobody depends on the mercy of one (Schmidtz 2016, 211).

In a commercial society, every man lives by exchanging the surplus part of the produce of his labor for commodities produced by others and "becomes in some measure a merchant" (Smith 1981, I.vi.1). The more people are included in this system of mutual exchange, the more the older forms of dependency and domination are abolished (Winch 1978, 80). For Smith such kind of independence is the precondition for leading a virtuous life. As he expresses in his *Lectures on Jurisprudence*, he is convinced that "[n]othing tends so much to corrupt and enervate and debase the mind as dependency, and nothing gives such noble and generous notion of probity as freedom and independency. Commerce is one great preventive of this custom. The manufacturers give the poorer sort better wages than any master can afford; besides, it gives the rich an opportunity of spending their fortunes with fewer servants, which they never fail of embracing. Hence it is that the common people of England who are altogether free and independent are the honestest of their rank anywhere to be met with" (Smith 1982, vi.6-7). And Smith goes even one step further when asserting: "The establishment of commerce and manufactures, which brings about this independency, is the best police for preventing crimes" (Smith 1982, 204–205).

However, Smith sees also the negative contribution of commerce to the moral education of the working class. One of the "inconveniences," as Smith calls it, is that the possibility to divide labor into several simple tasks which can be performed easily by low-skilled workers that facilitates child labor. If "parents find it to be their interest to set them soon to work" (Smith 1982, 330), then the education of their children is neglected, and the positive effects of independence on the formation of the character of the laboring class are annihilated. While Smith believes that humble comfort and independence foster the formation of a virtuous character and give rise to a more noble spirit, he simultaneously is aware that the one-sided orientation toward material comfort may be counterproductive to such development. The "comfortable hope of bettering his condition and of ending his days perhaps in ease and plenty" (Smith 1981, I.viii.44) bears the risk that the pursuit of material wealth counteracts education and the formation of a noble character (Evensky 1989).

Nevertheless, Smith is convinced that in an advancing economy and in a state of natural liberty, "the condition of the laboring poor, of the great body of the people, seems to be the happiest and the most comfortable" (Smith 1981, I.viii.43). For Smith a commercial society makes people more wealthy, more civilized, and more honest than other systems, given that it also guarantees liberty and a minimum of education (Streminger 1999, 143).

International Peace and Justice

Last but not least, Smith assumes that commerce and the "commercial spirit" have also positive effects for the political order since merchants are interested in legal security, liberty, and peace (Smith 1981, III.iv.2-4). Seen from the historic perspective, Smith assumes that "[c]ommerce and manufactures gradually introduced order and good government" (Rothschild 2002, 10). Expanding markets lead to an increase of the frequency and an expansion of market transactions and thus enforce honest behavior. "A dealer is afraid of losing his character, and is scrupulous in observing any engagement. When a person makes perhaps 20 contracts in a day, he cannot gain so much by endeavoring to impose on his neighbors, as the very appearance of a cheat would make him lose. Where people seldom deal with one another, we find that they are somewhat disposed to cheat, because they can gain more by a smart trick than they can lose by the injury which it does their character" (Smith 1982, 327). However, it should be mentioned that Smith sees no real moral value in such behavior. As he expresses in his *Theory of Moral Sentiments*, not defrauding, not violating another person or damaging his property or his reputation "has surely very little positive merit" (Smith 1984, II,ii,1.9).

Although Smith sees also the good influence of the commercial system on the character of the merchants since they tend to make forward-looking plans, carefully seek the best available information for their businesses, and try to invest their capital prudently, they nevertheless are also prone to extreme desires of avarice and seek their success not only by commercial means but also by influencing politics and legislation (Rothschild and Sen 2006, 345–346). Though they are interested in good order and legal security, since this facilitates stable business relations, they strive to influence government to get trade privileges and to receive monopolies in their trade. Thus, Smith warns that merchants are prone to influence legislation for their own benefit and conspire against public interests: "People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices" (Smith 1981, I.x.c.27). Merchants know best about their own interests, but these interests are often opposed to the interests of society (Smith 1981, I.xi.p.10; Rothschild and Sen 2006, 328–329).

Thus, Smith is in favor for the small shop owners which take care for their business themselves and distrusts big companies. Although he sees also the big companies as part of the commercial society, for Smith, such enterprises are the object of investors which are neither interested in the business itself nor in possible improvements but only calculate their return on investment. Such capitalists as owners of the big companies are not the industrious and thoughtful type of man which Smith has in mind when praising the qualities of the merchants. Such investors have handed all relevant labor, namely, inspection and direction, to their clerks and remain idle themselves and enjoy their richness (Rothschild and Sen 2006, 332–333).

Smith is more in favor of the smaller manufacturers which are unable to influence prices in a competitive market setting (Bassiry and Jones 1993). But, though he admires their professional skills and their foresightedness, he also criticizes them for always complaining about high wages or strong competitive pressure. The main vice of the merchants, which brings them in opposition to society, is their steadily striving for monopolistic protection and governmental support (Rothschild and Sen 2006, 333–334; Bassiry and Jones 1993). If merchants are able to establish a monopoly in their trade, all members of society have to bear the costs – consumers, farmers, and laborers (Bittermann 1940) – and it might happen that "the clamor and sophistry of merchants and manufacturers easily persuade them that the private interest of a part, and of a subordinate part of the society, is the general interest of the whole" (Smith 1981, I.c.c.25). Therefore, Smith warns that any "proposal of any new law or regulation of commerce which comes from this order, ought always to be listened to with great precaution, and ought never to be adopted till after having been long and carefully examined" (Smith 1981, I.xi.p.10).

Dangers of the Commercial Society

Although Smith by and large is in favor of the commercial society and praises the advantages of a system of natural liberty, enabling individual freedom, promoting opulence and wealth for all layers in society, and forming a virtuous character, he also sees some negative aspects of commerce and industrial development. While commercial society forces industriousness and economic initiative, it is, on the other hand, inimical to rest and leisure. If the struggle for material richness becomes an end in itself and is no longer seen as a means to comfort and relaxation, then the commercial passions are more likely to bring misery and anxiety instead of happiness and tranquility (Hanley 2009, 38–39). To demonstrate this, Smith uses the example of the "poor man's son" who sacrifices his tranquility for the quest for richness, who "labors night and day to acquire talents superior to all his competitors" and who "serves those whom he hates, and is obsequious to those whom he despises," and who, at the end of his life, realizes that the material wealth he has reached "be in no respect preferable to that humble security and contentment which he had abandoned for it" (Smith 1984, IV.1.8).

However, the most dangerous development which accompanies industrial development and an ever-increasing fragmentation of industrial labor Smith sees in a concomitant specialization of the laborers in a very narrow set of operations. Smith believes that specialized labor makes the laborer "as stupid and ignorant as it is possible for a human creature to become" and renders him incapable of "conceiving any generous, noble, or tender sentiment and consequently of forming any just judgement concerning many even of the ordinary duties of private life." It seems that his "dexterity at his own particular trade" is "acquired at the expense of his intellectual, social, and martial virtues" (Smith 1981, V.i.f.50). Smith sees this as a natural consequence of the division of labor and warns that "in every improved and civilized society this is the state into which the laboring poor, that is, the great body of the people, must necessarily fall, unless government takes some pains to prevent it" (Smith 1981, V.i.f.50).

Another potential danger, Smith sees in the development of big companies led by a board of directors which are not the owners of the company but only manage the capital supplied by investors. In his *Wealth of Nations*, he points out that if company directors are the managers of other people's money "it cannot well be expected that they should watch over it with the same anxious vigilance with which the partners in a private copartnery frequently watch over their own. (...) Negligence and profusion, therefore, must always prevail, more or less, in the management of the affairs of such a company" (Smith 1981, V.i.e.18). What Smith has in mind is especially the privileged trade companies of his time, like the East India, the Hudson Bay, or the South Sea Company. Since shares of such stock companies are traded anonymously, such companies are no real partnerships. No partner bears personal lability for the debts of the company but is liable only to the extent of his share. Since investors are not interested in the business of the company, and since the directors are not liable for the losses of the company, Smith fears that such types of companies are managed without care and are less competitive than private enterprises (Smith 1981, V.i.e.15-18). Thus, in his opinion, the separation of property and control fosters mismanagement and negligence of due diligence obligations from side of the hired directors. Due to their market power and their privileges, such companies distort competition and are less productive and innovative than small enterprises. Smith sees only two legitimate reasons for establishing joint-stock companies: First, the undertaking should be of greater utility than other parts of the common trade, and, second, the object of such company requires more capital than usually is required for establishing a company. Smith lists banks, insurances, or canal building as examples (Smith 1981, V.i.e.36-39). In all other branches, Smith sees the establishment of privileged joint-stock companies as counterproductive for a functioning commercial society since this reduces the liability of the owners and reduces competition. For Smith, such chartered companies were the heritage of the mercantile system and incompatible with and somehow destructive within his system of competition in a commercial society based on natural liberty (Rothschild and Sen 2006, 341–343). "Therefore, an important role for government was to design an economic system that as far as possible discouraged the creation of private cartels and monopolies" (Sandmo 2016, 239).

Conclusion

It is not easy to transfer Smith's understanding of a commercial society to the contemporary economic situation. The picture of the commercial society as outlined by Adam Smith is shaped by entrepreneurs not by enterprises. Thus, for Smith it is obvious that successful business depends not only on the economic skills of these persons but also on their personal values. When Smith talks about virtues in business, he has in mind the personal values of entrepreneurs. For Smith, the "enterprise represents the result of a decision taken by a person, (. . .) it cannot be disconnected from the entrepreneur, and hence from his/her identity and values" (Gonin 2015, 223). For Smith, entrepreneurs are more than investors. They are concerned with their daily business and dependent on some kind of public content concerning their business practices. This is quite different from nowadays practice of capital owners to make short-time investments on stock markets based on the desired profitability of an investment but without being interested in the business itself. This is contrary to Smith's understanding of free enterprise and leads to a different understanding of the task of business leaders. In modern stock companies, it is assumed that managers – not owners – bear responsibilities for the profits of the stock-owners which is a quite different understanding of "business responsibilities" than in the times of Adam Smith (Gonin 2015). For Smith, the ideal type of citizens in a commercial society "is rather frugal private individuals, with a capacity to defer their own desires, who create a fund of capital that can be employed for productive investment" (Mehta 2006, 261).

In the conception of Adam Smith, economy is bound to the morality of individuals as necessary precondition of the functioning of a commercial system. Fair play, staying within legal and moral rules, or doing no harm to others are, even if not laudable, but necessary moral preconditions without which economic liberty cannot be granted (Szmigin and Rutherford 2013). Also economic activities are subject of the judgment of an impartial spectator and have to be approved by others. Smith believes that nature has endowed man "not only with a desire of being approved of, but with a desire of being what ought to be approved of, or of being what he himself approves of in other men. The first desire could only have made him wish to appear to be fit for society. The second was necessary in order to render him anxious to be really fit" (Smith 1984, III.2.7). With other words, people not only want to be praised but they want to be praiseworthy. Thus, for Smith, this love of praiseworthiness becomes one of the remedies to overcome the most important ethical threats of the commercial society: self-preference and egoism (Hanley 2009, 150; Mehta 2006, 259; Paganelli 2008).

Furthermore, Smith is convinced that the positive effects of commerce based on the principle of natural liberty are dependent on complementary development of social and political institutions to overcome the threats of the commercial society (Evensky 2016, 67). In his conception of liberal economy, it is up to the government to take action in cases where markets disadvantage especially the less privileged or leave things undone which should be accomplished for the well-being of society, e.g., to fight poverty or to provide education (Sen 2016, 289). In such cases Smith supports governmental intervention and laws which protect, namely, the poor. He gives the advice that legal regulations should always aim at bettering the situation of the small and average people: “When the regulation, therefore, is in favor of the workman, it is always just and equitable, but it is sometimes otherwise when in favor of the masters” (Smith 1981, I.x.c.61).

Even if Smith admits that in the economic context people are mainly interested in increasing their material wealth, this is far away from being a gospel of egoism. Even the most reckless entrepreneur depends on his customers, clients, suppliers, and his workforce and is judged by other people about his probity (Sen 2016, 296). Thus, Smith believes that even business enterprises have to create some benefit for the community if they want to succeed in the marketplace (Bevan and Werhane 2015). Smith is convinced that a system of free enterprises and of economic liberty works for the benefit of the public, at least since it creates additional opportunities for laborers and consumers (Bassiry and Jones 1993). This does not mean that corporations act from benevolence or that their decisions are driven by social considerations. However, they have to fulfill to some degree the expectations of the markets and of the society for their own well-being. Thus, Bevan and Werhane (2015, 335) conclude: “Smith saw business in his time as being inextricably social, political, and moral.”

Smith is by far not an apologist of laissez-faire capitalism. For him the legitimacy of business rests on two pillars: First he is convinced that an economic system based on natural liberty only generates positive effects for the whole society when it is backed by the individual morality of the business actors. Although such system might foster several virtues, it is simultaneously destructive for some others. Thus, for Smith, the economic system is neither a moral-free space nor does he believe that a system of economic liberties might substitute individual morality. Second, Smith sees also the negative effects of commerce like increasing political influence of large companies, alienation of laborers, or unequal distribution of wealth. Thus, he believes that the economic system has to be backed by institutional arrangements to avoid or counteract such undesirable developments. Even though Smith defends economic liberties, he is far away to legitimize laissez-faire capitalism as the basis of a commercial society. “For Smith, markets can produce the best possible outcomes only if we behave with a clearly defined social awareness” (Clarke 2002, 22).

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Kantian Moral Philosophy, Universality, and Business Legitimacy

6

Klaus Steigleder

Contents

Abstract

In this chapter business legitimacy is understood as a minimum notion of moral rightness in business. It is argued that from the standpoint of a Kantian moral theory, it can never be justified to pursue profit maximization irrespective of the rights of the affected people. Sustainably functioning national economies are of special importance for the protection of the rights of people. According to Kantian moral theory, the universal rights of persons must be effectively protected by territorially limited states. This makes all business strategies and models illegitimate which endanger the sustainable functioning of a national economy or prevents or retards its development. In order to provide the necessary normative background for these and other determinations of business legitimacy and illegitimacy, this chapter first outlines Kant's moral theory in some detail. It is

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shown that Kant develops the understanding of a moral norm in contrast to the basic characteristics of conditional norms. The unconditional norms of morality are based on the absolute value of persons which derives from their ability to act for ends different from the end of their own happiness. While Kant's moral theory is dignity-based, Kantian moral theories are usually rights-based. They interpret the dignity of persons mainly in terms of their rights. A market economy is both relevant for the protection of the moral rights of persons and involves certain dangers to them. A guiding question of the chapter is how this tension should be dealt with from the perspective of Kantian moral theory.

Keywords

Autonomy · Business ethics · Business legitimacy · Dignity · Economic ethics · Financial markets · Globalization · Kant · Norms (conditional, unconditional, technical, prudential, moral) · Rights · Rent-extracting economy · Sustainability · Territorial states

Introduction

There is good reason to call a moral theory "Kantian" if it holds that each person possesses the same unsurpassable normative importance and that an action, a rule, or an institutional framework can only be morally right if it is not incompatible with the normative importance of any person affected. Such theories are, therefore, strikingly different from moral theories like utilitarianism which claim that the criterion of moral rightness and wrongness consists in the maximization of certain values, e.g., happiness, preference satisfaction, or utility. The difference is not, as it is often thought, that the latter theories are concerned with the consequences of actions, practical rules, or institutional frameworks while the former are not, but *how* they are concerned with the consequences. The value maximizing theories focus on cumulative or overall results, while the Kantian theories have a strictly distributive focus. Unlike theories of maximization, the incompatibility of an action with the normative importance of a single person is sufficient to make it morally wrong.

While one may consider this convincing as far as our more personal encounters are concerned (roughly speaking, many will agree that one normally must not sacrifice a person in order to increase the well-being of others and thereby maximize overall well-being), it may pose difficulties in the context of more complex institutional settings like a market economy. The importance of a market economy (and the competition which it is based on) in comparison to other economic systems seems to consist in its ability to create and increase *overall* wealth. While the market economy and competition must be regulated, it cannot simply be formed at will. This may limit what can sensibly or justifiably demanded from business and has a direct impact on the criteria of business legitimacy. It is the task of this chapter to show what problems this poses for Kantian theories and to explore the potential such theories have to solve them.

Kant's and Kantian Moral Philosophy

An Overview of Kant's Moral Philosophy

One of the most basic claims of Kant's moral philosophy is that *morality* is completely different from *prudence*. An agent acts prudently if she acts in accordance with her considered well-being. Morality is concerned with or based on the absolute value of persons. Thus, morality can demand of an agent to act in ways that go counter to the demands of her considered well-being. Now, an agent is only able to follow moral demands if she possesses a certain kind of freedom, namely, the ability to act out of reasons different from her prudential reasons. According to Kant, it is or would be exactly this kind of freedom – the ability to act out of reasons different from and limiting the pursuit of one's considered well-being – which imbues or would imbue persons with an absolute value and, therefore, with a normative importance which requires of them to restrict the pursuit of their own well-being.

Conditional Norms

Kant develops his moral theory as part of a theory of practical norms (instead of *norms* Kant speaks of *imperatives*). The fundamental question of this theory is how a norm "is possible," i.e., how it can have a binding force on its addressee(s) (cf. *GMS* 4:417). This is a question which can only be answered within the first-person perspective of an agent as Kant shows for technical norms (see *GMS* 4:417). If an agent has a certain end, say, to lose weight, she must ask herself how, by what means, she can bring this about. This is a theoretical question. Suppose the answer is that she must forgo, without substitution, eating chocolate, cookies, and cake. The *practical* question is whether she is *willing* to apply the means. She can only (consistently) want to achieve the end E if she also wants to apply the means M necessary to achieve E.

Thus, by really wanting (and not only merely considering or wishing) to achieve E, she creates the practical necessity for her to apply or pursue M. But having different or opposing incentives to act, the agent will not naturally do what is practically necessary for her to do. Again and again, she will be tempted to eat chocolate, cookies, or cake despite her end to lose weight. Therefore, in the face of these incentives to act in ways which will thwart her E, as long as the agent sticks to E, the practical necessity to apply M will take on the form of a "demand" on the agent that she *ought* to apply M.

This is a simple but interesting theory, for it is a theory of the *genesis* of norms. It answers the question how practical norms come into our world in the first place by showing that they are in a way created by the will of its addressees and can only in this way have a necessitating force on them. However, the "ought" or the norm is not created by way of a direct "self-obligation." Instead, it builds up behind the back of an agent who wants to achieve a certain end. If she is able to achieve a certain E by applying a certain M which is in her power to apply, then as long as she wants to achieve E, she (technically) *ought* (ought_T) to apply M.

Unlike the behavior of animals, the behavior of human beings is not determined by the strongest drive for the given situation. Instead, humans can reflect on their drives, suspend them, and act out of reasons. However, according to Kant, it could well be the case that the reasons on which people are able to act are ultimately all based on their sensible nature and inclinations. As sensual beings people want to achieve and preserve pleasant states and to terminate and avoid unpleasant states. As beings also endowed with reason, people form *out of necessity* the idea or ideal of happiness as a state of maximum overall pleasantness and minimal unpleasantness (cf. *KrV* B834/A806). Happiness is an end human beings all have but which they never have explicitly chosen or decided on. Kant therefore refers to happiness in a deliberately paradoxical formulation as a "natural end" [*natürlicher Zweck*] (*KU* 5:434; *Gem*. 4:430, see also *GMS* 4:430), for "nature" marks necessity, while "end" marks decision or voluntariness.

The natural end of happiness which all human beings have is inevitably indeterminate and indeterminable. "(. . .) the concept of such an indeterminate concept that, although every human being wishes to attain this, he can still never say determinately and consistently with himself what he really wishes and wills" (GMS 4:418). Therefore, the end of happiness can only function as a sort of indeterminate vanishing point. Each agent must again and again decide which overarching ends (e.g., a family, a fulfilling occupation, health, wealth) she thinks will lead or contribute to her overall well-being. Now, because the idea of happiness has the status of a *given* end, the overarching ends function as possible means to this end. However, there is, as Kant points out, no strict relation of necessity here. An agent cannot know whether the overarching ends will really be conducive to her happiness, and there are no guaranteed ways of achieving the overarching ends themselves. Nevertheless, as long as the agent holds these ends to be a part or precondition of her happiness, her natural end of happiness creates a practical necessity for her to pursue those ends, and the respective ends create again practical necessities to take what she considers suitable means to achieve these ends. As the agent will not naturally do what it is practically necessary for her to do, these practical necessities will confront her as (prudential) *oughts* (ought$_{\mathrm{P}}$).

Both technical and prudential norms are conditional norms ("hypothetical imperatives"). This is obvious in the case of technical norms. For only *if* and *as long as* an agent has a certain end, there is the practical necessity for her to employ the means. Thus, the practical necessity of technical norms is conditioned by *the contingency of the end*, which an agent may adopt or not and which that agent may sustain or not. In contrast to this, prudential norms are dependent on an end which each human being necessarily has. However, the natural end of their own happiness is an end agents have never chosen. It orients the selection of their overarching ends with which they try to specify or interpret what they consider their happiness to consist in. There is an inescapably hypothetical or conditional structure involved here. For only if and as long as an agent sees a certain overarching end as a necessary or integral part of her happiness will there be the practical necessity to her to want to try to achieve this end and to specify and to pursue the various levels of means (subordinated ends, ancillary ends, mere means) which she holds to be suitable to achieve the end. But she can give up, supplant, or redefine her overarching ends and make adjustments on the different levels of means-ends-relations governed by them.

At this point, one should note two things. First, Kant's concept of prudence and of prudential norms is more sophisticated than the current concept of economic rationality which is based on the existing preferences an agent happens to have and requires of her to try to maximize the fulfillment of her existing preferences. In contrast to this, the natural end of one's own happiness and the overarching ends dependent on it allow for the notions of one's *future* well-being and one's well-being *over time* and with this for the notion of one's *considered* well-being. One's future or considered well-being *can*, therefore, be a reason for not following certain desires or preferences one currently happens to have.

Second, while these reasons need not be felt desires and can be opposed to desires an agent currently has, they are nevertheless based on the sensual nature of agents or, as Kant says, on an agent's "interest(s) of inclination(s)" (see *Prol.* 4:381; *GMS* 4:406; *KpV* 5:120; *MSR* 4:212, 213). And it could well be the case that *all* reasons for action an agent has are based on her interests of inclination or her natural end of happiness. For since the natural end of happiness was never chosen but has only to be interpreted, it could function as a conclusive reason for action. As a consequence, all reasons for action an agent has could ultimately be confined to considerations of prudence or of her considered well-being. Thus, it is possible that there is no genuine sphere of morality and that an agent could take the interests of others into account only insofar as she considers (in the case of friends, children, etc.) their well-being as a part of her own well-being or because she tries to anticipate the possible reactions of others to her actions. Genuine moral norms can only have a binding or necessitating force on an agent if she can act out of reasons which require of her to limit the pursuit of her own happiness.

The Idea of an Unconditional (Moral) Norm

Kant explores the possible content and the possible bindingness of moral norms by developing the idea of an unconditional practical norm (or, in the parlance of Kant, of a "categorical imperative"). This can be done by denying the defining characteristics of conditional norms ("hypothetical imperatives"). As shown, in the case of conditional norms an agent generates by the ends she has the practical necessity for her to (try to) pursue further ends or to make use of the means necessary to achieve those ends. Since she does not naturally do what is necessary, this practical necessity confronts her as an *ought*. The respective *ought* is conditional on the ends the agent actually has. There is a hierarchy of conditional oughts or practical norms with prudential norms taking precedence over technical norms in the case of conflict.

In contrast to this, an unconditional practical norm would be characterized by an *unconditional practical necessity* for an agent to pursue an end or to do or omit something. Basically, there are two possible and closely connected paths to explicate what one must think if one forms the idea of an unconditional practical necessity. The first path is to explicate the formal side of the idea, the strict universality, or lawlike character of unconditional practical necessity (see *GMS* 4:420–427). The second path is to explicate the material side of the idea, namely, that it involves the idea of an unconditionally necessary end (see *GMS* 4:429–445). As conditional practical necessity depends on conditional ends, unconditional practical necessity must be the necessity of an unconditionally necessary end. It is this idea which will be sketched out in more detail in what follows.

First, an unconditionally necessary end must be an end to which any action must conform or which is binding for any action. For any action is done for an end and an unconditionally necessary end must possess a normative relevance for the pursuit of any end. Therefore, an unconditionally necessary end can be nothing which has to be brought forth, for then it would be contingent on the abilities and circumstances of an agent, whether she is able to do so or not. Instead, an unconditionally necessary end must be something which already *exists as* such an end and can therefore orient any action.

Second, to orient oneself by this end presupposes the ability of agents to act independently of their sensual inclinations. Hence, it presupposes an ability of decision-making or "practical reason(ing)" which is fundamentally different from what is required for the pursuit of the natural end of one's own happiness. While in the latter case practical reason (only) moderates, organizes, or, as Kant says, "look[s] after the interests of the inclinations" (*GMS* 4:406; see also *GMS* 4:413, 441; *KpV* 5:120), to act in accordance with an unconditionally necessary end requires the ability of practical reason (of a practical decision-making competence) to set ends independently of one's inclinations or (sensual) desires. It requires, in the parlance of Kant, the ability of *pure* practical reason.

Third, the ability of pure practical reason must be thought of as the ability to set ends strictly in accordance with the (inner, reasonable) criteria of this decision-making capacity. Three points are pertinent here. For one thing, the criterion or the criteria for setting ends must ultimately be based on the unconditionally necessary end. Thus, there must be an intimate connection between the ability of pure practical reason to set ends and the unconditionally necessary end. Furthermore, because these ends are set by reason in accordance with the unconditionally necessary end, the ends themselves are necessary ends. Finally, there is an intimate connection between the ends an agent has or must have and the evaluation of these ends. For an agent must hold the ends, she actually has chosen as being good according to some criterion. So, an overarching end an agent has chosen (say, the end of living in a fulfilling partnership or of making a lot of money) must be considered by her (at least) instrumentally good. For she has chosen it for its assumed contribution to her natural end of happiness. A necessary end set with the help of an agent's capacity of pure practical reason must considered by her (and any other agent possessing the same capacity) as being necessarily good. And an unconditionally necessary end must be considered by an agent as an unconditionally necessary good or as being absolutely valuable.

Now, fourthly, every agent who is, due to her capacity of pure practical reason, able to set necessary and necessarily good ends must consider herself to be, due to her capacity of pure practical reason, the potential source of necessary ends. Since the criterion or criteria for setting necessary ends must ultimately be the unconditionally necessary end, every agent must hold that she can only be the potential source of necessary ends if she exists due to her capacity of pure practical reason as an unconditionally necessary end. Likewise, in that case, every agent must hold that any other agent or person who possesses the capacity of pure practical reason exists as an unconditionally necessary end.

Thus, if they have the ability to act out of reasons different from and independent of the natural end of their own happiness, agents must consider themselves and any other agent to exist as an unconditionally necessary end and as such to possess an absolute value or "dignity." The capacity of pure practical reason generates the unconditional practical necessity to always act in accordance with the absolute value of one's self and of any other person. This both restricts what is permissible to do to oneself and to others and prescribes certain actions in relation to oneself and others. As agents do not naturally do what is unconditionally necessary for them to do, this practical necessity confronts them as a (moral) *ought* (ought$_{\mathrm{M}}$). There is a self-reflexive structure here (see Steigleder 2002). The capacity of pure practical reason is the capacity to act in accordance with the absolute value or dignity as which a person exists because she possesses the capacity of pure practical reason. Pure practical reason is a capacity of practical reason to follow its own law. Kant designates the self-reflexive structure of pure practical reason or the self-reflexive capacity of a person possessing the capacity of pure practical reason as *autonomy* (*GMS* 4:439) ("the will of a rational being must always be regarded as at the same time *lawgiving*, since otherwise it could not be thought as an *end in itself*", *GMS* 4:435).

Kant's own formulation of the principle of morality is: "So act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means" (*GMS* 4:429). "Humanity" in this so-called formula of humanity is used by Kant as a *terminus technicus* and means the genuine lawgiving capacity of persons.

Two Ways of Justifying the Universally Binding Moral Norm or Principle

It is important to note that so far only the *idea* of an unconditional moral norm was "thought" or explicated. If there is a genuine sphere of morality, the required respect of the dignity of persons will be its principle. However, it may well be the case that the idea is a mere thought entity (see *GMS* 4:445). This would be the case if human beings do not possess the capacity of pure practical reason. Thus, the justification of morality does ultimately not consist in the demonstration that the principle of morality would have a certain nonarbitrary content, but in showing that it has "reality" for human beings, i.e., that it can have a binding force on us.

The problem is that this seems to require to demonstrate that we are free in a strict sense and that we possess the ability of pure practical reason. However, as Kant has shown in the *Critique of Pure Reason*, neither the existence nor the inexistence of freedom in the strict sense can be proven. Kant deals with this problem in two different ways. In the *Groundwork for the Metaphysics of Morals* (1785), he tries to show that it is not necessary to demonstrate that we are actually free (possess the capacity of pure practical reason) in order to justify the reality of morality. It suffices to show (which Kant attempts to do in the *Groundwork*) that we necessarily must consider or hold ourselves to be free. (There is an obvious difference between [1] "X is free (possesses the capacity of pure practical reason)" and [2] "X necessarily must think, that she is free." For [2] could be true even if [1] is false, or we may be able to show that [2] is true but must leave the truth of [1] undecided.) According to Kant, it suffices to show that we necessarily must consider ourselves to be free because then we must consider the principle of morality as binding for us and must try to follow the norms of morality. So, for all practical purposes, there will be no difference to an actual demonstration of freedom (cf. *GMS* 4:448).

In the *Critique of Practical Reason* (1788), Kant argues that more can be shown. We know that we have strict obligations not to do certain things, e.g., not to kill an innocent person even if someone tries to coerce us to do this by threatening our own life. We may not be sure how we will actually act in such a situation, but we know how we ought to act (cf. *KpV* 5:30). According to Kant's analysis of practical norms, there is only one explanation for this requirement, namely, that we possess the ability of pure practical reason. Without this ability there could be no unconditional ought which will only be reinforced by closer inspection or reflection. Thus, the conviction of being strictly obligated not to do certain things must be understood as a kind of practical self-demonstration of our capacity of pure practical reason. Pure practical reason demonstrates its existence by its own deed so to say (*KpV* 5:3). The Latin word for deed is *factum*. Kant, therefore, calls this also a factum of pure practical reason (*KpV* 5:31). The argument is widely misunderstood, because *factum* can also be translated as "matter of fact."

The Two Parts of Moral Philosophy: The Doctrine of Right and the Doctrine of Virtue

It is not possible to expound here in detail the contents of Kant's moral philosophy, but it is important to note that, according to Kant, moral philosophy consists of two parts, namely, the *doctrine of right* and the *doctrine of virtue*. These are based on two different normative standpoints or perspectives justified by the principle of morality. There is, on the one hand, the standpoint of the obligations one has in view of the dignity all persons have (including oneself). This standpoint is explicated in the doctrine of virtue, which outlines the criteria of all moral obligations. Kant especially highlights two obligatory ends, i.e., ends each person must have and pursue, namely, the end of "one's own perfection" and the end of "the happiness of others" (MST 6:385). These ends come from the fact that persons exist as unconditionally necessary ends or ends in themselves.

There is, on the other hand, the standpoint of the rights persons have against others due to the dignity they possess themselves. This standpoint is explicated in the doctrine of rights. Each person has a right to the maximum freedom which is compatible with the equal maximum freedom of all other persons (cf. MSR 6:230 f.). The rights of persons constitute entitlements to certain actions of others. These entitlements are so important that the bearers of the rights are justified to use, if need be, force in order to make sure that their rights are not violated (cf. MSR 6:231). The rights pertain only to certain actions never to the motivations or intention behind those actions. According to Kant, no one possesses an enforceable right to the morality of other persons.

So, the rights involve only an especially important part of the moral obligations of other persons or of what is morally right to do. Acting in accordance with the rights of the affected persons means to act “rightful” or “in accordance with right” (recht, rechtmäßig). Since the rights are normatively backed by force, it is of the utmost importance that the content of the rights is beyond dispute (or can be the object of conclusive decisions). This is why Kant sees the rights of persons to be confined to negative rights, i.e., rights to the forbearance of others. Positive rights to provide something or to assist others can be only the consequence of special obligations one has assumed by one’s actions.

Kant distinguishes between innate rights (such as life and physical integrity) and acquired rights (rights to possessions). Since the rights to possessions are inevitably controversial (who was the first to take possession of this piece of land?), but are in the eyes of the putative right holders connected with the authority to coerce (which affects the freedom or inner rights of the putative violators of the rights), there can be no effective protection of the rights of persons in a “state of nature” (i.e., in a stateless condition). Thus, the effective protection of the rights of persons makes the institution of (territorial) states necessary, which have a monopoly on the legitimate use of force. As will be shown, the normative importance of states is also relevant in the context of business legitimacy.

There is a problem in the normative architecture of Kant’s moral theory. According to Kant, in the case of a conflict between an obligation arising from a right of another person and other reasons of obligation, the obligation corresponding to the right must take priority. However, this may lead to implausible results. Think of Peter Singer’s (1972) example of a child which is in immediate danger of drowning in a shallow pond. It is clear that one has the obligation to save the child even if this will ruin one’s suit. However, suppose the potential rescuer has promised to show up at a certain place and time in perfect attire, a promise she cannot keep if she rescues the child. Should one let the child drown in order to keep one’s promise? The problem results from the restriction of rights to negative rights which is in the case of the child highly implausible to say the least.

Kantian Moral Theories: A General Characterization

As said above, Kantian moral theories share with Kant the focus on the universal and unsurpassable normative importance of each person. This requires each agent to always restrict the pursuit of her self-interest in view of the interests of other persons. Kant’s theory can be called *dignity-based*. The dignity (i.e., absolute value) of persons forms, directly or indirectly, the basis of all moral duties. The rights of persons channel only an especially important part of the moral obligations. In contrast to this, most Kantian theories can be called *rights-based*, if this terminology is understood as the claim that (moral) rights form the central, although not necessarily the sole fundamental normative category. According to the rights-based theories, the normative importance of persons is for the most part spelled out by their universal and equal moral claim rights, and the moral obligations are typically not directly derived from the dignity of persons but are mediated by their rights, to which they correspond and by which they are justified. A direct normative orientation by the dignity of persons is only looked for at the fringes of moral theory, e.g., when dealing with the moral status of human embryos or fetuses. It is part of this focus on (other directed) claim rights that the Kantian theories are normally not (much) concerned with "duties against oneself."

While there is some variation between the Kantian theories and it is not possible to expand on them here, a case can be made that the most plausible theories have the following characteristics (the remarks are guided by the moral theory of Alan Gewirth (1978, 1982, 1996); for an exposition, elaboration, and defense of the theory, see Steigleder (1999)).

1. The (moral) rights of persons consist in the conditions necessary for being able to lead one's life. As such the rights form a hierarchy. Thus, a more fundamental right of one person can situationally take precedence over a less fundamental right of another person (e.g., the right to life or physical integrity of one person can take precedence over the right to nonessential property of another person).
2. The (moral) rights of persons are not only negative but also positive rights, i.e., rights to the assistance of others. Positive rights are *always* situationally conditioned. One can only have a right to the assistance of others if one is not able to help oneself and another person (the potential helper) is able to help at no comparable cost. For instance, a drowning person has only a right to be helped by another person if this person can help without risking her own life. Obviously, the criterion of no comparable cost presupposes a hierarchy of rights. Theories which do not acknowledge such a hierarchy, but acknowledge the fundamental normative equality of all rights-holders, cannot acknowledge the existence of original positive rights.
   The two conditions of the situational applicability of a right to assistance follow from the basic normative equality (of the rights) of persons. If a person had to help another person, even if this person could help herself, or if a person had to help another person in the protection of a right, even if this would endanger the same (level of) right of the potential helper, then the (rights of the) person to be helped would be more important than the (rights of the) potential helper. It is important to note that the conditionality of positive rights does not contradict its universality. For all persons always have a right to assistance if the two conditions are met. It is also important to note that while in the face of chronic needs an individual person may not be able to help at no comparable cost, persons may be able to do so collectively. This leads to a third and final point.
3. The (moral) rights of persons comprise the right to the effective protection of these rights. This makes certain institutions necessary and the establishment, preservation, reform (if need be), and support of these institutions obligatory. These institutions comprise the institutions of the (territorial) state, including the institutions of the welfare or supportive state, but also international and global institutions. To determine what international and global institutions are required is still a generally unfulfilled task in (Kantian) moral theory.

According to the preceding characterization, Kantian theories share with Kant the fundamental normative focus on the equal normative importance of persons but expound this more comprehensively in terms of the universal and equal moral claim rights of persons. By directly relating the absolute value or worth of persons to the necessity to lead their lives, the Kantian theories perhaps more directly relate the basic moral requirements to the human condition and to the vulnerability of persons than Kant does.

Business Legitimacy: Kantian Perspectives

On the Concept of Business Legitimacy

Kant's distinction between what is *in accord with right* (recht, rechtmäßig) and what is *morally right* or *good* suggests a certain understanding of *business legitimacy*. According to this, *legitimacy* is to be taken at once as a strictly (morally) normative concept and as a minimum standard of moral rightness. As a normative concept, it is to be distinguished from concepts of legitimacy used, for instance, in social or organizational science where the focus is on the (normative) expectations people actually have on the conduct of business or on the need of business organizations to take various expectations on their behavior into account (see, e.g., Díez-de-Castro et al. (2018)). Such a need is also often stressed on the part of business ethics (see, e.g., Buchholtz and Caroll (2012)). In contrast to this, the normative concept of legitimacy aims at binding criteria and norms of the rightfulness of the conduct of business and of business actions as well as of the institutional backgrounds and organizational settings in which companies operate.

As a minimum standard, legitimacy pertains only to the most important aspects of the (moral) rightness of actions and of the institutional and organizational framework conditions of actions. Only those actions, strategies, and framework conditions are legitimate which do not violate the (moral) rights of the affected people. As shown above, the realm of rights is much more restricted in Kant than in many Kantian theories, so that the theories differ in their respective demarcations between the set of the (morally) obligatory actions and the subset of legitimate actions. However, in all the theories, legitimacy does not pertain to the moral quality of the acting persons and so to the moral goodness of actions. While no action can be morally good which is not rightful or legitimate, actions can be legitimate without being morally good. Thus, rightfulness or legitimacy is a necessary but not sufficient condition of the moral goodness of actions.

As will be shown in more detail below, the actions and strategies of businesses can violate the rights of people by endangering or negatively affecting the economic system itself, and they can violate the rights of people on an innersystemic level by actions and strategies which the economic system makes possible and which do not directly threaten it. Thus, there are both macroethical and microethical aspects of business legitimacy. However, before turning to them, it may be advisable first to deal in more detail (from the perspective of Kantian ethics) with the more general question of what can be morally demanded of businesses. The microethical aspects of business legitimacy will then be outlined in connection with the answer to this question.

Moral Demands on Businesses: General Considerations and Microethical Requirements

As shown above, the distinction between prudential and moral norms is a characteristic of Kantian ethics. Every agent is required to always restrict the pursuit of her considered well-being in view of the normative importance and the rights of other persons. Thus, it seems directly to follow from this that all business actions and strategies are morally restricted by the rights of all affected people. Businesses, and the persons acting on their behalf, are morally required to always respect the rights of other persons. Hence, business actions or strategies cannot be legitimate if they violate the rights of the persons affected by them.

On the other hand, business actions take place within a market economy which is (ideally) characterized by fierce competition. As the German business ethicist Karl Homann points out, a market economy is a social subsystem which is constituted by certain rules and which possesses an important moral quality. A market economy is able to create unprecedented levels of wealth and with this to overcome poverty and, in principle, to enable an at least decent living for each member of a society. So, if a market economy is morally justified, then this justification seems to especially encompass competition itself. In principle, it would be inconsistent and counterproductive to directly address moral demands to individual competitors. For those who will follow the demands will lose out to those who do not and will have to leave the market. Thus, that way the specific workings of the market will not be morally improved, but the morally more sensitive people will be expelled from it. Instead of addressing moral demands on individual competitors, they must be incorporated into the general rules of the game, thus creating a level playing field for all competitors. "The systematic place of morality in a market economy is the [legal] framework of the economy" (Homann and Blome-Drees 1992, 35).

So, a consequence of this argument seems to be that rather than demanding from an individual competitor not to violate the rights of affected persons, one has to see to it that the legal framework incorporates the protection of the rights in question. What must be morally demanded of businesses and the individual agents on the markets is to play by the rules, at least as long a sufficient number of other players are prepared to do so too. And the actions and strategies of businesses are legitimate as long as they follow the *existing* rules or laws. Thus, there can be a considerable discrepancy between what is required by the rights of persons and what is required by the existing rules.

Now, Homann is not an exponent of Kantian ethics. His remarks on the content of morality are often vague (like "'solidarity between all humans' as the principle of morality" and "realizing the solidarity of all people," Homann and Blome-Drees 1992, 40, 45), and some of them betray a utilitarian bent. Above all he does not subscribe to the view that morality and prudence must be kept strictly separated. Instead he draws on the venerable tradition (already discussed in Plato's *Politeia*) that the restriction in the pursuit of one's self-interest, which morality requires, constitutes a requirement which is itself based on one's self-interest or must at least be reducible to it. So, it must be possible to reduce moral requirements to the requirements of economic rationality.

Homann is, of course, aware that the framework of rules is often incomplete and even to a large extent missing. This is an especially acute problem under conditions of economic globalization. Because of that the "paradigmatic" distinction between the rules of the game and the moves within the game becomes blurred under real-life conditions. As in this case rule following does not guarantee the legitimacy of business actions and strategies, the actors on the market must take on individual responsibility for their actions and possibly even for the rules. But what then are the criteria of business legitimacy, and what exactly are the criteria of responsible actions under real-life conditions? Due to his vague conception of morality and a pronounced skepticism against universal moral claims, Homann has difficulties to give detailed and stable answers to these questions. It seems that ultimately each business(wo)man has to find her own answers and must follow her conscience.

From a Kantian perspective, there can never be a justification of an outright violation of the moral rights of affected persons. Indeed, many Kantian theories allow for a hierarchy of rights so that situationally a more important right of one person can take precedence over a less important right of another person. As a consequence, it may be unclear whether in certain circumstances the right of one person is only (permissibly) infringed or (impermissibly) violated (to use the distinction introduced by Thomson (1986, 51–55)). However, typically no such uncertainties exist when the basic rights of people are affected like life, including the necessary material basis of existence, or physical integrity. For example, oil production in a developing country by a multinational corporation which does not take any measures to protect the environment and which thus contaminates the surrounding land on which people live and the water they use thereby making the land uninhabitable and the water undrinkable constitutes an outright violation of the basic rights of the affected people and therefore an illegitimate business operation. This is also the case if no laws are in force in the country of operation requiring the corporation to take the necessary environmental protections.

Things are considerably less clear in cases where the violation of rights is not direct but where the actions and strategies of businesses merely contribute to profoundly negative effects on the basic rights of people, for instance, by directly or indirectly contributing in a significant way to the emissions of carbon dioxide or other greenhouse gases or to precarious conditions of labor (on the mechanisms of the increasing precarization of working conditions, see, e.g., Weil (2014); Kuttner (2018), Ch. 5). Here, the negative impact may not have been foreseeable or may not be individually attributable, or it might not be possible to change at short notice one's course without negatively affecting the rights of people. However, the involved businesses must be willing to contribute to a common effort to change course. Clearly illegitimate would be all attempts to actively thwart or significantly delay such efforts or to actively influence politics or public opinion in order to prevent the necessary changes (on recent measures of systematic misinformation on global warming, see Conway and Oreskes (2011)).

As a consequence, conformity to rules as such, be it by acting in accordance with rules permitting certain actions or by not violating rules because of a lack of rules proscribing or prohibiting certain actions, does not guarantee the legitimacy of business actions and strategies. It can never be legitimate to exclusively pursue the aim of profit maximization irrespective of the rights of the affected people. That is why certain (but not necessarily all) strategies of private equity firms which are prepared to push a company into bankruptcy in order to rip it off (see, e.g., Appelbaum and Batt (2014)) are clearly illegitimate.

On the one hand, it is important to develop the criteria of business legitimacy and illegitimacy and to use them for the evaluation of concrete business actions and strategies. (In contrast to what the examples used in this chapter may suggest, this will often need detailed studies and intensive discussion.) There should be a public discourse on business legitimacy to which economic or business ethics must contribute. It is especially relevant to contribute to a common understanding on which actions and strategies are clearly illegitimate. On the other hand, contrary to its image as an ethic of good intentions, from the standpoint of a Kantian ethics, the effective protection of the rights of people must be ensured. This makes the existence and continuous development of adequate formal (legal) and informal rules necessary, which is a significant aspect of Homann's theory. Homann is also right in stressing that one must, as far as possible, ensure that the most important moral precepts are backed by motivations deriving from the economic rationality of the economic actors. (This is already a concern in Kant's doctrine of right. A rationale of the right or the law is to protect the rights of persons by sanctions which address the prudential motivations of agents.) It remains a problem to be solved how binding rules can be established in a global economy or made effective for actions within the global economy.

Business Legitimacy: Macroethical Requirements

The rights of people include a right to their effective protection. This makes certain institutions necessary, like the institutions of the state but also certain international and global institutions. It can be argued that a market economy is a part of these required institutions, but there are certain tensions and difficulties here which cannot be simply solved or eliminated. On the one hand, given certain framework conditions including certain protections of the welfare state, a market economy represents the best form of economic organization we know so far. For market economies have the potential of creating an unprecedented level of wealth in which, in principle, everyone can or could participate. Thus, at least for the time being, market economies are indispensable for the protection of the rights of people. Hence a sustainably functioning market economy possesses an utmost morally normative importance. On the other hand, market economies, as we know them, are cognizably environmentally unsustainable. They lead to the overuse of resources, the destruction of important ecosystems, and dangerous climate change. It is a matter of debate whether such unsustainability constitutes an ultimately ineliminable feature of market economies, which must therefore be overcome, or whether it is a problem which can be dealt with within a market economy. As neither a viable, sustainable alternative to a market economy is known so far nor it is known how a transition to proposed alternative systems could responsibly made, there is, at least for the time being, no other choice to trying to tackle the grave unsustainability problems as far as possible within market economies. And as the current environmental unsustainability of market economies affects and threatens the basic rights of people, it is an obligation of businesses, relevant to the legitimacy of their actions, both not to impede or even subvert this task and to be prepared to make necessary changes in their business models or in the way they conduct business.

Part of the universality of a Kantian ethics is the insistence on the basic normative equality of each person wherever she lives. However, it is important to note that this does not naturally imply a cosmopolitan political stance. For the required institutional protection of the rights of people makes territorially organized and limited states necessary. There are mainly two arguments for this. First, only limited territorial states will sufficiently insure the effective protection of the rights of their respective inhabitants and make a viable and sustainable community of rights possible. This can also be seen from the problems and potential dangers connected with a "world state" (Kant, *Frieden* 8:367). Second, the actual states exist as limited territorial states. As such they contribute, more or (unfortunately in many cases) less, to the protection of the rights of their inhabitants. Kant argues that this protection is in any case greater than in the anarchy of a stateless condition. He therefore argues for the normative relevance of any existing state. It is, of course, a matter of debate whether Kant underestimates the potential badness of certain illegitimate or unjust states or regimes. However, even if his argument does not hold in "any case," it at least appears to hold "on the whole" as current experiences of civil wars and so-called failed states seem to confirm.

If territorially limited states are of the utmost importance for the effective protection of the rights of their inhabitants, this also implies the normative importance of sustainably functioning national economies. One might consider this an outdated claim in times of widespread and pervasive economic globalization. However, even in a common market like that of the European Union, the national economies of its member states are clearly distinguishable, and their respective performances are individually measured by indicators such as gross domestic product, unemployment, and inflation. Certain policies can have positive effects on the economy of one state and harmful effects on the economies of others. Thus, the claim is not that the economies of single states should be understood as closed economies but that the economies of states can be positively and negatively affected by policies and economic actions both from inside and outside the national economies and the territory of the respective states and that those effects can have a considerable impact on the rights of the citizens or inhabitants of a state. Thus, there is an eminently important moral duty, based on the moral rights of the inhabitants of a state, not to impair or endanger the sustainable functioning of a national economy or to thwart or hold up the development of such an economy.

While it might be controversial which policies or actions will negatively affect or endanger the sustainable functioning of a national economy or thwart or hold up its development, some policies, strategies, or actions clearly do so. No business can be legitimate that pursues such policies, strategies, or actions. For such transgressions many financial institutions, instruments, and strategies are a good example, even if the following remarks must unavoidably remain sweeping.

Developed market economies cannot sustainably function without developed sustainably functioning financial markets. Be "the" financial market the aggregate of all financial markets, institutions, and instruments necessary for or conducive to a sustainably functioning national economy. Thus, if there is a right of the inhabitants of a state to a sustainably functioning economy, they have also a right to the sustainably functioning of "the" financial market. The justification of "the" financial market is *exclusively instrumental*. This is because financial markets inevitably involve systemic risks, i.e., risks that important parts of the financial system, the financial system itself, or (important parts of) the economy will stop functioning. As this will have a massive impact on the basic (moral) rights of the affected people, systemic risks are a kind of risks ("recipient-risks or R-risks") which are prohibited to impose on others without a sufficiently justifying reason (see Steigleder (2016a)). Such a justifying reason is only offered by the criterion of the normative inevitability of R-risks: An R-risk is justified if its imposition contributes to the prevention of even greater R-risks for all affected people and can only be prevented by the imposition of the R-risk in question or by a comparable R-risk (Steigleder 2018). As the lack of a functioning financial system would threaten the sustainable functioning of a developed national economy and such an economy is essential to the protection of the basic rights of the inhabitants of a state, the R-risks inherent in a financial system are justified insofar and only insofar as the financial system contributes to the sustainable functioning of a national economy.

"The" financial market can, therefore, function as a critical measure for all single financial markets, financial institutions, and financial instruments, of whether they contribute to "the" financial market or not. Financial markets, institutions, or instruments which increase the systemic risks in the system without contributing to the prevention of even greater systemic risks are illegitimate and must be discontinued, altered, broken up, or prohibited. Unfortunately, many if not most current financial markets, institutions, and instruments are illegitimate according to this criterion (see Steigleder (2016b)). Thus, financial macroethics is of the utmost importance for the determination of business legitimacy and the critique of current business models.

"The" financial market is not to be equated with the global financial market(s). Instead, global financial markets are themselves to be evaluated according to their impacts on the national economies and their respective financial markets. Of special importance in that regard is the impact of global financial markets on developing countries. It is debated whether developing countries should be more or less protected from global financial markets and the investors and agents acting on them or whether (well-done) financial globalization will spur economic development and have greater chances and hopes in store for developing countries. The latter view was fervently developed and defended by Frederic S. Mishkin (2006, 2009) if certain safety measures are implemented. He was opposed by Dani Rodrik and Arvind Subramanian (2009) who made the case that economic development is not dependent on global financial markets, that the risks of global financial markets for developing countries are much greater than the potential chances, and that it is completely unrealistic that the proposed safety measures could reliably be implemented. If this is right, many actions on the global financial markets and many business models affecting and involving developing countries will be illegitimate.

"Today's Rent-Extracting Economy, Masquerading as a Free Market" (Wolf 2018)

A basic difficulty of business or economic ethics is that while market economies are, as explained, normatively important, they are not and cannot be ideal. So, there is the constant question of what has to be tolerated or must be accepted, because any attempt to improve conditions will most likely only worsen them, and what is definitively unacceptable and must be changed. The normative concept of legitimacy as a minimum notion of moral rightness can be helpful here. It is important to find out what is illegitimate, to show why this is the case, to raise awareness for this, and to make illegitimacy claims an object of both academic and public discourse. Claims of illegitimacy are always claims that change is needed. However, one can know that something is illegitimate or intolerable without already knowing by what policies the situation can really be improved. In a complex system like a market economy, for which the workings of incentives are paramount, seemingly obvious solutions can easily turn out to be counterproductive.

However, in view of the deregulation and globalization of markets and especially of financial markets and the ensuing financialization of the economy, one has to ask how much of the image of a market economy with its ability to create, in principle, general wealth through fierce competition is able to capture the reality of the current economic system(s) in Western societies. There are many indications that the economy is increasingly "rent-extracting," i.e., increasingly used by ever new business models and forms of economic organization to reap "unproductive incomes" to the disadvantage of those who produce goods and services in sufficient quantity for the unproductive incomes to buy (see, e.g., Sayer (2016) and Standing (2017)). So, increasingly, a small wealthy elite seems to be able to enrich itself at the expense of workers and other ordinary people (see Stiglitz (2013); see also Atkinson (2015)). In this connection the increased habit of multinational corporations to use the infrastructure of the countries in which they operate but to avoid paying taxes and the formation of monopolies in the digital economy seems also to be relevant. All this requires patient normative analysis and will involve many questions of business legitimacy or illegitimacy. This area of research constitutes probably the most urgent task of contemporary business or economic ethics.

Conclusion

It is the aim of this chapter to show that Kant's and Kantian moral theories provide important criteria for the evaluation of business legitimacy both on the micro- and on the macroethical level. However, the specific evaluations require a detailed examination of the complex interrelations of normative and multiple analytically descriptive and empirical questions. Thus, the criteria cannot, of course, dispense with the need for careful normative investigation, but can hopefully make such investigations possible and promising.

All quotations of Kant's writings are from the translations in the *Cambridge Edition of the Works of Immanuel Kant*. However, I refer to the volume numbers, page numbers, and line numbers of the so-called Akademie Ausgabe (*Kants gesammelte Schriften*. ed. by the Preussische/Deutsche/Göttinger Akademie der Wissenschaften. Berlin 1900-). As the exception from this rule, I cite the *Critique of Pure Reason* by the original page numbers of the first (A) or second edition (B). I use the following abbreviations of the works of Immanuel Kant cited in this paper:

Frieden	*Zum ewigen Frieden/Toward perpetual peace* (1795)
Gem.	*Über den Gemeinspruch: Das mag in der Theorie richtig sein, taugt aber nicht für die Praxis/On the common saying: That may be correct in theory, but is of no use in practice* (1793)
GMS	*Grundlegung zur Metaphysik der Sitten/Groundwork for the metaphysics of morals* (1785, second ed. 1786)
KpV	*Kritik der praktischen Vernunft/Critique of Practical Reason* (1788)
KrV	*Kritik der reinen Vernunft/Critique of Pure Reason* (1781, second ed. 1787)
KU	*Kritik der Urteilskraft/Critique of Judgment* (1790)
MSR	*Die Metaphysik der Sitten, [Metaphysische Anfangsgründe der] Rechtslehre/The metaphysics of morals, [metaphysical first principles of the], doctrine of right* (1797)
MST	*Die Metaphysik der Sitten, [Metaphysische Anfangsgründe der] Tugendlehre/The metaphysics of morals, [metaphysical first principles of the], doctrine of virtue* (1797)
Prol.	*Prolegommena zu einer jeden künftigen Metaphysik, die als Wissenschaft wird auftreten können/Prolegommena to any future metaphysics that will be able to come forward as science* (1783)

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Max Weber's Sociological Concept of Business Legitimacy

7

Øjvind Larsen

Contents

Abstract

In his famous book *The Protestant Ethics and the Spirit of Capitalism*, Max Weber presented the idea that it was the Protestant reformations and what followed that gave the basis for the creation and expansion of capitalism in Europe and later on in the whole world. However, in his less known *Gesammelte Aufsätze zur Religionssoziologie*, collected treatises on the *Sociology of Religion*, Weber has also described how other significant world religions like Hinduism and Confucianism hindered the creation of capitalism in India and China although these countries had better productive, technological, political, and cultural preconditions for a capitalist change of the material reproduction of society.

Weber's theory has not only a historical value. Weber's *Sociology of Religion* has also an actuality for the twenty-first century understanding of the relations

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between politics, religion, economy, and society in a global context. Weber's theory can explain why a special form of imperial state-dominated capitalism could develop in China – and not a liberal form like in the Western world. In the same way, Weber's theory can explain why the Hindu caste system can continue to be a hindrance for the full development of a Western liberal form of capitalism in India.

Keywords

Spirit of capitalism · Protestant ethics · Rationalization · Disenchantment · Legitimization · Tradition · Legitimate order · Theodicy problem · Calvinistic work ethics · Modern economic man

Weber's Sociological Concept of Business Legitimization

Max Weber (1864–1920) was a German economist and sociologist. He is regarded as one of the founders of sociology as an academic subject and profession. Weber has still an enormous influence on all forms of sociology. Weber has especially been occupied with the relation between economy and society. His main perspective is that economy cannot be understood in itself. Economy must be understood in its religious and cultural context, which is determinate for which form it can take in a specific society.

Weber's sociological concept of business legitimacy must be considered in the framework of all Weber's work because Weber is not a systematic social scientist but a heuristic social thinker who is all the time engaged with the construction of sociology as a new way of understanding social action and life. Therefore, it is not possible just to go to the index under "business legitimacy" because this word is not found in the index of his collected works. We have to go indirectly forward through Weber's general sociological definitions to his understanding of business legitimacy.

It must also be mentioned that Weber is a German thinker, and his German language contains the significances and meanings of German culture. As an example, Weber does speak about Wirtschaft as a signification of both the activity and the institution of business. In English, business is first of all bound to the subjective perspective on an activity before it signifies the business institution. Therefore, all citations from Weber's original German texts are translated by the author to make sure that most of the German spirit is transported into the English language.

It should also be mentioned that most of Weber's writings can be found in different English translations. Some of the relevant translations will be mentioned in the list of literature (Weber 1964, 2005, 2017). However, there is not a single authoritative translation of Weber's collected works. Therefore, there is no consensus of how Weber's many concepts should be translated. Even if this had been the case, the problem would still remain that the German and the English way of thinking are very different. The two languages represent also two cultural traditions. There is always a loss in a translation.

In his *Soziologische Grundbegriffe*, §1, Weber defines sociology as a science that has the aim to interpret or understand meaning in individual and social action, thereby being able to clarify and explain in rational terms the consequences and impact of social action (Weber GAW 1988b: 542 ff).

This perspective is clarified in *Soziologische Grundbegriffe*, §5, where Weber states that from the perspective of the actors, social action and social relations can be understood in the framework of an imagination (Vorstellung) of a legitimate order (legitimen Ordnung) (Weber GAW 1988b: 573). Insofar as this is the case in the sense that the actors experience their social action as belonging to such a social order, this is the sign that the social order has "Geltung" or "validity." This could be translated as "facticity," which means that the social order factually is considered to be legitimate.

This is a pure sociological definition and perspective on a legitimate order. It is only the facticity that counts. However, the facticity is not to be considered as an objective fact in the natural scientific sense. We have to do with a facticity which has to do with a general social acceptance of a certain form of action.

According to *Soziologische Grundbegriffe*, §7, the legitimization can be based in traditions, affectual-based beliefs, value rationalities, or legality. These different forms of legitimization are all considered as factual given forms of legitimization. In that sense, there are many possible forms of justification, and there is no second-order justification in Weber's understanding of a legitimate social order. It is only the facticity that counts in Weber's sociological perspective.

This is also the case for the legitimization of Wirtschaft or business. There can be found many different forms of justification throughout history. They must all be seen and understood in their social and historical context. Moreover, some of Weber's most essential perspectives on these matters will be presented.

Maybe the modern reader would expect that the presentation would begin with the modern form of legal legitimization which has become the almost dominant form of legitimization of all social relations and institution including business relations in a modern society. However, this is not the way it goes for Weber. His perspective is first of all historical, and he has the entire world history as resource for his sociological laboratory. Weber's perspective is first of all to clarify which role world religions have played for the development of different forms of economic systems throughout history.

The reason is that Weber considers the world religions as carriers of basic horizons of social understandings, meanings, normative standards, and taboos in all societies throughout history and therefore also the basis for understanding, normative standards, legitimation, promotion, and taboos of economic activity.

The main world religions are the religions which have or have had many adherents like Confucianism, Hinduism, Buddhism, Christianity, and Islam. Jewish religions are also included because it has had a significant role for the creation of Christianity and Islam. Furthermore, it is only Weber's work on Protestantism, Confucianism, and Hinduism that will be considered.

Weber's focus is especially which forms of actions are forbidden, taboos, and which actions are promoted and rewarded with a promise of salvation. Business for profit is mostly disregarded or forbidden with a taboo in the history of religions.

Weber introduces in this context the concept of a Wirtschaftsethik einer Religion, a business ethics of a religion (Weber GAR I 1988a: 238). Weber emphasizes that a business ethics of a religion does not relate to "the ethical theories in the compendiums of the religion." On the contrary, it relates to the practical motivation to action in the psychological and pragmatic social context of the religion. Weber emphasizes here that a business ethics of a religion is not only religiously determined. In practice, the religious determination is inherited in and mixed up with geographical, political, social, national, historical, and other determiners.

However, according to Weber, it is the privilege of the religious aspect in a business ethics to present and to give a solution to the theodicy problem. The concept theodicy is a combination of the two Greek words *Theos*, God, and *dike*, justice, and combined they mean literally God's justice. Theodicy has first of all throughout history been considered from a theological, philosophical, legal, and political perspective.

The theodicy problem is concerned with how the subjective suffering in the world can be combined with the idea of an almighty, just, and good God. How can God be almighty and good when there is evil, unhappiness, and suffering in the world? This formula can be turned around: How can God permit the suffering of the single person when he is good and almighty? The theodicy problem can also be turned around. This leads to the question how a person should act to obtain God's highest reward, which is salvation. It is expected that the person who acts good or right should obtain happiness.

Weber's great contribution to the theodicy problem is that he transforms the theodicy problem to a social problem that could be considered from a sociological perspective (Weber GAR I 1988a: 242). Weber related the theodicy problem to the problem of meaning, Sinn, of social life, and in the end of society. In that sense we have here to do with the basic type of legitimization of social relations and social life. Weber differentiates from his sociological perspective between two forms of theodicies.

Weber's first form is concerned with suffering, agony, misery, and pain. This is the dominant perspective on the theodicy problem. Why can a just God accept that people suffers? The interesting thing is that Weber secondly turns the sociological perspective around and focuses on the happy people without any suffering. According to Weber, they have the need to be assured that they have the right to be happy and that there are good reasons why other people are less happy or unhappy (Weber GAR I 1988a: 242). As we see, Weber turns the theodicy problem around. It is concerned with the justification of happiness. Das Glück will "legitim" sein. Weber includes under the general term "Glück" all possible advantages, benefits, blessings, and amenities such as honor, glory, distinctions, power, wealth, and fortune. This is "the religion's legitimization service" to the personal and social interests of the sovereigns, wealthy, victorious, healthy, and shortly their happiness. Weber calls it the theodicy of happiness, Theodizee des Glückes. Sie ist die in höchst massiven (pharisäischen) Bedürfnissen Verankert und daher leicht verständlich, the theodicy of happiness is based in the enormous pharisaic human need and therefore easy to understand!

This is a good example of Weber's extreme sociological combination of a silent likely critical thinking with a cynical hermeneutics of social facticity. He turns all the theological and philosophical reflections on theodicy and the suffering in the world into a problem of the justification of all the different forms of hegemonies in personal relations and society throughout history. It is a cynical and enlightened turnaround of the sociological perspective. This is what is going on in all forms of societies. This is the perspective for Weber's following clarification of different religions' role for the justification or legitimacy of business, Wirtschaft.

Weber's mentioned sociological cynicism indicates that Weber is not an idealist but far more a form of materialist, although not in pure form. The question is therefore relevant why religions take such a big place in his sociology? Weber has one passage in his *Religionssoziologie* in which this question is shortly clarified:

> Interests (material and ideal), not: Ideas dominate spontaneously the action of human being's action. However: Worldviews (Weltbilder), which was created through Ideas, have often as a railway switchman (Weichensteller) determined the track, in which the dynamic of the interests moved the action. The worldviews determined 'from what' and 'to what' one wanted to be redeemed – and not to forget: could. (Weber GAR I 1988a: 252)

Weber's project in his *Sociology of Religion* is to clarify how the mentioned interests were guided through the religious world views. Weber has the idea that there are created different forms of dispositions for business (Wirtschaftsgesinnung) in the different world religions (Weber GAR I 1988a: 252). The study of these dispositions can contribute to the understanding of why capitalism was developed in Europe and not in other parts of the world.

Weber's Introduction to His *Sociology of Religion*

This perspective is elaborated and generalized in Weber's famous introduction to the edition of his collected papers on the *Sociology of Religion* from 1920 (Weber GAR I 1988a: 1–16). This introduction has also often been included as introduction to his *The Protestant Ethics and the Spirit of Capitalism* from 1904 to 1905 (Weber GAR I 1988a: 17–205). In the introduction, Weber presents universality and rationality as his summarizing perspective on the European cultural history. It is in the European context that rational natural sciences on the basis of experiments and mathematics have been developed. Weber gives a series of examples on how rationality and rationalization have become dominant in so different areas as theology, canonic law, philosophy, mathematics, geometry, and political science (Weber GAR I 1988a: 1–4). In Europe, universities and professional school systems were created for a rational and systematic education of scholars for politics, bureaucracy, and economy in the state system and in civil society. The state is in itself a political institution (Anstalt) with a rational constitution and a rational system of law and regulations and with a bureaucratic organization with professional educated Fachbeamte, civil servants, and is only found in Europe.

According to Weber, this form of rationalized organization is also to be found in "the most fateful power of our modern life which is capitalism" (Weber GAR I 1988a: 4 ff).

Weber emphasizes from the beginning that it is not the "Erwerbtrieb" or "Streben nach Gewinn," it is not the instinct to acquire or the pursuit of gain that especially characterizes capitalism. This instinct has always existed among waiters, doctors, coachmen, artists, prostitutes, dishonest officials, soldiers, nobles, crusaders, gamblers, and beggars. The same can be said about the rational calculation for profit. This has been known in all cultural societies in the world such as China, India, Babylonia, and Egypt and also in Europe. The same can be said about forms of economic companies, corporations for moneylending, economic speculation, and forms of adventure capitalism. However, all these forms of economic practice are signified by a simple low or absent form of rationality.

In contrast, the modern European capitalism is signified by rationality all the way through in the rational capitalistic organization of (formally) free labor or labor force, which is related to the organization through the contract (Weber GAR I 1988a: 7 ff). This organization is oriented toward the rational calculated chances at the market. The rationalization of the business organization is made possible through the outsourcing of the business organization from the family household into an independent organization that can be rationalized, what is not in the same sense possible for the family. The social relations of the organization are established through the contract. In this connection, the introduction of the rational bookkeeping and the legal-based distinction between business capital and private household property are also essential.

However, from the perspective of the universal history of culture, the rational business organization must also be driven by a bourgeois class based in a civil society with a rational calculable system of law and a rational public administration, which was only created and developed in the Western world (Weber GAR I 1988a: 10 ff). Although there may be a stimulating correlation between the developments of a rational business organization, a bourgeois class that could manage this business and finally the constitution of a rational law system, rational public organization, and bourgeois political institutions, Weber's question is still why this development took place in Europe and not in China and India? With Weber's own words, "Why did not the scientific, the artistic, the political, or the economic development there enter upon that path of rationalization which is peculiar to the Occident?" (Weber GAR I 1988a: 11 f). This is Weber's essential question for all what follows.

Weber emphasizes that there are many different forms of rationalization, and what may be considered as rational from one perspective may be considered as irrational from another perspective. The Buddhists pursue by advanced rationalized techniques of meditation the path toward liberation from the eternal reincarnation. This is the Nirvana, the absolute Nihil of the spirit. However, from another perspective this rationalization may seem to be absolutely irrational. Therefore, Weber emphasizes that from a cultural historical perspective, the essential is to clarify which departments of society are rationalized and in which direction the rationalization has taken place in the Western world.

Weber's perspective is that the economic perspective must first of all be considered because capitalism is such a driving force for the rationalization of Western world. Above, this has already been mentioned as rationalization of technology and social institutions. However, there is also the other perspective that the mentioned economic rationalization can only be realized insofar as men have the ability and disposition to adopt the practical rational life-form, which is necessary to handle the potentials in the mentioned rationalization of technology and social institutions. Weber emphasizes that when these types of rationalizations have been obstructed by resistance of mental character, the development of a rational economic life-form has met strong inner resistance (Weber GAR I 1988a: 12).

In the long historical perspective, first of all, religions have determined social norms and not at least taboos regarded as valid for specific life-forms in specific social and societal context. This is the reason why Weber turns to the sociology of the world religions.

Weber wants to understand why especially the Protestant religion could promote and determine the development of a Wirtschaftsgesinnung, an economic spirit and a mentality with a specific rational form of ethics, relevant and valid for the business life-form and the development of capitalism. This is what he did in his first religious sociological study *The Protestant Ethics and the Spirit of Capitalism*. The following articles in his collected sociology of religions (GAR I-III 1988a) are foremost occupied with the question why the other world religions, first of all Hinduism and Confucianism, were unable or directly a hindrance for the promotion of the same development.

The Protestant Ethics and the Spirit of Capitalism

It is Weber's central point that Protestantism is the first and only world religion in which business becomes a virtue and a sign of salvation. Consequently, Protestantism becomes also the sociological ideal type for the evaluation of the other world religions' significance for business. Weber's guiding sociological question is why Protestantism could promote capitalism and why the other world religions were unable or directly a hindrance for the development of capitalism. This is Weber's guiding sociological question that will be elaborated.

In this context it must be emphasized from the beginning that the promotion of business for profit and capitalism is contradictory to the basic principles in the Christian social ethical tradition. It has especially been emphasized clearly in the Aristotelian-based theology of Thomas Aquinas (1225–1274), the most famous theologian of the Middle Ages (Aquinas 1988). He emphasizes that the Christian is not permitted to take interest of loans. This is also Aristotle's (384–322 BC) perspective in his political philosophy. Martin Luther (1483–1546), the initiator of the Protestant reformations, had the same perspective. Weber explains therefore also in the *Protestant Ethics* that this was one of the reasons why the Jews were segregated to take care of moneylending in the Middle Ages. Luther saw his Reformation as a restauration of the church and Christianity – and in no way as a modernization of Christianity. There is nothing in Luther's theology or for that matter in the Christian theological tradition that indicates that Christianity in its form of Protestantism would become the promotor of capitalism. In theological terms it would not be possible to explain how this could happen.

Therefore, it is essential to remember that Weber's perspective is a sociological perspective. He gives an – surprising and contra-intuitive – interpretation of the social consequence of the new restorative Protestant theology. The essential thing is that Luther changes the basic perspective in Christianity from a meditative upturned perspective, first of all cultivated by priests and monks as the exclusive spiritual estate in the meditative unworldly cloisters, into a practical mundane perspective. Christians are all on an equal basis part of the same spiritual estate, and they should all realize their Christian life in love to their neighbors and in vocation for their profession in society. In this theological perspective, there is a basic equality between all people which has had an inestimable significance for the creation of modern society in all its aspects. This is the basic message in Luther's theology. It is also here we can find the reason why Luther in Weber's sociological sense can be considered as the mentioned railway switchman (Weichensteller) for the creation of the new social perspective which over the centuries becomes the basis for creation of the European modernity with all what that imply of change of economic and political life and institutions. The door into modernity has been opened.

In relation to the creation of capitalism, it is essential that Luther promotes a theology in which work becomes a vocation which includes all Christians, high or low, situated in society. Therefore, Luther's theology gives the basis for a new work ethics as a Christian duty.

According to Weber, it is this new understanding of work as a Christian virtue that is radicalized in the Swiss reformer Jean Calvin's theology of salvation. Calvin (1509–1564) had the idea that salvation was a matter predestination which means that God had decided beforehand whether a person was determined to salvation or damnation. Predestination is an idea that Calvin takes over from the antique philosopher and theologian Augustine (354–430). The Christian had to live in confidence, trust, and faith in God. However, in practice this idea of salvation created an insecurity in the sense that the Christian could not *know* whether he was on the right or the wrong track. Therefore, in practical religious life, the idea was created that good performance and work results could be a "sign" of being on the right track of salvation. Of course, from a Calvinistic theological perspective, this is pure nonsense. However, from Weber's sociological perspective, this is essential in the Calvinistic work ethics – and maybe the theological perspective could be considered the other way around. Weber writes that for the Calvinist, in order to attain the self-confidence of salvation, a restless work activity, rastlose Berufsarbeit, was strongly recommended. The restless work activity was the only possible way to disperse religious doubts and create "the sign" that could give certainty of salvation (Weber GAR I 1988a: 105 f).

The restless work activity enforced from a psychological perspective a rationalization of the work activity and a systematic self-control which at every moment stands before the inexorable alternative, chosen or dammed (Weber GAR I 1988a: 111).

This methodological rationalization gave even the name "Methodism" to one of the Protestant sects.

It is evident that this restless work activity led to a production of a considerable wealth and capital accumulation. However, it was only created as a "sign" of salvation and not for luxury consumption. These Protestants were ascetic, and it gave even the name "Puritanism" to one of the Protestant sects.

It is on this background evident that, in Weber's sociological perspective, Calvin can be considered as the mentioned railway switchman (Weichensteller) for the creation of the spirit of capitalism. The door is opened for the creation of the spirit of capitalism.

At the beginning, the spirit of capitalism is closely bound to the life praxis of the different Protestant sects and their religious world horizons, in which the wealth and capital accumulation in the religious perspective only are understood as a sign of salvation and not as an aim in itself. In this connection, a rational bourgeois economic life-form is developed, which opened for the constitution of "modern economic man" with a concentrated rational and professional perspective on his work for the optimization of his sign of salvation and – as an almost unintended side effect not to forget – the optimization of his fortune (Weber GAR I 1988a: 195f).

The great revival of Methodism preceded the expansion of English industry toward the end of the eighteenth century which created enormous fortunes. However, this Puritan religious praxis came under excessive pressure from the temptations of the accumulated wealth. This is clearly expressed by the minister and theologian John Wesley (1703–1791), one of the founders of Methodism, when he writes:

> I fear, wherever riches have increased, the essence of religion has decreased in the same proportion. Therefore I do not see how it is possible, in the nature of things, for any revival of true religion to continue long. For religion must necessarily produce both industry and frugality, and these cannot but produce riches. But as riches increase, so will pride, anger, and love of the world in all its branches. How then is it possible that Methodism, that is, a religion of the heart, though it flourishes now as a green bay tree, should continue in this state? For the Methodists in every place grow diligent and frugal; consequently they increase in goods. Hence they proportionately increase in pride, in anger, in the desire of the flesh, the desire of the eyes, and the pride of life. So, although the form of religion remains, the spirit is swiftly vanishing away. Is there no way to prevent this—this continual decay of pure religion? We ought not to prevent people from being diligent and frugal; we must exhort all Christians to gain all they can, and to save all they can; that is, in effect, to grow rich. (Weber GAR I 1988a: 197)

Moreover, Wesley gives the admonition that those, who gain all they can and save all they can, should also give all they can, so that they will grow in grace and lay up a treasure in heaven.

Wesley gives a perfect expression of the paradoxes in the social function of Calvinism, Methodism, Puritanism, and all the other Protestant sects based in the theology of predestination. The Puritan religious praxis had unexpected and paradoxical consequences for the change of the Protestants' whole life-form into a rationalized methodological life-form and for the change of all the economic system into a capitalism with a heavy accumulation of wealth, fortune, and capital.

Wesley's advice to the Methodists to give all they could so that they would grow in grace and lay up a treasure in heaven was in the long run not strong enough to resist the earthly temptations of wealth. Weber notices that the intensity of the search for the Kingdom of God gradually passed over into a rationalized and emotionless utilitarian worldliness.

The vocation for the Kingdom of God is transformed into the vocation for work and accumulation of wealth. In this way, the spirit of capitalism becomes the new substitute for the Protestant ethic and as such an end in itself.

Weber remarks that a specific bourgeois economic ethic, "bürgerliches Berufsethos," had grown up in which the vocation for work and the accumulation of wealth had been created as the final value for life. It was a form of utilitarianism that little by little became cleaned from its roots in the religious salvation horizon of Protestantism (Weber GAR I 1988a: 198 f).

However, this is not the end. There is still one step more. Weber writes:

> The Puritan *wanted* to work in a calling; we are *forced to* do so. For when asceticism was carried out of monastic cells into everyday life, and began to dominate worldly morality, it did its part in building the tremendous cosmos of the modern economic order. This order is now bound to the technical and economic conditions of machine production which today determine the lives of all the individuals who are born into this mechanism, *not only* those directly concerned with economic acquisition, with irresistible force. Perhaps it will so determine them until the last ton of fossilized coal is burnt, 'bis der letzte Zentner fossilen Brennstoffs verglüht ist'. In Baxter's view the care for external goods should only lie on the shoulders of the "saint like a light cloak, which can be thrown aside at any moment". But fate decreed that the cloak should become an iron cage, 'ein stahlhartes Gehäuse.' (Weber GAR I 1988a: 203)

This is the final triumph of the spirit of capitalism in which the Protestant roots have been totally dissolved. The vocation for rationalization and work has been generalized into a condition and normative standard for everyone in the modern capitalist society. No one can stand outside. However, the hope for salvation in the Protestant ethic and more general in Protestantism has not been transported over into the spirit of capitalism. On the contrary, the spirit of capitalism will be determined for everyone "until the last ton of fossilized coal is burnt." When Weber wrote these words around 1905, they may have had a relative loose futuristic character. Today, in the light of the global ecological crisis, these words sounds like having been written for today.

The scary thing of this almost eschatological perspective is that it seems to be based upon rationality and the rationalization of work and work relations in society and that there is no way out – until the last ton of fossilized coal is burnt. Therefore, there is an ambivalence in rationality and the rationalization in the sense that the rationality can be turned around into irrationality. The two Frankfurt School philosophers Max Horkheimer (1895–1973) and Theodor Adorno (1903–1969) called later on in a famous treatise this phenomenon for the dialectic of enlightenment (Horkheimer and Adorno 1988). In that sense, rationality has become the fate of what Weber calls the Occident – and later on the fate of the entire world.

Rationality and Legal Legitimization of Business

Rationality, rationalization, and the creation of a rational capitalism give basis for a new form of legal-based business legitimization. Formerly, business legitimization had predominantly been of traditional character. However, this changes with the creation of capitalism. As mentioned above, Weber makes clear in his introduction to his *Sociology of Religion* that capitalism is characterized through the rational organization of (formally) free labor force, which is connected on basis of a contract to the business organization. The other essential thing is that the business organization is outsourced from the family household into an independent organization that can be rationalized and make contract with the labor force and with other business organizations. From a sociological perspective, this is essential because it makes it possible to determine the business organization as an independent institution in society.

From a sociological perspective, every organization is characterized by a form of dominance, which in sociological terms can be determined. In *Economy and Society*, *Wirtschaft und Gesellschaft*, Weber makes a significant distinction between power and domination.

Power, "Macht," means the probability that one actor within a social relationship is able to enforce his own will, also despite resistance, regardless of the basis on which this probability rests (Weber 1972: 28).

Domination is also a form of power. However, it is a much more sophisticated and social relevant form of power. Weber gives the following definition: domination (Herrschaft) means the situation in which the manifested will (command, Befehl) of the ruler (der Herrschende) is meant to influence the conduct of one or more others (the ruled, the dominated, die Beherrschten) and actually does influence it in such a way that their conduct to a socially relevant degree occurs as if the ruled had made the content of the command into the maxim of their conduct for its very own sake. Considered from the other perspective, this situation is called obedience (Weber 1972: 544).

The essential difference between power and domination is that power is enforced or coerced, whereas domination can and should be accepted to such a degree that the command is done as it were the own will of the dominated. Dominance is therefore the social relevant form of power for the creation of stable social relations and institutions in a society.

Domination needs a justification or legitimization of the authority of the domination to be accepted by the dominated. It is in this context that Weber presents his idea about the legitimization of domination.

In his article "The Three Pure Types of Legitimate Dominance," Die drei Typen der legitimen Herrschaft, Weber determines the three pure types of dominance, each of which has its own sociological structure of staff and means of administration and organization. These three forms of dominance are, respectively, the legal, the traditional, and the charismatic form of dominance (Weber GAW 1988b: 475 ff). These three forms of dominance can be considered as independent ideal types. However, in practice, they are often mixed in different ways.

Legal domination is exercised through Satzung, by law, which is a public law given by official authorities. The business companies are regulated by Satzung as private law, the articles of association AoA. Private law is a precondition for capitalism because private business companies have to be able to make contracts. However, it is at the same time private business that gives the dynamic to the development of private law into an enormous corpus of law.

Weber gives two arguments for the occidental rationalization of law with the consequence of the formalization of law. The rationalization and formalization of law are created historically by two parallel social and institutional powers. The one is the capitalist interest in a strict, formal, and calculable system of law which could be calculated in the promotion and defense of own interests. The other is the interest of the absolutist state to have a rational bureaucracy. This implies a codified methodology and uniformity in the bureaucracy and secondly an educated staff of bureaucrats with equal chances for advancement. According to Weber, this is the two conditions for the creation of a modern rationalized and formalized system of law (Weber GAR I 1988a: 437 f).

According to Weber, the purest form of legal domination is "die bürokratische Herrschaft," the bureaucratic domination, which is also called "Verwaltung" or "administration" (Weber GAW 1988b: 475 f). Weber takes his descriptive departure in modern form of bureaucratic domination, which is known in state and communities in modern society. However, as Weber emphasizes, this is also the form of domination which is known in private capitalist companies. The basic argument is that the labor force is formally free to make a contract, a "Vertrag," and to enter into the relations of domination in the bureaucracy of the company in the same way as the citizens are considered as free to be part of the state and the political community. As Weber says, "it is the validity of the contract that makes the capitalist company to a magnificent ideal type of the legal form of domination" (Weber GAW 1988b: 477).

According to Weber, the conclusion is therefore that it is the contract in combination with the formal freedom to make the contract that forms the basis for his sociological concept of business legitimacy. This is at the same time the basic idea in liberal society.

It is interesting to see that in this free contractual form, capitalism totally loses its religious roots in Protestantism. There is nothing left of the spirit of Protestantism. The spirit of capitalism does not need the Protestant religious reference. In a sociological sense, the spirit of capitalism has the same function and power as a religion. Profit and capital accumulation are able to promote themselves. As such, capitalism has been prepared to conquer the entire world – bis der letzte Zentner fossilen Brennstoffs verglüht ist.

Confucianism and Hinduism

As mentioned, Weber's essential question in the introduction to his *Sociology of Religion* is: why the rationalization and the development of capitalism took place in Europe and not in China and India? With Weber's own words, "Why did not the scientific, the artistic, the political, and the economic development in Orient enter upon that path of rationalization which is peculiar to the Occident?" (Weber GAR I 1988a: 11 f). This question is so much more challenging as the objective material and cultural resources in many ways were much better for the development of capitalism in China and India. In the next section, Weber's answer to this question will be presented.

Confucianism, Patrimonial Empire, and Traditionalism: The Hindrances for the Development of Capitalism in China

Confucius lived in China around 500 BC. He formulated a form of basic morality for the single person and for the imperial patrimonial political system in all, which has been considered as the basic social and political philosophy in most periods until our time.

From an overall perspective, Weber's claim is that Protestantism has its almost revolutionary driving force in the spirit and the individual work for the sign of salvation which created the extreme individualization as the basis both for liberalism and capitalism. In this light, Confucianism could almost be considered as the absolute contrast. There is no spirit in Confucianism; there is no driving force for the extreme individualization as in Protestantism. On the contrary, it is a moral teaching which is focused on the moral perfection of the individual in accordance with the imperial patrimonial and bureaucratic social order. Therefore, it would also be wrong to consider Confucianism as a religion in strict sense. However, Weber's sociological argument seems to be that Confucianism has had and maybe still have the same social function as a religion in China. Literally, it could be called an inane (Geistesloss) religion, which in practice best of all serves as conservation of a given social order. Weber determines this political and social order as patrimonial, which means that the final power is concentrated in one person, the emperor. He had a bureaucracy, the Mandarin estate, (der Mandarinenstand), which was hierarchically organized in a social rank by the principle of how many examinations the Mandarin had taken in the formalized education and examination system (Weber GAR I 1988a: 404 f). The social rank of the Mandarin determined whether he could have an ancestral temple or only an ancestral plate as the illiterates and how many ancestors he was allowed to mention in the temple or in front of the plate. Weber emphasizes that although there was a cult of the ancestors in China, it was the formal education and the social rank that determined the religious determination and not the other way around. The religious determination was in that sense only a confirmation of the social rank, relations, and order. The social order was in that way sanctified in a primitive and in that sense insignificant way. This is Weber's determinate sociological argument for why there could not be found a religious spirit as in Protestantism but only a primitive religious reference to the ancestors and a conservative confirmation of the patrimonial domination and the social order in Imperial China.

Weber emphasizes the following traits in the Confucian life orientation (Weber GAR I 1988a: 430 ff). In principle, there is equality between all human beings in the Confucian social ethics. The philosophy is that the good welfare would promote a strong and general social morality. This is in fact from a sociological perspective, a very pragmatic claim. However, at the same time, it confirms that there is no spirit that could provide the morality with an autonomy. There are no natural rights, and there is no private sphere. The word "freedom" did even not exist in the Mandarin Chinese language (Weber GAR I 1988a: 436). The private did only exists as the right to have private things (Sachgüterbesitz), and these were not secured in absolute terms. Apart from this, there were no other rights of freedom.

The aim of the legal system was material justice and not a formal justice. The legal system was not formalized, without person's reputation, and therefore not rationalized. A conviction was determined by the concrete quality and situation of the case.

A development of natural rights as in the occidental world did not take place. The lawyers were not professionalized because public prosecution was not developed in China. The reason is that the patrimonial Chinese welfare state with a weak administration did not have an understanding of the formal development of the legal system. It was based in the holiness of the tradition (die Heiligkeit der Tradition) that contained all the legitimacy of the tradition (Weber GAR I 1988a: 438 f). The legal system continued therefore to be based in what Weber calls "theokratischen Wohlfahrtsjustiz," which is the same as theocratic welfare justice.

It should be clear that such a legal system is not able to be individualized, rationalized, and differentiated in a way which can promote the legal basis of capitalism. As mentioned, the contract is the basis in the development of capitalism, and the contract could not be developed because it needs a concept of subjective rights, a differentiation between private and public law, and finally a systematic rational development of law. This is not possible in a traditional theocratic framework (Weber GAR I 1988a: 438 f).

Confucianism Compared to Protestantism

Weber has a concluding chapter about the comparative relation between Confucianism and Puritanism, the most radical edition of Protestantism. In this chapter he summarizes his main points (Weber GAR I 1988a: 512 ff). Weber poses the question to which degree Confucianism has been rationalized. This question must be measured on two parameters. The one parameter is to which degree Confucianism is able to leave the magic. The other parameter is to which degree the relation between God and the world is transformed into the individual person's own ethical relation to the world.

For Weber, Protestantism and especially Puritanism are the sociological "ideal type" (die Idealtype) and the methodological standard. Protestantism is liberated from the magic. This is not the case for Confucianism. Weber writes that it was only Protestantism that could accomplish "die Entzauberung der Welt," the disenchantment of the world. This is one of the most famous formulations of Weber. It is very clear. It says simply that the world, society, and people lose the relation to the mystic, the metaphysical, and the religious as an external supranatural given dimension. This could also be called the radical formulation of secularization. In this perspective, the relation between God and the world is transformed into the individual person's own ethical relation to the world.

Confucianism had a positive consideration of the magic in its meaning of giving happiness and salvation. Contrary, Puritanism had the idea that all magic was "teuflich," diabolic. The positive was the rational ethic to act in accordance with God's commands, driven by a sanctified sentiment (Weber GAR I 1988a: 513). Everything else was considered as superstition.

Confucianism considered wealth as useful for the moral and the good life. There were written tracts about the usefulness of business. However, the economic politics (die Wirtschaftpolitik) did not create any capitalist business sentiment or character, keine kapitalistische Wirtschaftgesinnung (Weber GAR I 1988a: 514). Confucianism did not as Protestantism lead to a firmly rooted ethics as basis for a civil life methodology, eine bürgerlichen Lebensmethodik. However, this was from a sociological perspective the essential for the historical significance of Protestantism.

Protestantism created unintended Puritanism. As mentioned, John Wesley found in Puritanism a paradox between, on the one hand, piety and world rejection and, on the other hand, the virtues capacity for economic gain (Erwerbsvirtuosität) (Weber GAR I 1988a: 532 f). John Wesley recommended to be piteous – and this would inevitably lead to be rich, although the wealth was equally dangerous as it had been in the cloisters. For the Puritan, wealth was an *unintended side effect* of his piteous life.

In contrast, in Confucianism wealth in itself was considered as the most essential means to live a good life and therefore also to ameliorate a person's moral standard. It was only in this way possible to live in accordance with one's rank. Therefore, Confucius would not exclude the earning of money. On the other hand, it could disturb the dignified equilibrium of the soul. Therefore, it was banausic handicraft (Fachmenschentum). The distinguished person wanted not to be considered as a mere tool, a skilled worker, and a professional person (Fachmensch). The distinguished person was in his social conformity and personal perfection a final goal in himself and not a functional tool for other things.

Weber considers this as a key perspective in Confucianism which rejects a differentiated specialized professionalization of skills, skilled bureaucracy, and professional skilled education and not at least the economic education for profitable business. This is absolutely in contrast to Puritanism that emphasized the specialized factual aims in society and the professional life (Berufleben) as a venerable duty in itself. Therefore, in the end it is Weber's conclusion that Confucianism could not provide the personal spiritual and skilled dispositions which are necessary for a transformation into a rationalized capitalism of the Chinese society. Therefore, China had to wait many centuries for the foreign invasion of capitalism. Maybe it would even be possible to place the recent special form of Chinese-state capitalism in the Confucian tradition.

Hinduism, Eternal Reincarnation, and the Caste System: The Hindrances for the Development of Capitalism in India

Weber has dedicated a total volume of his *Sociology of Religion* to describe the significance of Hinduism as a hindrance for the development of capitalism in India. As with the case of Confucianism and China, the case of Hinduism and India is full of paradoxes. Weber's basic research question is still the same: Why could there not be developed a capitalism in India, when the material conditions as in China could seem to be much better than in Europe?

Weber describes India as a country that is and historically was a country mostly based on villages that gives the impression of a stable estate organization determined by birth (Weber GAR II 1988a: 1 ff). However, it was at the same time a country with both local and foreign trades, not at least with the Occident. In India, they had also made many scientific inventions such as the invention of the now used numerical system, which is used for all calculations. They developed scientific inventions, among others in mathematics and grammar. There were developed several philosophical schools and many different forms of religious sects. There was great religious tolerance and at least more than in the European Middle Ages. The Indian system of law had similar to the Occidental many characteristics that could have been useful for a capitalist development. The business community was as big as the Occidental in the Middle Ages. The Indian handicraft was developed with skilled specialization. There was a lively business activity, only a weak resistance against money, and wealth was high ranked. However, capitalism was not developed in the Indian period and not during the British domination. Capitalism as fully developed mode of production or economic system was imported from Britain.

It is on this background that Weber wants to understand in which way the Indian religions have been a hindrance to the invention of capitalism in India. In what follows, there will be focus on Hinduism which is the biggest and most influential religion in India.

The basic principle in Hinduism is karma, which means that the moral quality of a person's action determines in which caste he will be reborn in his next life. Therefore, the doctrine of karma is closely connected with the doctrine of reincarnation in one of the four castes. The first caste is the Brahmin caste, which are the theologians, scholars, and priests. The second caste is the Kshatriya, the rulers and warriors. The third caste is the Vaishya, the farmers, merchants, and artisans. The fourth caste is the Shudras, the laborers/service providers. In addition there is the Varna caste, which is the untouchable caste. This caste is not mentioned in the holy scriptures of Hinduism, and it is not part of traditional Hindu theology (Weber GAR II 1988a: 1 ff).

However, from a sociological perspective, the essential thing is that it is the rebirth and therefore also in the social reality the birth that determines which caste a person belongs to, because the person can only change caste in the rebirth. The social reality is therefore in a Hindu-dominated society that each person lives his life in his caste strictly separated from persons in others castes.

It follows from the religious idea of reincarnation that in principle, it is almost impossible to convert to Hinduism, for in which caste should that person be included? Therefore, Hinduism is in principle also a sect because the access to salvation, die Heilsgütern, is exclusively reserved for the people, who are born as Hindus. Contrary, Christianity and Islam are religions which in sociological sense are mass salvation institutions (Massen-Heilsanstalten). Religions are in principle all including with the possibility to exclude the included. Sects go the other way around (Weber GAR II 1988a: 6 ff). What is essential to remarks here is that the theological principles of reincarnation and the four castes are from a sociological perspective strong social exclusive principles, which in themselves are strong hindrances for social transformation. A caste can therefore also be cleaved by many reasons (Weber GAR II 1988a: 100 ff).

One reason could simply be that people move to another place. Another reason could be religious disagreements about professional and social life. This could be about rituals. It could be a change in social wealth which could have the consequence that a person wanted to follow the social habits of another caste. It could be the change in profession. It is only necessary with a small change in technique or more widely changes in technical skills. Such changes demand new religious changes. The central point is that all the common life is inscribed in religious rituals, which from a sociological perspective are exclusive. This is also the case with gender relations.

It is the caste divisions caused by economic reasons that interests Weber at most (Weber GAR II 1988a: 102 ff). Weber claims from a sociological perspective that strong caste divisions have their origin in the distinctions between different professions. These distinctions are not only based in the professions themselves but also in the interest to avoid competition between the members of a caste. The professional castes do not only have a strong traditionalism. They have also a strong ritual caste exclusivity with endogamy and commensality, which means that there are strict rules for who and how people can eat together, not only internal in the caste but also with members of higher and lower castes.

The conclusion is that in a Hindu-dominated society, every member of a caste is inscribed in a restrictive religious-based social order which includes everything in a person's life such as gender, food, family, and profession from birth to death – and according to the religion also through the reincarnation in the next life thereafter. It is on this background that the caste system appears as an extremely traditionalistic and absolutely anti-rationalistic religious system (Weber GAR II 1988a: 109 ff).

The reincarnation implies a normative system, in which the criterion is strictly to follow all religious prescribed norms in the caste and in that way from a religious perspective to get the possibility to advance and to be reborn in a higher caste. From a sociological perspective, this caste-based normative system is a strong hindrance for any social change and therefore also for the development of a form of capitalism. Therefore, according to Weber, it is not a single part of the caste system but the basic "spirit" in the caste system that hinders any change and development (Weber GAR II 1988a: 109 ff).

Therefore, it was the British colonial administration that imported capitalism and especially the factories into India. According to Weber, it would not have been possible to invent capitalism in India. The resistance against the factories was therefore also very big in India. Weber points out that after 100 years with capitalism, there was only 1/3% of the population occupied at the factories. There is no spirit of capitalism in Hinduism.

Final Perspectives

In his sociology of the world religions, Weber developed the surprising idea that business legitimacy is based in religions in the sense that modern capitalism could only have been invented and developed in the framework of Protestantism and especially in the framework of Calvinism and the other Swiss forms of Reformed Protestantism and the religious traditions they created later on, not at least in Britain and the USA. Weber's grip to focus on the religious and theological idea of predestination as the driving force for the creation of the business energy is also a fascinating and radical contra-intuitive invention which led to a totally new sociological perspective not only on Protestantism but also on other world religions' significance for the development of capitalism in China, India, and elsewhere. In this way, Weber created also a new understanding of the relation between religion, capitalism, economy, and society.

However, the question can be raised whether Weber's sociological understanding of the societal and historical significance of Protestantism for the development of capitalism is radical enough. Weber's understanding of the sociological significance of predestination for the development of capitalism is very productive. However, it can be claimed that the significance of Protestantism and more generally Christianity is much broader than what came to expression with the idea of predestination.

More generally, Christianity could have been credited much more than is the case in Weber's *Protestant Ethics*. Here should first of all be mentioned the historical constitution of the person as a free autonomous subject. This historical constitution is mediated through the religious constitution of the free autonomous subject directly in face of God. The religious free autonomous subject directly in face of God is from the beginning inherent in Christianity. The Christians had only one Lord, Jesus Christ, and therefore they could not worship the Roman emperor as was demanded of all Roman citizens. Therefore, the Christians were persecuted in the Roman Empire until Emperor Constantine's tolerance and later promotion of Christianity as the primary religion in the Roman Empire in the period 313–337. Finally, Christianity became with the Edict of Thessalonica, the Roman state religion in 380.

This historical period can from a historical philosophical perspective be considered as the beginning of the transformation of the religious principle of the free autonomous subject into a differentiated subjective, political, legal, and societal principle which should be the basic principle for the development of modern European culture and society.

The German Philosopher Hegel (1770–1831) stated in his *Philosophie des Recht*, *Philosophy of Right*, §185 that Christianity was the mediator between antiquity and modernity because Christianity was the basis for the historical constitution of the free autonomous subject (Hegel 1955, 1991). Hegel has the following condensed – and almost unreadable – historical philosophical formulation in §185:

"Das Prinzip der selbständigen in sich unendlichen Persönlichkeit des Einzelnen, der subjektiven Freiheit, das innerlich in der christlichen Religion und äußerlich, daher mit der abstrakten Allgemeinheit verknüpft, in der römischen Welt aufgegangen ist." An English translation could be: The principle of the self-sufficient and inherently infinite personality of the individual, which is the principle of subjective freedom, arose in an inward form in the Christian religion and in an external abstract general form in the Roman world.

For Hegel, the constitution of the subjective freedom was the break with antiquity and the beginning of modernity. Christianity was the Weichensteller for this historical transformation.

It was also shortly after Emperor Constantine's reign that Agustin brought the radical subjectivity on theological, philosophical, and literal form. In this context should especially be mentioned Augustine's *Confessions* (Augustinus 1977), finished 397–400. Therefore, in the Hegelian spirit, it could be a concise determination of modernity to say that modernity takes its beginning in the year 400, when Augustine finished his *Confessions*. It is not certain that all historians would sign this determination. However, Hegel and maybe also Weber would confirm this determination of modernity. Weber's alternative would be the day when Martin Luther posted his *Ninety-five Theses* on the doors of All Saints' Church in Wittenberg 31 October 1517. This day in normally mentioned as the beginning of the Protestant Reformation.

Augustine's concept of subjectivity is radicalized in the Protestant reformations in the sense that any ecclesial mediation in the Medieval Catholic Church between the subject and God is swept away. Weber's Protestant Ethics is concerned with the subject which must find its salvation in the light of Augustine's and Calvin's theological idea of predestination.

However, from a historical, political, philosophical, and sociological perspective, the same radical subjectivity in Protestantism has also played a determinate role for the formation of the bourgeoisie as a class and a driving revolutionary political force in civil society, which led to the creation of modern political institutions with parliament and a new legal system. This is first of all the case in Britain and the USA. It was a long civil war between Protestants and Catholics that finally created constitutional monarchy, parliamentarianism, and basic civil rights with the Glorious Revolution in England in 1689. These radical political and legal changes were basic preconditions for the creation of capitalism in England in the eighteenth century. It is in this context also that philosophers with Protestant background such as Thomas Hobbes (1588–1679), John Locke (1632–1704), and later on Adam Smith (1723–1790) developed the adequate liberal political, legal, and economic theories for the political, social, and economic transformation. Therefore, Protestantism has also in a broader sense contributed as an essential Weichensteller for these historical changes. However, this has not been considered in the framework of Weber's *Sociology of Religion* – although it would have been possible.

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Guilt, Responsibility, and Leadership

8

Camilla Sløk

Contents

Abstract

The world is a troubling place. Since Old Testament, we have heard the prophecies of corruption, spiritually, bodily, and/or societal. And since then, social technologies have been developed to form boarders for human behavior have been made. According to Friedrich Nietzsche and Sigmund Freud, one of the most powerful social technologies have been "guilt." Through the labelling of "guilt" as a mutual binding between two or more persons, we try to enforce responsibility and duty on and for each other, still knowing in the back of our heads, that this might actually not happen. Failed responsibility leads to guilt, or at least the surrounding's expectation of some kind of expression of guilt. This chapter looks into the three different ways of understanding guilt and responsibility in relation to leadership. First, the paper dives into contemporary understanding of leadership, it is puzzling that none of the contemporary literature in this field deals with the possibility of leaders being guilty. In contemporary society, we reject on the one side guilt when individuals in organizations openly blame themselves for wrongdoing, since we claim that any act of an organization is too complex to be reduced to one person. On the other side we call for guilt,

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when responsible individuals overtly fail to express regret of their doing, though they were in fact accountable, both in position and in act. In conclusion, we are in contemporary times uncertain of how to understand guilt. But what does that do to responsibility?

Secondly, the chapter shows how the only research field that deals with the leader as guilty is in the field of psychopathy. Here, we find that a leader with psychopathic traits fall short of any sense of guilt. However, this does not inform us how ordinary leaders may actually experience guilt if not psychopaths? Thirdly, the chapter presents how the historical Protestant understanding of "guilt" as part of human nature, and how this worldview has been left all together, leaving us on the one hand with leaders as possible psychopathic when lacking guilt and on the other side ordinary leaders as incapable of expressing guilt in a contemporary Post-Christian culture that has no common understanding what guilt would possibly mean.

Keywords

Guilt · Responsibility · Psychopathy · Theology

Introduction

The branding of "guilt" as irrelevant for a modern society started with Sigmund Freud in his book *Civilization and its Discontents* (1931). Sigmund Freud looks at the cultural impact of sin and states that its role is to socialize human beings through "guilt." Freud (1931) states that his purpose is "to represent the sense of guilt as the most important problem in the development of civilization and to show that the price we pay for our advance in civilization is a loss of happiness through the heightening of the sense of guilt" (p.134). Ever since, guilt has had a hard time in psychology and psychiatry. On the other side we call for guilt, when responsible individuals overtly fail to express regret of their doing, though they were in fact accountable, both in position and in act. In conclusion, we are in contemporary times uncertain of how to understand guilt. But what does that do to responsibility?

Structure of the Chapter

In the first section, the chapter defines how the literature on transformational leadership primarily views leadership in positive terms. While Bass and Riggio leaves some room for leaders who fail in their leadership, labelling this "the pseudo-transformational leadership," they do not ascribe any possibility for the real leader to fail, i.e., become guilty when things fail. This leaves lack of responsibility or failure in responsibility totally ignored.

In the second section, the chapter analyzes how the critical literature on leadership labels this "seduction" or more often "psychopathic." The object of focus for psychopathy in leadership is lack of responsibility. Among the many characteristics of failed leadership, lack of responsibility and lack of feeling of guilt is paramount. The chapter shows how the literature on psychopathic leadership indirectly turns "feeling of guilt" into an ordinary expectation. This is noticeable, since most of contemporary psychology literature attempts to make guilt go away.

In the third section, the chapter presents the theological notion of guilt. Guilt is ontological; however, the social side of guilt is intrinsic: Guilt is part of relationships with others. The chapter looks at the theological concept of guilt when connected to responsibility. After this, the chapter views the concept of responsibility and guilt in the light of John Keynes' ideas of a common responsibility for restoration of war. Keynes argued for a common understanding of responsibility after war, i.e., that it was not only the losing party that should pay war reparations, but the winning party would also have obligations to take care of the living standard of the losing party. Finally, the chapter analyzes how gift economy by Marcel Mauss sees responsibility and guilt as restrained, containing the possibility of leaving the relationship, and thus the responsibility.

The fourth section sums up the aim of the chapter, i.e., how to understand what (1) responsibility is, (2) what responsibility is not, and (3) what the failure of responsibility means.

Section 1: Leadership with No Guilt

Burns was the first to define leadership in the way we know it today, i.e., as a relationship between leaders and followers (Burns 1998, 133). Viewing leadership as relational meant a new approach to seeing the leader as dependent on the followers: not as holding power only due to formal authority (Weber 1978). Bernard Bass took Burns' ideas to another level in his book (1985) *Leadership and Performance beyond Expectations* which was dedicated to Burns. Bass here defined leadership as relational since he stated: "charisma is in the eye of the beholder" (1985, s.40; Bass og Stogdill 1990a, s.193). From now, leadership would never again be only referring to one's position as leader. The understanding of leadership was turned into an intimate relationship between leader and followers. The characteristics of a genuine leader emphasizes this: The good transformational leader is (1) charismatic, (2) intellectually inspiring, (3) motivating, and (4) shows individual consideration (Bass 1990a; Bass and Riggio 2006).

Jackson (2008, s.792) has summed up the quintessence of transformational leadership like this:

> Transformational leadership is the process whereby a leaders fosters group or organizational performance beyond expectation by virtue of the strong emotional attachment with his or her followers combined with the collective commitment to a higher moral cause.

Bass and his impact on leadership literature has been immense (see Leithwood, e.g., Leithwood 1996/2003; 2005; 2006a, b, 2008a, b). Though Burns is said to initially distinguish between transactional and transformational leadership, Bass wanted to draw to the fore is the transformational leader who motivates us to do more than we originally expected to do (Bass 1985, 20); this is the "good" transformational leader. Bass and Riggio are first of all interested in this type of leadership. However, Bass and Riggio depict two other types of leaders in order to emphasize the great leader:

Category 1: The disinterested transactional leader.
Category 2: The selfish, destructive transformational leader or power wielder.

Bass moves from the disinterested transactional type of leadership (category 1) to the difference between the good type and the poor type (category 2). How to detect the disinterested (category 1) or the selfish (category 2) is left to the organizations who have to deal with the consequences of "leadership gone wrong." It is noticeable that the good leader simply does not fail. There is no reflection what so ever in their presentation of the transformational leader on good leaders that fall guilty, whether by pure chance or because they believed they were doing the right thing, but later found that others thought they had done wrong.

The lack of nuances in transformational leadership has led other researchers to intense studies on exactly this subject: What if leadership actually make for all the wrong decisions in organizations as well as political life? In critical management studies and psychological studies, e.g., we find that Zaleznik (1977) differentiates between psychologically "healthy" and "unhealthy" leaders. Howell (1988) preferred to differentiate between socialized and personalized leaders. Bass (1985) contrasted authentic with inauthentic or pseudotransformational leaders (see also Bass and Riggio 2006), but without leaving room for good leaders to fail.

The distinction between good leadership on the one hand and 'dangerous leadership' on the other, is often reconfigured as the Hitler problem. In other words, was Hitler a transformational leader? For Burns, leadership had to be morally uplifting, which is why Hitler could not have been a true leader. Bass initially considered transformation to be any fundamental social change without regard to moral values. However, he later (e.g., Bass and Steidlmeier 1999) stated that leadership should be reserved for the forces of good, and the other terms like tyrant and despot should serve as descriptors for other normative behaviors. In the end, Bass coined the concept pseudotransformational, bringing Burns and Bass into alignment concerning a long-standing conundrum: Hitler was not a transformational leader (Burns and Sorenson 2006, vii–viii). This, of course, generates a problem. It appears to be the ethical background of the analyst, rather than the analyzed, that decides whether a leader ends up in the transformational or pseudotransformational camp (see also Bass and Riggio 2006, 235).

This, of course, is an analytical nightmare. There are plenty of allegedly egalitarian leaders who are self-serving because the interests of the collective and the leader are construed as equivalent. And if socialized leaders use established channels then woe betide the socialized leader of a marginalized group without access to established channels. Indeed, the whole point of Weber's seminal work on charisma was precisely the opposite of the assumption that charismatics use the established institutional procedures and noncharismatics do not (see, e.g., du Gay 2000).

The same issue occurs when they discuss transformational leadership, as the feature of transformational leadership that most often best distinguishes authentic from inauthentic leaders is individualized consideration. The authentic transformational leader is truly concerned with the desires and needs of followers and cares about their individual development. Followers are treated as ends not just means (Bass and Riggio 2006, 14), which is why authenticity does not appears to relate to being true to oneself but to be concerned for others. But one could easily configure a leader who has precisely this concern while simultaneously considered as immoral by those who are not followers. Both arguments are examples of the no-true-Scotsman logical fallacy – the ad hoc defense of an unreasoned argument: since leadership is essentially good, any leader who is perceived as being destructive to the greater good by antagonists cannot be a leader.

Bass and Riggio, however, have a get-out-of-jail-free card: "It is important to note that for most leaders it is not clear-cut. Being personalized or socialized is usually a matter of degree, being more or less selfless in one's actions" (2006, 13). In sum, the whole edifice that separates good from bad, personalized from socialized, altruistic from authoritarian, is simply a matter of subjective interpretation. Boring or mundane leadership turns out to be transactional and wicked power wielders carry out dangerous leadership; in other words, they seduce their followers. Bass calls them power wielders, which allows him to claim that leadership is always good (and that poor leaders are actually not leaders).

Calas and Smircich's (1991) even labelled leadership that has gone wrong as "seduction." In their paper "Voicing seduction to silence leadership," Calas and Smircich considers the way leadership – at least on the surface – has nothing to do with seduction; indeed their review of the literature implies that traditional authors perceive leadership as being the opposite of seduction but are actually able to conceal this relationship. Consequently, leadership is perceived as necessarily upright, noble, and just, but it only manages to achieve this by a sleight of hand that camouflages the necessary seduction of followers (1991, 569). Calas and Smircich propose that seduction, rather than leadership, is the dominant theme and that since leadership requires seduction, and seduction is necessarily negative, leadership bears the mark of seduction, rather like the mark of Cain: it is essentially negative and, as they state, "[a]s a form of seduction, there is nothing profound about leadership" (1991, 568). They show the juxtaposition of leadership and seduction by analyzing the sexualized, seductive effects of organizational writings, and note the poor reputation of seduction in relation to leadership (1991, 573). In effect, while researchers taking a traditional approach to leadership see it through rose-tinted glasses, where it is essentially positive, critical theorists see it through cataracts, where it is essentially negative. Researchers like Tourish (2013) and Kark (Kark and Chen 2003) has provided a coruscating critique of the dark side of transformational leadership in its potentially debilitating effects on followers. As Joanna Ciulla has pointed out (2013) there is a sad division between social sciences on the one side, and ethics of leadership on the other (see also Blodgett 1 2011; Rössner 2015). Thus, while the likes of Burns, Bass, and Zaleznik constitute leadership as necessarily productive and ethically sound (what Collinson calls "Prozac leadership" (Collinson

2012)), their opponents in the critical management school tend to suggest that leadership is equally inevitably associated with coercion and unethical authority.

Another category for leadership gone wrong is pathological, rather, psychopathy. The amount of literature on psychopath leaders in impressive. Particularly when we consider how few beings are actually psychopaths according to the statistics. In the following, the paper will describe this particular definition of leadership. After this section, the paper will investigate whether the theological definition of "guilt" is relevant for leadership gone wrong, rather than "psychopathy."

Section 2: Lack of Guilt as Psychopathy

This section describes the discussions on psychopathy in general, and its implications when brought into leadership. This category of "the psychopath leader" has become one, if not the only way, for leadership to deal legitimately with guilt as lack of responsibility. That is, lack of guilt becomes a pathological symptom. However, this is interesting since most of the twentieth and twenty-first century debates were branding "guilt" as completely irrelevant for a modern person. The psychiatrist Elliott puts it like this:

> "It is ironic, that psychiatry, which expends *so* much effort on the patient who feels guilty when most *af* us think he should not, should find itself occupied with the psychopath, who feels no guilt when most *af* us think he should". (Elliott 1991, s. 89) (from Pethman and Erlandson 1997)

The quote shows the modern dilemma on guilt/not guilt. Nobody wants to openly express that others should be guilty. At least, psychology and psychiatry have done a great effort to liberate us all from such negative emotions. At the same time, what to do when people act deliberately mean towards others, or by their actions do harm, mentally, physically, financially towards others? We expect that the harm-doing person express some kind of remorse. Since leaders have enormous impact on others, why would not these leaders also once in a while find themselves in situations of having done wrong? Leadership literature in general does not help in these situations. On the contrary, Bass and Riggio ignores that the good leader can fail. These situations are straight-forward not existing in transformational leadership. What is left for the leaders and the surroundings is either to label failing leaders as "pseudo-transformational" or "inauthentic". Another possibility when referring to contemporary literature is to view the leader as psychopath. The following describes the development of this category of the "psychopath leader."

The History of Psychopathy

The concept of "psychopathy" rests in a new approach to criminals in the late eighteenth century. A debate started in the field of medicine and law whether some are "born criminals" (Holmes 1991, 78) when a medical doctor Benjamin Rush published his book "Lectures on the mind," in 1793 (http://history.house.gov/

People/Detail/20719), taking the hitherto philosophical discussion on "evil" into a medical arena. To Rush, a "total absence of conscience" was a disease in the brain: an anomia (see Holmes 1991, p.77). From here three different strands of understanding of psychopathy as biological disorder took over (Werlinder 1978, see also Jensen 1978 and Whitlock 1987, p.653).

The three strands were the following in Europe and in the Anglo-Saxon world: (1) around 1800 as affective disorders in mental illness, by the physician, Prichard, who developed his idea from Pinell, and described "moral insanity" as "madness consisting in a morbid perversion of the natural feelings, affections, inclinations, temper, habits, moral dispositions, and natural impulses, without any remarkable disorder or defect of the interest or knowing and reasoning faculties, and particularly without any insane illusion or hallucinations" (1835) (On Prichard: https://en.wikipedia.org/wiki/Moral_insanity).

(2) Around 1860 Morel's idea of degeneration in a medical field started to take over the debate, defining psychopathy as a biological, hereditary aspects of psychiatric disorder included.

(3) The Anglo-Saxon medical scene, of American origin, discussed psychopathy as a syndrome characterized by inadequate control of impulses (https://core.ac.uk/download/pdf/3639469.pdf). The characteristics of the latter defined disease was, e.g., remorselessness, egoism, aggressiveness, etc.

The features of psychopathy were viewed as "lack of conscience, remorse and guilt." For example, Cesare Lombroso (1835–1909), the father of criminal anthropology portrays the psychopath as "devoid of any sense of personal moral responsibility, and of the commonly associated emotions such as remorse and empathy" (Holmes 1991). Such a person is not predestined to commit crimes, but is simply having a mental flaw.

Eventually, the medical discussions had impact on law making and court decisions. Now, instead of viewing "wrongdoings" (crimes) as something that some people decide by free will to do, the debate focused on whether a biological determination might actually be the condition for some persons turning into criminals and while some persons did not. Holmes himself being a medical doctor summarizes the debate in medical, biological, ethical, legal, and moral fields; however, all of these fields discussing psychopathy were conflated, when medical and legal authorities collaborated on the American "Act of 1913," turning psychopathy into an objective parameter for court decision (Holmes 1991, p.77f).

Psychiatrist Herley Cleckley in 1941 wrote about observe patients who lacked remorse and empathy, and hereby clinically describing psychopathy (Fritzon et al. 2020). Later Robert Hare was to influence the field of psychopathy and law indeed (Fritzon et al. 2020).

Robert Hare's Influence on Contemporary American Debates on Psychopathy

Robert Hare (1970, 1985and 1991) continued Cleckley's work and he made the discussion on psychopathy a general and practical issue. Hare formulated "Hare's Psychopathy Checklist."

Hare defined psychopathy as: impulsivity, thrill-seeking, low empathy, and anxiety. Those that present a psychopathic trait seek immediate gratification of their needs, lack guilt and conscience, being less prone to experience embarrassment, and failing to learn from punishment for misdeeds (Hare 1985).

Robert Hare initially studied prisoner, but according to Boddy 2011 (p. 256), "Hare would look for psychopaths in stock exchanges, if he did not already had his topic, psychopathy and prisoners." Boddy says: "Recent newspaper headlines such as 'Wall Street Shows No Remorse' do nothing to suggest that his viewpoint is incorrect."

Paulhus and Williams write that Hare's Psychopathy Check List is viewed as "the gold standard in the measurement of psychopathy" (Paulhus and Williams 2002, p.557). Recent research by Williams and Paulhus (2002) confirmed that the SRP has the same four-factor solution as the Psychopathy Check List.

Considering the development within American court on the use of the Hare's checklist (the PCL-R) (Walsh and Walsh 2006), Walsh and Walsh's review of the Westlaw legal database shows that evidentiary introduction of PCL-R assessed psychopathy has increased considerably across state and federal jurisdictions (Walsh and Walsh 2006, page 493). Robert D. Hare had already predicted in his paper in 1996 "Psychopathy: A Clinical Construct Whose Time has Come" (The debate was not only a disciplinary debate. It was also a cultural debate between Europe and the US, ending with American medical research community holding the discussion the definition of psychopathy (Werlinder (1978), while the European medical debate on psychopathy refrained from this field.).

Though "psychopathy" today, particularly in an American law context, is a legal category, critique is still going on about the adequacy of this category. Pethman and Erlandsson (1997) pointed out, the question is scientifically and conceptually whether the concept of psychopathy is necessarily a clinical or categorical one. For example, Elliott (1991) and Holmes (1991) who state "that we should cease thinking of psychopathy as a category of psychiatric diagnosis, and think of it instead as a category of moral evaluation" (Elliott 1991 p.89). Also Harris et al. (2001, p.200) point to the lack of scientific adequacy: "<. . .> scholars still disagree somewhat about the fundamental properties of psychopathy" (2001, p.200). However, they continue writing that brain research has pointed to that psychopaths "have brain function abnormalities in the ventro-lateral, orbito-frontal cortex, and amygdala" (Blair 2001; Blair and Cipolotti 2000; Dolan 2008; Howard and Mccullagh 2007; Kiehl et al. 2004).

Recently the philosophers Hirstein et al. (2018) have investigated the field of neuroscience from a philosophical point of view, with a particular focus on "responsibility" and the effect of turning wrong behavior into brain defect, thereby diminishing the question of responsibility. The authors argue convincingly that from a point of view of agency, people suffering from the brain deficiency of psychopathic features are still to be held accountable, with reference to the brain's capacity to plan and execute actions. Or to state it in other words: Brain deficiency does not withdraw responsibility from the agency of the person in question. Fritzon et al. (2020) as well challenge the way we understand psychopathy, when it comes to successful corporate managers. If we define psychopathy as “antisocial, criminal and predatory behavior,” how come that what we define as creative, visionary, and inspiring leaders also consists psychopathic traits, when measured in contemporary measure technologies? (Brooks et Fritzon 2020, p.)

They focus on the nature, behaviors, and consequences of psychopathy in executives and across the organization, offering an important contribution to the emerging body of research on psychopathy and other problematic personality constructs in the workplace.

The characteristics of psychopathy are still debated; however, lack of feelings of guilt is recurrent characteristics. Holmes states this the following way:

In fact, ”inability to experience guilt” has long been regarded by some researchers such as Maher (33) and the McCords (45) as the major single characteristic of psychopaths. Davies and Feldman (46) found that British psychiatrists demonstrated greater agreement over this than over any other of 22 key diagnostic signs, and in 1982, McCord (47) concluded after a lifetime of research that many conditions hitherto associated with psychopathy should be regarded as distinct and separate, and that once these are excised we should consider the true psychopath to be characterized by a lack or absence of conscience. Reid comes to a similar conclusion. (1991, 80). Also, in contemporary psychiatry, lack of guilt is a recurring feature of psychopathy. Thijssen and Kiehl (2017) write: “Psychopathy is a serious mental health disorder characterized by interpersonal, affective and behavioral traits such as lack of guilt and remorse, glibness, and impulsivity (Hare 2003).” We notice that once again Hare is referenced. Nübold et al. (2017), also referencing Hare, identify “guilt” as a main feature of psychopathy: “Those that present a psychopathic trait seek immediate gratification of their needs, lack guilt and conscience, being less prone to experience embarrassment and failing to learn from punishment for misdeeds (Hare 1985) (p.293).

Psychopathy in Leadership Literature

The emergence of psychopathy discussions in leadership literature takes place around the same time as Robert Hare’s list becomes well-known, leading to a far range of researchers commenting and referencing Hare (e.g., Thijssen and Kiehl 2017, Nübold et al. 2017; Boddy et al. 2011). Studies of the psychopathic personality has primarily been related to the criminal justice system and clinical assessment and treatment. Understanding psychopathic traits outside of a forensic context took off in beginning of the twenty-first century (e.g., Mullins-Nelson et al. 2006; Neumann and Hare 2008), and organizations (e.g., Babiak 1995; Babiak and Hare 2006). One of the main interest of this nonlegal approach to psychopathy was to define the “successful psychopath,” who would not necessarily get in contact with the legal system, but, however, still persist such psychopathic traits that he or she still could do harm to his or her surroundings. Also, Holmes were interested in successful psychopaths, who are not imprisoned, but succeeding in ordinary life (Holmes 79).

For leadership literature, the array of analyses of “psychopath leaders” has been huge: Not least after the financial crisis of 2008 and the common global reflections on what had gone wrong. The literature on “the leader is a psychopath” took its offspring when researchers started to study “dark” management as a subject of management research (Allio 2007; Batra 2007; Boddy 2006). Clements and Washbrush (1999) wrote: “Commentators are no longer willing to assume that all managers are working selflessly and entirely for the benefit of the organization.”

Boddy took this discussion a step further in Journal of Business Ethics, when Clive Boddy et al. (2011) in his paper “The Corporate Psychopaths Theory of the Global Financial Crisis” argued that psychopaths working in particularly financial corporations were causing the financial crisis. The subject of dysfunctional corporate management has become a topic of academic research and interest because it is increasingly recognized that dysfunctional and/or immoral leaders may cause harm to stakeholders (Allio 2007; Ferrari 2006; Lubit 2002). Within management psychology, it is widely recognized that leaders with personality disorders can have negative effects on employees and environment by means of the impact of their behavior of others in the organization (Goldman 2006; Siegel 1973, p.201). Boddy presented the idea that a particular type of leader, stating about these corporate psychopaths that: “In watching these events unfold often appears that the senior directors involved walk away with a clean conscience and huge amounts money. Further, they seem to be unaffected by corporate collapses they have created. They present themselves as glibly unbothered by the chaos around them, unconcerned about those who have lost their jobs, savings, and investments, and as lacking regrets about what they have done. They cheerfully lie about their involvement in events are very persuasive in blaming others for what has happened have no doubts about their own continued worth and value” (Boddy 2011, 256).

However, Clive R. Boddy, Richard K. Ladyshewsky, and Peter Galvin, authors of “The Influence of Corporate Psychopaths on Corporate Social Responsibility and Organizational Commitment to Employees” (Boddy et al. 2011) argued that the term “psychopathy” falls short off properly describing the problem we identify as “psychopathy.” Also Alasdair, Baden, and Guidi (2012) argue against the theory that corporate psychopathy played a significant role in causing the global financial crisis. They claim that Boddy paints a reductionist picture of what we present as the broader issue. They rather see this “psychopathic behavior” as a broader part of narcissism and Machiavellianism which engage with structures within global financial institutions. They argue that a “co-intensification” of psychopathy, narcissism, and Machiavellianism across society and in corporations calls for an ethical approach. That is, an ethical revival of prudence within prudential regulation should be an intrinsic composite of solutions. Due to the role of language in framing thoughts and behaviors, they recommend that prudence is explicitly and normatively put forward. According to his corporate psychopathy theory, such behaviors as manipulative and exploitative leadership behaviors, geared towards short-term self-aggrandizement are increasingly present at the highest echelons of financial élites. This means that the ethical and moral discussions of psychopathy vanish in favor of ethical discussions.

The Dark Triad Replacing the Psychopath Leaders

Together with psychopathy in leadership literature, we find the attention towards the so-called The Dark Triad as a constellation of undesirable personality traits, i.e., Machiavellianism, narcissism, and Psychopathy (see Savard et al. 2017; Jonason et al. 2018; Tourish 2013; Nübold et al. 2017: Spain et al. 2014; Morf and Rhodewalt 2001; (Christie and Geis 1970; Jones and Paulhus 2014). The question on what is the difference between narcissism, Machiavellianism, and psychopathy was discussed already in 1998 by McHoskey, Worzel, and Szyarto, who claimed that the three are more or less interchangeable in most samples. However, Delroy L. Paulhus and Williams have argued that there is enough behavioral, personality, and cognitive differences between the three to distinguish them as different (Paulhus and Williams 2002). This has since then been disputed, e.g., Persson et al. (2017).

The discussion on the Dark Triad seems to have gradually taken over the former discussion on psychopathy alone. For example, we find in Web of Science in the search of Dark Triad a development from 60 papers in 2013 to 280 papers in 2019 (Nübold et al. 2017), while the amount of papers on psychopath∗ and leader∗ has not proliferated the same way. We see this explicitly in the following table:

Year	Number of papers consisting of Boolean operators: dark∗ AND triad∗	Number of papers consisting of Boolean operators: psychopath∗ AND leader∗
2019	280	28
2018	228	30
2017	179	13
2016	167	31
2015	135	27
2014	82	13
2013	60	13
2012	34	11
2011	24	8
2010	23	7

It appears as if this concept “Dark Triad” has taken over the attention with regard to the dark side of human nature, and leaving psychopathy more unattended. While the Dark Triad seems to have replaced the concept of the psychopath leader, there is still no positive concept of guilt or how to perform guilt as a manager.

Section 3: A Theological Notion of Guilt

Guilt is semantically intertwined in the fields of law, moral, religion, and economy. For example, in Old English is said to mean “crime, defect, failure of duty, sin” (Online Etymology Dictionary: guilt). All of these words connect to economy, law, moral, and religion. It might actually be the case that it is guilt that makes Western society produce capitalism in the form Weber understood it in “The Protestant ethics and the spirit of society,” though Weber does not explicitly mention guilt as function in his definition of providence. However, as we will see in the following section, "guilt" is the intrinsic question when it comes to Luther's (and Calvin's) theological reflections on the role of providence. It is exactly "responsibility and guilt" that is the essential focus point in Luther's critique of Erasmus' stance on the free will. Luther critiques Erasmus for claiming that we are free to choose between good and bad. Luther says that this can't be right: What is then the role of God? A free person who is responsible for all of his own actions do not need a God to turn to. He is his own God. Therefore, Luther says, guilt must be part of our *ontological* state as a fundament for all relationships. We owe others ourselves. Our responsibility towards others is therefore deeply embedded in the guilt we have to others; and they to us.

When we look at the social side of "guilt," Smith (1978) refers "guild" to be related to the Teutonic "geld" which means "to pay." Smith's focus point is Oxford English Dictionary's definition on guild as a brotherhood where the members promises mutual aid and protection of its member (206). This means that "guilt" is first of all a social glue in between brothers of a guild. If we look at the Christian epistemology, guilt is first of all related to *sin*. Sin, according to Schröder (1929) belongs to a chain of words such as "truth – being guilty – sin" (Schröder 1929, p.108). Schröder emphasizes that there is no one original meaning of the old Nordic word "synd" (see also Müller, Christliche Lehre von der Sünde: 1839–44, S.747ff). The wording of "sin" in a German and Nordic context arises from the meaning of the Latin word: sons-sontis which is etymologically in the same family as ens: Being (German: sein) (Schröder 112). The Christian meaning of sin as negative comes from the Latin translation in the so-called Septuagenta of the Greek original texts in medieval times. The Greek word for sin is "hamartia" and in biblical Hebrev chata'a. The meaning of the two words is "missing the goal," or "mistake," both in a literal and metaphorical meaning (Wikipedia: Sünde). When Greek stopped being an international language around 400 A.D., Latin took over as the international language across the various countries involved in and by the Roman Empire. In medieval time, Latin was the main international language, and any scholarly educated as well as any power holder in position would speak Latin besides another language. Latin was a lived language.

It the reformation, Martin Luther (1483–1546) takes "sin" from (1) its original Greek understanding of "mistake" and (2) the Latin meaning of being. Luther had read St Paul's letter to the Romans, particularly Chap. 7, which states that it is the law that creates the sin. In this chapter, St Paul reflects over the paradox of law, that when "law" makes something forbidden, it at the same time constructs the object. This makes law a device that points to the human incapacity of being perfect. Thus, the law at the same time (1) asks for perfection and (2) creates the case of nonperfection. Luther uses St Paul's reflection to his own theology on sin. Luther wants to point to the radicalness of sin, i.e., of being. When failing in life becomes part of being, what the human being requires is grace. Without sin, no grace. And without sin, no need of God. Such is Luther's reckoning. Luther writes his theology as a response to Erasmus of Rotterdam (1466–1546). Erasmus and Martin Luther had a dispute in the year 1524, when Erasmus wrote: "On the free will" (De Libero Arbitrio), and 1525, when Luther wrote: "On the bondage of the will" (De Servo Arbitrio). The dispute in question was about whether the human being is born essentially (1) good by nature or (2) evil by nature. Erasmus sees the human being as good by nature and therefore responsible himself/herself to his actions. It is possible to choose between good and evil. Erasmus' view on human nature inspired for the so-called humanism, among which we see spokesmen as Jacques Rousseau. Martin Luther on the contrary explains in this book "De Servo Arbitrio" as part of human nature. Luther defends the viewpoint that the human being cannot in and by itself choose to do good. If that was the case, God's will would be obsolete. Only God has *liberum arbitrium*.

In a Lutheran context, justification of all human sins has been done through the death of Jesus Christ on the cross (The Heideberg Disputation). This means that all human errors have now been made obsolete by God. Not only has the understanding of "guilt" been debated within theology, but also in twentieth century, economic discussions on war reparation do we find debates on "guilt" in the aftermath of war. Such discussions are present at the Versailles Treaty, particularly as represented by Keynes and Marcel Mauss.

J.F. Keynes and Marcel Mauss on Responsibility and Bondage

J.F. Keynes' famous text "The economic consequences of the peace" from 1919 deals with responsibility and guilt with regard to war reparations. Keynes' main point was that "guilt" in war concerns both the defeated as well as the victor. Keynes' claim was that the negotiations on WW1 should lead to eliminate Inter-Allied indebtedness (Carabelli and Cedrini 1995 and Carabelli and Cedrini 2013). This implied the USA' giving up upon the Great Britain's war expenses to the USA (Carabelli and Cedrini 1995). If the Americans were to give up on the money GB owed the USA, GB would give up upon the money Germany owed them in war reparation. Such a logic would help GB and Germany have an economy that would allow them to buy ordinary goods for repairing of houses, streets, infrastructure, etc. from the USA.

Keynes labelled this "the shared responsibilities' plan." It was a gift with the risk of generosity: risking that the intended increase in peaceful economic exchange would not take place, instead of the ordinary risk of meanness; asking the looser to have one expenses paid by the other and thereby closing the others' possibility of advancing (Carabelli and Cedrini 1995). Washington refused to take the risk of generosity, Keynes said: "by reason of their strong desire to clear out of European responsibility without however realizing what this will mean to Europe" (Carabelli and Cedrini 1995).

When viewing the WW2 in light of Keynes' fears, it seems obvious that the conditions of poverty of the German nation in the 1920s and 1930s has been part of the reason for Hitler's national socialism to take over the country, entering the WW2. The lack of a common responsibility and placing the guilt on Germany for WW1 had severe consequences for all of Europe and Russia, leading to WW2.

Marcel Mauss are in line with Keynes, but with an anthropological approach on WW1 when it comes to discussing responsibility and guilt. On the one side, any individual or nation is born with a social debt that they need to pay back in order to maintain their existence. These social debts are both broader and more restricted than economic debts. Broader in the sense that these kinds of debts need not to be explicated in legal contracts. On the other side, these social debts are more limited, since they can be cancelled when considered odious debts. This means that debts can be forced upon the individual, and in that case, a debt should be dealt with as if both parties had debated the conditions of the contract in total freedom. This means that the solidarist (and Maussian) understanding of debt presupposes freedom.

Keynes' understanding of generosity towards the defeated rings true to a Lutheran understanding of grace. However, Mauss' understanding that social bonds can be cancelled if these are too restrictive or maybe even wrong, is in opposition to Luther's notion of sin as intrinsic part of human life. A Lutheran understanding takes social bondages, since embedded in a theological cosmology, to be unavoidable and uncancellable.

Section 4: Concluding Remarks

In this section, the chapter sums up what responsibility and guilt is in (1) leadership, (2) psychopathy, and (3) Lutheranism. It is seen how transformational leadership focuses on all the great deeds of wonderful leaders. It is noticeable how there is room for failures, whether deliberate (e.g., to one's own advantage) or undeliberate (e.g., not-intended but still happening), if you are a great leader. Or to put it another way: Great leaders are recognized by not failing.

While leadership literature leaves little room for nuances, critical management studies and literature on psychopathy can deal with situations of leadership that do not succeed. To critical management studies, leadership as such is under suspicion (Lopdrup-Hjorth and du Gay 2019). To the psychopathy literature in leadership, lack of feelings of guilt seems obvious. At the same time, we also find some uncertainty within the literature on whether "psychopathy" is the right category for leaders that do wrong.

While "the psychopath leader" seems epistemologically to have replaced the former understanding of guilt in leadership, there is still no consensus whether psychopathy is the right category for all the things that can go wrong for and due to leaders in organization. Particularly, when we consider the statistics of only 1% of corporate leaders being psychopaths in a clinical sense. What to do with the rest of leaders who still fail?

Historically we see a shift from an ontological understanding of human nature of wrongness (theological sin and guilt) to wrongness being a medical question (psychiatric disease). That a shift from a Protestant (Lutheran) understanding of leadership where responsibility and guilt has taken place is obvious to anyone concerned with the epistemology of leadership, as well as modern anthropology. What does all this mean for responsibility in leadership? If neither Bernard Bass' influential theory on transformational leadership nor "psychopath leadership" literature explains the phenomenon of the common expectations of remorse when the leader has failed, or an outdated theological understanding of guilt as present all over and in all relationships. Historically, i.e., in Protestantism, "responsibility" was viewed as a dichotomy between responsibility AND guilt. Today, "guilt" has a negative branding, leaving responsibility solely positive, and the psychopath an innocent patient due to a brain deficiency.

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Part III

Business Legitimacy from the Point of View of Religion and Theology

Business Legitimacy, Modernity, and Organizational Systems: Corporate Spirit, Esprit De Corps, and Corpus Spiritus Throughout History

9

Gorm Harste

Contents

Abstract

Organizational reforms often require transformations in motivations. However, often we see old wine in new bottles. Organization studies seem to have ignored the long path dependencies of previous transformations in the ethics of work, cooperation, and organizational communication. In the form of an archeology of the conceptual and semantic layers, the chapter passes from the idea of *corporate spirit* and capitalist work ethics to the analysis of what was called *esprit de corps* in administrations and corporations in early modernity and further on into the late and high medieval constructions of the so-called *corpus spiritus* in Christianity. The chapter demonstrates how immense parts of modern organizational forms are constituted by the medieval semantics of cooperative virtues and their transformations in early modernity. The ideas of legitimacy, virtues, and ethics were most central in the organization of the Christian Church; moreover, they formed and authorized the paradigm of both state organizations and business

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corporations. Then, as today, problems of delegation, representation, and decentralization appeared as problems of communication to be dealt with in decision-making and at the central levels of corporations and legitimized organization.

Keywords

Organizational history · Organizational ethics · Corporate spirit · Bureaucracy · Communication · Organisation Chart · Central perspective · Synchronization · Virtues · Delegation · Centralization/decentralization · Path dependency · Secularization · Coordination

Introduction: The Present and the Past

Today, reforms and organizational innovation have become big business. Thousands of consultancy firms, HR directors, and huge staffs cope with the subject. Moreover, still more people in the work force try to keep up with new incentives and with an increasing reform fever. Lots of people feel stressed or become outburned while they try to stay inside the inclusion side of an accelerated society at the same time as they shall take care of children, wife or husband, elders, friends, and colleagues, of which, sometimes or even regularly, some get ill or break down and need attention (Sennett 1999; Rosa 2005). The highly esteemed "corporate spirit" and its inclusive "organizational culture" function easily as oil in the machinery of organizations when it functions. Yet it risks to become destructive when all members "shall" follow it and in a still higher and more synchronized speed develop innovations in individualized ways with still more complex rules, formal as well as informal.

Back in the 1980s, business ethics and organizational reforms were legitimized by reflections about post-bureaucratic and post-hierarchical "organizational cultures" and network organization. Often such reforms were described as new and innovative (Frost et al. 1985; Jablin 1987; Clegg 1990; Boltanski and Chiapello 1999). French Luc Boltanski was among the first to open this Pandora's box with a kind of second-order analysis, yet he too did not dig into the long-term historical decision-making premises of organizational forms. Neither did organizational sociology excavate into a history of the past to observe how motivations and organizational communication were constituted all along the formation processes that already, repeatedly, had transformed the legitimacy and virtues of work, organization, and cooperation.

The often-heard contention is that these problems describe new social forms. The acceleration in the competition on the edge between inclusion and exclusion – of firms, institutions, or persons – is told to be a recent phenomenon. It certainly is. Yet a suspicion too, is that we talk about old wine in new bottles. Therefore, we have to dig into the archeology of organizational history. We have to search for those organizational forms that so often are reformed, as if reforms never occurred before. We have to look into the past, in order to find the layers of organizational legitimacy, ethics, and virtues that already often implicitly and invisible are inherited inside the way we work and cooperate. This is a very long history. After all, we have to reflect carefully about what happens in a modern, or, as some may say, postmodern, society that experiences a revolution in communication media, like the it-revolution, the printing press revolution of the Renaissance, or the text revolution in Antiquity (Luhmann 2013, vol 1: 120–180; Eisenstein 1983).

Cooperation and virtues of work and management did not come overnight. Technical and social systems have a very long breath that developed over generations and took hundreds of years, if not thousands. Authority and the legitimacy of cooperative forms developed, with word and concepts used in organization communication way back before what we know as states and corporations. Many of the words, habits, and expectations about how to manage, operate, and cooperate has developed in layers and still more layers of semantics and learning processes. If we look into European organizational history or into Chinese forms and quarrels about centralization and decentralizations, we observe still more cellars with old wine in bricks to be filled into our new bottles.

The present chapter will begin with the quite well-known organizational storytelling about Max Weber's studies of protestant work ethics. This should be joined by an exposition of his French contemporary also highly recognized scholar, Émile Durkheim, and his analysis of conditions for modern division of labor. These conditions certainly were about the spirit of institutions developed in corporations and in particular in state administration as it is known from French state-building. Again, such administrative forms were a reaction and consequence of the broken body of late medieval conceptions about those cooperative virtues that ruled the Catholic Church and those early corporations that developed under its sway. The final sections of the chapter describe the complexities of those forms of confessional communication and their semantics, concepts, and codifications. (In this vein, semantics is broadly defined as the variance of all kind of symbols; concepts are more firm and contrasted to counter-concepts; and codes are binary forms in communication; in a combination of these forms, social meaning emerge.) If we consider that modern cooperation today is reconstructed under the impact of a still intransparent it-revolution, we have to focus those constitutive conditions, which formed our organizational ethics. Albeit some frames should be known from Max Weber's amazingly dense analyses (Weber 1922/1980), major sociologists like Niklas Luhmann, Michel Foucault, and Pierre Bourdieu have described a number of historical conditions of modern communication and its normative orders. From the point of view of organizational analysis, the frames possible to analyze on that background still needs exposure.

Protestant Ethics and the Spirit of Work: Max Weber

One of the most famous narratives about business legitimacy and ethics is German sociologist Max Weber's analysis of *Protestant Ethics and the Spirit of Capitalism* from 1904 to which he added a foreword about social forms of rationalizations in 1920 (Weber 1904/1972). His aim was to challenge Karl Marx's history of capitalism. Economics of labor and accumulation of capital was, according to Weber, not the initial strive that was the origin of capitalism. Economic incentives to work, therefore, was not the only nor the most important driver behind that kind of capitalist spirit, which is known from the eighteenth century and, for example, is observed in Benjamin Franklin's writings from 1742 about time as money. If we go back into the sixteenth century, we find another story. Reformation in theology led to uprisings and spread the idea that inclusion among the selected in heavenly life was not merely preserved to noble estates. It was not up to man but to a preselected divine order about inclusion and exclusion given by God. This was the narrative exposed by French theologian and lawyer Jean Calvin, who after Erasmus and Martin Luther, translated the Bible into vernacular language. His theology beside, the impact of Calvinism – according to Weber – was that work was about the realization of God's symbols in earthly life; eternal order should be symbolized in temporal life. Ascetic life demonstrated that strive. However, the combination of asceticism and work accumulated fortunes and capital in urban handwork, small corporations, and rural life. In particular in the United Provinces (the Netherlands), Calvinism led to what Philip Gorski (2003) recently has called a "disciplinary revolution"; in addition such discipline further developed in another form of Protestantism, Lutheran Pietism, in mainly the Prussian States. Undoubtedly, Weber is correct that this paved the way for early modern virtues of work and conducts of life.

However, Lutheran organizational ethics is conceived in a somewhat different form, not really grasped by Weber's influential explanation. Protestant work ethics is not reducible to Calvinist disciplinary forms. The Calvinist interpretation of the Bible came with the translations of the Holy text, which in deep controversies against the Catholic Church led to ideas of the individual reader. This new form of individualism fit well to active urban life and lower nobility and developed further in Anglo-Saxon countries. Yet, Lutheran interpretations developed the idea of the common procedure followed among the readers – and writers. Different interpretations could follow. Each person should – according to the younger Luther – be responsible for his faith toward God, without any intervention by an authoritarian church. Nevertheless, the text was common, words, concepts, and rules were to follow a certain procedure. Terrible quarrels and conflicts about the right interpretation followed, and a compromise had to stabilize. Hence, in the confessional compromise with the Lutheran so-called Augsburg Confession in 1530, Martin Luther and his companion Philip Melanchthon, in its article 16, issued that Protestants should be loyal to their prince and follow his confession (Harste 2018a). Obedience to the prince was primordial in this compromise, simply because it was part of the compromise with the Catholic emperor, Charles V, of the Holy Roman Empire of the German Nation.

In fact, since then, protestant work ethics divided in somewhat separate forms. For today's laymen, it is not easy to follow those past theological debates, which escalated into enormous quarrels, religious wars, and ensuing state-building among the military powers. The theological interpretations seem to be obscure, obsolete, and sophist beyond any reasonable modern mind – however this is a wrong perception. The basic point is that the Reformation quarrels were about organizational centralism versus organizational decentralism including the possibilities to find compromises in-between. Moreover, several further aspects should be added since they are still important and even decisive for organizational life today.

Durkheim's Theory of Coordination and Cooperation

In order to get to the problem of a cooperative ethics, sociology, in addition to Weber has to invite his contemporary, Émile Durkheim and his theory of division of labor in *De la division du travail social* (1893/1930). Before, we have to observe the Reformation quarrels a bit closer. Throughout the sixteenth century and even before, disputes in courts, estate assemblies, and councils were regularly about the Eucharist. This was not merely a model about how to interpret the new translations of the Bible; it was also a model about how to make meetings and organization. In Lord's Supper, Jesus was the leader, but how disciplined and centralized should the disciples find a corresponding order? Hitherto, in the Catholic Church, and in its authoritatively given order about the organization of municipalities and council meetings, often the Lord's Supper was painted on the walls. Participants and representatives could not go to management schools. Not before the end of the sixteenth century, schools of political science began to appear, as the famous Leiden school of government (Stolleis 1990). However, models about how to interpret a meeting and an organization were all over, in city halls and refectories at the monasteries. The paintings showed how Jesus, the leader, was the figure in the middle – however sometimes put a bit to the side, sometimes contemplating in his own inner reflections, or authoritatively present, quit, talking, eating, or drinking. In the most disciplined forms, the disciples sat conform to a certain standard, and it is difficult to observe any differences among them. In other paintings, a lot of disorders seem to rule. Leonardo da Vinci's painting is probably the most famous (it is easy to find on the Internet). Rightly so, and there is much to add from the perspective of organizational virtues. In this painting, we find most of what we today learn in textbooks about organizational sociology such as Gareth Morgan's (2006).

The organizational paradigm displayed is about the form of communication, and Leonardo's painting is about what will happen when the printing press, developed at the end of the fifteenth century, will be used in written communication.

What will happen with the words and commands pronounced by the leader and the participants? Will there still, authoritatively, be some kind of conformity around the followers and adherents? Leonardo's painting show four groups of disciples quarrel about the word of Jesus that one of them will betray him – and perhaps several others too. Then, what would decentralization, representatives, and delegation be about? How could hierarchy be authorized? Plenty of organizational themes appear, about inclusion and exclusion, loyalty and disrespect, subcultures and disagreements, consensus and dissent, word and text, command and interpretation, intrigues, position, membership and dismembering, and so on. Many issues from modern organization are already in focus. Moreover, often forgotten, the painting displays this scenario inside what became the compromise and solution to the quarrels, namely, the central perspective of the room, the hall, in which the supper was held, which, indeed, is at the end wall in the refectory of the monastery at Milano.

The central perspective, then recently developed in Northern Italy, was to become a model for architecture and painting, furthermore for organization too. We see it in organizational diagrams today. It is well known as an administrative form of coordination and delegation, centralization, and decentralization ever since. The central perspective was used to depict the form of state territory and state administration in medium of the gardens of Versailles, Louis 14 and Jean-Baptiste Colbert's enormous and famous palace, build between 1662 and 1683 outside Paris (Mukerji 1997). This palace, and in particular its central view on the garden, became the model for palace building in European states for centuries to come. Diplomats and managers did not go to management schools; they took a walk in the gardens and saw what order, discipline, coordination, centralized observations, and decentral perspectives were about. From that background, it was possible to get an idea of modern bureaucracies. Corresponding to this achievement, Colbert, the French first minister, made his instructions to his "commissaires" about how they should observe and command, find out who they could trust and how they could describe their territories, when they were send to their respective departments in France (Harste 2003).

The virtues among administrative elites and nobles developed according to aristocratic manners as an *esprit de corps*, which secularized the former religious and catholic virtues of communication (Richet 1973). In particular, law, public law, administrative law, private law, and law of peoples, developed and became – once again – the blackboard and measure to which manners and virtues developed. Charles Montesquieu resumed his seminal four volumes *L'esprit des lois*, published in 1748, to explain this differentiation in the functional systems of administration, law, religion, war, education, economy, agriculture, and political decision-making. In 1722 in a penetrating reform Prussian King Fredric William (Friedrich Wilhelm 1722/1997) developed differentiated administrative resorts. The Prussian federal states administration was still of a tiny size, but in 1738, French Chancellor Henri-François d'Aguesseau reformed a much larger administration and law as a structural coupling which his subordinate Montesquieu made famous as a separation of powers (Montesquieu 1749).

Yet here we have to dig further into the archeology of conceptual and semantic history. If the form of organizational architecture was so well established at the end of the fifteenth century that it needed reforms and an ensuing Reformation in the sixteenth century, what, then, was it about before?

Behind the separation of powers and the differentiation of functional systems, well-known to us since the Enlightenment of the eighteenth century, as a – if not the – form of modern society, there is a problem-solving form about communication between different entities. With Durkheim it has become known as the communication and cooperation form in a society build upon a division of labor.

Durkheim's, for sociologists, well-known description is accurate and quite simple in its basic form. If a division of labor could develop, it was because forms of cooperation, which he later focused as communication, developed. There had to emerge a series of communication virtues, norms, and morals, about how to communicate among those with different occupations, different functions, and different generations, living an urban life or a rural life. Norms and morals had to become more abstract at still higher levels; they had to be more reflexive about the differences and particularities, about commonalities and universal expectation. Moreover, they had to be more open-minded about varieties and contingencies. Norms and morals had to learn and evolve in still new, better educated and higher forms of reflexive ways to deal with those differences. This included learning languages and different manners; otherwise cooperation and coordination would fail and become subject to simple undifferentiated power, authority, and despotic tyranny.

The history of corporations is different from the one of governmental administration. Anyway, they were rather small before the sixteenth century. The conflicts between princes were organized, and their household grew immensely throughout the sixteenth century, as the French monarchial house or estate (Bourdieu 2004). The conception of the estate becoming a state took over at the end of the sixteenth century, and the entire political semantics transformed. After all, the French dynastic household grew from about 7–8,000 nominated officials to 25,000 at the end of the sixteenth century, and some 65,000 employees in the 1660s; remark the difference between part-time nominated and full-time employed civil servants.

Eventually, notions of "reason of state" became more abstract and were reflected in a more secular trans-confessional way. Thereby, new meaningful interconnectivities (Weber: "Sinnzusammenhänge") emerged between what became states. Law of peoples happened to replace the papal catholic diplomacy. This trans-confessionalist international order did not emerge simply in 1648 with the Peace of Westphalia; it took 200 years, from the German trans-confessional *Landfrieden*, between Catholic and Protestant princes, in 1555, and the modern state system, which was not in place before 1748 (the Aachen Peace).

Yet even before, the same secularization process developed in commercial relations and corporations. As with the *esprit de corps* of the state organization (Richet 1973; Mousnier 1974/1980), we observe a transition toward a *corporate spirit* inside the initially small commercial houses, which eventually emerged as the immense East Indian Companies in the Netherlands and in the UK (Hein Jessen 2016).

The Medieval Network of Societal Orders

In both cases, corporate semantics developed from virtues interpreted by the Catholic Church in the form of a *corpus spiritus* of churches and monasteries. This, indeed, is the seedbed of modern organizational semantics and not the least, the virtues inherited in organizations. Those semantics stabilized and were subject to disputes, quarrel, and conflict during a 400-year period before the Reformation.

Throughout the late medieval era in the fifteenth and fourteenth centuries as well as during the so-called high medieval era since mid-eleventh century, the Catholic Church authorized what the paradigm of rule and cooperation was about. It developed as a network of churches and five or six different monastery orders (Duby

1978; Spruyt 1994). Thus, it had to develop ideas, semantics, and concepts about how to handle cooperation at a moment when the Internet, the phone let alone a well-ordered postal service, was not invented. How was it possible, what did the church do to integrate and not fall apart? If we visualize it, the size of the problem is amazing, let me take the church organization in Denmark as an example. It was a remote and poor, scattered land placed more or less between the Baltics and the North Sea, sometimes a bit larger (even somewhat including England in the first half of the eleventh century), and with Norway and in particular Southern Sweden in close proximity. Yet in core Denmark, about 1200 stone churches were built and coordinated with the bishop of Roskilde West of Copenhagen as center. It was closely linked with Rome in order to bracket the German emperor. Several huge churches, as the cathedral of Aarhus, began their construction. All over Europe, such constructions were undertaken, albeit around Italy hundreds and thousands of churches and monasteries were already there (Duby 1984). The problem here is, how did it organize?

When the papal power later, in the fourteenth century, moved to Avignon, we know that it had an administrative staff of about 650 persons (Spruyt 1994). Yet the dispersed organization had to be organized. This is what organizational ethics, virtues, and communication is about. Nevertheless, we have to remember that the catholic orders were not the only form of more or less loosely or firm communicative and organized couplings. In the later medieval era, we find series of commercial networks and corporations, including banking services as the Florentine Medici family trading with transitions of different currencies and gaining wealth from this; later, in early sixteenth century, the Southern German Fugger family established a similar network.

Yet, beforehand, further networks of knights and noble orders prevailed in agriculture and military matters. So it was since the eighth century and the moldering of the immense Carolingian Empire in the ninth century. As described by German sociological historian Norbert Elias (1976), centrifugal processes prevailed over centripetal organization in those noble orders. However, Elias certainly underscored the role of the churchly orders and their organization. Nevertheless, the stratification between the social orders as estate orders had some important and lasting authorization, which, at least according to French Pierre Bourdieu (2012), did not completely break down with the French Revolution. Yet one thing is France, but the hierarchy between upper levels and lower levels, the included and the more excluded, does exist and rule modern business and governmental organization.

When such a social hierarchy emerged and was firmly codified in early twelfth century, the clerical orders, in their symbolic closeness to God and eternity, were authorized to have the upper hand. Then followed the military knights and nobles – who had served in the Crusades. The lower level were the commoners, although they too were somewhat stratified between urban orders and rural farmers eventually with serfs at the very bottom. Among the urban orders, an indeed very strict and firm hierarchy between different corporative orders existed and still has some impact today, albeit the virtue of "honor" is replaced by the virtues of "prestige." Antic distinctions between virtues and vices still exist, albeit mostly in transformed semantics. Imaginaries have found their way in transformed concepts and semantics all along (Chaussinand-Nogaret et al. 1989).

In the present context, the semantics developed by the clerical orders is probably decisive, in the accurate sense that it is this semantics (Luhmann 1977, 1980/1981/1989a/1995, 2013) and its authorized "conceptual systems" (Weber 1904/1985: 107–108) that more than anything else decided upon the authorized communication used in modern organization. This may occur as an obscure postulate about obsolete ideas, and it is correct that those concepts and semantics from the past has been reformed, reorganized, and even revolutionized several times (Rossum and Böckenförde 1978).

The main semantic development and conceptual codification took place in what sometimes is called the long twelfth century, that is, from the "Great schism" in 1054 between the East Roman Empire seated in Constantinople (today's Istanbul) and the Western Church, and mid-thirteenth century. The ending of this transformative period was characterized by a number of legal codes constitutionalized almost simultaneously across Europe, from the Melfi Constitution in Sicily to the Land Laws of Scandinavia in the North, the Mainz Edict in the German Empire and Magna Charta in UK. Again, the point is, how were the clerical social orders integrated. This happened in what we may call three semantic and conceptual revolutions, a revolution in theological dogmatics, a revolution in legal dogmatics, and a revolution in corporate dogmatics (Berman 1983; Quillet 1972; Morris 1991).

Authority

These three forms got power in their mutual differentiation. Initially the task for the Western Catholic Church was to develop and take the pace of the clientelism used in Byzantine network organization in the Eastern Roman Empire as well as Islamic network organization conceptualized in the *Umma* or Muslim holy spirit. The medium for such a theological reform of semantics was to reinstitutionalize religious communities and orders from a background described and authorized since Saint Paul (first letter to the Corinthians Chap. 12). This was about being member and included into a Christian community. Yet, this semantics of inclusion developed and got hierarchy, since inclusion could include itself and that means exclude others (e.g., Judas). This form was in the sixth century (Gelatius) what (as *auctoritas*) what authorized power (*potestas*). This semantic distinction between legitimized authorization and power has been and is constitutive for Western civilization and by the way, the Chinese organization of power too (Henderson 1998; Phillips 2011). Moreover, we easily see it in the architecture of power and meeting halls. The architecture and rooms of authorization are round, as domes or half circles as in most parliaments (not the British), whereas the church, still in the Roman era until late twelfth century, often builds huge square forms as in the knight's castles. This was a powerful military form of architecture. Still today, sitting in squares appear less legitimized than sitting in circles.

Theological and Legal Dogmatics

For the influential German cardinal Hildebrand, this background of power/authority and inclusion/exclusion of membership in a community appeared obvious to use in reforms in the second half of the eleventh century. He was elected as Pope Gregory VII, and immediately he began an indeed revolutionizing reform of the Catholic Church with the so-called Papal Dictate from 1075 (Berman 1983). In short, this was about the self-inclusion of the church into itself, namely, as a hierarchical order, in which the pope, settled in Rome, should be the bishop of bishops. On the heretic side of the inclusion/exclusion distinction, excommunication from Christianity was organized as an institutionalized semantics.

At the same time, Canonic Law developed and was codified as a communication form inside the church to govern communication, inclusion/exclusion, hierarchy, possessions, positions, and competences. The Bologna University formed a Law School, which was the first institutionalized university education in the Western world, somewhat after the Chinese Mandarin schools of administrators under the Tang Dynasty. In difference to China, the Church institutionalized a legal scholarship. In particular, in the twelfth century, Roman compilations of verdicts and laws, established by Emperor Justinian in Constantinople, were rediscovered in Pisa and reconstructed, interpreted, and thoroughly codified by legal scholars as Gratian. The point in the development of legal dogmatics is, that law developed as a university and courtly form of communication about what form of communication was legal, and which was illegal. Legal communication communicated about legal communication with an indeed very similar form to the theological communication, about what was included as authorized communication of religion in distinction to heretic and excommunicated forms of communication (Luhmann 1977, 1989a: 259–357). Sinn and punishment developed along with communication codes of symbolic and diabolic semantics. The church took power over what was authorized as language. Acts, behavior, and persons were judged, included, and excluded with this semantics. Lawlessness was the opposite side of honorable, virtuous, recognized, and legitimized forms.

Organizational Dogmatics

Organizational semantics developed along these lines. The idea of organization has its Christian origin in the idea of the corporal body of Jesus Christ, as well described by Saint Paul. A meeting coordinated liturgically in the form of the Eucharist could authorize a very important form of communication. This liturgical form allowed present decisions to be represented after the theological doctrines were taken in use among the integrated and indoctrinated members of such a holy community. They took part in the *corpus* of Jesus, since Jesus had spoken the words that thou shall eat this bread since it is my body and drink this wine since this is my blood. Peculiar as it is for the modern mind, nevertheless, we shall remember that this was communicated as a symbolic form with an extremely realist package about the use of communication (Kantorowicz 1957; Rossum and Böckenförde 1978; Palmer Wandel 2006). The Catholic Church was in desperate need of a medium of communication at a time, when the Internet, phones, and postal services had no reality. Metaphorically spoken, the Holy Spirit happened to be the communication medium of decisions, doctrines, indoctrinated delegation, and representation, which could "represent" a previous meeting about what was present in a certain situation. The liturgical form guaranteed the sense of communication in such a setting. It appeared as a form of social realism, authorized by nothing less than the words of Jesus Christ. As communication medium the Holy Spirit enabled a form of synchronized communication (Luhmann 2000b). These metaphors were extremely real to those submitted to such an idea of present meeting, represented later on, in delegated forms.

Indeed, this was what constitutionalized the body of the *Corpus Spiritus* that took power in the Catholic Church all across Europe for the next four centuries. Hereby integration of differentiated parts and forms of "participation" developed, and we can see it described, for example, in John of Salisbury's *Policraticus* (1159/1993). This, too, evolved as the legal and organizational semantics of "full power" (*plenitudo potestatis*). A representation delegated to the other end of Europe could be in full power to decide upon a king or duke on behalf of the pope. It functioned! For some time.

In early fourteenth century, the dispute about centralization and decentralization began to disrupt the uniformly enforced consensus of the Catholic Church. One thing was the past so-called Investiture Controversy about the autonomy of German cities and the authority to select bishops; this Controversy almost ended with the Concordat of Worms in 1122. Another was about the form of the corporate church and what was authorized as the body of the church and the kings (Kantorowicz 1957). Of course, problems emerged (Thornhill 2011). Increasingly, disputes and quarrels emerged as to the extent of decentral judgments and decisions in situations and context very remote from Rome. The church was aware about the dilemma between decentral judgment and direct heresy. Marsilius of Padua wrote a long treaty, *Defensor Pacis* (1326/2001), in defense of a certain right of delegates to autonomy inside the body of the church. Compromises ruled and controversies occurred increasingly. The papal diplomacy failed to reconciliate the conflict between the kingdom of France and the English-Norman kingdom finally settled by canons and military organization and not by negotiations (the Hundred Years' War).

Today, we often experience the same dilemma in the paradox of an organized administration that needs some form of local monopoly of autonomous decisions, albeit formal rules tell about another form of control and command. Still, the *corpus spiritus* of the Catholic Church was extremely useful and functional for centuries.

Corporate Law and the Ethics of Trust and Credit

In the late twelfth century, in particular German cities tried to find some kind of autonomy in between the Papal power in Rome and the Emperor of the Holy Roman Empire of the German Nation. This could have led to an escalation in destructive conflicts. Yet a compromise was found with the Peace of Konstanz in 1183. The cities should follow the Canonic Law used by the Church to organize and settle law, decisions, and judgment. However, they got their own courts and simply copied Canonic Law into corporate law of property, contracts, trade, punishment, and litigation. This was an authorized form, which the Emperor could not deny.

Trade and money are not simple affairs. It is easy to conflict about when a thing is handled over, when and in which situation and in which currency payment shall take place. As Luhmann conceives it, contracts are about a reduction of complexity in the communication about matter, social relation, and temporality; they fix and code what, whom, and when (Luhmann 1979). Judgments and decisions shall occur and be authorized in order not to create future conflicts. Therefore, they also have to be incorporated into existing forms of valid law in other cities, in other assemblies. Trade is in need of constitutionalized organization and law (Thornhill 2011). In fact, "constitution" referred to the bodily organic form of the Christian Church, and that word still is about organic health.

Virtues and vices developed all across Europe in this setting. In fact, Europe was deeply integrated by means of the church and its institutionalization of securitized corporations. For instance, we see this conceptual codification of semantics in the communication of credit systems. Credit developed as a trustful form of credibility and religiously authorized form of "creditere" (Latin), to believe. This was about time and trust. Loans should be paid back. Albeit of course, between family members trust was more obvious than between remote people from other cities and different confessions. Therefore, credit systems formalized much better across differences and distances, in fact eventually as international credit systems from the Arab and Jewish traders along the Silk Road to China to the Medicis and Fuggers in the fifteenth and sixteenth century and to the Rothschild network in the nineteenth century. However, we do not talk about "credit dogmatics," and banks are not churches, albeit the big trade fairs of Northern France in the thirteenth and fourteenth centuries were closely connected to merchants financing the amazing gothic cathedrals.

After its emergence in the late medieval era, credit, in particular, revolutionized in the Netherlands as a differentiated system between the banks and in particular the Amsterdam Bank, the East Indian Company, the "beurse," the equities, and the estate assemblies. The mutuality of invested trust in this complex system did not integrate formally, as one absolute authorized system (as unsuccessfully developed in France early eighteenth century). From 1689, such a financial revolution developed in London's city. Hence, civic norms about division of labor, of separated powers, and of institutions developed. Civic norms developed in a public sphere that enabled people under civilized manners to enjoy the company of each other while being protected (Habermas 1962; Sennett 1979: 264).

This financial revolution got its takeoff after the immense need of taxes and credits to pay for the supplies to the wars of religion that escalated into the Thirty Years' War. In fact, those wars were the result of the broken body of the Catholic Church. The Church integrated religious, legal, organizational, and political forms of centralization and decentralization. Yet it broke with the Printing Press Revolution (Elwood 1999). Manners and virtues had to find a form of communication and interaction across opposed partners beyond confessions, in abstract forms of coordination, reflected by new more secular forms of organization.

A first description of the new form came with Jean Bodin (Bodin 1583/1961) who in 1576 in a voluminous analysis established what was to become the new civil servant as a new professional person, who transcends individual confessions (previously called *professio fidei*).

Bodin's idea was a peculiar rearrangement of the heritage about the corporate body as a continuation of the body of Jesus Christ. Jesus, the temporal earthly individual, could die; however Christ, as the eternal person, could persist – and this was useful to describe the civil servant of the increasing princely households and estates. Offices could persist, whereas the concrete officeholders could die or be dispossessed from their office. This "professional revolution" created expectations toward professional duties, loyalties, and virtues, separated from the church, however, following a more abstract and well-reflected and reasoned normative order.

Indeed, most famous was the consequence for the monarchs; the king could die, and the kingdom, the crown, could persist. Therefore, the chief in office, the king, got sovereignty as decision-maker beyond and above the differentiated form of organization and delegation; yet of course, only to the extent that he centralized a decentralized body. Bodin's point was that this, indeed, central perspective of the estate administration was a compromise between the Catholic claim for a centralized body and the decentered Calvinist claim for decentralization and individualism. Probably, the compromise was Lutheran, since this new form was about to claim a reason of state and ensuing loyalty and obedient behavior of civil servants who might have a duty to follow the ruler while simultaneously thinking in terms of a free and independent will (Harste 2018b). "You may think whatever you want, but you have to obey" as Immanuel Kant later (1783) expressed the idea of King Fredrick the Great.

Conclusion: The Secularization and Its Implicit Results

There is still at least three major lessons to extract from the history of organizational ethics and its reflections about how to reorganize and reform. The real power of Christianity was its invention of a powerful form of cooperation as synchronization. This is a complex matter.

First, its conception of power is far ahead of normal political science concepts of the power concept. The misleading but very popular concept of power has its origin in Max Weber's idea that power is about how an actor may force another actor to aim for something different that this actor previously intended. (Weber's conception in fact derives from Carl von Clausewitz's definition of war as the violent disruption of an opponent's will; that is a definition, which again is the reversed side of Immanuel Kant's categorical imperative that thou has to will what simultaneously should be a maxim about a principle for a generalizable law. Power is to neglect the will of others.) However, power is more than a relation, and therefore Weber more discussed domination ("Herrschaft"). But "power" is a word that hides a semantics of doing, as very well expressed in the French word “pouvoir” that means power yet also “to do,” as the German verb “machen,” and German “Macht,” power, is a substantiation of “Machen” or doing. “Macht macht Macht” means power empowers power, thus referring to the self-constitutionalization of power, in particular if “Macht” gets “Acht,” that is, authority. In sum, power got the power to define itself and to include its monopolization of powerful semantics and to exclude what was not powerful, or powerless. Whether sociology takes Michel Foucault’s, Pierre Bourdieu’s, or Niklas Luhmann’s reconceptualization of power in use, this is so to say – with Max Weber’s famous words – the “prison of iron,” in which our modern semantics has closed our eyes and neglected observations from outside, for example, from past semantic developments. Modernity was constituted in such a way that social understanding and, in particular, political understanding of legitimacy were turned blind by the invisibility of power (Bourdieu 1994: 97; Luhmann 1989b: 101–137, 2000a: 33; Foucault 1975; 1976: 117; 2004 1976: 117; Harste 2017).

The second concluding point is that high medieval power empowered coordination and cooperation as a communication form that synchronized remote decisions with present decisions and therefore crosscut the distance between near presence and far away delegation (Luhmann 2000c). The medium of this form of communication was the Holy Spirit and its doctrines of presence and re-presence. It was exactly this idea of the represent form of Jesus Christ that broke down with the printing press revolution and the Reformation: The authorized center of decision-making could not anymore securitize what decisions should be about at the place of the representatives and in their context and situation, in which they had to judge about what to do. This was, indeed, a major crisis in the form of coordination, cooperation, and organization. Yet simultaneously with the printing press, not merely the print of laws and regulation, atlases, and books about administration (Erasmus, Machiavelli, Luther, Bodin, and so on), but the entire idea of a central perspective developed. This central perspective, too, is about synchronization and coordination (Harste 2018b). Indeed, it represented central decisions at remote places and coordinated synchronization among actors and offices, which got a picture about how the other remote part of an administration handled this administration. This was exactly what the absolutist power of the reason of state was about, well established in the extremely influential reforms and instructions of French prime, Jean-Baptiste Colbert in the 1660s: Organization could be reorganized as a form described with the organization chart of the bureaucracy. A bureaucracy is able to synchronize. Power is about synchronized coordination and turns it away from the non-simultaneity of life. This form of power tells us, that thou shall synchronize and forget or neglect what does not fit into such a form. It transforms simultaneous activities into a coherent plan and removes complexities and nonsimultaneous untimely matters into oblivion and neglect (Luhmann 1989b, 1990). This is the absolutism of bureaucracies and therefore they meet unrest and revolt. In France, there was even a duty to revolt against its tyrannical or despotic forms (Jouanna 1989). If we consider ethics of synchronization as similar to the Weberian ethics of work and similar to a Durkheimian cooperative ethics, we should consider how equal these Western organizational virtues are to the similar Chinese virtues. The temporal rule of situational cooperation constituted at a theological trans-confessional and transcending level is extremely productive in China (Jun 2005; Zhang et al. 2012; Poznanski 2017). In China too, there is a long tradition, dis-conceptualized as "legalism" yet rather a military enforcement, that is equivalent to the European idea of a "reason of state" (Phillips 2011).

The third and final point is, to conclude, that most of those virtues that described the explicit semantics and concepts of organizations, corporations, and business ethics, through their secularization turned implicit, if not simply unknown. Their sophisticated complexities sometimes were so differentiated and even well known, described in manner books, that it after hundreds of years of evolution became too complex to reproduce them as explicitly described manners of politeness, respect, and virtues about interaction systems. They became layers and still more layers about what to do in this or that situation, toward these people or those (different) persons. Erving Goffman's extremely penetrating sociological descriptions of *The Presentation of Self in Everyday Life* (1959) and *Interaction Ritual* (1972) displayed how such manners, described historical by Norbert Elias (1976) and Niklas Luhmann (1980), today are implicit codes of normal communication. Through their invisible monopolization of state power, and sometimes even absolutist absorption of obedience, discipline, and interaction rituals, they became norms and rules of decent organizational communication. This developed in its early stages in churches, monasteries, and courts and then in public administration and in central offices, to be followed decentered in parishes, remote departments, and regions. From that stage, the norms and expectations entered corporations and became common in business life as an ethics about what virtues and vices are. They are all over. The explicit turned implicit. Communicatively codified forms of morals and manners became our blind spot and invisible to us, as the forest we cannot observe because of all its trees.

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Business Legitimacy from a Catholic Perspective: Thomas Aquinas, Papal Encyclicals, and Human Rights

10

Giorgio Baruchello

Contents

Abstract

Initiated by Pope Leo XIII at the close of the nineteenth century, the social doctrine of the Church of Rome has matured over longer than 100 years into a sophisticated conception of economic affairs and business life, whereby crucial theoretical as well as practical conditions are identified in order to assess the ultimate legitimacy of the market economy or, for that matter, of any given economic system and business practices thereof. It is this sophisticated conception that is summarized and explained in the present text, dealing, on the one hand, with the basic theoretical framework and background for its development, namely, the long-lived legacy of Thomism, and, on the other hand, with the technical instruments employed for its articulation and dissemination, namely, the Papal encyclical letters on social, economic, political, and environmental matters that, since 1891, have kept being issued by the Holy See.

Keywords

Leo XIII · social doctrine of the Church · Thomism · encyclical · ultramontanism · Saint Thomas Aquinas · natural law · reason · happiness

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Introduction

Pope Leo XIII (born Vincenzo Gioacchino Raffaele Luigi Pecci, 1810–1903) is famous for having issued the encyclical *Rerum Novarum* (1891), which read in its first English headline: “Rights and Duties of Capital and Labor.” *Pace* the staunch refusal to embrace modernity that had characterized the official attitude of the Catholic Church after the French Revolution, here was a major doctrinal document adopting the terminology of the then much-loathed liberals (e.g., revolutionary France’s 1789 *Déclaration des droits de l’homme et du citoyen*) and socialists (e.g., Karl Marx’s 1847 “Wage Labour and Capital”).

Drafted mostly by Matteo Liberatore SJ (1810–1892), the encyclical was clearly directed to the faithful of the modern age, which was no longer condemned trenchantly but tackled as a reality in which the Catholic Church could still play an important and active role (Misner 1991). With his encyclical, Leo XIII launched the *doctrina socialis* of the Church – until then, there had been only a *doctrina civilis* (Barrera 2010) – that continues to this day, e.g., Pope Francis’ (born Jorge Maria Bergoglio, 1936) 2015 encyclical letter *Laudato si’*, outlining the official position of the Church on environmental matters.

Until *Rerum Novarum*, the official political stance of the Catholic Church had been essentially a withdrawal from liberal institutions, which in many cases had been largely established, if not even theorized, against her (the conventional use of female pronouns for the Church of Rome is adhered to hereby). The word “ultramontanism,” which had been used since the Protestant Reformation as an insult to Catholicism qua deplorable foreign interference in the affairs of independent peoples and their own churches, was reclaimed in its positive medieval meaning by eighteenth-century Catholic critics of the French revolution and its political heritage, liberalism included. These critics wished to reaffirm the philosophically natural, historically well-tested, and politically well-ordering divine right of European monarchs, as well as the superior moral authority of the Pope over them all, e.g., Joseph-Marie de Maistre (1753–1821) and Louis-Gabriel-Ambroise de Bonald (1754–1840).

For a long time, these conservative Catholics were influential, if not prevalent, within the Church, as shown by the institution in 1870 of the controversial dogma of Papal doctrinal infallibility, which made relationships with the other Christian churches even tenser (Verhoeven 2014). Ultramontanism extended its influence into the twentieth century (von Arx 1998), especially in Franco’s Spain (Payne 1984), but eventually waned and disappeared in lieu of the social doctrine initiated by Leo XIII.

Within this social doctrine, a sophisticated conception of economic affairs and business life has been presented and articulated over longer than a hundred years, whereby the theoretical and practical conditions are determined for the ultimate legitimacy of the capitalist or, for that matter, of any other economic order. It is this sophisticated conception that is summarized and explained in the present text, dealing, on the one hand, with the basic theoretical framework and background for its development, namely, the long-lived legacy of Thomism, and, on the other hand, with the technical instruments employed for its articulation and dissemination, namely, the encyclical letters on social, economic, political, and environmental matters that, since 1891, have kept being issued by the Holy See.

Thomism

Together with Luigi Taparelli d'Azeglio SJ (1793–1862), Matteo Liberatore SJ and Tommaso Cardinal Zigliara OP (1833–1893), Leo XIII's pontificate was instrumental in making the philosophy of Saint Thomas Aquinas (1225–1274) the official philosophy of the Catholic Church (Misner 1991). This was the meaning of Leo XIII's 1879 encyclical *Aeterni Patris*, in which the authoritative doctrinal sources of the Church are catalogued, summarized, analyzed succinctly, and assessed.

Before being Supreme Pontiff, Leo XIII was himself a fine Latinist and an Aquinas scholar, a brilliant student of Taparelli's, and a member of the circle of Catholic intellectuals who promoted an eventually successful campaign for the fullest rediscovery of Thomism (McInerny 2015). This enthusiastic and forceful rediscovery led to the standardization of the curricula within Catholic educational institutions and seminars along Thomist lines that, in spite of the inevitable cultural swings that may occur over long stretches of time, are still *de rigueur* today (e.g., the Congregation for Catholic Education's 2011 *Decree on the Reform of Ecclesiastical Studies of Philosophy*). It was not a revolution or a coup, intellectually speaking. The Church of Rome is an unlikely setting for sudden, radical changes: the authoritative tradition upon which she rests may be reinterpreted, but it cannot be overhauled.

To all intents and purposes, Aquinas had always been important within the Catholic Church. Back in his days, he was already a much-admired prodigious intellectual, a driving force within his monastic order and a founder of schools, and even the official Papal theologian under Clement IV (born Gui Foucois, ca.1190–1268). Despite some controversies about the orthodoxy of his philosophy, which seemed far too lenient *vis-à-vis* ancient heathen thought, Aquinas was canonized in 1323. During the Council of Trento (1545–1563), he had the singular honor of having his most famous work, the *Summa Theologiae* (completed in 1273), placed on the altar of the church where the meetings were held, alongside the Decretals, that is, the collection of authoritative papal letters on points of canon law, and the Holy Bible itself. In 1567, Pope Pius V (born Antonio Ghisleri, then Michele Ghisleri OP, 1504–1572) declared him *Doctor Angelicus* of the Church, hence making Aquinas one of the supreme interpreters of God's revelation, together with Saint Augustine of Hippo (354–430), Saint Ambrose of Milan (374–397), Pope Saint Gregory the Great (ca. 540–604) and few other noted Christian theologians. Significantly, as of 1880, Aquinas has also been the patron saint of all Catholic educational establishments.

Under Leo XIII, however, it was not Aquinas' theology that came to be adopted as the official intellectual basis for the education of the clergyman, the design of the curricula in Catholic schools and universities, and the overall approach to the interpretation of the Holy Scriptures. What was adopted via the encyclical *Aeterni Patris* was Aquinas' philosophy, that is to say, a neo-Aristotelian system of thought claiming that natural reason can grasp, unaided by faith, many truths about the world in which we live and, *a fortiori*, about ourselves qua worldly creatures.

To Aquinas, the world does not look like a valley of tears, but rather like a vast field of phenomena to be enjoyed, explored, and examined by our curious intellect, which is capable of great feats. As the renowned English novelist and Catholic apologist Gilbert Keith Chesterton (1874–1936) remarked in a 1933 book carrying the saint's own name as its title, Aquinas' philosophy shows considerable "optimism" about our fallen condition in the natural world. Instead of emphasizing our hopelessness as sinners and our much-needed reliance upon the grace of a merciful God for salvation's sake, Aquinas focuses upon the notion that a benevolent God created the world nonetheless. Aquinas claims that God sustains the same world throughout its history, so much that we human beings, albeit undeniably imperfect, possess the natural ability to comprehend much of it, including what we ought to do while we live in it. We are not lost in the dark. A light shines within us and sheds light around us: it is the light of our natural reason, or *"lumen rationis"* (Aquinas 1273: Ia, q12, a11).

As regards moral, legal and political conduct, Aquinas claims that we all have an immediate, indemonstrable and self-evident (*"per se notum"*) intellectual insight (*"intellectus"*) into the fundamental principle of just conduct, hence of law itself: "*Hoc est ergo primum praeceptum legis, quod bonum est faciendum et prosequendum, et malum vitandum.*" ("This is therefore the first principle of law: What is good is to be done and pursued; what is bad is to be avoided.") (Aquinas 1273: Ia IIae, q94, a2). The immediate corollary of this plain yet highly abstract principle is revealed in our "first inclination" to seek self-preservation and the context-specific means towards it. Anna Taitslin (2013: 53) calls this the "first order" of Aquinas' "natural law."

According to Aquinas, who regards descriptive and normative issues as two distinguishable but not separable aspects of the same reality, whatever exists does try and ought to try to endure. Persisting as ourselves through time is both an objective good and a good objective, which we share with all existing substances, in line with Aristotelian physics. As the mind can grasp the correct description of reality, so it can grasp the norms that we ought to follow.

God's world is so benevolently ordained, that we also possess further, diverse, less generic natural inclinations towards the good to be done and pursued, which human reason has little difficulty in grasping as being good and that human will, i.e., the appetitive faculty pertaining to reason, has little difficulty in pursuing. Aquinas lists several nonexhaustive examples. Some refer to goods to which we are inclined just like other animals, and that we recognize rationally as being good, e.g., "conjunction between man and woman and the upbringing of children, and similar things" (Aquinas 1273: Ia IIae, q94, a2). Others refer to goods that are peculiar to us qua rational creatures, such as knowing why the world exists and what purpose it may serve (i.e., the philosophers' natural knowledge of God), *"quod in societate vivat"* (i.e., our being quintessentially social creatures), to avoid ignorance, and not to offend other people whom we converse with (Aquinas 1273: Ia IIae, q94, a2).

The good can be had and pursued along several paths. In the Thomistic perspective, human nature comprises many components (e.g., the body, rational thought, desires); hence, the fundamental principle of law is bound to manifest itself differently through each of them, i.e., the justified principles of conduct to which rational *ergo* virtuous persons willingly submit themselves in their pursuit of what is good.

All the intuited goods are grasped by reason as sensible practical principles or maxims and by will as worthy ends, and they pertain to the second order of what Aquinas calls "natural law," namely, our participation in God's eternal law, which sustains and directs the world to its fulfillment. With little articulate reasoning and, in fact, instinctively (Aquinas does speak repeatedly of natural inclinations) and intuitively (Aquinas describes the principles above as the self-evident axioms of human conduct, akin to the indemonstrable first principles of logic), we all possess the basic awareness of what we must seek in order to attain happiness.

The ultimate goal of all life is in fact "*felicitas*" or "*beatitudo,*" in consonance with Aristotle's (384–322 BC) conception of *eudaimonia* (Aquinas 1273: Ia IIae, q90, a2). Unlike Aristotle, however, Aquinas argues that perfect happiness is not of this world and can only be attained post mortem. Yet as it was already in the philosophy of Aristotle, so it does follow for Aquinas too that the pursuit of happiness is as much an individual affair as it is a collective one:

> The ultimate aim of human life is happiness or beatitude... Therefore, the main concern of the law must be with directing towards beatitude. Once again, given that every part stands to the whole as incomplete stands to complete, and that individual human beings are each part of a complete community, the law's proper concern is necessarily to direct towards common happiness... i.e. to the common good. (Aquinas 1273: Ia IIae, q90, a2)

There is consequently a third order of the natural law that addresses the collective sphere of human life. Grasping instinctively and intuitively what is good is not the same thing as knowing how far, when and in combination with whose and which other considerations we should pursue it. Even sensing what *natura humana* consists in does not translate into immediate and obvious instructions on how to conduct ourselves in our daily lives. This deeper and more varied level of detail pertains to the third order of the natural law and it is what, according to Aquinas, Roman jurists understood as *ius gentium*, namely, the institutions that all nations, despite countless superficial differences, seem to have agreed upon, such as the punishment of crime, the regulation of ownership, or the celebration of religious festivals.

Reflection upon our natural inclinations and/or rational intuitions is required, in view of deciding how exactly to conduct ourselves together with other persons and be consistent with our innate pursuit of happiness. "Virtue," to which we are also inclined and upon which we rely "*ad bene vivendum,*" both with ourselves and in community, may require restraint, discipline, compromise, and even occasional denial of our natural inclinations (Aquinas 1273: Ia IIae, q94, a3).

Virtuous action demands practical reflection. "*[P]er rationis inquisitionem*" we can achieve a deeper and socially aware understanding of the goods that we seek and therefore move closer to eventual *felicitas* (Aquinas 1273: Ia IIae, q94, a3). As hard as it may prove at times, we can and must think rationally and reasonably in view of finding solutions to practical problems (as opposed to, for instance, the paralysis of personal agency that a skeptical line of reasoning could produce). Not any use of reason goes. We must follow instead the "*recta ratio,*" or correct reason, that is consonant to the rational order of the universe, of which we are a living part too (Aquinas 1273: Ia, q22, a2).

By means of correct reason, then, we can justify truly individual and collective agency, for we can determine which lines of conduct are the likeliest to approach genuine human happiness. For example, upon correct reflection, we come to realize: that we cannot be happy alone (cf. Aquinas' statement above on "common happiness"); that certain forms of economic life are more likely to generate widespread wellbeing (e.g., private property); and that we require a modicum of private freedom to pursue our aims virtuously (Aquinas 1273: Ia IIae, q59).

In nuce, upon further articulate reasoning about our natural inclinations and/or intuitions, involving also the study of the accumulated knowledge of past generations, the teachings of our mentors and the discussion of all such matters with our peers, we can reach clearer conclusions on more context-specific principles to be adopted, as well as the related aims to be followed. Together with other persons, we can grow in understanding and self-understanding, we can mature, and we can become wiser, hence capable of leading a more virtuous existence. We can even improve by correcting each other in a spirit of brotherly concern, like a "physician" attempting to "restore a sick person's health" by performing a painful surgery (Aquinas 1273: Ia IIae, q33, a6).

Whilst we can grasp what principles should guide human life, including social life, "human law" is going to be required in order to determine how to follow such principles under even more specific sociohistorical circumstances (Aquinas 1273: Ia IIae, q94, a5). Supplemental rational reflection is then going to be needed in order to apply these even more context-specific principles themselves to precise, particular instances. Think of our tactful use of a principle of good manners with a particularly grouchy old relative of ours on a grim day of November; or of a judge's determination of the meaning of an article of law *vis-à-vis* a given case debated in her court of law. They are examples of this final level, to which we can and must descend in our pursuit of that which is good.

Particular actions may well be understood in light of, and generalized into, abstract principles, but abstract principles are equally instantiated only in particular actions. Principles express and guide virtuous action in general, but only particular virtuous acts can embody and ground those principles. In a logical chain starting with the immediate data of consciousness (i.e., inclinations of our appetitive powers and/or intuitions of our intellectual powers), Aquinas moves from the universal and immutable "eternal law" sustaining the universe to the particular and ever-changing "human law," that is, to positive laws and the circumstantial complexities of their concrete application. Even if we can grasp the essence and purpose of human nature, Thomism duly recognizes the changing circumstances under which actual human beings lead their lives (Utz 1994).

Along this chain from universal to particular, however, all laws worthy of this name are derivations from the supreme principle whereby "What is good is to be done and pursued; what is bad is to be avoided." All truly binding principles by which to guide our behavior, individual as well as collective, originate therefrom: "*omnes leges, inquantum participant de ratione recta, intantum derivantur a lege aeterna*." (Aquinas 1273: Ia IIae, q93, a3) If the laws depart from the supreme principle, they lose their legitimacy, and resemble the arbitrary acts of tyrants: "*huiusmodi magis sunt violentiae quam leges*." (Aquinas 1273: Ia IIae, q96, a4) This is Aquinas' rendition of the canonists' motto *ius quia iustum* (as opposed to *ius quia iussum*): what is right is what is just, not what is commanded by some authority (Di Mauro 2006 and Merlo 2005).

On top of all the truths that natural reason can intuit and expand upon by means of "*recta ratio,*" God, in His infinite benevolence, gave us even more tools with which to approach partial happiness in this life and attain total happiness in the next. Like most contemporary academics do today, the heathen Aristotle had already confined himself to natural reason and the reasonable world that we can grasp with it. A man of Europe's devout medieval Christendom, Aquinas added to Aristotle's picture of the universe the revelation of divine truths (e.g., Jesus' moral teachings in the Gospels). Far from being irrational commands, Aquinas argues that these revealed divine truths more often confirm than disconfirm, and actually deepen our understanding of, the truths of reason. For example, natural reason's conclusions about happiness being possible only in community are confirmed and deepened by the New Testament's instruction to love others as we love ourselves (Aquinas 1273: IIa IIae, q22).

Nonetheless, it is also true that natural reason cannot grasp all of the available truths, since some pertain to a world beyond the earthly one and, especially, because they can refer to an otherworldly perfection to which we are destined and yet we cannot adequately fathom in this life. Thus does God reveal Himself not only within and throughout His rationally ordained creation but also by means surpassing the natural order of things, such as the Incarnation of His son Jesus Christ and the spiritual inspiration of the Prophets, of the blessed authors of the Holy Scriptures, of mystics, and individual mystical experiences.

According to his student and biographer Reginald of Piperno (ca. 1230–ca. 1290), Thomas Aquinas had one such mystical experience himself, in comparison to which he claimed that all his philosophical elucubrations seemed insignificant, or as worthy as mere straw: "*mihi videtur ut palea"* (Coleman 2015). Reason is left behind, in all of these cases, though it is never completely lost either. According to Aquinas' *Summa contra Gentiles* (completed around 1265), natural reason can still apply to the latter kind of revelation, albeit secondarily, insofar as reason can help us clarify divine truths by reflecting upon them, i.e., the discipline known as theology (Book I, Chaps. 3–6).

Pace the popular medieval doctrine of the double truth, which claimed that reason and faith attain true yet contradictory conclusions, Aquinas' philosophy displays no worry *vis-à-vis* the conclusions of either approach to God's revelation. According to Aquinas, the prolonged, careful and honest use of natural reason within the context of the learning accumulated by humankind's great minds throughout history cannot but lead to conclusions that are in harmony with those of the scriptural revelation. The world created by God may be complex and even baffling, but it is not contradictory. Both reason and faith have the same origin, the same fundamental ground of value, and the same glorious end-point, that is to say, God our Creator.

In theology, reason clarifies faith. In philosophy, both natural and moral, faith inspires reason. In the end, when all thorny issues have been studied and discussed by genuinely devoted scholars, there can only be conclusions that are consistent with God's providential plan for the wellbeing of the world and of ourselves, to whom the world was entrusted by its own Creator (Aquinas 1265: Chaps. 7–8). As a proof of this point, Aquinas makes repeated use of heathen philosophical sources, and of Aristotle in particular, whom Aquinas calls simply "the philosopher." Even pre-Christian sources, if properly understood, can help us reach conclusions that are consistent with the Christian faith. Chesterton's "optimism" is indeed a fitting descriptor of Aquinas' philosophical outlook.

Encyclicals

Encyclicals are letters on doctrinal matters addressed to all the bishops of the Catholic Church and they have played a key-role in expanding, expressing and explaining the *doctrina socialis*. In them, the popes synthesize and express the conclusions reached by past pontiffs, councils and reputed theologians, in detailed combination with Biblical, authoritative (e.g., Augustine's, John Chrysostom's, Aquinas'), pastoral and other Church documents (i.e., constitutions, decrees and declarations by ecumenical and pontifical councils, documents issued by congregations, the Holy See's charter of rights, canon law, the Catechism). References to international law are present too and they have become more and more frequent since the end of World War II, e.g., the *Charter of the United Nations* (1945) and the *Universal Declaration of Human Rights* (1948).

Several popes of the twentieth century issued encyclical letters on social matters, building upon the cornerstone set in place by Leo XIII in 1891. Prominent in this respect are Pius XI's (born Ambrogio Damiano Achille Ratti, 1857–1939) *Quadragesimo Anno* (1931), John XXIII's (born Angelo Giuseppe Roncalli, 1881–1963) *Mater et Magistra* (1961) and *Pacem in Terris* (1963), Paul VI's (born Giovanni Battista Enrico Antonio Maria Montini, 1897–1978) *Populorum Progressio* (1967), and John Paul II's (born Karol Jozef Wojtyla, 1920–2005) *Laborem Exercens* (1981), *Sollicitudo Rei Socialis* (1987), *Centesimus Annus* (1991) and *Evangelium Vitae* (1995).

In the twenty-first century, in addition to Benedict XVI's (born Joseph Aloisius Ratzinger, 1927) *Caritas in Veritate* (2009), Francis' *Laudato si'* (2015) stands out for tackling environmental issues, as mentioned above. Additionally, the Pontifical Council for Justice and Peace published in 2004 a *Compendium of the Social Doctrine of the Church*, which systematizes and reiterates the main tenets of this *doctrina socialis*.

The social doctrine of the Church has undergone many refinements, specifications and integrations over a relatively short life. Yet, a strong sense of continuity is built in each and all of the encyclicals, as also signaled by extensive cross-citations, recurrent publication dates (e.g., the 15th of May) and direct references in the titles (i.e., "on the fortieth year" and "on the hundredth year" [since the publication of *Rerum Novarum*]).

As economic considerations are concerned, there have been several recurring points of emphasis (e.g., workers' rights and dignity, the defense of private property, class cooperation) running throughout this well-established yet still-developing intellectual tradition, whose "Magna Charta" remains however "Leo's Encyclical" of 1891 (Pius XI 1931: para. 39). In this pivotal encyclical, Leo XIII describes and justifies an economic order that is alternative to both liberalism and socialism, soon to be known as "the third way" of the Church of Rome, variously undertaken by many politicians and political parties in the real world (Wilhelmsen 1978, Nuesse 1985 and Sandonà 2013).

The distinctiveness of Catholicism with regard to both liberalism and socialism had already been established in political theory by a book that had been successful among conservative Catholics after 1848, i.e., Juan Donoso Cortés' (1809–1853) *Essays on Catholicism, Liberalism, and Socialism* (1851). A progressive Catholic, Leo XIII reinforces nonetheless such distinctiveness.

On the one hand, the Pope argues that socialists are correct in their diagnosis of the ills of contemporary society. According to Leo XIII (1891: para. 3), there is no denial that "a small number of very rich men have been able to lay upon the teeming masses of the laboring poor a yoke little better than that of slavery itself," primarily by abolishing "the ancient workingmen's guilds. . . in the last century, and no other protective organization [taking] their place." Additionally, "[p]ublic institutions and the laws [have] set aside the ancient religion" in the name of an alleged individual freedom (of contract, enterprise, etc.) that, in actuality, means "the hardheartedness of employers and the greed of unchecked competition. . . increased by rapacious usury. . . practiced by covetous and grasping men" (para. 3).

On the other hand, socialists are mistaken in the remedy they wish to employ. As Leo XIII argues: "the main tenet of socialism, community of goods, must be utterly rejected, since it only injures those whom it would seem meant to benefit, is directly contrary to the natural rights of mankind, and would introduce confusion and disorder into the commonweal" (para. 15).

Leo XIII's critique of socialism is based upon the justification of private ownership as the most rational means of utilization of God's Creation for the wellbeing of humankind at large (paras. 4–14). Private ownership is deemed consonant with our natural inclination towards searching for, and deriving enjoyment from, the private possession of things beneficial to us and to our beloved ones. The institution of private property is per se a sign of natural rationality, not of sinful greed. In addition, it is said to spur industrious behavior and ingenious productivity. Finally, it is also said to facilitate the orderly organization and effective division of labor within society: "The law, therefore, should favor ownership, and its policy should be to induce as many as possible of the people to become owners" (para. 46).

Private ownership should be widespread and entrepreneurship thrive, so that persons may grow in perfection by exercising their freedom and diverse abilities responsibly (e.g., by running cooperative enterprises, which are still present in many Catholic countries). Liberty, albeit important, does not reign supreme. Responsible acceptance of good restraints to freedom is a standard feature of Catholic, if not Christian thought. Even from John Milton's (1608–1674) radically Protestant and anti-Catholic perspective, to seek freedom above all was Satan's misguided aim. As he wrote in his *Paradise Lost* (book I, verses 258–259 and 263): "…*Here at least/We shall be free… Better to reign in hell, than serve in heaven*."

Society's needs, including its internal equilibrium, and other people's needs, their dignity included, are among such restraints, *contra* the commonplace liberal emphasis on individual liberty, as exemplified by Jeremy Bentham's (1748–1832) social atomism. As Bentham writes in his 1789 *Introduction to the Principles of Morals and Legislation* (Chap. I, para. 5): "the community is a fictitious body, composed of the individual persons who is considered as constituting as it were its members. The interest of the community then is, what is it? – the sum of the interests of the several members who compose it." Nothing could be further removed from the Church's communal understanding of the human person who, along Aristotelian and Thomist lines of thought, can only flourish by way of social embeddedness and self-understanding.

Within this Aristotelian and Thomist conceptual framework, workers should seek lawful gain through lawful employment, which is a requirement for human wellbeing and personal dignity, but also a call to responsible behavior. To make sure that such a behavior occurs (e.g., no damaging strikes, no Luddite sabotage of machineries), Leo XIII does not stress top-down factory discipline, as commonplace as that theme may have been in his day. Quite the opposite, he discusses the notion that entrepreneurs and workers should come together and cooperate in as many peaceful bottom-up associations as their intelligent creativity is capable of (i.e., what will come to be known in the *doctrina socialis* as the principle of *subsidiarity*), holding things privately and pursuing profit, but always *cum grano salis*, i.e., without compromising morals, family life, general wellbeing, social cohesion and international peace.

As Catholic economist Hilaire Belloc (1870–1953) argued in his 1912 *magnum opus*, *The Servile State*, the main problem with early-twentieth-century capitalism was the concentration of wealth with, and ensuing political clout of, few super-rich, not private property per se. There were too few owners, in essence; hence, inspired by *Rerum Novarum*, Belloc joined forces with G.K. Chesterton and established an Anglo-Irish 'third way' known as "distributism."

The key-thinker cited in support of Leo XIII's justification of private ownership is "St. Thomas Aquinas," for whom "[p]rivate ownership" is "the natural right of man," and indeed one that "is not only lawful, but absolutely necessary" for the wellbeing of human societies (Leo XIII 1891: para. 22). As regards the responsible use of the privately owned goods, Leo XIII follows once more "the same holy Doctor," according to whom "Man should not consider his material possessions as his own, but as common to all, so as to share them without hesitation when others are in need. Whence the Apostle with, 'Command the rich of this world... to offer with no stint, to apportion largely'" (para. 22). One may enjoy what "is required for his own needs and those of his household; nor even to give away what is reasonably required to keep up becomingly his condition in life," but "when what necessity demands has been supplied, and one's standing fairly taken thought for, it becomes a duty to give to the indigent out of what remains over" (para. 22).

In relation to the duty to redistribute superfluous wealth lies then another critique, this time of the liberal and capitalist practices and theories, which show none of "the solicitude of the Church... [and her] preoccup[ation] with the spiritual concerns of her children as" well as "their temporal and earthly interests" (para. 28). Capitalism cares for neither. On the contrary, "the Church's desire is that the poor... should rise above poverty and wretchedness, and better their condition in life" (para 28). The poor are not the instrumental, expendable, defeated social atoms in the utilitarian, materialist, Darwinian competition for survival dictated by modern market economies. They are persons, created in the image of God Himself, whose dignity must be respected, even if doing so may reduce the entrepreneurs' pecuniary profits and the investors' return on equity ratio.

Consistently with this conception of human dignity, the Church of Rome, since her earliest history, "intervenes directly in behalf of the poor, by setting on foot and maintaining many associations which she knows to be efficient for the relief of poverty," and she exerts unswerving pressure, both direct and indirect, upon individual consciences, governments and institutions, so that the common good be truly served, not just the private good of a select few (para. 29).

Leo XIII offers even a theory of the State, so as to specify the nature, aims and modalities of the good State, i.e., the legitimacy of the fountainhead of law itself and of the sociohistorical precondition for any complex economy; and he concludes:

> The foremost duty, therefore, of the rulers of the State should be to make sure that the laws and institutions, the general character and administration of the commonwealth, shall be such as of themselves to realize public wellbeing and private prosperity. This is the proper scope of wise statesmanship and is the work of the rulers. Now a State chiefly prospers and thrives through moral rule, well-regulated family life, respect for religion and justice, the moderation and fair imposing of public taxes, the progress of the arts and of trade, the abundant yield of the land-through everything, in fact, which makes the citizens better and happier. (para. 32)

Again, Leo XIII's key-thinker of reference is "St. Thomas Aquinas" and his understanding of "justice," which:

> [D]emands that the interests of the working classes should be carefully watched over by the administration, so that they who contribute so largely to the advantage of the community may themselves share in the benefits which they create-that being housed, clothed, and bodily fit, they may find their life less hard and more endurable. It follows that whatever shall appear to prove conducive to the wellbeing of those who work should obtain favorable consideration. There is no fear that solicitude of this kind will be harmful to any interest; on the contrary, it will be to the advantage of all, for it cannot but be good for the commonwealth to shield from misery those on whom it so largely depends for the things that it needs. (para. 34)

Protecting and promoting the real human interests of the working people and their families are not a mere matter of natural or human justice. They are a matter of divine justice too: "to exercise pressure upon the indigent and the destitute for the sake of gain, and to gather one's profit out of the need of another, is condemned by all laws, human and divine. To defraud any one of wages that are his due is a great crime which cries to the avenging anger of Heaven" (para. 20).

Leo XIII's "preferential option for the poor," which has come to connote the Church of Rome's *doctrina socialis* to a unique extent, applies to the issue of rights as well (Munrion 1989: 847). Inequality in wealth translates into inequality of power, political as well as contractual, as vividly exemplified by the "harder conditions" in "wages… hours of labor… [or] sanitary precautions" that many a "working man" must accept out of "fear of a worse evil" under alleged "free agreements" (Leo XIII 1891: para. 45). The Pope wishes not to hide the "force and injustice" of such circumstances, which were far from uncommon in the liberal societies of his day (para. 45). Rights cannot be considered equal among individuals belonging to different classes just because, formally, all citizens are said to be equal. Legitimacy is no sheer matter of formal adherence to the letter of the law, but of substantive reflection in the laws of the country of that one natural law that, as humankind is concerned, constitutes our chief institutional participation in God's eternal law.

Therefore, in addition to personal conscience, trade unions and other subsidiary bodies, the State itself must make sure that abuses do not occur behind, beyond, or beneath the laws that apply at any specific point in time, taking full consideration of the concrete disparities in wealth and power characterizing historical societies:

> Rights must be religiously respected wherever they exist, and it is the duty of the public authority to prevent and to punish injury, and to protect every one in the possession of his own. Still, when there is question of defending the rights of individuals, the poor and badly off have a claim to especial consideration. The richer class have many ways of shielding themselves, and stand less in need of help from the State; whereas the mass of the poor have no resources of their own to fall back upon, and must chiefly depend upon the assistance of the State. And it is for this reason that wage earners, since they mostly belong in the mass of the needy, should be specially cared for and protected by the government. (para. 37)

Should the State fail in its protective and ameliorating duties, then violent sedition and even revolution could ensue. That is not a prospect that the Church wishes to facilitate.

In more specific formulations, the rights that Leo XIII considers the bedrock for the legitimacy of the political and economic order are those: "of God," i.e., conscience and worship (para. 40); "rest" (para. 41); health and safety on the workplace, especially when "children" and "women" are involved (para. 42); children's "education" (para. 42); forming families and "the bringing up of children" (para. 42); fair and adequate "wages" (paras. 43–46); the enjoyment of one's own remuneration via fair and light taxation (para. 47); "association" with fellow workers and other citizens in "unions" and any other intermediate bodies upon which human society rests for its prosperity (paras. 48–59); assistance in case of "sickness," injury, or "death," e.g., as "widow[s]" and "orphans" (para. 48); care for "young people, and those more advanced in years" (para. 48).

Some of these human rights are now firmly enshrined in international (e.g., the UN's International Covenant on Economic, Social and Cultural Rights) and national laws (e.g., constitutions) and praxes, but in 1891 they were by no means uncontroversial (Gayim 2016). Right-thinking liberals like Herbert Spencer (1820–1903) and his many followers, for example, had been criticizing loudly as unwarranted State "interference" in market equilibria nearly all the primeval forms of welfare provision that had been surfacing across the industrialized nations, especially in the later decades of the nineteenth century:

> [T]o administer charity, to teach children their lessons, to adjust prices of food, to inspect coal-mines., to regulate railways, to superintend house-building, to arrange cab-fares, to look into people's stink-traps, to vaccinate their children, to send out emigrants, to prescribe hours of labor, to examine lodging-houses, to test the knowledge of mercantile captains, to provide public libraries, to read and authorize dramas, to inspect passenger-ships, to see that small dwellings are supplied with water, to regulate endless things from a banker's issues down to the boat-fares on the Serpentine. (Spencer 1960: 162)

Liberal disapproval notwithstanding, none of the successive encyclical has either challenged or contradicted the statements contained in *Rerum Novarum*. Rather, sedimentation of the original claims and integration with additional remarks have gradually taken place, typically in light of specific historical phenomena calling for special attention (e.g., the Great Depression, the Cold War, postcolonialism, globalization). After all, according to his successor Pius XI (1931: paras. 2–3), the slavery-like condition of the working class during the nineteenth century was precisely what had already driven Leo XIII to tackle:

> [T]hat difficult problem of human relations called 'the social question'... [i.e.] human society was clearly becoming divided more and more into two classes. One class, very small in number, was enjoying almost all the advantages... the other, embracing the huge multitude of working people, [was] oppressed by wretched poverty.

Leo XIII's 1891 encyclical is even praised by Pius XI for having led many governments to seek long-lasting ameliorations (e.g., social insurance, old-age pensions), which had only been rare and episodic before 1891 (para. 26). Without *Rerum Novarum*, perhaps, there would be no welfare states and/or provisions, at least as we know them today.

Pius XI's own 1931 *Quadragesimo Anno* echoes Leo XIII's critique of "Socialism" and "Communism," which by that year had taken hold of much of the former Tsarist Empire (paras. 15 and 112). The encyclical restates forcefully the importance of subsidiary, bottom-up human "associations" in all forms, including "labor unions" (paras. 15 and 35). The Thomist distinction between "the right of property" and "its use" is also reaffirmed forcefully, stressing "the social character of ownership," i.e., its being meant to serve ultimately "the common good" and not exclusively someone's private good (paras. 47 and 49). Once again, "the Angelic

Doctor" is recalled as the key-thinker on the subject whereby to "deduce" viable solutions (para. 51).

Above all, class cooperation is praised and "social justice – a term that we owe to Leo XIII's mentor Taparelli (1851) as an insightful recasting of Aristotle's "general justice" and Aquinas' "legal justice" – is here elected to supreme norm of "the common good" itself, for the latter cannot be attained without the former being in place (Pius XI 1931: para. 58).

"[C]ooperation" is praised at the international level too, hence not only among different socioeconomic classes within the same nation (para. 89). Conversely, grave inequality is condemned harshly as an attack upon human dignity and verily the fuel of dangerous "agitators of revolution" (para. 62). The excessive "concentration" of wealth, especially in the hands of few "trustees and managing directors of invested funds" is condemned too, insofar as the Pope writes of "an immense power and despotic economic dictatorship" run by "competitors" who behave selfishly and where "only the strongest survive," while ethical "conscience" becomes an unknown personal experience (paras. 105 and 107).

These greedy men's "deadly and accursed internationalism of finance" and "international imperialism" cannot but corrupt souls, governments and world peace, according to the Pope, for they make all subservient to the blind pursuit of pecuniary wealth (para. 109). Then, these evils must end. In order to achieve the end of such evils, which are as much a systemic international issue as they are a matter of personal responsibility, "two things are especially necessary: reform of institutions and correction of morals" (para. 77).

A novel feature is thus introduced in *Quadragesimo Anno*, which will come to characterize the Church of Rome's "third way" most distinctively, namely, the idea that "[w]orkers and other employees" should "become sharers in ownership or management or participate in some fashion in the profits received" (para. 65). Such an arrangement would foster class cooperation, insofar as both the benefits and the risks of free competitive enterprise would then apply to the employees as well as to employers, and the legitimacy of the economic and business orders would thereby be strengthened.

Cooperation between employer and employee is also advised in "determining the amount of wage to be paid out, so that the employee is "paid a wage sufficient to support him and his family," yet without crippling the entrepreneur's enterprise, in which the employee has a significant stake too (paras. 71 and 72). Another analogous integration is the consideration of how "the wage and salary rate" must be agreed upon in order to guarantee as much employment as possible, striking a balance between decent wages and the citizens' legitimate aspiration of "getting work" (para. 74).

The core element is then cooperation between classes, each of which must accept a modicum of restraint in order for the community to prosper. Consistently, the liberals' "evil individualistic spirit" and their empirically mistaken belief in the necessarily beneficial "free competition of forces [of production]" are criticized for destroying "the unity of human society" and "the social and moral character of economic life" that any sensible economic order should actually pivot around (para. 88). Giving free rein to such spirit and unchecked forces means creating “unquenchable thirst for riches and temporal goods” (i.e., greed) and “instability,” that is, the personal and systemic conditions for the collapse of market economies, whose legitimacy is then cast into jeopardy (para. 88).

By 1931, men and women as old as Pius XI had witnessed more than abundantly the havoc that could spring from heartless individualism and the brainless invisible hand of the competitive free market, including the violent responses that they could elicit among the countless losers. Not only there had been the collapse of the liberal world order built upon the gold standard, the imperialist slaughters of World War I, the failed attempt to restore the pre-war liberal order, and the eventual crash of Wall Street with the ensuing Great Depression. There had also been revolutions and uprisings throughout the world: “let all remember that Liberalism is the father of this Socialism that is pervading morality and culture and that Bolshevism will be its heir” (paras. 122 and 132).

Pius XI writes vehemently against these doctrines as poisonous fountains of deplorable conflict and of avoidable struggle. Cooperation should be the rule instead. Exemplarily, “[s]trikes and lock-outs” should be “forbidden” and disagreeing parties pressured to “settle their dispute” or, if incapable of it, accept the intervention of “public authority” (para. 94). People’s “minds and hearts” must strive for mutual understanding and cooperation between classes and among persons, i.e., there must exist a culture of love, charity and brotherhood, which Christianity has long been cultivating (i.e., what is going to be called, as of *Mater et Magistra*, the principle of *solidarity*): “If this bond is lacking, the best of regulations come to naught” (para. 137). Morally deficient persons can squander the best institutional set-up.

Thirty years later, John XXIII’s *Mater et Magistra* will further confirm all these fundamental concepts: the morally wrongful and socially disruptive character of great inequality; the right to and the proper use of private property for the sake of both private and common good; the importance of private initiative; the importance and dignity of work as the best way for persons to lead a genuinely human existence; the justified intervention of the State, whose entire “raison d’être is the realization of the common good in the temporal order” (para. 20); the principles of subsidiarity and solidarity; the errors of rebellious socialism; the horrors of hedonistic individualism; the importance of fair and adequate wages; the necessity of class cooperation, including co-ownership and co-management of enterprises; the desirability of international cooperation; the requirement of fair taxation; the condemnation of usurious banking, especially when credit could be directed cheaply and sensibly to spurring genuine human development instead.

Once again, a society’s moral culture and interpersonal fabric is deemed an essential precondition for well-functioning institutions, including economic ones:

> First consideration must obviously be given to those values which concern man’s dignity generally, and the immense worth of each individual human life. Attention must then be turned to the need for worldwide co-operation among men, with a view to a fruitful and well-regulated interchange of useful knowledge, capital and manpower. (para. 192)

New aspects appear in this encyclical, though, and they are: the recognition of growing opportunities (e.g., in agriculture) and threats arising from modern science-technology (e.g., in weapons of mass destruction, dealt with extensively also in *Pacem in Terris*); the hopes and challenges of newly independent countries that used to be Western colonies; the pluses and minuses of fast-growing means of mass communication; the acceptability of "public ownership" of strategic resources and price controls in the name of the common good (para. 116); and the dramatic imbalance between agriculture and industry, which is given much attention in the encyclical and leads John XXIII to conclude:

> [C]onsiderable thought must be given, especially by public authorities, to the suitable development of essential facilities in country areas—such as roads; transportation; means of communication; drinking water; houseing; health services; elementary, technical and professional education; religious and recreational facilities; and the supply of modern installations and furnishings for the farm residence. Such services as these are necessary nowadays if a becoming standard of living is to be maintained. (para. 127)

The encyclical is also the first one to adopt fully the language of international human rights law, which was flourishing by then within "the International Labor Organization" and the United Nations, where Vatican and Catholic experts operated at high levels of influence (para. 103). The Pope speaks in this respect of "personal rights, especially those which we call economic and social and which pertain to the necessities of life, health care, education on a more extensive and improved basis, a more thorough professional training, housing, work, and suitable leisure and recreation" (para. 61).

Similarly, *Mater et Magistra* is also the first one to consider seriously environmental issues and the danger of humankind's much-praised economic development "destroying nature" (para. 197). Macroeconomic indicators must be taken with a pinch of salt, for they do not grasp the fundamental ground of value that legitimizes economic activities. The dignified life of persons, present and future, is the real aim, while securing the socioeconomic and environmental preconditions for such a life, as it is expressed in the language of human rights (civil, political, economic, social, and cultural), is the means to achieve it.

Even more explicit about human rights, including economic ones, qua articulations of the natural law, is John XXIII's 1963 encyclical *Pacem in Terris*, where the Church of Rome lists and defines the human being's "rights and duties, which together flow as a direct consequence from his nature," i.e., our being "person [s]... endowed with intelligence and free will" (para. 9). As economic rights are concerned, the encyclical states:

> Man has the right to live. He has the right to bodily integrity and to the means necessary for the proper development of life, particularly food, clothing, shelter, medical care, rest, and, finally, the necessary social services. In consequence, he has the right to be looked after in the event of ill-health; disability stemming from his work; widowhood; old age; enforced unemployment; or whenever through no fault of his own he is deprived of the means of livelihood. (para. 11).

Furthermore:

> In the economic sphere, it is evident that a man has the inherent right not only to be given the opportunity to work, but also to be allowed the exercise of personal initiative in the work he does. The conditions in which a man works form a necessary corollary to these rights. They must not be such as to weaken his physical or moral fibre, or militate against the proper development of adolescents to manhood. Women must be accorded such conditions of work as are consistent with their needs and responsibilities as wives and mothers. A further consequence of man's personal dignity is his right to engage in economic activities suited to his degree of responsibility. The worker is likewise entitled to a wage that is determined in accordance with the precepts of justice. This needs stressing. The amount a worker receives must be sufficient, in proportion to available funds, to allow him and his family a standard of living consistent with human dignity. (paras. 19–21)

To these human rights, upon which persons' dignity depends, the encyclical adds "The Right to Emigrate and Immigrate" qua legitimate member "in the human family" and citizen of "universal society," i.e., "the common, world-wide fellowship of men" (para. 25).

In all these cases, emphasis is not placed upon these rights being individual and the result of some hypothetical social contract, or even upon the historical horrors that led to their eventual institution (e.g., the Great Depression, fascism, World War II, Stalinism). Rather, *Pacem in Terris* asserts that they are the formal expression in our times of "the moral order" established by God, i.e., His eternal law, and "the unfailing observance of its precepts" that our rational recognition of this order commands, i.e., "in accordance with the principles of the natural law" (paras. 85 and 160). Once again, Thomas Aquinas is cited as a key-reference on the subject (paras. 38 and 51).

Paul VI's 1967 *Popolorum Progressio* opens by acknowledging its predecessors and expands upon John XXIII's remarks on the hopes and challenges of newly independent countries that used to be Western colonies: "those peoples who are trying to escape the ravages of hunger, poverty, endemic disease and ignorance; of those who are seeking a larger share in the benefits of civilization and a more active improvement of their human qualities; of those who are consciously striving for fuller growth" (para. 1).

Postcolonial development is thus addressed in light of the now firmly established notions concerning: the proper use of private property; the pursuit of full human growth; the dangers of "unbridled liberalism" (with a direct reference to Pius XI's "international imperialism of money"; para. 26); the intrinsic nobility and importance of work in cooperation with all fellow humans; the rejection of violent revolutionary solutions; and the positive role that the State can play in all of this.

Paul VI adds to the issues discussed by his predecessors an articulate analysis of the dangers arising from having too much faith in technological solutions, or "technocracy, as it is called" (para. 34). Special emphasis is then placed upon the desirability of an all-round "education" nurturing all aspects of human personality, including moral and spiritual ones, seeking "literacy" at first, then the transmission of "cultural tradition[s]," but also and above all "a full-bodied humanism" (paras. 35, 40 and 42). A highly cultured scholar, Paul VI regarded education as a fundamental precondition for true human prosperity: “Lack of education is as serious as lack of food” (para. 35).

In connection with postcolonial development, wealthy nations have obligations analogous to those that Aquinas attributed to a wealthy person *vis-à-vis* her unfortunate fellows:

> The rule, by virtue of which in times past those nearest us were to be helped in time of need, applies today to all the needy throughout the world. [. . .] [T]he human and supernatural brotherhood of man, and present a three-fold obligation: 1) mutual solidarity—the aid that the richer nations must give to developing nations; 2) social justice—the rectification of trade relations between strong and weak nations; 3) universal charity—the effort to build a more humane world community, where all can give and receive, and where the progress of some is not bought at the expense of others. (paras. 44 and 49)

The fulfilment of such duties is not a mere institutional or technical matter, or even a sheer point of self-interested convenience and foresight, but a cultural and moral one. Without such a cultural and moral component, which the Church of Rome claimed then to have kept alive for almost two millennia, the international economic system is deemed inherently incapable of putting billions of human lives and their happiness before the pecuniary interests of the wealthy few. The ultimate legitimacy of the international economic order depends on getting this axiological hierarchy right, which is not the case when the fundamental principles of legal and socioeconomic systems are socialist or liberal.

Specifically, the mistaken axiology typical of the capitalist order was exemplified in the 1960s by the desperate plight of poorer countries “overwhelmed by debts whose repayment swallows up the greater part of their gains” (para. 54). Once again, liberalism is targeted and criticized forcefully in *Popolorum Progressio*:

> [T]he principle of free trade, by itself, is no longer adequate for regulating international agreements. It certainly can work when both parties are about equal economically. . . But the case is quite different when the nations involved are far from equal. Market prices that are freely agreed upon can turn out to be most unfair. (para. 58)

The Pope’s critique is not backed by Biblical injunctions, but by Thomist reasoning upon “justice,” whereby “the rule of free consent remains subservient to the demands of the natural law” (para. 59). Equality in the freedom to enter into a contract is no real freedom, if prior gross inequality in access to means of life, income and education subsists.

When Pope John Paul II started his pontificate, the *doctrina socialis* had already taken an articulate and well-defined shape. His encyclicals deepen, rather than expand, this shape. His 1981 *Laborem Exercens*: deploys once more “the well-known arguments of the *Summa Theologiae* of Saint Thomas Aquinas”; recalls “proposals for joint ownership of the means of work, sharing by the workers in the management and/or profits of businesses, so-called shareholding by labour, etc.”; but above all stresses at length the importance of work in healthy, dignified and truly human conditions, for it is through work that persons realize much of themselves in this life (para. 14). Persons must be then "the subject of work," not its "object," as it results instead from "the various trends of *materialistic* and *economistic* thought" that reduce them to "an instrument of production" or "merchandise" to be bought and sold (para. 6).

Both "socialism" and "capitalism" are to be blamed in this perspective: persons are for the former pawns to be used by State authorities, whilst the latter acknowledges them only and insofar as they bring in profits (para. 6). "Rights" are also listed and discussed, which include: "human rights as a whole, which are connatural to man" (para. 16); fair "wages and other social benefits" facilitating in particular family life, motherhood, and the rearing of children (para. 19); and the "importance of unions" in connection with subsidiarity, "social justice," "social order," "solidarity,"and "the common good" (para. 20).

Truly novel is only the explicit inclusion of the rights "of disabled people," who "should be helped to participate in the life of society in all its aspects and at all the levels accessible to their capacities" (para. 22). Whereas the Church of Rome had been providing care to the handicapped and the mentally ill for centuries (Neugebauer 1978), this is the first encyclical in which their care is understood in terms of human rights.

John Paul II's 1987 *Sollicitudo Rei Socialis* follows the path initiated by Paul VI's *Popolorum Progressio*, and examines postcolonial, third-world or even "Fourth[-] World" reality from a Catholic perspective, lamenting the "gap" between the "developed North" and the underdeveloped "South," which suffers from "an unacceptable delay" (para. 14).

The dignity of work is stressed further, qualifying inadequate conditions also in terms of "underemployment" and not just "unemployment," exploitative employment practices, and woefully meagre wages (para. 18). "[I]nternational debt" and its discontents are analyzed as well and to a considerable extent, and so are many other socioeconomic trends of the contemporary world, some of which are condemned sternly despite prevalent views among the laity (para. 19). For instance, the encyclical discusses the many "campaigns against birth" imposed upon the poor in developing nations, i.e., de facto "racist forms of eugenics" (para. 25; an even stronger condemnation of abortion and other life-ending practices is articulated in the same Pope's 1995 *Evangelium Vitae*).

"Marxist collectivism" is deplored on the one side, while on the other side the Pope deplores "the so-called civilization of 'consumption' or 'consumerism'" typical of the late-modern capitalist economic order, "which involves so much 'throwing-away' and 'waste'" (John Paul II 1987: paras 20 and 28; *Evangelium Vitae* extends this careless destruction to embryos and the dying; *Laudato si'* to the Earth's ecosystems). Neither philosophy can bring forth the "authentic human development" that the Church's 'third way' recommends in her *doctrina socialis* and that alone can truly justify an economic order and its business activities (para. 27). Although complete perfection is not possible in this life, the Catholic doctrine assumes the possibility of progressive improvement, or at least of worthy attempts in this sense.

The 1991 encyclical *Centesimus Annus* celebrates *Rerum Novarum*, outlines its main elements, and then leads an analogous examination of "the actual condition of the working class" in light of the continuing moral collapse of liberalism and the recent political collapse of "Real socialism" (paras 12 and 13). All essential tenets of the *doctrina socialis* are reiterated and contextualized in the changing conditions of the increasingly postcommunist world of liberal "globalization" (para. 58). The prescience of *Rerum Novarum* with regard to the intrinsic contradictions of socialism is praised and appraised, the Polish pontiff almost reveling in the defeat of one of the Church's historic adversaries.

The other adversary, however, is still going strong, if not even stronger, and "the human inadequacies of capitalism and the resulting domination of things over people are far from disappearing" (para. 33). This is why the encyclical launches into a detailed reiteration of the correct understanding of private property, along Thomist lines, as well as of, inter alia, the dignity of work, "the fundamental rights of workers," the correct understanding of the final purpose of business life and entrepreneurship (i.e., "the common good"), the insufferable burden of excessive debt, the inanity of consumerism, "the irrational destruction of the natural environment," and the inability of the "free market" to satisfy "fundamental human needs" (paras. 6, 34, and 38).

John Paul II reminds the reader of the fact that "[p]rofit is a regulator of the life of a business, but it is not the only one; *other human and moral factors* must also be considered which, in the long term, are at least equally important for the life of a business" (para. 35; emphasis in the original). Novel, within this critique of liberalism, is the recognition of "the possession of know-how, technology and skill" as a "form of ownership which is becoming no less important than land" in older manifestations of capitalism (para. 32). Original is also the use of Karl Marx's (1818–1883) concept of "alienation" in connection with the senseless consumerist prioritization of "individual and secondary needs" over "principal and authentic" ones, which a modicum of education, humanistic culture, and the cultivation of the moral and spiritual aspects of the human person can easily disclose to human reason (para. 41).

Benedict XVI, in his 2009 encyclical *Caritas in Veritate*, opposes vocally the standard conception of *homo oeconomicus* of orthodox economics and argues in unsurprising Thomist fashion that "justice must be applied to every phase of economic activity, because this is always concerned with man and his needs. Locating resources, financing, production, consumption and all the other phases in the economic cycle inevitably have moral implications. Thus every economic decision has a moral consequence" (para. 37).

Francis' 2015 *Laudato si'* expands the worries and reasoned considerations of his predecessors about the lack of guiding axiological standards, and therefore genuinely good aims, for technological and economic development. Without a substantive notion of the good and, in particular, of the human good, the immense power over nature acquired by humankind is bound to spiral out of control, outside as well as inside human societies. This spiraling needs no complex demonstration: the ecological collapse of the planet and the instability caused by the virtualization of the world's capitalist economies are far too manifest not to be seen in the 2010s. People die because of them, whether hit by torrential floods and terrible draughts, or by social services denied in the name of debt repayment to vulture funds and of speculative maneuvers on national currencies.

Even the necessities of life, which the encyclical casts in terms of "rights," can be made scarcer by the combination of ecological devastation and capitalists "maximizing profits" as an end in itself (para. 109):

> Even as the quality of available water is constantly diminishing, in some places there is a growing tendency, despite its scarcity, to privatize this resource, turning it into a commodity subject to the laws of the market. Yet access to safe drinkable water is a basic and universal human right, since it is essential to human survival and, as such, is a condition for the exercise of other human rights. Our world has a grave social debt towards the poor who lack access to drinking water, because they are denied the right to a life consistent with their inalienable dignity. (para. 30)

If the political rulers do not wake up and step up to their responsibilities, this sort of ecological and economic degeneration can only but worsen. Both each present and future person's "basic and inalienable rights ordered to his or her integral development" are at stake, as well as those of "peoples and cultures" at large (paras. 144 and 157). As Pope Francis states:

> Politics must not be subject to the economy, nor should the economy be subject to the dictates of an efficiency-driven paradigm of technocracy. Today, in view of the common good, there is urgent need for politics and economics to enter into a frank dialogue in the service of life, especially human life. Saving banks at any cost, making the public pay the price, foregoing a firm commitment to reviewing and reforming the entire system, only reaffirms the absolute power of a financial system, a power which has no future and will only give rise to new crises after a slow, costly and only apparent recovery. The financial crisis of 2007–2008 provided an opportunity to develop a new economy, more attentive to ethical principles, and new ways of regulating speculative financial practices and virtual wealth. But the response to the crisis did not include rethinking the outdated criteria which continue to rule the world. Production is not always rational, and is usually tied to economic variables which assign to products a value that does not necessarily correspond to their real worth. (para. 189)

Conclusion

It is because of statements like the ones above that the current Pope has been "accused" of being a "Marxist" in the US popular press, which presumes of course that being a Marxist is something to be ashamed of (e.g., Thomas 2015). Yet, as this brief survey of the social doctrine of the Church must have made clear by now, Francis is merely reiterating an official stance – a third way – which is at least as old as *Rerum Novarum*, or perhaps Aquinas' *Summa Theologiae*, if not even as old as the founder of Christianity.

In its own way, the Catholic *doctrina socialis* replicates, at least to some extent and certainly among certain publicly heard sociopolitical groups, the ethically radical character of the Christian religion in much of its history. As a thought experiment, for one, the readers may want to consider which choice would be personally more radical and socially more transgressive today, were their own children to become religiously motivated Catholic or Anglican nuns, Christian ministers of religion or lay friars, rather than economically self-maximizing stock-brokers, tough businesspeople, or allegedly rebellious scantily clad twerking pop stars. When taken seriously, a number of Christian teachings – though not necessarily all or only Catholic ones – can still be "*scandal to the Jews* and *folly to the Gentile,"* as Saint Paul stated a long time ago (*I Cor* I: 22–24).

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Theology, Responsibility, and Business Legitimacy

11

Camilla Sløk

Contents

Abstract

We seem to know what business is, but what does "theology in business" mean? In this paper, I want to show how our contemporary understanding of "business legitimacy" can be translated to the theological concept of "love of your neighbor" which means responsibility toward other human beings. Only if you act responsibly and accountable in your relationships, including economic relationships, are you legitimate in your acts. Responsibility and accountability is a web of relationships. This paper focuses on how responsibility has been interpreted in Protestantism, particularly with regard to the reformed theologian's, Martin Luther, understanding of responsibility in economy. With the rising capitalism of the Renaissance, new politics was asked for, and intellectual discussions on

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fairness and justice were part of that. Further, I want to show how this theological understanding of business legitimacy as responsibility is both (1) an invisible underpinning of contemporary business legitimacy and (2) a concept of justice which seems to have disappeared from contemporary, neoliberal debates around economy and business legitimacy.

Keywords

Theology · Responsibility · Economy

Introduction

We seem to know what business is, but what does "theology in business" mean? In this chapter, I want to show how responsibility and accountability in business is deeply embedded in theology, particularly as a question of responsibility toward others (e.g., Jonas 1984, see also Rendtorff 2016a, 2016b, 2018; Joas 2017). Responsibility and accountability with regard to others also goes for the way we do business. Willmott has formulated it like: "Accountability is at the center of human relations and interactions" (1996).

The topic of responsibility in business was highly debated by reformed theologians like Martin Luther (1483–1546) in the sixteenth century. Still, our contemporary understanding of "business legitimacy" has roots in the theological concept of responsibility toward others, basically the love of your neighbor. In a theological epistemology, the claim is that you are only legitimate in your acts if you act responsible in your relationships, including economic relationships. The ambition of the chapter is to show the theological roots of contemporary discussions around responsibility in business today. Further, I want to illustrate how one particular dimension of responsibility, namely, justice, has disappeared in contemporary neoliberal thinking. The dimension of a higher justice used to be ordinary in reflections on economy. This particular dimension has vanished from our contemporary understanding and debate around business and economy. I will return to that in the end of the paper.

In order to show how theological reflections historically have been behind reflections on business, as well as how a theological current of justice is still implicitly present in parts of contemporary discourse, the paper is divided into four sections:

1. A presentation of theology as value system
2. A short history of economic theology
3. Martin Luther's view on economy, hence business in society
4. A conclusion that discusses what the corrective is of economy of today

Before this, a short introduction to the field of "theology" with regard to economy and social science might be helpful.

What Is "Theology"?

A recent business historian, Philipp Rössner, has shed light over the meaning of "theology" and its relevance to both economy and business economy of today (2017a). In the following quote, Rössner is comparing the times of the reformation with our own contemporary times:

> No one during Luther's time and age, however would have contemplated separating the human world and human trans- and interactions into spheres the way we do nowadays, i.e. into "politics", "private vs. public", "social", "society", or "economy" etc. This is a modernism resulting from practices and habits in the modern social sciences that, for precisely this glitch or cognitive distortion (due to the need of complexity reduction imminent in modern social science analysis), have delegated Luther's views on commerce, merchants and business into the quarantine realm of "business ethics", a marginal academic discipline that nowadays is hosted more often within Divinity faculties rather than economics departments (where it belongs, really). (2017)

The quote tells us that our (e.g. Suchman 1995) contemporary discussions on values as business responsibility and legitimacy are as a matter of fact also theological topics and values. The theologians at the time of reformation discussed the same topics as we do today. These topics can be formulated like this: Who will we as a society allow to get the more profit at the expense of others' effort and labor? And why? Further, how should the power-holders (the state) regulate businesses? All of these were debated concepts among theologians, bankers, and power-holders in reformed times, as well as today between politicians, bankers, and lawyers.

The contemporary economists Carmona and Ezzamel (2007) have shown how economy is always situated in a web of meaning like this: "(..) we see accounting as a structure of meanings through which the significance of the activities upon which accountability is centered is delineated and performance targets are defined" (2007). This tells that economy and accounting are never without meaning. There are always implicit values at stake. What we want to look for is (1) how these values are made legitimate, or debated as illegitimate, and (2) what the theoretical, actually philosophical, and theological frameworks are underneath the structures and values.

What is meant by theology in this paper is the Protestant epistemology and its thinking about values of humanity, human beings, responsibility, guilt, and justice. Though such an epistemology might seem far away in everyday life, it was still present among twentieth-century social theorists such as Walter Benjamin (1892–1940) and Carl Schmitt (1888–1985). For example, a critical theorist, Walter Benjamin (1892–1940), in spite of being in favor of a Marxist historical materialism, saw theology as a necessary corrective of historical materialism (Benjamin 1977, see also Habermas 1973). According to Benjamin, any form of economic theory, also a Marxist, would need theology, to hold its own values up against in order to keep track of itself and not distort. That theology matters to the way we think about state, business, economy, and justice can further be seen in the following quote by another important political philosopher of the twentieth century, Carl Schmitt.

Schmitt said:

> All significant concepts of the modern theory of the state are secularized theological concepts not only because of their historical development - in which they were transferred from theology to the theory of the state, whereby, for example, the omnipotent god became the omnipotent lawgiver - but also because of their systematic structure, the recognition of which is necessary for a sociological consideration of these concepts. The exception in jurisprudence is analogous to the miracle in theology. Only by being aware of this analogy can we appreciate the manner in which the philosophical ideas of the state developed in the last centuries. (Schmitt 2005 (1922))

Both the statement by Benjamin and Schmitt show how theology is viewed within twentieth-century social theorists as a backdrop of our values, even in our own modern society. Rather, Protestant theology runs as an undercurrent in our contemporary society, without our explicit knowledge.

Ad 1: A Presentation of Theology as Value System

As already stated, theology is a value system that has importance for Western society, even business as social activity. To look theologically at business indicates that "business" is never just business, but rather a social system with certain values and conflicts. Like any other social system, it is a battlefield. This is how the reformed theologians looked at the upcoming of new financial systems in the fifteenth and sixteenth century (Steinmetz 2015, 78; Martin 2014). Already in the twelfth century, the Italian maritime city-state of Genoa invented the account system as we know it today. The invention of "bank" meant that merchants would have each their account which made it possible to transfer the agreed amount from one merchant's account to another: Without the two parties physically exchanging what we call "money", i.e. coins and notes (Martin 2014, 103). A vital part of the banking system was interest which the Catholic church deemed to be usury. Steinmetz depicts the debate like this: "No one cared about the usury debate in the Dark Ages when commercial activity was just a trickle in the stream. But as trade came to life in the eleventh century and lending began to power it, the victims of usurious practices multiplied" (Steinmetz 2015, 104). By the sixteenth century, completely new powerhouses such as the commoner family Fuggers came into the financial scene and thus became part of the political and religious fights. This trigged intense theological debates around the concepts of justice and social order, without always a lot of agreement. Eventually the Catholic church breached and became divided between a Protestant and a Catholic denomination, due to these power struggles in Central Europe. Having cash flow was central for these power struggles.

The upcoming banking forms and new forms of capital exchange both changed, destroyed, gave possibilities, and sometimes devastated people's lives (Martin 2014, p. 103 and 105). It was the latter case, i.e., how new ways of organizing money that got the intellectual layers of society, i.e., theologians and policy makers, alert.

Theologians like Martin Luther were railing over the way bankers and lenders were game changing the contemporary economy and thus changing social life forms.

Before further presenting the theologians critique of business and economy, I will present at theoretical framework to understand what I meant by theology.

Niklas Luhmann on Religion as Contribution, Reflection, and Diakonia

First a definition: What is theology? And what does it has to do with business legitimacy? It is important to notice that theology in this paper is not the same as (1) religious nor (2) church as institution. Contemporary people are used to understanding "theology" as "church," and the type of church most people would think of is the Protestant church which is separated from the state. However, this is not what is meant by theology in this paper. What is meant is "epistemology in the line of the historical field of Christian thinking." Thus, epistemology is a particular way of thinking and analyzing historically how certain concepts and values have been interpreted in history. Further, how these ideas continue into our present times.

To Niklas Luhmann, the critical theory approach changes with his development of his own version of systems theory (Luhmann 1984). Luhmann breaks with the former tradition from Adorno, Horkheimer, and Habermas and instead starts viewing economy as a social system with its own logic (called autopoiesis). Luhmann defines, e.g., politics as a social system with its own logic: education, health, law, art, and religion are also social systems with their own particular logic (autopoiesis) (Sløk 2006, 2009).

Luhmann divides any social system into three subsystems (Luhmann, 1977, s.54ff):

1. Function
2. Contribution
3. Reflection

When it comes to the social system, religion, these three subsystems are to be found as the following:

1. Church
2. Pastoral care (Luhmann, 1977, 58)
3. Theology

To Luhmann, taking part in a service is to engage in a common religious activity. Here is no debate, only submission and acceptance of the activity. This is what a service about. Theology is different from a service. Theology is to be understood as a reflectory system (see, e.g., Niklas Luhmann 1977, 1992), like philosophy or art, which has a vocabulary that is intrinsic in our contemporary epistemology on, e.g., economy and business. Theology is both a reflection on its own identity, as well as the role of church and pastoral care, and a reflection in general (Luhmann 1977, s.59f). The latter involves reflection on theology's role toward other social systems.

Theology is about investigating, discussing, and finding arguments for a viewpoint on theological questions such as of humanity, society, responsibility, guilt, labor, etc. This is why theologians disagree and also the reason why we find different denominations, as well as different types of Christian societies. Theology is a debate club, not a uniform religious activity.

Ad 2: A Short History on Economic Theology

Not only sociologists as Luhmann have engaged in questions of the role of theology for economy. The anthropologists like Felix Martin and David Graeber have investigated this field, finding that theological reasonings or arguments are often underlying values of power and money. An example of the theological interpretation of economy is the accounting system of Mesopotamian. Mesopotamian clericals invented in 3100 BC an accounting system based on symbols (Martin 2014, p. 43). The accounting system was about keeping track on how much grain, dates, sesame, and cereals and how many sheeps, etc. the country had. This was necessary in order to distribute to the population, and to sell, so that no one would starve and to make prosperity possible.

Why a clerical system would care about that is rather to put the question the other way around: Since the society, the existing culture, and the power-holders of the country cared about their population, it would be the role of the clericals to 1) take care of formulating arguments, 2) methods for survival and prosperity, and 3) organize this in practice, i.e., the invention of the accounting system.

In the Old Testament, we find that the Ten Commandments from around seventh century BC also entail an economic perspective on property. Properties as wife, slave, goods, and soil are defined as "somebody's," the owners, and by law cannot be stolen with repercussions. Theology was used to justify property and the other way around.

The Christian monasteries of the eleventh until sixteenth century, were also deeply embedded in "economy" in the sense that they were innovative on agrarian and manufacturing knowledge, which was distributed to them through the international clerical system; this knowledge was important also to local nobles and merchant who have money for investment (Rössner 2017a, p. 5). The monasteries had an economic experience and expertise of handling payment for their goods, management of their organization, production decisions, strategies on new markets, keeping account over credits to customers, etc.

The big debate in the medieval ages was "interest." It had been forbidden, but became increasingly legal, also due to the interpretation of the writings of Thomas (Aquinas 2016), in which Aquinas "leave(s) so much room for interpretation as to accommodate nearly any type of financial and credit transaction as legitimate and in accordance with scriptural law" (Rössner 2017a). The fact that it is discussed implicates that interest taking was already going on. Interest taking was becoming an increasing market in the fifteenth century (Rössner 2017a). Taking loans was a unique opportunity for the risk-willing merchants to create new businesses in selling and buying with other international merchants. Paying interests became part of this new way of organizing economy. For the case of an example, in 1540, there would be as much as 40% interest on some loans (Rössner 2017a). This meant a lot of risk, and obviously also what we would call some merchants' bankruptcy and disaster, because their investment did not bear fruit.

Martin Luther stressed "fairness" just as Aquinas and that no one because of asymmetrical information, situations of hunger, or any other kind of powerlessness of the weaker side should be exploited, overcharged, and overruled and receive unjust advantage in any economic or market transaction (Rössner 2017a, p. 5). However, in the sixteenth century, the economy had become more game changing than before (Steinmetz 2015). We here find that Luther's engagement with the topic of business and how it is urged to act responsibly is more intense than any theologian before him.

Ad 3: Martin Luther's View on Economy, Hence Business in Society

Martin Luther (1483–1546) was one of the reformed theologians of the sixteenth century. To his own surprise, he became a famous man already in his own times without really wanting it (Schilling 2017). However, social order had been disrupted in sixteenth-century Europe, also in Luther's own town, by new forms of finances, namely, banking (Rössner 2017b; Steinmetz 2015; Martin 2014). Martin Luther experienced himself at close range how the local area, Saxony-Mansfeld he lived in, declined due to change of the economic thinking and change of power balances due to economy. Rössner shows how prices, wages, and living standard changed in the first three decades of the sixteenth century (Rössner 2017a). This is the 30 years when Martin Luther lived. The area Saxony-Mansfeld, including the Saxon-Bohemian Erz Mountains, as well as the copper deposits of the Harz and the Mansfeld mining deposits had been having great thrift and wealth. Also Luther's father and family lived in Mansfeld, and they had a small copper mining field, from which they grew into better life conditions. Thus, Luther's father, Hans Luther, became a member of the town hall.

Originally, Hans Luther had been a mining worker himself. This story shows not only of social climbing but also of radical changes in the period when Luther became a young man and adult, due to the change of growth in silver and copper. It started all well: During the period of 1440–1480, 18 to 19 tons of silver were mined. This changed in the late 1530s to 2 tons a year. Silver was used as monetary material (Rössner 2017a). The decline in mining spread to other sectors, e.g. influenced the decrease of the price of grain, which was the main good bought and sold in contemporary Germany. This suggests that people had declining employment and income and the other urban industries and manufacturing declined as well. Hardship caused interest rates to be increased (Rössner 2017a).

The change in the living standard of Luther's home region Saxony-Mansfeld is beyond doubt part of the reason for Luther's engagement in economic matters.

Luther's awareness about the overall transactions between countries with regard to economy is visible in the following quote:

> God has cast us Germans off. We have to throw our gold and silver into foreign lands and make the whole world rich while we ourselves remain beggars. England would have less gold if Germany let it keep its cloth; and the king of Portugal, too, would have less if we let him keep his spices. You calculate yourself how much gold is taken out of Germany, without need or reason; from a single Frankfurt fair, and you will wonder how it happens that there is a single *heller* left in German lands. Frankfurt is the gold and silver sink, through which everything that springs and grows, is minted or coined here, flows out of the German lands. If that hole were stopped up we should not now have to listen to the complaints that there are debts everywhere and no money; that all lands and cities are burdened with rent charges and ruined with interest payments. But let that pass. So it will go anyhow. We Germans must be Germans; we never stop unless we must. (Luther 2015)

It sounds almost like a complaint about EU and Brexit, if you exchange the country "Germany" with "Britain" (https://www.rte.ie/news/special-reports/2016/0622/797347-brexit-quotes/).

The quote is interesting, because it shows us how Luther was well aware of the dynamics of economy, such as increased interest rates, monetary shortage, and increased indebtedness, and first of all that this economy was not fair nor just. Whether his analysis is correct, e.g., of lack of proper investment in, e.g., his own home region due to the main focus on profit for oneself, is not to be determined. And it is not the point: The point is that Luther has an economic theory. Luther knew these macro-dynamic processes happened due to the change of capital into bank houses, who would give to those who already had a lot, while ordinary life as hitherto known, would disappear. And he was upset and worried about whether the new business men with their new ways of doing business would act responsibly toward the weak in society.

List of Luther's Critique of Uncontrolled Economy

Luther's critique of the new form of economy in his contemporary time is summarized in the following:

1. Critique of profit
2. Forestalling
3. Price dumping
4. Giving promises you cannot keep, including speculation and arbitrage, and giving insider information about where to buy goods more cheaply
5. Undercutting of competitors in the trade, e.g., having straw men
6. Price cartels
7. Selling goods at a higher price upon credit to someone from whom the seller will buy it back at a discount

8. Going bankrupt to avoid paying back loans, upon which the merchant gets into a new business with the main share of his liabilities cancelled
9. Manipulation or adulteration of merchandise
10. Violation of contracts due to changes in the outer appearances of goods put up for sale (Rössner 2017a, p. 15)

Also arguments against monopoly are part of Martin Luther's concern. In the fifteenth- and sixteenth-century Europe, super rich people were emerging. The families were the Fugger family (Steinmetz 2015), Welser family, Höchstetter family, and other family companies who got immense capital, and power, through investments in German cloth weaving, Central European mining, and global spice trades with India and China. These families got monopoly on these markets and were obviously criticized for this.

What mattered to Luther in his economic thinking was equity, in the meaning of fairness and not in the neoliberal meaning of shares in a company. Values such as fairness and respect between merchants and citizens, what we would call markets and customers, were intensely debated. These values were to a large degree embedded in the local societies in which exchange and business took place. However, these values and rules were of course regulated by the people in power, i.e., the King and his men, the nobles, and the church. This is nothing extraordinary, since markets have always somehow been regulated by the people involved. And business indeed involved the King, the nobles, and the church, since they were also depending on (1) exchange and markets and (2) a well-functioning local population who would starve or fight over disagreement and cheat (Netterstrøm 2007). Obviously there would be cheat, theft, and crimes; therefore law was made. Also laws and rules on exchange were necessary because of cheat, etc. These laws were founded on ideas of fairness and respect.

Luther's reflections on the concept of "two kingdoms doctrine" (Luther 2016) were a theological attempt to reasoning about why the emperor and clerical powerholders see a close connection between their power and the ordinary society in general. The two kingdoms doctrine has it that the emperor and the Gospel are two kingdoms who are both separated and connected, since the role of the emperor is to make laws that protect the weak against the strong, so that the evil will not destroy the weak, and the role of the Gospel is to preach justice. Luther even talks of that everybody has a calling in society to participate in society. Calling in a religious sense does not mean a call to church but a call to be part of society. Weber has defined this Protestant understanding of calling as a prerequisite of capitalism, as well as the concept of double predestination being so (Weber 2002). Luther wanted capital to be held in check by the worldly leaders, who has the power to do so (Luther 2016).

In the twentieth century, the Catholic theologian Johann Baptist Metz (Glebe-Møller 1981, 17) claimed another type of two kingdoms doctrine, namely, the theological epistemology up against the Marxist epistemology. Metz saw theology is correcting the privatizing elements of modernity, and thus theology (not the church) is standing outside society and looking critically into society (Glebe-Møller

1982). This differs from Luther's view, who saw both the worldly leaders and the leaders of the Gospel under God's judgment. This line of thinking was gone by the twentieth century, and with this disappearance it seems also the concept of a higher judgment: justice.

Luther's and Metz' viewpoints basically discuss the same fundamental dialectics between (1) on the one side the Christian community and (2) on the other side the society. These two, Christian community and society, stand in contrast, as already St Paul said in his *Letter to the Romans*. We here find a basic dialectic which is typical of Christian theology: The Christian community is set apart of the craziness of society. Both Luther and Metz discuss this *theological* matter, as a theological matter. However, Luther living in medieval times implies that the worldly leaders have a control over what happens at the local market. They can control this due to the laws of the times. Metz lived in the twentieth century. Metz did not see worldly leaders as first of all engaged with Christianity, rather the opposite. Metz lived under the discussions of Marxism, historical materialism (Marx and Engels 2012). Metz saw worldly leaders as being in the arms of capitalism. And the Christian community is standing reflexively, and due to faith, outside this society, trying to correct contemporary society.

Ad 4: CSR and the Theological Roots

In this section, I want briefly to touch upon the concept of CSR, relating it to Luther's understanding of responsibility. Even though Milton Friedman famously claimed that "The Social Responsibility of Business is to increase its profits so long as it stays within the rules" (1970), Friedman is after all still discussing responsibility and what it means. This points to the great emphasis in Western culture on exactly this concept and also in business teaching (Dunn and Burton 2006). The impact of Friedman through business schools and the neoliberal trend since the 1980s have done a lot to create one particularly understanding of responsibility, which has succeeded almost in ignoring the other. Also if we look at Archie Caroll's (1991) reflections on CSR, we find that his statement on CSR has similarities to earlier theological discussions on the concept of responsibility. Caroll (1991) defines four dimensions of a business' responsibility: economic, legal, ethical, and philanthropic (p. 4). Archie says: "Early on it was argued by some that the corporation's sole responsibility was to provide a maximum financial return to shareholders. It became quickly apparent to everyone, however, that this pursuit of financial gain had to take place within the laws of the land" (Caroll 1991). CSR implies an opposition between a firm's economic orientation and its social orientation (Caroll 1991, p. 2). Luther would agree in this opposition.

Conclusion: Who Will Preach Justice Now?

Two competing paradigms within economy have been going on since the Middle Ages and until the nineteenth century (Rössner 2017a). These are (1) a radical-liberal view, particularly dominated by a certain interpretation of Adam Smith, and (2) a coordinated capitalism that would emphasize and shape markets in a context of values such as fairness and respect between merchants and citizens, what we would call markets and customers. The two competing paradigms turn into one paradigm during the twentieth century, i.e., the all-encompassing neoliberalism, leading to, e.g., the financial crisis of 2007. Rössner suggests to look at Luther's understanding of (1) economy which must be based on a vision for a socially fairer life for all people and (2) charity (Latin, caritas) which is part of an economic life with others in society. The argument for that is that both the debates of the reformation and today are conflicts around the same questions on values and who is to make how much money and why. Much of the same debates have been seen around globalization for the past 30 years (Jones 2007). Business historians like Jones (2007) have therefore shown how there have been various periods of globalization that have changed contemporary social order. The time of the reformation was one of them. Actually you might claim that the reformation was a result of the globalization.

Today, we find that a wave of globalization has changed status quo of economy, world order, and maybe even the question of justice, when we look at the debate of the 1% and how wealth is accumulated outside national law (Harrington 2016).

It is important to focus on the fact that justice was an explicit question in former theological debates, but it disappears in contemporary debates because an implicit, hidden epistemology around economic fairness can be articulated. Philipp Rössner (2017a, b) shows (1) how theological values of collaboration (Glückseligkeit) were common in the economic thinking of cameralism, mercantilism, and Renaissance economics and (2) how economic theory since the nineteenth century has departed itself from any idea of values, obviously including theology. Investigating the theological roots, e.g., through Luther's texts and debates on the matter of economy, tells us that setting limitations to what a business can do has historically been considered more natural and necessary than today. Being legitimate in business and as business is still today about responsibility. While we debate whether it is a responsibility toward the weak or toward the shareholders, we tend to forget that it is a particular *theological* epistemology that underlies these discussions, i.e., an epistemology that defines that there is such a thing as responsibility and that taking the relation-ness of responsibility away to pure greed has always shown its ugly face many times in history, e.g., in bank scandals, financial crisis, and tax exploitation (CumExFiles and Panama Papers). What is new is that the power-holders of the modern state do not seem to recognize that these types of exploiting human beings have always been there. And they must be limited by regulations, if such a thing like "responsibility" should make sense at all.

You might claim that this approach or a renewed explicit concept of theological responsibility will make business people afraid of doing anything wrong. How dare we be innovative, if we risk to do something wrong? Another objection might be a theological approach which does not allow for gray zones in which things can turn out two ways. This critique has something right. It is true that sometimes it is only in the aftermath and, in the interpretation of things, that we see whether things are good or bad (the so-called Knobe effect (Kneer & Bourgeois-Gironde, 2017). Think of the story of Apple. Steve Jobs was forced to leave his own product in 1985 (https://en.wikipedia.org/wiki/Steve_Jobs). Butin (1997) was asked to come back, and Apple developed. Was it good he was asked to leave? Or is it only afterward interpreted as “good he left, because then he could come back in a better shape, and change the company?”

However, the value of Luther is not the field of “gray zones,” but rather how we should interpret cases of complete exploitation of tax rules and other people’s trust. Think, e.g., of the Paradise Papers, where super rich people deliberately put their money in countries that are outside the bond of the tax system of that person’s own country. Tax avoidance is not tax avoidance, when it happens in a country where the law is not formulated like that. It is “good” for the ones who place their money on Cayman Island. but “bad” for the countries where taxes from their super rich citizens are not paid. Brooke Harrington (2016) and Stausholm and Murphy (2017) have shown how so-called wealth managers in big international banks are helping not only rich people to avoid paying tax but also to exploit flaws in the banking system around return of tax (dividend tax). A recent example of the latter in 2018 is the so-called CumEx-Files (https://cumex-files.com/) where billions of Euros have been stolen from taxpayers in Western countries. This happened through bankers and lawyers helping rich people to exploit the public system. What is the legitimacy of this? And how is such an action subject to responsibility? If we look at it purely theological, as, e.g., the reformed theologians would have done, we soon realize that nobody today argues like they did. Any idea of responsibility as a matter of justice in an objective sense is gone. We only have a strong feeling of anger, but no common concept to cling to as society. This is maybe not strange, considering the development of thinking since the eighteenth century’s concept of enlightenment. The legal understanding of “responsibility” as being related to the obligation to accept punishment goes back to eighteenth century (Rendtorff 2016a). For example, Kant had a legal understanding of the human person as an attribution of action, without a necessarily moral dimension (Rendtorff 2016a, 26). Kant also viewed that there were different degrees of responsibility, depending on the level of human freedom.

Also, the Christian philosopher, Paul Ricoeur, points out (Rendtorff 2016b, 32) that the meaning of “responsibility” has changed from a legal to a social meaning, i.e., with Lévinas the responsibility of the other and with Hans Jonas the responsibility of the globe (just look at the ongoing climate discussion, also related to the way some business pollute); the meaning of responsibility is still connected to legally right or wrong. However, we find power-holders as Trump and Putin who do not care about any philosophical or former theological understanding of responsibility as being part of the game, rather, the opposite. They seem to believe they can set their own standard. And in the public media debate, which indeed is upset and angry about their more or less anarchistic behavior, we do not find anyone referring to former theological wording of responsibility when it comes to correcting them. What we have is a worldwide bunch of individuals who are upset about various things, but no strong institutions, as EU, NATO, or whatever, to postulate a correction that is heard and agreed upon. The concepts of “justice” and “fairness” are only expressed emotionally by activist movements like Occupy Wall Street and Radical Orthodoxy. But it is absent as concept in contemporary economic discourse.

This brings us back to the introductory comments by Schmitt and Benjamin that theology is always present in the background and that it is a corrective for the world as it plays itself out. There are still corrections to be made, when people transgress a border. There are still people that exploit other people's work and make their own rules. The power of a theological epistemology with regard to responsibility in business is that it implies that people have conscience, though they might not. This is our chance of arguing explicitly "what is" justice, also in contemporary economy which seems to have forgotten its own historical (theological) background.

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Capitalism, Religion, Business Legitimacy, and the Ethical Economy

12

Jacob Dahl Rendtorff

Contents

Abstract

This chapter addresses the difficult problem of the legitimacy of the corporations in modern society from the perspective of the relation between economics and religion. In the perspective of the religious foundations of economics, the chapter discusses different approaches to economics, based on different economic theories and concepts of the economy. The debate about legitimacy of the economics of the firm represents in modern economics the place of intersection between economic values and other values. With this approach, the chapter discusses modernist economics of neoliberalism and welfare economics from the point of view of social legitimacy of economics. Moreover, the chapter presents institutionalist alternatives to neoliberalism and welfare economics in the context of postmodernism and search for a more sustainable transformation of economics in society.

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Introduction

This chapter addresses the difficult problem of the legitimacy of the corporations in modern society from the perspective of the relation between economics and religion (Rendtorff 2007, p. 65–86). The chapter starts out from the work on Protestant Ethics of Max Weber and continues with a presentation of the interesting book of the economist Robert H. Nelson (2001): *Economics as Religion: From Samuelson to Chicago and Beyond*. Accordingly, this chapter is mostly a book review of Nelson's argument (Nelson 2001). The work of Nelson is an important challenge for understanding business legitimacy and social legitimacy of economics (Nelson 2001, 2017). With Nelson it is possible to introduce the viewpoint in economics known as "institutional economics" as a way that the corporation can be open to its institutional and systemic environments (Rendtorff 2015b). The final part of the chapter confronts Nelson's criticism of economics as religion, and it proposes a concept of economics based on a democratic conception of the firm conceiving the economic and social legitimacy of the firm based on the idea of the ethical economy of communicative business ethics. Thus, this chapter is a development and improvement of an earlier work of business legitimacy (Rendtorff 2007, p. 65–86). Communicative business ethics can be conceived based on a concept of the firm as an open cybernetic system as being in dialogue and interaction with its environment. This concept of the firm avoids the deadlock of economics as religion that captures most of the predominant concepts of economics and of the position of the firm in modern society in terms of ethics and ethical principles (Rendtorff and Kemp 2009; Rendtorff 2010a, 2013a, b, c, d, 2014a).

The Normative Foundations of Modern Economics

The debate about legitimacy of the economics of the firm represents in modern economics the place of intersection between economic values and other values. Max Weber emphasized the deep normative foundations of capitalist economics in his classical investigations of *The Protestant Ethics and the Spirit of Capitalism*, where he looks on the values and work ethics of modern capitalism (Weber (1930) 1987). Weber is aware of the necessity to regard business and corporate organization in the perspective of history of religion as the basis of present conceptions of the firm (Weber 1978). The relation between deep spiritual and religious values and economic organization in the emergence of capitalism is analyzed in relation to different Protestant communities, Pietism, Calvinism, Puritanism, etc. Weber is able to show how the legitimacy of basic notions in the modern market economy, of profit, property, work, and organization have religious and cultural presuppositions based on general aspects of the Western Jewish-Christian religions and cultural tradition.

Weber begins his analysis of the Protestant ethics and the spirit of capitalism by distinguishing the particularity of capitalistic organization and economic rationality (Weber 1987, p. 30). Accumulation of material wealth has existed independently of capitalism, and this is not unique about capitalism. Rather, capitalist action is characterized by rational organization of work and labor. This is the basis for profit-oriented economic exchange on economic markets. Even though there are aspects of capitalistic economies in many other historical civilizations, it is only in modern Western society that this mode of production has become fully developed. Contrary to some of his contemporary liberalist economic thinkers, Weber is aware of the significance of the corporation in rational economic organization. He emphasizes the importance of economic routines, rational bureaucracies, and calculated administration for the formation of efficient enterprises (Weber 1987, p. 24) Weber says that disciplined labor forces and regular investment of capital characterize the modern rational firm. Economic efficiency in terms of increased profits and accumulation of wealth is the ultimate goal of this rational economic organization. The center of modern capitalism is the endless accumulation of wealth. In capitalism economic growth and accumulation of material welfare is the ultimate purpose of human life on earth.

In contrast to strict determinist and materialist conceptions of economic change, Weber wants to give a historical and hermeneutic explanation of the origins of the capitalist system. Therefore, he emphasizes the fact that rational economic organization implies a specific moral attitude as social and religious legitimacy of the economic system. In this context, it is possible to observe that capitalism is based on willingness to postpone joy. The new Protestant ethics is to earn more and more money without "any eudaimonistic or hedononistic admixture" (Weber 1987, p. 53) Weber argues that capitalism requires strong moral self-discipline, because the entrepreneur is supposed to accumulate and reinvest money rather than use them for hedonistic pleasure.

Such moral and religious values are found in many of the Protestant sects that emerged after the reformation in Europe (Frey 1998). The new Lutheran, Calvinist, and Puritan sects emphasized worldly asceticism through the concept of the "calling," which was central to their religious beliefs (Weber 1987, p. 79). According to Weber, the concept of "calling" signified that it was the moral and religious task of the individual in order to be a good person to fulfill his or her duty in the daily work. This was a rather new way of legitimacy and contrary to Catholic theology, where the calling of the individual had been less significant due to emphasis on community and continuous possibility of receiving forgiveness by God. Moreover, it implied a stronger sense of duty, because only the individual was responsible to the divine for his or her actions in the world.

Weber emphasizes that Calvinism, among the many Protestant sects, in particular contained the dynamism necessary for justifying the rational capitalist organization of the economy. The Calvinist doctrine of "predestination" says that some good human beings are predetermined to be chosen by God. During life, it may be possible to receive a sign of being selected (Weber 1987, p. 98). Weber argues that this had to put pressure on the calling of individuals, giving each of us a deep feeling of "inner loneliness" implying insecurity regarding salvation. This was the legitimacy of the Protestant spirit of hard work and ascetic lifestyle where the self-interested accumulation of wealth was considered as sign of being selected by God. Even though Weber put emphasis on Calvinism and did not regard the other Puritan sects as dynamic for the duty of the calling, we may also in these religious conceptions find similar moral values in order to justify rational organization of labor and accumulation of capitals for profits and investments.

Weber's analysis of the Protestant ethics may be viewed as a multidisciplinary approach to economic organization (Swedberg 1998, p. 22). His views on capitalism are supported by his other studies of history and the sociology of economics and of religion (Rendtorff and Kemp 2009; Rendtorff 2010a, 2013a, b, c, d, 2014a). The Protestant ethics was part of a process of rationalization, which has been unique to Western societies. In Hinduism, for example, the notion of the calling could not be justified in the same manner, because religious activity rather than focusing on worldly activity was turned inward to get harmony with cosmos. Protestantism was based on human instrumental and rational interaction with the world. Nevertheless, even if the Protestant idea of the calling was a necessary condition for capitalism, many other cultural and economic factors were also important. Weber mentions the professionalization of the firm with modern bookkeeping, the development of the city, the existence of unified legal systems, and the establishment of Nation-States with rational bureaucracies as other conditions of modern economic systems (Swedberg 1998, p. 18).

However, Weber seems to stress that we should not underestimate the power of the concept of the calling in order to build modern civilization. It should not be forgotten that rationalization as well as secularization may be intrinsic dimensions of Protestantism, because mysticism and immanent religion is replaced by the belief in the inwards relation to a transcendent God and the calling of human engagement in the world. If this is the case, it is possible to understand why Weber's views were combined with pessimist skepticism to Protestant modernity (Frey 1998). Weber thought that Puritan calling created "an iron cage," a worldly asceticism, around each human being in which the new work ethics made it impossible to enjoy life. The price of modernity was "specialists without spirit, sensualists without heart" (Weber 1987, p. 192), because efficient capitalist economies are not possible without self-discipline in the "iron cage" (Weber 1987, p. 191).

Weber's economic sociology is central for understanding the legitimacy of corporations in modern societies. Even though people today live in a secular society determined by rational and scientific approaches to economic action and concepts of organization, it cannot be denied the spiritual and religious influences on corporations and their values. In addition, the multidisciplinary historical reconstruction of complex processes of development is important for considering the emergence of economic systems as a result of intersection of many different events and causal chains. However, Weber's interpretations of Protestantism and Calvinism are also controversial, and it has been argued that it may be possible to include some versions of Catholicism in the concept of the calling.

Nevertheless, even though there are many criticisms of Weber's concept of legitimacy, the idea of the close relation between economics, values, and religion cannot be denied. Therefore, the chapter will in the following use the Weberian conceptual framework as the basis for the following discussion about the legitimacy of the firm. The chapter will look at some of the most important theories of economics and relate them to Weber's concept of the Protestant Ethics.

Because of Max Weber's views, we may argue that there are two classical economic traditions in Western society. The economist Robert H. Nelson distinguishes between an optimist "Catholic" tradition and a "pessimistic" Protestant tradition (Nelson 2001). The optimist view on economic values includes names like Aristotle, Aquinas, Anglicanism, Claude Saint Simon, and John Maynard Keynes. The pessimist view on economic values is based on a sometimes very apocalyptic view, based on names like Plato, Luther, Calvin, the Puritans, and social Darwinism arguing for the alienation of humankind. Nelson argues that these two views have been shaping Western culture and that we still find them in modern economics. The important question is how the values of the different philosophical and religious traditions determine modern economic theories (Nelson 2001).

Even though many modern economists argue that they are doing value-free research, a deeper sociological and philosophical examination will show that values are built into their theories. Even though economists think of themselves as scientists, they cannot avoid being predetermined by certain value-systems. Therefore, they are more like priests or theologians, in the sense that they are preaching certain value conceptions about markets, and how to organize society (Nelson 2001). The idea of economic efficiency as being one of the most important ideas for modern capitalist societies is not value-neutral, but dependent on a deeper religious vision and concept of the world. Nelson wants to show how values are not external to modern American economic theories and consequently some of the most important representatives of modern economic science. He argues by analyzing these different views that beneath the surface we can see dimensions of these values. The influences of the two classical economic traditions can also be found in modern economics.

The relation between economic values and other values can indeed be formulated as the "market paradox." By the market paradox, the chapter refers to the fact that economic action is not situated in mathematically perfect markets. Rather economic behavior is influenced by real cultural and social aspects of human life external to purely economic reason (Knudsen 1991; Nelson 2001). This was the insight of Max Weber when he analyzed the cultural and social conditions in the Protestant ethics, which were necessary for the development of capitalism. And this tension between ideals of pure economic science and social reality is indeed also very present when it comes to global community, where different institutional arrangements, social capital and integrity and trust, are necessary to avoid for example corruption and bribery in order to provide the basis for well-functioning economic markets (Rendtorff 2009a, b, 2011a). The market paradox concerns the possibilities and limits of economic rationality emphasizing efficiency and self-interest as the basis for market behavior, confronted with the requirements of society to serve the common good and the interests of community. The problem is how to find the right place of the economic work ethic and the Protestant calling with regard to other religious and cultural values of community. According to Nelson, the problem of the market paradox is emphasized by the fact that many economists argue for opportunistic behavior on markets while they reject similar behavior in politics or in other areas of society (Nelson 2001, p. 9).

Common to most views within the Western tradition of political economy is the effort to construct a method to allocate goods and material resources in the most economically efficient and politically just way to different members of society. In this way, different economists have always been proposing their particular value conception of society. They are arguing for a specific conception of economic rationality as the foundation of society. This concept of rationality is not neutral, but it can be considered as an ethical and religious view about how to realize happiness and freedom on earth. These views cannot be separated from other conceptions of economics and society, and they are principle as value-judgment and this is what Weber describes as the Puritan or Calvinist Ethos of Capitalism. The analysis of this chapter of the values of the corporation within the framework of economics as religion can indeed be regarded as a contribution to this problem about the legitimacy and about embeddedness of economic values (Granovetter 1991). The debate according to Robert H. Nelson is about "how to reach heaven on earth," that is, how to structure economic action so that it will most efficiently increase human welfare and happiness on earth. Therefore, it is not wrong to describe economists as "worldly philosophers" (Heilbrunner 1996).

Values and Economics of the Twentieth Century

Modernist economics in the twentieth century can be considered as a scientific continuation of the projects of the Western tradition of political economy with its investigation of how to construct the ideal society with human welfare and happiness (McCloskey 1986). In this sense, Modernist economics develops the confrontation between Protestant ethics and Catholic responses or criticism to the domination of Protestants concepts of capitalist economics. In fact, it is possible to characterize the major theoretical movements in Modernist economics as a development of the optimistic and pessimistic traditions of Western economic thought. In particular, the chapter can point to some reaction to the Protestant ethos in the way that the paradoxical dimensions of economic reason are emphasized so that the problem is how to promote self-interest and at the same time serve society. Following Robert H. Nelson, the chapter argues that two major schools of modern economics, the Chicago School and the Cambridge School, promote two different interpretations of the themes of the aim of work, human welfare, the role of the state, and the relation between state and market which were major issues within earlier economic traditions inspired by the Protestant ethics (Rendtorff 2009a, b, c, 2010a, 2013a, b, c, d, 2014a).

The famous economist, Nobel Prize winner Paul A. Samuelson, who made the most popular and widely influential textbook in modern economics, represents the Cambridge School. His book *Foundations of Economic Analysis* has sold more than five million copies in more than 15 editions (Samuelson 1948; Nelson 2001). The values of Samuelson's economic project can be considered as a progressive economics in the optimist tradition from Thomas Aquinas and Keynes. This was the project of post-war welfare economics. Samuelson was accompanied by a number of other scholars and together they made up the Cambridge School of Economics (Nelson 2001).

The Chicago School of Economics can be described as a reaction to the progressive welfare economics project of the Cambridge School. They protested against the views of Samuelson and his followers of individual rationality, the state, and of the market. They promoted a radical libertarian criticism of the welfare state (Friedman 1962, 1970). Moreover, they argued for a very cynical economic view of human nature. The Chicago School includes figures like Richard Knight, Gary Becker, Milton Friedman, and Richard Posner (Nelson 2001).

Samuelson's economics of the Cambridge School can be considered as a revival of the tradition of "Catholic economic thought" as a criticism of the Protestant ethics. It was an optimistic progressive economic thinking, marked by the optimism after the Second World War. The Cambridge School was a revival and secularization of a Catholic economic project, where the investments in market developments are based on concerns for community and the common good. Accordingly, Samuelson formulated the progressive message of economics as the science of the welfare state. This was based on a combination of a belief in Keynesian ideas with a belief in market economics and the principles of scientific management. Samuelson argued that the market was very important for good economic development (Samuelson 1948). Although he was critical of a very strong interventionist government, Samuelson still believed that government should keep many of the social functions that were promoted by the Keynesians. However, the market was the central focus for the new scientific economics, based on mathematical analysis.

In this context we can perceive a close relation between the Keynesians and the Marxist message of economic values (Nelson 2001, p. 30). Marxism is based on a historical vision of the social and economic development toward a just and good society. It was argued that economic laws are replacing natural and divine laws in the development of society toward overcoming material scarcity at the end of history. The Marxist conception of the dialectics between basis and superstructure may be considered as an important inspirational idea for Weber's theses of the close relation between economic values and religious values. The values of Keynes can indeed be considered as a more modest vision of the Marxist idea of the possibility of the realization of the good society on earth. Optimistic Keynesians believed in the idea of the realization of a good society with the methods of the strong state and scientific management of society (Rendtorff 2009b, 2010a, 2013a, b, c, d, 2014a). In this way, the Keynesian economics in the beginning of the twentieth century may be considered as an optimistic reaction to the pessimism of the protestant ethics (Nelson 2001).

Accordingly, Nelson emphasizes that Samuelson took over the progressive message of Keynes for economics of the common good for humankind, while arguing for the need of an efficient and free market. Although Samuelson never directly speaks about Christian notions of salvation or calling, we may argue that optimist view of economics as science to relief humanity from sin and despair is implicit in the values behind his economic theory. We can argue that Samuelson was open to the Puritan message of the Protestant ethics of Americans and he combined the ethics of calling with the belief of welfare economics in the blessings of the common good of the welfare state combining a strong state with market economics. However, his religious message was hidden behind his efforts to develop a scientific and objective basis of economics as a science based on mathematics, objective knowledge, and technical rationality. Samuelson thought it was possible to develop a scientific understanding of modern business organizations, and in this sense, he wanted to give a scientific foundation of his religious values. This was combined with a belief in need of democratic institutions. Economic rationality and scientific management should contribute to the construction of a rich and good society, based on the greatest happiness to the largest number. According to Samuelson, this vision was not conceived as pure ideology, but relied on concepts of scientific rationality as considered as an objective way to construct a good society with economic tools.

In his economic theory, Samuelson defends the fact-value distinction and he argues that scientific economics gives us objective knowledge while ethical values represent subjective conceptions of the world. Without questioning his own value conceptions Samuelson considers him self as the one who provides the scientific basis for economic development and management of economic institutions. Samuelson defends the importance of economic markets but excludes self-interest from other social institutions like government (Nelson 2001, p. 51). The principal value is the defense of competition on the market and the idea that the creation of monopolies is fundamentally wrong. The market mechanism is essential for determining prices and what should be produced. This is regarded as the most effective way of regulating needs and wants in society. Samuelson defends a supply and demand conception of the economic system (Samuelson 1948; Nelson 2001). The basic goal of society is full employment and government should act in order to protect and facilitate the free market exchange. Samuelson works with the ideal of the perfect market with zero transaction costs as the basis for his analysis. Moreover, the calculation of economic efficiency is based on the idea of equilibriums of Pareto optimality, according to which an unregulated free market economy reaching equilibriums at many local levels is viewed as a learning system toward the highest possible stability.

This chapter argues that this view of economics was a manner of introducing a secular version of the progressive belief in “the invisible hand” as modern scientific economics. The utopia of the free market was, however, based on pure economic analysis. For Samuelson, the only acceptable rationality was economic reason. Therefore, without realizing his own normative conceptions implicit in the theoretical framework of welfare economics, he was critical toward religious influences on economics as when Thomas Aquinas regards taking interests as unethical (Nelson 2001). What society needs is economic enlightenment and scientific measurement of risk and benefits of economic action. Moreover, Samuelson rejects passionately inefficient use of resources without considering that this may represent a somewhat unperceived Protestant heritage. What is needed is scientific management in a society based on a mixed system between government and private enterprises.

These ideas emphasize that Samuelson could only count for the economic development and benefits in economic terms without realizing that his economics contained many concepts that were nothing more than scientific reinterpretation of classical political economy based on a mixture of Protestant and Catholic views of society. It is not possible to measure social, environmental, or psychic dimensions of the economic development within this conception of the market, because the only valid costs are those that contribute to economic progress. In this way, Samuelson's message differs significantly from the Puritan ethics that did not have the same materialistic and utilitarian view on life, because they viewed the economic activity and work as a means to salvation in another world. For Samuelson, on the contrary, the function of the market is to realize utopia in the present world (Nelson 2001, p. 70).

This secular dream of realizing paradise for humanity on earth should be made by the instruments of scientific management. Samuelson's political arguments were to use scientific economics to improve the welfare state with public administration for the common good. Economics could help to calculate the "logic of collective action" and describe the dangers of "free rider problems." It was indeed the task of economics as a science of the market and public administration to work for the common good. With the use of good economic methods in order to create economic growth, poverty and social problems would be eliminated and a higher standard of living for the benefit of the worst off would be created (Nelson 2001, p. 110). In this perspective, the corporation would have an important mission of being loyal to the common goals of community, even though it would have to behave strictly in accordance with scientific economic rationality. Therefore, we may say that Samuelson's economic theory represents a Catholic redirection of the Protestant ethics combining the virtues and work ethics of free market economics with the callings of a strong a beneficent welfare state.

The Chicago School of economics represents an individualistic and libertarian criticism of such a welfare state project (Nelson 2001, p. 20). While Samuelson may have had some technical economic insights, his arguments for an economic system mixing state intervention and free market competition combined with progressive democratic politics was considered as unscientific with no economic justification (Nelson 2001, p. 96). Thus, the Chicago school attacked the hidden normative foundations of welfare economics believing in the altruistic and social nature of humanity. The Chicago School draws on the arguments for the superiority of the market, which since Adam Smith have been important in economics. Combined with a defense of the virtues of laissez-faire in Social Darwinism stressing the egoistic parts of human beings and a belief in Herbert Spencer's theory of evolution as based on combat and conflict with the natural law theories of defenses of property rights, Chicago economists promote a strong criticism of Samuelson's ideas of belief in social solidarity and in the positive and productive relation between state and market.

According to Nelson, the early twentieth-century economist, Frank Knight can be considered as an important founder of the Chicago School. Contrary to the optimistic progressive views of Samuelson, Frank Knight had a much more negative conception of human beings. He saw economics as based on self-interest and human freedom. We might say that he was close to expressing "a classical Christian view of fallen human beings beset by original sin" (Nelson 2001, p. 121). Knight was pessimist and realist in the sense that he argued that the existence of the economic market and private property was an unfortunate result of the "presence of evil in the world." Knight stressed the role of individual calling and personal freedom in contrast to the belief of collective action of welfare economics. Accordingly, Knight represented a Protestant reaction to the communitarian visions of common welfare of Samuelson and Keynes. He considered the science of mainstream welfare economics as an ideological continuation of Catholic natural law beliefs in community and in the social virtues of human nature. Knight's economic ideology can be viewed as a return to the pessimistic view on human nature in Puritanism and Lutheranism. Instead of believing in the enlightenment and progression of humankind, we can say that Knight was marked by the Calvinist and Puritan assumptions of the sinful nature of human beings (Nelson 2001, p. 132). Moreover, in this perspective Knight can be said to reject optimist welfare economics as a Catholic misunderstanding of the message of capitalist economics.

On this basis, the justification of economic markets within the pessimistic tradition of Protestantism is quite different from the optimistic view on economic progress. Knight conceived the market as necessary for social cooperation, not because of the virtues of humanity, but because of the evil nature of human beings. The market has a social function of bringing people together, even though they have very different values and conceptions of life. The idea is that the market is without power relations, and therefore it is possible to interact in a situation of radical pluralism (Nelson 2001, p. 136). At the market, Christians can exchange goods with people of other religious beliefs without compromising, because the exchange is a matter of self-interest and profit. In this way, Knight was proposing a revival of the Calvinist and Puritan ethics in modern economic thinking.

Knight was the teacher of such important economists as Milton Friedman and Georges Stigler who represented a second generation of Chicago economists. Looking closely into their economic theories it appears that they were profoundly marked by concepts of sinful humanity within the Jewish-Christian tradition, but at the same time they adopted the scientific outlook of modern economics. Milton Friedman adopted concepts of individual freedom, duty, and responsibility as a major premise of his liberal thought (Friedman 1962, 1970). With this approach, he is close to Calvinist and Puritan views on economics. Friedman presented himself as an economic technician, although he was also very engaged in political debates (Friedman 1955). Moreover, Friedman seemed to have adopted the economic belief in economic progress of modernity. However, aspects of Protestant ethics can be said to underlie in the writings of Friedman in the sense that he emphasizes the importance of self-interest and freedom of economic markets. Also his criticisms of corporate social responsibility as misunderstood charity shows how committed he is to the combination of Puritan ideal and an economic conceptions of market efficiency (Rendtorff 2009a, b, 2011a). The firm should not promote other than economic values, because this would transcend the economic sphere and impose ethics on stakeholders and shareholders. As a reaction to the optimism of welfare economics, Friedman is very skeptical toward the possibilities of democratic government. Strong government is a threat to individual liberty. The market is central for economic activity, the state is only there to regulate the availability of the free market and ensure antitrust regulation. Friedman advocates heavy privatization and he is skeptical toward high taxes, although government might contribute to some redistribution of resources among the poor (Nelson 2001, p. 149).

This generalization of economic method was followed by the third generation of the Chicago School of economics (Nelson 2001). Gary Becker and Richard Posner used economic methods in the other parts of social sciences, for example, law and economics (Posner) or economic analysis of traditional sociological and anthropological problems (Gary Becker). These approaches were characterized by a provocative treatment of noneconomic values. Posner and Becker presented a secular version of the Christian concept of sinful human nature. They argued that social agents were determined by self-interest and utility-maximization (Nelson 2001, p. 167). Like the critical thinkers Marx, Nietzsche, and Freud, they thought that all kinds of non-altruistic motivations, economic motives or will to power, and sexual desire were the real basis of social interaction. Behavior is driven by egoistic self-interest and the principle of self-preservation as the most important basis of individual action.

Individuals are acting in order to maximize their personal welfare, and Becker thought that this economic behavior was ultimately present in all dimensions of social life (Nelson 2001). On this basis, he presented cynical economic analysis of the family as an economic unity, of discrimination and of stealing and argued that all these themes could be considered as economic relations, where individuals were maximizing utility in order to increase welfare. Becker, who received the Nobel Prize in 1992, wrote that polygamy in certain conditions would have a rational justification, because the value of women would increase on the market when men could have more women (Nelson 2001). Moreover, he thought that marriage was based on implicit calculations of personal gain and that love was just a romantic sentimentalism. Becker also said that even the Nazi killing of the Jews could have an economic justification increasing the economic gain of Germans. Becker believed so much in the egoistic dimensions of human nature that he wanted to explain altruism on the basis of opportunism. He therefore developed "Rotten kid Theorem," stating that there are situations where individuals help others to be better off because this action will make the other more likely to "transfer parts of the improved welfare" and give them back to you, so that the altruistic action is nothing but a modified and strategic form of modified self-preservation and egoism (Nelson 2001, p. 179).

The legal scholar, Judge Richard Posner, is one of the most important figures in the law and economics movement. Posner has advocated a pragmatic and realistic view on legal theory. He has combined this approach with an approach using economic methods to analyze legal issues. In order to accomplish this analysis, Posner draws on the methodology that has been developed by Becker, and in his work, he makes an analysis of marriage institutions from strict economic perspectives. It is argued that sex is an economic good that can be exchanged in the relations between man and women and that prostitution and the families constitute two different ways of regulating the market for this good. The only difference is that transaction costs of going to prostitutes normally are higher than having sexual relations with a partner in the family. In another work, Posner has analyzed the significance of euthanasia from an economic point of view and he has argued that voluntary euthanasia should be permitted in order to promote the rights of individuals to calculate their lives on the basis of maximization of utility.

Nelson argues that the Chicago School in the third generation represents a new secular kind of religion (Nelson 2001, p. 185). The views of the Posner and Becker are not really rational, but they are founded on an ideology of individual egoism, freedom, and rational utility, which become a new kind of religion. However, we may argue that this "religion" is characterized by a strange kind of mixture between Protestant belief in sinful humanity of egoism and self-interest with a certain "economic existentialism," where it is only material need and rational utility that is real (Arnsperger 2001). Everything else like spiritual values, emotions, family values, and sense of community is nothing but mere illusions. Becker and Posner helped to articulate the secular value of autonomy, which is fashionable in the United States and Europe. The Chicago School was suspicious to collective unities of any kind. The religion of libertarian values argued that "everything was determined be economic forces and self-interest" (Nelson 2001, p. 185). An interpretation of the Chicago School is that it did nothing else than promote the libertarian values that emerged as a criticism of the modernist economic project. In the 1970s, the culture of marriage changed into a single life style, and self-determination became the most prominent ideal in a pluralistic secular society.

The Chicago School can be said to continue the Protestant project of rational economics, while giving a way to the religious values of faith and belief in the calling of the Christian Religion. Therefore, it ends up with a radical economic existentialism, rejecting all other values than the core values of libertarian economics. The Chicago School is in conflict with the Protestant ethics, because it makes utility and personal wealth maximization into absolute values. The values of efficiency and economic progress have replaced the Christian values of respect for the divine commands. Instead of the divine natural order, Chicago economists have put the self-regulative prophecies of the market. In this perspective, Nelson argues, we might say that Becker and Posner have generalized Knight's ideas of a fallen humanity in a secular perspective (Nelson 2001, p. 199). They keep the Calvinist view of human nature without adapting the religious presupposition of revelation and devotion to the divine cause. Thus, this ends up with what can be called "economic existentialism."

Challenges and Legitimacy Crises of Modernist Economics

However, the Chicago School was not alone in criticizing modern welfare economics. It has increasingly been confronted with challenges from economic theory, but also from political movements in society. The social movements of the twentieth century, environmental movement, human rights activists, political consumers, and the corporate responsibility movements, are political movements, which have challenged the economic reason of both the welfare state project and the libertarian criticisms proposed by the Chicago School. Already in the 1960s, the modernist project of Samuelson was put into question by many forces in American society (Nelson 2001). Environmentalism is a good example of another kind of secular religion that is an ideological project presented as rational politics, which argues against the messages of capitalist economics. This is a reaction toward the protestant defense of efficiency and the primacy of human beings on earth.

However, the most serious criticism of Samuelson's ideal of the perfect market can be found in developments of economic science, which were somewhat different form the libertarian position of the Chicago School (Nelson 2001). Moreover, it might be argued that it is difficult to find justification for his defense of the free market. Many assumptions must be made in order to understand imperfect markets. Georges Stigler has in 1961 put emphasis on the problem of information and choice in complex and dynamic economies. Ronald Coase has also in the articles "The Nature of the Firm" (Coase 1937) and "The problem of social costs" (Coase 1960) drawn attention to the problem of transaction costs – which is partly an economic explanation of the existence of the firm. In both cases, the incomplete information of economic actors on real markets is emphasized (Nelson 2001, p. 60). In real, imperfect markets, information, transaction costs, and other features of bounded rationality determine economic action. Moreover, ethics and values must be taken into account in order to understand human behavior. Moreover, the uncertainty of choice and the specificity of organizational cultures constitute challenges in the real world that make the idea of the perfect market where individuals act according to optimal rationality a very utopian concept.

This criticism of Samuelson's utopia was the basis of a turn toward the study of corporations in institutional economics. Oliver Williamson therefore investigated the development of organizational structure of modern industry in *Markets and Hierarchies* (1975). He became aware of the importance of the modern corporation in order to minimize transaction costs on the market (Nelson 2001, p. 63). The study of the business organization was necessary in order to clarify problems of opportunism and limited information. Moreover, the problem was how to explain the emergence of trust relations and establishment of contracts in a situation of economic uncertainty. These problems could not be solved either by the economic systems of Samuelson or by Friedman.

This chapter therefore proposes an institutional approach to economics represented by the "New institutional economics" as the economic theory, which has been able to cope with these social changes (Nelson 2001). New institutional economics and sociology represent reinterpretations of the institutional traditions in social sciences recognizing the importance of institutions for understanding social and economic action (Hodgson 1994). This tradition is aware of the need to incorporate ethics in economic analysis. New institutional economics has understood the need for foundations of economic activity in other values than economic values (Dimaggio and Powell 1983; Powell and DiMaggio 1991). The new institutional economics may be determined as a way to overcome the opposition between the Cambridge School and the Chicago School. Among others the 1993 Nobel Prize winner Douglass North represents the institutional school (North 1990).

New institutional economics points to the basic problems of neoclassical economics, namely that it does not provide any good answer to the problem of "why firms and corporations exist"? The Cambridge and the Chicago Schools did not place the firm or the corporation in center of analysis. Moreover, they were not aware of the role of values and cultures in corporate interactions and business, because they considered economic rationality as the only appropriate measure. However, when dealing with practical issues of business and management, the importance of these problems was realized. Therefore, the new institutional school looks back to older forms of historical and cultural analysis in economics. Suddenly, Weber's framework for the study of economics and society was appropriate. Institutional economists are aware of the significance for economic progress of national culture, morality, ethics, and the relations between firms and other institutions. They have proposed concepts of "trust" and social capital in order to take into account the significance of values and ethics for economic progress.

Institutional economics does not consider economics exclusively as a natural science based on mathematic analysis. Rather economics should draw on multidisciplinary methods in order to conceive the complexity of the social world. This approach implies a complex concept of rational behavior of consumers and agents on economic markets. It argues that many different rationalities influence consumer behavior. Consumers do not have full information and therefore they are motivated by many other patterns of behavior. Price and quality uncertainty introduces other requirements in order to predict and understand consumer behavior. Moreover, economics cannot operate with the idea of individual actors on perfects markets. Social costs and other kinds of transactions costs are fundamental in order to understand the need for firms and the structure of economic institutions. In addition, as realized by the Chicago School of law and economics, property rights and legal rules must be considered as important institutional factors (Nelson 2001, p. 212). In addition, it is necessary to add other factors as culture, anthropological implications, ethics, and norms as important for the institutional structure of formalized economic organizations (Meyer and Rowan 1977).

In order to understand the role of the firm in modern society new institutional economics helps us to reintegrate the firm in its real social environment. Along with Ronald Coase and Oliver Williamson in his works on industrial organization, business legitimacy research must take into account the organization of the firm in relation to its stakeholders. This approach is justified in the perspective of the economic rationality of the institutional School. New institutional economics takes into account the importance of social institutions for economic action. This implies that no rationality of utility and self-interest is perfect, but dependent on the values and visions of individuals and institutions (Williamson 1989; North 1992). Given this reality of "bounded rationality" and asymmetric information as the basis of economic action, economics must work with a broader concept of what is relevant economic knowledge. In this context, it is possible to refer to the external and internal ethical relations of the firm as dimensions that may influence its competitive capacities. Given the emphasis of the importance of knowledge for economic progress in modern society, we can look at information and communication as important aspects for understanding economic systems.

Contrary to the views of many traditional economists, this paradigm-shift in the conception of relevant economic knowledge does not break totally with economic rationality determined as efficiency and utility maximization. The acceptance of imperfect information and bounded rationality combined with openness for cultural and historical reason may be necessary in order to have economic progress and long-term efficiency. The religion of new institutional economics may be said to combine the views of the optimist and pessimistic traditions as the basis for a direct approach to economic phenomena within their social and institutional context. It becomes important to design an ethical framework as well as an "efficient culture" for ensuring economic progress in the corporation. In this context, it is not only individuals but also corporate culture as a totality based on the idea of corporate identity and integrity that may determine the economic potential of organizations (Rendtorff 2011b). Therefore, economics cannot exclude ethical problems of business leadership and relations to important stakeholders like employees and consumers. The development of the idea of "transaction costs" has challenged traditional economic paradigm of formal economic models in such a way that economics no longer can ignore factors of ethics, norms, learning property rights, and other legal issues (Nelson 2001, p. 225).

So, from this point of view, institutional economics represents a conception of economics that has become increasingly open to explicit conceptualization of the relation between economics and religion that is the fact that economics is always conceived in relation to ethical, cultural, and religious values (Hodgson 1994; Boatright 1996). Institutional economics helps us to understand that economics is forced to include ethical and cultural dimensions as an appropriate area of research in order to achieve the traditional ideals of efficiency and progress. Firms and other institutional actors should be considered as open systems in interaction with their social environment (Scott 1995). Many of the normative presuppositions on economic markets of honest behavior of actors depend on values and cultural traditions (Putnam 2000). These traditions cannot be totally separated from their philosophical religious presuppositions as we have seen – even modern mainstream economics is not value-free, but rather dependent on certain more or less explicit value presuppositions. Today, business legitimacy research cannot discuss corporate management and economic calculations without including ideals of business ethics and corporate responsibility. Contrary to the Chicago emphasis on self-interest, there is much more emphasis on the role of collective participatory processes of organizations at markets. Traditional economic problems of opportunism, the strategic relation between actors, the necessity to deal with asymmetric information, have to be confronted from these perspectives.

The importance of understanding the relation between economics and ethics, culture, and religion is not restricted to a descriptive analysis of the role of values, but also the possibility to use values to construct "belief systems that ensures the maximum of trustworthy behavior" (Nelson 2001, p. 235). Economic theories should be more explicit about their normative presuppositions and implicit conceptions of ethical and religious values. We might say that improved values and trust in the economic system might be good for reducing transactions costs. This is indeed recognized by some of the most prominent representatives from institutional economics. Williamson argues in his organization theory that there is quasi-moral involvement of among parties in transactions of economic exchange and in the development of organizational hierarchies (Williamson 1975). Moreover, Douglass North emphasizes the function of ideological commitments, honesty and integrity in order to ensure efficient economic action and reduce transaction costs in organizations (North 1990; Nelson 2001). Institutions are determined by a certain path-dependency, where possible change is based on their history and culture (Putnam 2000). With Putnam, research can here emphasize the importance of civil society and participation in community life for the development of specific cultural traditions (Putnam et al. 1993). In this context, following Fukuyama, trust cannot be understood exclusively in terms of economic strategy but it is a richer phenomenon that is based on the basic structure of culture and history of society (Fukuyama 1995). Fukuyama argued that it is not possible to understand economic life in terms of neoclassical economic rationality. Trust is based on shared norms and patterns of participation in community (Bidault et al. 1997).

Thus, the new institutional economics represents an important challenge to the traditional paradigms of modern economic theory (Rendtorff 2015a, b, 2017a, b, c, 2019a, b, c). However, this does not mean that it implies a new value-neutral all-inclusive theory of economic efficiency. Rather, institutional economics is a value-based theory, arguing that economic development depends on social and cultural change. In this context, institutional economics accept the significance of the market and the necessity of self-interested behavior of economic organizations in fair competition. However, it does not want to avoid the market paradox of community boundaries on economic behavior. Rather, institutional economics accepts the necessity of certain values and religion in order to support the market mechanism and solve the market paradox. Moreover, this does not mean that institutional economics is a position without a religious foundation. In fact, the religious implications of institutional economics may – as indicated – be conceived as mediation between Catholic and Protestant traditions placing economic action within the boundaries of the ethics and values of cultural communities (Fort 2001). In this sense, business legitimacy research can be so courageous as to define institutional economics as implying a hermeneutic concept of religion, according to which religious values are inscribed in the social and cultural institutions of human communities.

The Economic and Social Legitimacy of the Firm

Therefore, business legitimacy research is now aware of the need for values in order to improve legitimacy of economic behavior. The new paradigm of the economic and social legitimacy of the firm implies business ethics, corporate social responsibility, and sustainable development, in particular focusing on the sustainable development goals (SDGs) (Rendtorff 2013a, e, 2017a, 2019a, b, c). In this context, institutional economics can be argued to combine the descriptive level, saying that a firm should be understood as a more or less formal nexus of contracts among its members with the hermeneutic and normative level of how to deal with values and ethics in economics. Institutional economics is aware of the fact that contracts are based on cultural and historical norms in order to avoid opportunism and keep society and the market from falling apart. However, even though there is an awareness of normative dimensions within institutional economics, institutional economics is so dependent on scientific concepts of economics, that it does not give an explicitly and well-argued answer of what values will be most appropriate for economic institutions and corporations. Moreover, given the legitimacy crisis of traditional models of legitimacy, for example, the religious Protestant and Catholic conceptions, as well the inability of their modern economic followers, we are confronted with the problem of how to conceive the new values for corporations in today's economic markets that are facing the challenges of sustainable development and transformation to a new and more sustainable economy (Rendtorff 2015a, b, c, d, 2017a, b, c, 2019a, b, c, d).

In this context, it is possible to propose a model of the "good citizen corporation" based on the ideals of integrity and corporate social responsibility as a kind of new religion for economics, which is based on the communicative rationality of ethical deliberation (Habermas 1981). However, although this model is the right one, this model is not the only and exclusive way of treating the need for new values and economic legitimacy of corporations (Rendtorff 2009a, b, c, 2010a, b, 2013a, 2014). We perceive many other views on value-driven management. In order to defend my position in the present debate, the chapter will briefly confront these positions. In addition to the progressive secular view (Samuelson), the pessimistic Protestant view, and the libertarian Puritan view (Chicago Economics), we can among others mention a religious and spiritualist conception of good values-driven management (Bovbjerg 2001). Although this model is very popular, it is possible to distinguish it clearly from what can be called the reflective-rational or communicative conception of economics as religion, which is implicit in my proposal of a theory of the social legitimacy of corporations.

According to the religious and spiritualist conception of the firm the quest for values and ethics in corporations is nothing but a new form of religion, which is an implicit ideological justification of business practice that is put forward in order to guarantee employee motivation and legitimacy of the firm. In Weber's terms it may be defined as psychosocial religious ideal type indicating that individuals are realizing themselves as good people in the workplace. This is a new modern form of "iron cage" (Bovbjerg 2001, p. 27). Even though modernity is the period of ultimate secularization, the many new kinds of management strategies should rather be analyzed as new ways of justifying the old Protestant ideal of the calling of individuals to their work. When the firms are emphasizing values and culture, they are trying to be flexible, change-oriented, and self-reflexive in order to reach a harmonious relation with their fellow employees and the stakeholders of the firm.

From the point of view of the spiritualist and religious conception of the firm, such values-driven management changes the firm into a church. Critical sociology and philosophy is not very open to this conception of good management (Rendtorff 2009b, 2010a, 2013a, b, c, d, 2014a). Newly emerging phenomena like business ethics, corporate social responsibility, and values-driven management represent new religions in democratic societies searching to replace religious worldviews in times where religion is submitted to strong criticism. Critical sociologist like Foucault, Gauchet, and Bourdieu would argue that values-driven management based on a "covenantal relation" rather than of a contract, emphasizing virtues instead of rights, and being focused on the spiritual realization of individuals at the workplace, represents a new kind of disciplinary mechanism. This is a method to increase employee productivity in a modern age. As such new methods of management, like human resource management, the learning organization, or personality-oriented visions of scientific management, based on values rather than rules do not represent any kind of rupture with the Protestant work ethics based on utility maximization (Bovbjerg 2001, p. 168). Only they are new instruments to ensure religious legitimacy of corporations, given the legitimacy crisis of Protestant and Catholic justifications of work life.

This chapter proposes to analyze many of the new kind of management methods developed as a criticism of modernist economics in this perspective. Ideas of human resource management searching for perfection and autonomy of workers can be considered as based on an "ethics of sensibility" in order to cope with change and complexity at the workplace (Bovbjerg 2001, p. 156). Applying Richard Sennett' analysis of flexibility and the new work ethos at the workplace management is in a situation where modern methods of management do not represent a liberation of individuals, but is nothing but an assimilation of the individuals to the new cultural conditions of the West after the legitimacy crisis of modernist values (Sennett 1998). Focus on personality development and values-driven management are the basis for a new Protestant concept of the calling (Pedersen and Rendtorff 2004; Mattsson and Rendtorff 2006). Here, the individual internalizes duties to the corporation through values rather than through orders. This internalization of values as a part of the personality is even more efficient than economic arguments for ensuring individual adaptability to the ideals of the corporation. Looking at the present strategies for human resource management, it is even possible to perceive different kinds of spiritual and religious arguments for personal improvement and value development.

In this context, in addition to environmentalism and different kinds of anti-capitalistic criticism of modernist economics, new legitimacy forms include the use of psychotherapy, New-Age philosophy, the concept of the learning organization, Gestalt therapy, and a number of other alternative strategies for improvement of social and human strategies in companies (Bovbjerg 2001, p. 147). These strategies, however, do not have to be conceived in opposition to the Protestant ethos of modern capitalism. The popularity of all these new kinds of strategies for empowerment and improvement of values, identity, and mission of corporations may be viewed as methods to harmonize and normalize individuals in corporations. Accordingly, new methods of human resource management have understood the necessity to focus on individual morals and values in order to be sure that individuals act in congruence with the ideals of their organizations. Consequently, an ethical concept of the corporation emphasizing personal and organizational integrity would represent a new way of promoting the discipline and power of organizations. The emphasis of the ethical worker, the need for excellence, and the virtues of the stakeholder corporation would according to this harsh criticism be nothing but a new kind of ideological justification of basic economic structures and underlying power relations in the firm and community

This challenge to the effort to find a new way of legitimizing economics and the ethics modern corporations as new kind of power instrument, a modern iron-cage, implies a very serious criticism of search for business legitimacy. Thus, it is necessary to differentiate between different theories of legitimacy of work in modern corporations. It is clear that some approaches to the field may fall for such criticism. These are for example theories based on holistic views on human nature, including very idealistic conceptions of the possible conventional harmony between employees and employers in the firm. Indeed, when such theories are used as quasi-religious legitimacy for corporate power relations we may say that an "ethics of sensibility" has replaced the Protestant ethics. However, this is not the case with all efforts of trying to justify economics from the point of view of business ethics and religion. Business ethics and ethical values in economics do not imply a method for neutralizing conflict. Rather, it should promote awareness of possible moral dilemmas in the firm. Moreover, personal realization or quest for freedom and autonomy of employees should not be considered as a new kind of religion justifying a given economic order, but rather a defense of a pluralistic and polycentric conception of rationality.

Indeed, there is a peculiar common presupposition between Modernist and Postmodernist critical sociology and the Weberian economic sociology. This is a very limited conception of rationality that is shared by the Modernist project of economics of the Cambridge and Chicago Schools and which is spelled out clearly in the radical economic existentialism of Becker and Posner. All these previous theoretical approaches and concepts of religious legitimacy of economics regard economic rationality based on utility maximizing self-interested individuals as dominant in the market system. In addition, they see no alternative rationality that can liberate capitalism from the "iron cage" The system of market economics is considered as governed by one-dimensional instrumental rationality, and it seems impossible to overcome these limitations of economic markets.

However, such a presupposition is not shared by institutional economics. It is recognized that there are institutional conditions for economic markets and that economic action is determined by these conditions. Moreover, according to the hermeneutic concept of institutions, this rationality does not have to be conceived in terms of subjective calling. As Jürgen Habermas has convincingly argued, the Weberian concept of rationality – between convictional, duty-oriented rationality on the one hand and instrumental goal-oriented rationality on the other hand – is too simple (Habermas 1981). Looking deeper into the concept of rationality we may redefine Weber's distinction in terms of "communicative rationality" versus instrumental rationality. In the article on communication ethics Habermas replaces the traditional subject-object distinction with a theory of intersubjective meaning (Habermas 1984). Rationality is based on communicative reason and criteria for validity (Habermas 1984, p. 59). This is the basis for Habermas' theory of communicative action, where he makes the idea of a domination-free dialogue where participants in the communicative dialogue on the basis of mutual recognition and understanding agree about the social and natural world. In this perspective, rationality is based on communicative interaction rather than individual convictions.

This concept of communicative action may be mobilized to contradict Weber's idea of secularization as merely instrumental rationalization. Habermas argues that history implies a development of the communicative competency in society (Habermas 1962, 1981). Because of social differentiation and development of individuality, modernity does not only lead to better technology and economic rationality but also to an increase in communicative rationality. Accordingly, we have a different theory of rationalization, which makes us escape Max Weber's "iron cage." Modern society is characterized of different spheres of validity. We may distinguish between system rationality and the communicative rationality of the life world. Due to rationalization of traditional and charismatic ways of legitimacy, modernity implies not only instrumental reason but also a possibility of a post-conventional and argumentative foundation of morality. This means that rationalization is a condition for development of critical and reflective reason. Moreover, this is what Habermas means by the idea of reinterpretation of religion in terms of the communicative symbolism of language. Habermas argues that the project of modernity is "unaccomplished" because post-conventional morality implies the need for noninstrumental legitimacy of social life (Habermas 1984). Moreover, communicative rationality is prior to instrumental rationality, because it is a condition for social interaction. In a post-conventional culture, communicative rationality represents a critical evaluation of instrumental reason and strategic interactions.

Applying this view on rationality on economic interactions, Habermas' theory of communicative action provides business legitimacy research with a new foundation of economic rationality. Systemic interactions on markets require a broader social basis. They receive legitimacy as founded in society as a social institution based on culture and the human life-world. Business legitimacy research must therefore have to be critical to the Chicago and Cambridge and the views of existentialist economics or spiritualist economics and their more or less implicit or explicit efforts to generalize economic rationality. Rules of profit maximization and self-interested behavior on markets need broader social legitimacy. The justification of profit maximization in modernity is morally conditioned and limited by community-based views on justice and the common good (Ulrich and Maak 1997; Ulrich 1998, p. 416).

Consequently, it is possible to propose an alternative view on legitimacy of corporations, which goes beyond the implicit religious justification that we find in Protestant, Catholic, Existentialist, and Spiritualist conceptions of economics. This communicative justification is not only instrumental or strategic but may be said to imply the concept of the corporation as an open cybernetic system in constant dynamic interaction with its environment. The social legitimacy of corporations cannot be limited to the idea that "good business is good ethics" from the point of view of efficiency and utility. Business ethics implies something more than marketing or use of human resources in order to improve productivity and flexibility of employees. An indication of this is the critical reaction to the use of economics for the sole purpose of improving the bottom-line within the communicative conception of economics. Nevertheless, the many conflicts between ethics and economics also indicate that there is no harmonious relation between ethics and purely instrumental economic reason (Ulrich 1998, p. 417).

In addition, this chapter rejects a surplus-based conception economic legitimacy of corporations according to which the legitimacy of corporate activities are dependent on its capacity to "give away" substantial parts of its profits and turnovers for good purposes. You cannot justify your instrumental actions ethically by giving the money away. The idea that social responsibility is something luxurious that comes along when the firm is rich and famous is not sufficient to justify the activities of the firm from the perspective of community.

Indeed, it is not possible to propose an external theory of corporate legitimacy, saying that it is enough for firms to be morally legitimate when they practice ethics as "practical corrections of specific situations of conflict." Rather, due to the challenge of post-conventional morality in modernity, business legitimacy research needs a general theory of democratic and republican legitimacy of corporation.

Such a communicative approach to business relations gives us the necessary criteria for this view on legitimacy. In this context, the German business ethicist Peter Ulrich's idea of an integrative business ethics can be proposed as a way to overcome the challenge of the Weberian concept of modernity. Ulrich argues that we cannot work with purely instrumental concepts of markets and firms and we need normative conditions for legitimacy. Business ethics is based on critical reflections on corporate values in relation to the place of the firm in a democratic society. This is indeed the case of the social legitimacy of corporations. It does not only relate to a personal calling or instrumental rationality, but considers corporate activities as a contribution to the common good of society and therefore it goes beyond the dichotomy between Protestant and Catholic conceptions of economics as religion.

The main problem of legitimacy is to determine how the values of the firm relate to society, in particular in terms of dilemmas and conflicts. At all levels of the firm, the perspective of democratic communicative rationality implies critical evaluations of processes and products. Moreover, these values are related to internal and external stakeholders of the firm. From the perspective of communicative and deliberative reason, the firm is an institution that cannot be isolated from a democratic public sphere. In order to gain social legitimacy the firm should accept this role and go into dialogue with the public in order to show its democratic concerns for the common good. Codes of ethics and values of different industries and professions are good manifestations of this concern (Ulrich 1998, p. 435).

This emphasis of business ethics as and communicative stakeholder dialogue as the foundation of social legitimacy of corporations is an important dimension of a reinterpretation of economics as religion after the legitimacy crisis of the Protestant ethics. Deliberative stakeholder dialogue of the firm as participant in a critical public sphere is a basis condition of communicative legitimacy. Stakeholder dialogue is more than strategic calculation of power and profit maximization (Freeman 1984). It is the basis for relation between the firm and society. This implies a broad concept of stakeholder dialogue including concerns for the autonomy, dignity, integrity, and vulnerability of stakeholders in the perspective of responsibility, solidarity, and trust (Rendtorff and Kemp 2000).

Conclusion

Thus, In conclusion this chapter argues that, business legitimacy research must defend an institutional view of the firm as situated in a web of stakeholder relations as the foundation of economic legitimacy. Stakeholders are critically evaluated according to communicative reason and the norms of civil society (Rendtorff and Bonnafous-Boucher 2014; Rendtorff et al. 2013). Their communicatively justified concerns are recognized as legitimate, even if they have views opposing the values of the firm. The firm evaluates critically according to the concepts of democracy that can be justified as acceptable stakeholders in relation to the basic ethical principles of autonomy, dignity, integrity, and vulnerability (Rendtorff 1998, 2002, 2003, 2008, 2014c; Jørgensen and Rendtorff 2018; Jørgensen et al. 2018, Rendtorff and Kemp 2019d). It implies recognition of the place of the firm as participant in a process of public deliberation toward the common good of society. The deliberative stakeholder concept does not reduce stakeholders to objects for instrumental improvement of profits. Rather, stakeholders are viewed as having legitimate rights, and this may include institutionalization of stakeholder claims as a part of the institutional structures of the firm (Rendtorff 2015b). In this way, communicative business ethics is not a new strategy of instrumental reason, but institutionalization of a new corporate legitimacy in times of failure of dominant economic theories (Rendtorff 2014b).

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Religion, Culture, and Business Legitimacy 13

Johan Fischer

Contents

Abstract

Building on classic understandings of business legitimacy, this paper explores three moral economies, that is, human transactions characterized by noneconomic relationships and values: kosher (a Hebrew term meaning "fit" or "proper"), halal (an Arabic word that literally means "permissible" or "lawful"), and Hindu vegetarianism. In doing so, I argue for the significance of moral economies, and religious markets more specifically, to further the understanding of the complex and changing relationship between religion, culture, and business legitimacy. Over the last couple of decades or so, these moral economies/religious markets have entered a phase characterized by new forms of regulation, certification, and standardization on a global scale. This paper builds mainly on fieldwork conducted at the world's largest producer of enzymes since 2005, Novozymes,

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based in Denmark, which complies with both kosher, halal, and Hindu vegetarianism. Novozymes started undergoing auditing for kosher in the late 1980s, halal around 2000, and vegetarianism since 2011 and exploring Novozymes compliance as a case highlights the emergence, consolidation, and transformation of religion, culture, and business compliance in a globalized world.

Keywords

Business · Legitimacy · Biotech · Religion · Kosher · Halal · Hindu vegetarianism

Introduction

Novozymes is the largest enzyme manufacturer globally. The company's history starts with Nordisk founded in 1923 and Novo in 1925. These were merged into Novo Nordisk in 1989, and Novozymes was founded as a result of a demerger in 2000. The company has enzyme plants in six countries, three in Denmark, two in the USA, two in China, two in India, one in Brazil, and one in Canada. Novozymes has more than 6000 employees, and in 2013 annual revenues were about US$2 billion. The company makes around 900 enzyme products purchased by many different industries manufacturing detergents, foods, beverages, textiles, biofuel, and animal feed among other things.

Encyclopaedia Britannica states that an enzyme is "a substance that acts as a catalyst in living organisms, regulating the rate at which chemical reactions proceed without itself being altered in the process" (see https://www.britannica.com/science/enzyme). Enzymes also have valuable industrial and medical applications. For example, the fermenting of wine, leavening of bread, curdling of cheese, and brewing of beer are reactions understood to be the result of the catalytic activity of enzymes. More recently, enzymes "have assumed an increasing importance in industrial processes that involve organic chemical reactions. The uses of enzymes in medicine include killing disease-causing micro- organisms, promoting wound healing, and diagnosing certain diseases" (ibid.).

Novozymes started undergoing auditing for Jewish dietary law (*kashrut*) compliance in the late 1980s and is certified by Orthodox Union, one of the global Big Five kosher certifiers. In order to comply with divergent halal requirements set by Islamic organizations globally, the company's products are certified by three different certifiers: Islamic Food and Nutrition Council of America (IFANCA), Halal Food Council of Europe (HFCE), and Majelis Ulama Indonesia or Indonesian Ulema Council (MUI). In 2011, the Indian state made it mandatory that all processed food products should bear marks to indicate whether products are vegetarian (green) or nonvegetarian (brown). The processing complex occupies a large area in a rural area outside one of South India's major cities, and the whole complex is carefully organized and managed so that green and brown production is separate according to Food Safety and Standards Authority of India (FSSAI) specifications, and FSSAI often carries out announced as well as unannounced inspections and audits to check that green/brown production compliance is properly managed.

Building on Suchman's (1995) understanding of business legitimacy, this paper explores kosher (a Hebrew term meaning "fit" or "proper"), halal (an Arabic word that literally means "permissible" or "lawful"), and Hindu vegetarianism as moral economies, that is, human transactions characterized by noneconomic relationships and values. The paper argues for the significance of moral economies, and religious markets more specifically, to further the understanding of the complex and changing relationship between religion, culture, and business legitimacy. This paper builds mainly on fieldwork conducted at the world's largest producer of enzymes since 2005, Novozymes, based in Denmark, which complies with both kosher, halal, and Hindu vegetarianism. Novozymes started undergoing auditing for kosher in the late 1980s, halal around 2000, and vegetarianism since 2011 and exploring Novozymes compliance as a case highlights the emergence, consolidation, and transformation of religion, culture, and business compliance in a globalized world. Building on fieldwork carried out in Novozymes that complies with kosher, halal, and Hindu vegetarianism, this paper answers this research question: how do kosher, halal, and Hindu vegetarianism as moral economies condition business legitimacy? Epistemologically, comparison is used as a powerful conceptual mechanism that fixes attention on kosher, halal, and vegetarian similarities and differences (Herzfeld 2001). It should be noted that as kosher was the first type of moral economy Novozymes started complying with and as there are quite a number of similarities between kosher, halal, and Hindu vegetarianism, the section on kosher is more elaborate compared to halal and Hindu vegetarianism.

Conceptualizing Religion, Culture, and Business Legitimacy

Suchman's analysis identifies three forms of legitimacy: pragmatic (based on audience self-interest), moral (based on normative approval), and cognitive (based on comprehensibility and taken for grantedness). He argues that many dynamics in the organizational environment stem from cultural norms, symbols, beliefs, and rituals. Organizational legitimacy is central to the way in which legitimacy is central to a theoretical apparatus addressing the normative and cognitive forces that constrain, construct, and empower organizational actors. Suchman synthesizes these three approaches of which the moral is of the most importance for the argument. In professional activities such as biotech production, cultural beliefs define "certain methodologies as ritual enactments of central societal organizing principles, such as science, citizenship, and free will" (Suchman 1995, p. 580). In doing so, Suchman calls for explicit scholarly attention to the existence of many distinct legitimation dynamics, and researchers who study legitimacy should clearly identify which aspect(s) they have in mind: in this case the central focus is moral economies/religious markets, conflicts and the synergies among various legitimation dynamics, legitimacy in the biotech sector, as well as constructing indicators of different types of legitimacy based on relationship to specific types of compliance/regulation/

certification/standardization. This allows for examining the incidence of particular legitimacy profiles across social locations, the dynamics of profile patterns over time, the relationship between profiles at the organizational and the industrial levels, and the impact of specific profiles on short-run performance and long-run mortality. Most importantly, perhaps, the understanding of legitimacy can benefit greatly from empirical research on the use and effectiveness of various legitimacy-management strategies.

Busch (2000) argues that standards are part of the moral economy of the modern world that set norms for behavior and create uniformity, and this point is important for the emergence and expansion of global and moral kosher, halal, and Hindu vegetarian markets. It is through standards that the moral economy is produced and reproduced (Busch 2000) and standards (in biotech production, as we will see) can standardize things or products; workers with regard to uniformity and discipline; markets in relation to fixed/uniform prices as well as the packaging of products; the way in which capitalists behave and use capital; standards themselves, that is, standardized methods that produce consistent results; the makers of standards such as scientists and technicians; consumers as a product of capitalist development and socially regulated consumption; as well as the environment. Moral and religious behaviors are subject to standards of tolerance as they work as limits of tolerable behavior in divergent settings – for example, kosher standards versus "civic" standards in the USA (Busch 2013). Likewise, Carrier (2018) argues that a moral economy can be fruitfully explored as the production and circulation of things and ways in which people engage in economic transactions with others and of how those transactions can generate a relationship with those others and an obligation to transact again in the future. These takes on moral economies or humanitarianism encouraging us to look at economic transactions in terms of relationships and their histories, and they also allow us to see some economies and some realms of life as more or less moral, depending upon the degree to which moral economic activity or humanitarianism is predominant in them.

Ferguson and Gupta's (2002) concept of transnational governmentality grasps how new practices of government and new forms of "grassroots" politics are being set up on a global scale. Examples are new strategies of discipline and regulation that are exemplified by kosher, halal, and vegetarian regulation and standards, but also transnational alliances forged by activists and grassroots organizations and the proliferation of voluntary organizations supported by complex networks of international and transnational funding and personnel. Following studies of modern forms of audit culture (Power 1999; Strathern 2000), this paper shows that transnational governmentality of religious markets seems to take on a life of its own. An example of this is not only the US kosher market as a successful private-sector regulation in an era of growing public concern over the government's ability to ensure food safety (Lytton 2013) but also more generally increasing regulation of kosher, halal, and vegetarianism globally.

Most scholarship on moral economies or religious markets focuses on the compatibility of markets and religious practices. For instance, Weber (2001) understood the origins of modern capitalism to be religious ethics and stressed that under

Western capitalism labor became an obligation and capital accumulation a virtue. More recent work explores religious moralities as formative of “market cultures” (Hefner 1998) or “spiritual economies” (Rudnyckyj 2010). The volume *Muslim Piety as Economy* (Fischer and Jammes 2019) examines specific forms of production, trade, regulation, consumption, entrepreneurship, and science that condition – and are themselves conditioned by – Islamic values, logics, and politics. Much of this research overlooks the fact that over the last couple of decades or so these markets and economies have been subjected to new forms of regulation and standardization.

Novozymes: Moral Economy and/as Business Legitimacy

In 2000 the position of Global Halal and Kosher Coordinator was created. He has been with Novozymes for many years and has been involved in quality assurance and several other areas of enzyme production. Novozymes is a good example of a company that complies with kosher and halal challenges, and this has impacted on certification, staff policies, and innovation in the company. Practically, all of the company’s food grade enzymes are kosher and halal certified. Comparatively, more enzymes are kosher certified because some of these are for the production of alcoholic beverages only, that is, halal certification is irrelevant. Novozymes started replacing the limited number of animal ingredients in production about 20 years ago due to bovine spongiform encephalopathy (BSE) and rising kosher requirements. Both factors made animal ingredients undesirable. Novozymes’ Coordinator provides a specific example of the way in which the company complies with such kosher standards: these necessitated a change in ingredients and production processes in connection with replacing porcine gelatine with fish gelatine to produce an immobilized lipase for edible oils. These transformations signify the move from localized forms of kosher standardization. The replacement of animal ingredients by other ingredients was not only resource demanding and costly; it also generated forms of innovation that benefit the company today. In many ways non-animal ingredients are more unproblematic in the globalized market in an era of food scares and rising religious requirements. Thus, over the last two decades, religious principles have played an important role in shaping knowledge, work processes, and practices in an organization such as Novozymes. Formalized standardization in the form of certification and auditing/inspections by an identifiable certifier such as OU marked the start of systematic kosher regulation.

Novozymes trains all staff involved in kosher production, that is, basic rules/regulations, approved ingredients/raw materials, as well as handling and certification procedures. These sessions start with a general introduction followed by detailed instructions about the rules that specifically apply to that audience. Occasionally, the OU rabbinic field supervisor who is also responsible for training and Novozymes’ employees around the world knows that they can contact the Coordinator if they have any questions about kosher certification and compliance. The Coordinator is responsible for such training, and he also participates in training arranged by OU, for example. Novozymes' training of staff takes place at different levels at the company's sites around the world. The Coordinator functions as the company's overall authority on kosher globally, but at each of Novozymes' sites, one member of the staff is appointed local Coordinator responsible for kosher and expertise. Worldwide, the company has seven local coordinators, one per site. Consequently, training takes place centrally in Denmark and at local sites of production in each country. This point shows that standardization is also about persons (employees and inspectors) who each in their way possess standardized skills to produce and regulate kosher products, but also transmit kosher knowledge in order to avoid divergent types of classifications globally. Training itself can be seen as a standardizing process in which learning and disciplining meet. Kosher training is a way to increase workers' employment value depending on their skills.

When kosher became more and more important in the 1990s, Novozymes' Coordinator assumed that that there would be a textbook that could tell him all he needed to know, but the only books he could find were written for Jewish housewives and not for production engineers. Consequently, he had to pick up the necessary information from frequent meetings with OU representatives including the rabbinic field supervisor or inspector. Another source of information is *Kosher Food Production* (Blech 2008) that many companies use as a handbook for kosher production. This type of manual is important in standardizing kosher principles, audits/inspections, and their translation into practice – and it's also a text that helps to shape uniform global governmentality.

Kosher

Kashrut and kosher law (*halacha*) include a number of prohibitions such as a ban on pork and the mixing of milk and meat. In addition to food, kosher is also widely used to designate the "rabbinic properness" or personalized understanding of a wide range of objects, products, activities, ideas, and institutions (Ivry 2010, p. 662). Kosher law is ultimately the application of a system of religious precepts and beliefs that governs the types of foods that people of the Jewish faith eat. This system is based on a number of verses found in the Bible, rabbinic Biblical exegesis, ordinances as presented in the Talmud (the written record of the oral law as redacted in the fifth century), and the writings and decisions of rabbinic authorities (Blech 2008). Central concepts in kosher laws are related to acceptable plants and species of animals. Other important concerns are rennin, gelatine, lactose, sodium caseinate (a protein produced from casein in skimmed milk), vitamins, eggs, grape products, fruits, vegetables, and Passover (a major Jewish festival) items (Regenstein and Regenstein 1979).

Kosher is often used as an example of not only the US kosher market as a successful private-sector regulation in an era of growing public concern over the government's ability to ensure food safety (Lytton 2013) but also more generally increasing regulation of kosher. Within the last two decades or so, the Big Five kosher certifiers have achieved global reach, Orthodox Union (OU), OK Kosher, Kof-K Kosher Supervision, Star-K, and Chicago Rabbinical Council (CRC), as well as individual rabbis who issue certificates.

Several studies show how diverse groups of Jews in the global diaspora negotiate kosher principles and practices. For example, dietary practices provide a common symbolic system through which the notions of Jewish identity can be expressed by keeping kosher (Buckser 1999; Diamond 2000; Klein 2012; Fischer 2019a). These studies demonstrate that many Jewish groups are fastidious about their everyday kosher consumption, and this point has reinforced regulation of global kosher production and regulation. The author's own research (Lever and Fischer 2018; Fischer 2019a) shows that kosher certification and logos are extremely important in the everyday lives of many Jewish groups in Europe. However, many Jewish consumers are not fastidious about kosher; together with local Jewish organizations, they feel that The Big Five kosher certifiers have become global, commercial, and powerful to such an extent that their certification of thousands of companies and products has taken on a life of its own that is detached from the everyday lives of Jewish consumers.

A glimpse into kosher compliance in Novozymes: When the author participated in a kosher inspection in 2010, the OU inspector is particularly interested to know about changes in production processes, but as Novozymes' raw materials generally are unproblematic, this is not really an issue. The OU inspector visits several times each year and has done so for many years pointing to the routinization and standardization inspections that have been undergone. Over the years the inspector and the Coordinator have developed a personal relationship, and there is mutual professional respect between them. Almost all inspections are announced, but in principle unannounced inspections are possible. The fact that inspections are announced and routinized minimizes tensions between kosher principles and practices.

The Coordinator mostly accompanies the OU inspector on the big annual inspection, while other Novozymes staff trained in kosher compliance are responsible for many of the other inspections. The kosher inspector is the only inspector to carry out inspections at Novozymes Denmark, and this helps personalize the relationship between the Novozymes Coordinator and the inspector. All Novozymes factories in India, Brazil, the USA, and China have the main kosher inspections at least once a year and frequent follow-up visits. Novozymes' Coordinator explains that even though inspections always complicate planning slightly due to the familiarity between the inspector and the coordinator, these can be "cosy" and "fun," he explains. More generally, as long as inspectors are well-qualified in the area of biotechnology and relevant areas of expertise inspections can be interesting for companies. They are an opportunity for a company such as Novozymes to demonstrate how they comply with complex religious requirements and to establish and maintain a personalized relationship between staff and inspectors. This is important because in the eyes of a company such as Novozymes, kosher compliance in the form of certification and standardization is considered value added in competition with other companies that are not kosher certified.

The OU inspector responsible for inspecting Novozymes is a Senior European rabbinic field representative, but he also does inspections in countries such as India and Japan. The inspector is in his 70s, and he grew up in the UK and holds degrees in chemical engineering from the USA where he discovered Judaism. At these sites, members of teams are ready to receive the inspection group, and they are also wearing the protective suits. Then we drive to fermentation, have lunch, and then onto environmental operations, recovery, standardization, and finally granulation. It is not only the route of the inspection that is mapped and standardized. In kosher inspections flow charts play an important role in giving inspectors a quick overview. Often during inspections, the inspector together with the Coordinator and the employee or team of employees responsible for the individual production processes looks at and discusses flow charts. If changes in production have taken place, these can be indicated on the flow chart.

During the kosher inspection, the OU inspector is thorough, inquisitive, talkative, and joking. The staff explained that they enjoyed the inspector's humor and that this made kosher inspections something special. Obviously, there is a personalized relationship between the inspector, coordinator, and team members we meet as we move along production areas and laboratories. The inspector explains about his work and purpose of the inspection and how a company such as Novozymes best complies with kosher principles. For example, in the warehouse of another company, he once found "piggy things" that are clearly prohibited from being stored among products that are designated kosher. This is a rare example of how kosher rules can be broken and the sacred can be polluted by the profane. However, as 99% of raw materials in Novozymes are already OU approved, his main focus here is on potential cross-contamination and pollution relating to the complex kosher rules in biotechnology on the one hand and auditing in connection with accompanying documents and certificates on the other.

Much of the inspection work and practices focuses on looking for proper kosher logos on products and raw materials and the trajectories of these, that is, where they are produced, by whom, and how they ended up in Novozymes' production or were stored in a warehouse. Hence, in several cases he wants to have specific files sent to him for checking at a later stage. This type of documentation and traceability is at the heart of audit culture. Another related question is about a list that covers incoming goods to the Novozymes warehouse within the last month. Many of these questions are central not only to kosher but also more broadly to issues such as quality assurance and the ways in which Novozymes plan and run production. A specific question among many others that arises in the production area we are in relates to the use of milk powder in production, as milk is traditionally a sensitive issue in kosher. Thus, milk powder is an example of a substance that is kosher as long as it is not mixed with animal ingredients.

When we stop at granulate mixing, the inspector looks at containers with OU logos and wonders about transportation details: "How do raw materials arrive? What are the delivery details? Who owns containers or are they rented? Who cleans these containers and how? Are there any papers on the tank truck?," he asks. These questions crop up in a specific part of a production area that is fully kosher; it does not produce anything that is not kosher so questions target proper handling during transportation and how this can be documented. Standardization of proper handling and transport is challenging not only for Novozymes but also for companies that supply containers, for example, and again documentation and traceability become essential in making kosher production auditable.

Thus, traceability in connection with ingredients is of particular importance during kosher inspections. These ingredients have traveled far taking complex "secular" routes, and they therefore pose a specific concern for OU. Hence, proper labeling with kosher logos by OU or one of the OU recognized certification bodies together with labels that detail contents are essential for traceability. Batch numbers and barcodes are also inspected in order to determine traceability. In general, the further a product has traveled along complex routes between suppliers, middlemen, and companies, the more they can be seen as problematic and in need of proper certification and labeling. These points also vary from raw material to raw material seen to require different kosher status – some products must be certified as kosher, while this is not essential for others, so there are grades of kosherness to consider during inspections.

The inspector notes that in many cases enzymes that should be kept separate are mixed in complex ways. This trend is also an effect of the intensified globalization of the trade of enzymes in which more and more "secular" middlemen handle kosher in divergent ways. According to the OU inspector, an example of this is "individual and unreliable rabbis" who want to make easy money without possessing the necessary knowledge or resources to handle kosher properly. In this "incestuous world of enzymes," logos and labeling are essential signs of standardization that can say something about "the other side of the logo," that is, the kosherness of products is not easily verifiable without these logos on products or certificates.

While we wait in a production area for a certificate for a particular product to be recovered from the nearby office, the inspector reasons that more and more attention is paid to how certification and proper logos on products can give producers, certifiers, and consumers assurance and the relabeling of products. Many products are relabeled one or more times as they move from production to consumption and attain new qualities. Sometimes, the inspector complains, labels are ripped off during transport, and this makes kosher status verification impossible. However, no matter how detailed the label on products may be, kosher rules cover ingredients and processes that cannot be covered by a secular declaration alone, and this point necessitates the marking of correct status with a logo.

As we move around, several less convincing kosher logos come to the attention of the inspector – for example, a big logo by a French kosher-certifying body the inspector considers reliable, but he dislikes the design. We also encounter an example of a raw material the Novozymes Coordinator is not quite sure how to document on site as kosher. The OU inspector suggests that Novozymes can have a picture taken of its batch number and barcode so that paperwork and a certificate can accompany the product. This shows that audit culture practices can determine whether a product is kosher or not. This procedure is becoming more and more common in such situations. When exploring the fermentation process, the inspector wants to know if any changes over the last 2 months and changes more generally have taken place. Potential changes in production are a concern of kosher inspectors in general, as these challenge standardized ways of practice in ways that have implications for kosher principles. If companies can provide detailed information about changes, it is easier to determine how kosher status is affected so this is often one of the first questions inspectors ask and one that companies are prepared to answer. Another specific question is about raw materials for different types of production. Other questions asked by the inspector relate to changes in particular processes since the last inspection – for example, new suppliers of raw materials. We now reach recovery, and the inspector again asks if there have been any changes in this process since his last visit. The coordinator can answer these questions to the satisfaction of the inspector, and the specialized teams we meet at different steps of production are prepared to elaborate in their particular field of expertise.

In a specific part of a production area, the inspector is enquiring into the potential risk for contamination in relation to a product that is stored in a state-of-the-art steel tank. The researcher could not help asking how a modern steel tank can be suspected of causing contamination. The inspector answers that this is "Because there were traditionally holes in metal containers and theological reasons." As noted, another example of these historical or theological aspects is the inspector's questions and concern with steam as a potential media of contamination in connection with pigs and other pollutants – steam or hot water issues pose a concern if a common steam or hot water system is used in the processing of kosher and non-kosher products. Concerns with contamination risks in steel containers and steam show the extent to which historical/theological kosher principles condition kosher production practices. However, as long as companies can comply with these requirements through standardized practices, they are not concerned. The training of staff, in particular where the OU inspector also participates, provides a framework for inspections that makes kosher compliance smoother. Even if kosher inspections are only one type of inspection among many others, employees generally consider kosher regulation different from other standards and regulations due to its divine origin. Kosher standards are also only one set of standards among many others. The ethnography shows that not only are inspections standardized and routinized, but they also serve the purpose of establishing personalized relationships between inspectors and coordinators that help to ensure smooth cooperation and the translation of kosher principles into practice. After 2 days of inspection, the inspector moves on to the next company before returning to Novozymes in due course. Kosher compliance in Novozymes shows how kosher conditions a specific form of business compliance as moral economy in biotech production.

Halal

The Koran and the Sunna (the life, actions, and teachings of the Prophet Muhammad) exhort Muslims to eat the good and lawful that God has provided for them, but there are a number of conditions and prohibitions. Muslims are expressly forbidden to consume carrion, spurting blood, pork, or foods that have been consecrated to any being other than God himself. These substances are haram and thus forbidden. Ritual slaughtering entails that the animal be killed in God's name by making a fatal incision across the throat. Another significant Islamic prohibition relates to wine and any other intoxicating drink or substance (Denny 2006, p. 279). In the modern food industry, a number of requirements have been made in relation to halal food, for example, to avoid any substances that may be contaminated with porcine residues or alcohol such as gelatine, glycerine, emulsifiers, enzymes, flavors, and flavorings (Riaz and Chaudry 2004). Moreover, aspects of context and handling are involved in determining the halalness of a product. The interpretation of these questionable areas is left open to Islamic specialists and institutions such as MUI.

For some Muslims halal sensibilities necessitate that halal commodities are produced by Muslims only and that this type of production is kept strictly separate from non-halal production. For example, in Malaysia it is a legal requirement that foreign companies set up a Muslim Committee in order to handle halal properly. In 2001, a major food scandal in Indonesia triggered a new phase of halal proliferation and regulation, that is, transnational governmentality, on a global scale leading it to cover areas such as enzyme production. The Majelis Ulama Indonesia or Indonesian Ulema Council (in English) (MUI), set up by the Indonesian state in 1975, accused a Japanese company, Ajinomoto, of using pork products in the production of the flavor enhancer monosodium glutamate and demanded that the Indonesian government take appropriate action. Although Novozymes has complied with steadily growing kosher requirements since the 1980s, enquiries about halal certification from Southeast Asia, especially Malaysia, Singapore, and Indonesia, finally culminated in new practices in 2001 following the food scandal in Indonesia. However, already before this food scandal, there was an increasing interest in halal, and Novozymes started to learn about halal and its similarities to and differences from kosher – also in terms of locating and ultimately choosing certifiers. MUI does not have the resources to carry out inspections globally, and consequently they have outsourced responsibilities to Muslim organizations around the world such as Islamic Food Council of Europe (IFCE) and Islamic Food and Nutrition Council of America (IFANCA) that, for example, carry out inspections in Novozymes. Thus, globally, companies are affected by halal transnational governmentality that to a large extent is evoked by Southeast Asian nations such as Malaysia, Singapore, Indonesia, Brunei, and Thailand.

As we saw it in the case of kosher, many Muslim consumers and consumer associations are fastidious about halal – especially in Southeast Asia where halal consumption among growing Muslim middle-class groups is inseparable from modern Muslim identities and ethnicity (Fischer 2008, 2011). However, many Muslims feel that the proliferation of halal into enzyme production, for example, is unnecessary and overly commercial. Comparing kosher and halal markets, the regulation of the former has taken place for a longer period of time, and the kosher market is more settled than that of halal in which a plethora of state and non-state certifiers struggles over authority. Another difference is that kosher requirements are more complex – for example, with regard to contamination in kosher production but also in the everyday lives of Jewish groups (Lever and Fischer 2018).

In order to comply with divergent halal requirements set by Islamic organizations globally, the company's products are certified by three different certifiers, among them HFCE. When we discuss standards and standardization, the Coordinator contends that halal standards similar to those of ISO would be desirable. It is confusing that different halal certifiers compete and have different halal understandings and practices resulting in tensions and a constant uncertainty about recognition and misrecognition between certifiers. However, despite calls for such standards by certifiers and companies, there is no sign that actual halal standardization is being institutionalized on a global scale. Such standards could ideally also include inspections, and this would perhaps smoothen different certifiers' skepticisms about the inspection qualifications, competences, and capabilities of other certifiers that can lead to a certifier being misrecognized.

The author was given the opportunity to carry out participant observation at a halal inspection in Novozymes. The halal inspector is the chairman of HFCE. He is also the vice president of the influential halal certification body Islamic Food and Nutritional Council of America (IFANCA) based in Chicago; HFCE can be seen as a kind of subsidiary organization of IFANCA in Europe. The inspector was born in Malaysia where he worked with Malaysia's state regulated form of halal certification since the early 1980s. The mission and objectives of HFCE are to promote the concept of halal globally in the interfaces between Islamic organizations and scholars, Muslim consumers and companies, research, and training.

When a company is requesting halal certification, an audit/inspection of the production facility is done to review the production processes, ingredients, and sanitation aspects of the facility, and this was also the case in Novozymes. Companies must provide necessary documentation and information pertaining to specification sheets, labels, flow charts, cleaning/sanitation procedures, and other production details. A contract is signed between HFCE and the company when there is agreement by both parties. HFCE is recognized by MUI. It is essential for Novozymes to be certified by a body that enjoys the most widely recognized type of certification. Even if HFCE and IFANCA closely cooperate, they carry out independent inspections at Novozymes. For example, Novozymes factory at its headquarters in Denmark only has inspections from HFCE, while the company's factory in China is inspected by both MUI and IFANCA. The HFCE inspector explains that kosher is a term similar to halal, but there are many differences; while Islam prohibits all intoxicants, Judaism regards alcohol, among other things, as kosher. He is fully aware that Novozymes has been fully kosher certified since the 1990s.

The regular inspections of Novozymes by HFCE take 1–2 days, during which the HFCE inspector explores the production process. The inspector does not concentrate on the biotechnological details as much as on hygiene in the production process to ensure that no cross-contamination with haram substances occurs. Similar to kosher, these inspections are resource demanding for Novozymes. However, they allow the company to develop and refine their production methods to comply with increasing religious requirements. For example, Novozymes does not introduce new ingredients or production processes without consulting its halal certifiers about the overall process of qualification. Consequently, these organizations influence the innovation process within the biotechnology industry. Unannounced inspections are allowed, but unsurprisingly Novozymes and other companies prefer announced inspections that they can prepare for and schedule. The HFCE inspector is more focused on visual aspects of the production processes as well as scrutinizing logos, certificates, and accompanying documents. The HFCE inspector is well aware that Novozymes has been fully kosher certified for many years, which limits his main concern to alcohol, and that Novozymes also has very few ingredients and production processes that can be considered problematic. Occasionally, ritual cleansing of equipment in addition to the sterilization of the company does itself is performed.

Hindu Vegetarianism

Modern vegetarianism in India is integral to Hinduism and based on the concept of *ahimsa* (noninjury to all living creatures). To Hindus, food/drink is closely related to bodily substance, health, well-being, and purity/pollution (Malamoud 1996) as well as to caste, class, gender, and kinship (Caplan 2001). Hindu food and drink practices among divergent class and caste groups have always been contentious in India, but now the country finds itself at the interface of three major transformations that are fundamentally reshaping conventional forms of vegetarianism: Hinduization (promotion of Hinduism) of state and society (Hansen 1999), an increasing number of companies such as Novozymes that are involved in and must comply with rising vegetarian forms of regulation, and the emergence of a new Hindu middle class of about 300 million consumers attentive to vegetarianism.

The global market for vegetarian food products has exploded within the last few years. Nowhere is this more visible than in India, which is one of the largest and fastest-growing markets for processed foods in the world. In 2011, the Indian state made it mandatory that vegetarian food must bear a “green mark” to indicate that products are fully vegetarian (Ministry of Health and Family Welfare 2011). Moreover, India’s new Prime Minister since 2014 from the Hindu nationalist Bharatiya Janata Party (BJP) is a strict vegetarian and promotes vegetarianism as a national project. Controversies over what Hinduism is, or ought to be, are intensifying as the practices of food consumption are increasingly being standardized in contemporary India. These problems and transformations take place in the wake of India’s programs of liberalizing its economy in the 1990s. The cornerstones were the privatization of public-sector enterprises, increased solicitation of foreign investment, and disavowal of policies aimed at import substitution. Such broad socioeconomic changes have led to a sizable expansion of the middle classes and transformed their relationship to food consumption practices.

The ever-increasing pluralization of shopping choices in urban Indian spaces is increasingly infused with Hinduized vegetarian and puritanical notions and practices (Giridhardas 2011, p. 10). The predominant literature on vegetarianism in India and South Asia (Caplan 2008; Desai 2008; Donner 2008) demonstrates new forms of vegetarianism as effects of “gastro-politics,” that is, how beliefs about food encode a complex set of social and moral propositions (Appadurai 1981) – for example, in strictly vegetarian housing estates that have emerged in urban India. Compared to kosher and halal, Hindu vegetarianism is only starting to be regulated, but right now Indian vegetarianism seems to follow many of the logics of standardization.

In 2011, the Indian state made it mandatory that all processed food products should bear marks to indicate whether products are vegetarian (green) or non-vegetarian (brown), and with the rise of consumer culture in super-/hypermarkets, these logos are ubiquitous on packagings throughout India. While the concept of *ahimsa* (noninjury to all living creatures) is central to Hinduism and Hindu vegetarianism is explored in a large literature, there is no corresponding exploration of how "green" and "brown" production is managed in contemporary India. What is more, India is a major exporter of meat and water buffalo beef in particular (Fischer 2019b). Based on fieldwork in India, this section explores how manufacturing companies such as Novozymes understand and manage "green" and "brown" standards.

A glimpse into vegetarian compliance in India: Novozymes started its operations in India in 1983, and it's the largest supplier of industrial enzymes and microorganisms in South Asia. When the author visited the Novozymes facility in Bangalore, the Senior Specialist explains that Novozymes India has more than 500 employees with three sites in Bangalore that cover research/technology, manufacturing, business functions, and a service center. Some of the key business areas for Novozymes India are household care, textiles, food/beverages, oils/fats, baking, and beverage alcohol. The Senior Specialist has been with Novozymes for 18 years, and she holds an MSc in food technology. Her main responsibility is raw materials and good manufacturing practices, including FSSAI vegetarian regulation, kosher, and halal. The author also met the Senior Specialist at Novozymes' headquarters in Denmark. Kosher and halal are not major issues in Novozymes India, whereas vegetarian regulation has a long history in the Indian context, she explains. The Prevention of Food Adulteration Act from 1954 came into existence as the first federal law to ensure safe, pure, and wholesome food to consumers. The present green/brown logos enforced by FSSAI are only the latest versions of logos that indicate whether food and ingredients in India are veg or nonveg. Novozymes India is a strictly "green" company, that is, all the company's food grade products carry the green mark. However, from 2011 onward Novozymes India had to apply for a FSSAI license. The Head of Quality Assurance explains that depending on the type, size, and income of food businesses, three types of licenses have to exist, and Novozymes falls under a "central" one in Delhi. All details can be found at the FSSAI's website. For both types of licenses, there is a fee that depends on:

> . . .the type of unit you are putting up. The FSSAI Inspectors come for inspections. They have their federal headquarters in Delhi, but inspections and audits will be at the state level. They don't inform us when they come here. They can come down whenever they want. They have inspected us in 2016. The person who came last time he was here for around four hours. We also have FSSAI requirements like how the plant should be established, what kind of activity should be conducted regarding veg and non-veg. Everything is outlined on the website. We never had any animal ingredients.

When we discuss why green regulation is so important in India, the Head of Quality Assurance argues that “In India we have populations from Rajasthan, Gujarat and Southern India where many people are vegetarian. There are different cultural backgrounds. So, these logos make it easy to choose veg or non-veg.” Most of all, she considers the logos to be symbols rather than logos of certification or standards. The green mark can be found on multitudes of Novozymes India packagings in India and elsewhere, and in Novozymes India’s formulation unit, the relevant staff team received training on the proper kind of labeling on each product. In sum, for Novozymes India green regulation in India is not very complex or challenging as long as the company only uses ingredients and products that are not of animal origin and there is no formal requirement in terms of staff being vegetarians themselves.

Conclusion

This paper shows why and how moral economies condition new forms of biotech production and business legitimacy: Kosher, halal, and most recently green/brown governmentality extends into biotech production, for example, and the company Novozymes was an example of that. Within the last couple of decades, different types of certifying institutions/organizations “discipline” companies, and in that process, they claim authority that is central to both certifier and businesses – and the legitimacy that arises from these processes. In other words, in India FSSAI is disciplining companies with regard to green/brow understanding and practice, but companies such as Novozymes have a long history of moral economy compliance so they become more skilled in negotiating standardized requirements. A central aspect of audit culture is the pushing of control and self-control further into companies to satisfy the need to connect internal organizational arrangements to public ideals. It is clear from the above that a multitude of divergent religious understandings are now being overshadowed by processes of standardization and that companies themselves are rationalized to deal with these challenges. It is clear that compliance influences the social organization of businesses, that is, how companies understand and practice requirements as social organizations. Globally, religious economies and markets are inseparable from the way in which religions more generally are regulated by the state, but religious transnational governmentality also stretches to secular settings around the globe such as Novozymes in Denmark. Even if the underlying principles behind religious economies and markets discussed remain some form of “divine order,” transnational governmentality is increasingly evoked as authoritative fields of knowledge in the way in which these markets are practiced. A very visible transformation in companies is the proliferation of religious logos on products, facades, advertisements, and certificates. These logos testify to the fact that a recognizable body certifies products and production processes between producers, sellers, buyers, and certifiers. Many companies argue that even if requirements and control have been “stepped up,” religious markets are more professionally regulated today compared to the unclear and confusing requirements of the past. However, the transnational governmentality is also a form of religious audit culture that tends to take on a life of its own. Today, religious certifiers and companies claim authority and generate profit, while many Muslims, Jews, and Hindus are unaware of or uninterested in these processes.

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Part IV

Organization, Business Legitimacy, and Business Ethics Theories

Virtues, the Common Good, and Business Legitimacy

14

Germán Scalzo and Kleio Akrivou

Contents

Abstract

When it comes to contributing to the wider society's common good, organizations' considerable ethical failures have weakened overall trust in business firms. Mainstream legitimacy theory fails to address normative issues on the ethical responsibilities of management toward and the role of business in society. This chapter reviews the main approaches to business legitimacy linked with institutional theory in light of the virtue ethics tradition to show how a virtuous management paradigm can enable a better relationship between the firm and its stakeholders, promoting their well-being and contributing to the common good of society as a whole. To facilitate a richer and more nuanced understanding of virtue ethics' concerns, it applies key terms from Aristotelian virtue ethics to discussion of the role of management and ethical communication in the context of business legitimacy.

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Introduction

When it comes to contributing to the wider society's common good, organizations' considerable ethical failures have weakened the community and polis' overall trust in organizations (Pirson et al. 2019; Sethi 2002). As a result, organizations, especially among the top echelon, are expected to provide detailed accounts of their actions, decisions, and performance that goes way beyond financial performance and moves into territories that touch on (un)ethical conduct (i.e., reports on societal and stakeholder impact, environmental impact, and impact on personal well-being of key groups involved) via legal, accounting, oral, written, formal, and informal communication channels signed by executives themselves (Ferns et al. 2008). How organizations and top executives communicate on these matters corresponds to a field of research called (organizational and leadership) accountability research; the concept is understood in the literature as something that organizations owe (Swift 2001; Gray et al. 1997). Therein, organizations' license to operate involves a duty to justify their actions to society at large and to account for sustainability, transparency, and accountability strategies – or the right to hold people responsible for their actions (Bivins 2006).

One of managers' key roles includes their responsibility in terms of accountability. Organizational and management accountability has been dealt with mostly through corporate social responsibility (CSR), accounting, and legitimacy-related literature. In this chapter, we briefly review the legitimacy literature that springs from institutional theory, then juxtapose different views on legitimacy and accountability from the perspective of virtue ethics, and finally attempt to link it with the concept of the common good, the role of firms, and management. With regard to understanding business and management accountability, we aim to go beyond the current legitimacy and CSR literature, joining scholars of business ethics such as Garriga and Melé (2004), who argue that organizations have an **essential ethical responsibility** to society at large and to specific groups with which they relate inside and outside of the firm. This enables wider flourishing and the common good (Sison and Fontrodona 2012), which, in turn, goes beyond the need to legitimize others' assumptions, as well as beyond legal and economic responsibilities. In addition, we will present Aristotelian notions of *ethical communication* that emanate from a virtuous character, what it entails, and how it is part of managers' ethical accountability. We will argue that virtuous organizations and managers who act in the unity of virtue can significantly strengthen all stakeholders and groups, enabling them to mutually grow while developing their relationships (Flyverbom et al. 2019; Trevino et al. 2000).

An Overview of Business Legitimacy

Legitimacy is an established, mainstream concept in social and organizational studies (Deephouse and Suchman 2008; Hannan and Freeman 1989; Dowling and Pfeffer 1975; Hybels 1995; Suchman 1995). Legitimacy literature and its main assumptions spring from institutional theory, whereby legitimacy is the central concept that articulates and influences stakeholders to hold positive perspectives concerning a business or organization's social acceptability or credibility (Suchman 1995; Scott 2008; Deephouse and Suchman 2008). The institutional theory rationally justifies the duty of legitimacy as managerial accountability, which includes influencing beliefs that align with a positive reputation or effectively address critiques or a weakened reputation to increase stakeholders' trust, which facilitates positive reputation (and share price) for the benefit of shareholder interests.

Accordingly, key contemporary legitimacy authors argue that, in order to survive in their social environments and to maintain prosperity and a license to operate – i.e., to be "legitimate" – an organization is granted a social license when its operations, values, and underlying processes meet stakeholders' expectations and needs and satisfy societal norms (Dare et al. 2014). For that to happen, more than just technical information and material, financial, and human resources are needed. An equally key variable arises in the form of social acceptability and credibility, that is, *legitimacy* (Scott et al. 2000). Institutional theorists Meyer and Rowan (1977) argue that legitimacy is an asset that provides a reservoir of trust and support among external resource holders, enabling an organization to access scarce resources and keep afloat.

Suddaby and colleagues (2017) suggest that key theories define legitimacy as an ongoing process and not as "a state of equilibrium" that is seen (1) as an organizational resource/*property*, (2) as a *process of social interaction* (the essence of legitimation, which we explain later), or (3) as a socio-*cognitive perception* or *evaluation* (Suddaby et al. 2017). The most prevalent theory involving the concept of legitimacy is from Suchman (1995) whose understanding of it follows a tradition in organizational studies based on Max Weber's *Economy and Society* (Suchman 1995); he defines it as "a generalised perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman 1995: 574). There are two other noteworthy definitions of organizational legitimacy in the literature that Suchman (1995) cites, conceptualizing it as follows: (1) as "the extent to which the array of established cultural accounts provide explanations for [an organization's] existence" (Meyer and Scott 1983: 201) and (2) the "congruence between the social values associated with or implied by [organizational] activities and the norms of acceptable behavior in the larger social system" (Dowling and Pfeffer 1975: 122). Whereas the former definition focuses on the cognitive nature of the concept, the latter emphasizes a cognitive-evaluative aspect, arguing that organizations do not need to be explicitly accounted for (from managers to society); rather, managerial impression management action is key for influencing evaluations that affect socio-cultural stakeholders' view(s) of an organization.

On the one hand, in this literature, legitimacy is seen as an institutional attribute, a part of a robust brand maintenance strategy. On the other hand, legitimacy equally captures the social practice of legitimation as an ongoing effort and can be extended, maintained, and defended (Ashforth and Gibbs 1990). The idea is that gaining acceptance, i.e., mastering this social practice, relies on convincing different groups to consider that what the business does/is is acceptable because it possesses distinct characteristics from established categories (Galaskiewicz and Barringer 2012). Therefore, *actively managing legitimacy* is a key strategic-cognitive aspect of management and organizational roles (Kostova and Zaheer 1999; Vaara and Tienar 2008). This *legitimation processes* involve "specific, *not always intentional or conscious*, ways of employing different discourses or discursive resources to establish legitimacy" [*emphasis added*] (Vaara et al. 2006: 794).

There are several analytic sub-constructs and dimensions of legitimacy (Deephouse and Suchman 2008); the key ones include the following: (1) **pragmatic** legitimacy, pragmatic legitimation strategies aim toward gaining the support that an organization enjoys based on "self-interested calculations" regarding its primary audiences to perceive that they enjoy individual benefit from it (Suchman 1995: 578); (2) **cognitive** legitimacy, cognitively mastering the clash of worldviews that result from relativism (cognitive legitimacy) via influencing audiences' cognition rather than their self-interests in the desired direction (Suchman 1995); and (3) **moral** legitimacy, which is based on positively influencing judgments of right or wrong in favor of an organization (Suchman 1995; Tost 2011). The latter is defined as the "positive normative evaluation of the organisation and its activities" (Suchman 1995: 579).

Subjectivity and amoral relativistic ethical assumptions underpin the key importance of these three forms and effective organizational and managerial legitimation strategies. When it comes to moral and pragmatic legitimacy, mastering management defines the ability to choose a discursive evaluation strategy to effectively manage legitimacy vis-à-vis an audience (Suchman 1995). Mastery of the open discursive process entails different key audiences (stakeholders) arriving at positive cost-benefit ethical judgments and appraisals through explicit public communication. These forms suggest that vigorous participation in such public forums allows organizations to increase moral and pragmatic legitimacy. But cognitive legitimation is seen as being less subject to discursive construction; in line with Suchman (1995: 585), it involves underlying (held) assumptions that different publics hold, which are not spoken or articulated in language. Heated (spoken, orally communicated) defenses of organizational endeavors tend to imperil the objectivity and exteriority of said taken-for-granted schema.

Therefore, based on the above, legitimacy is mainly understood as an institutional, cognitive, and/or evaluative strategy that rests on managers' mastery of reason and communication processes, which unfold as strategic action involving legitimation. However, the pursuit of legitimacy is seen as a complex way to address various stakeholders as distinct audiences (possessing distinct characteristics, with different needs and expectations) such that the organization (management) faces challenges of how to **master legitimacy**. Legitimation is seen as the process through which the legitimacy of a subject is mastered and evolves over time (Maurer 1971; Ashforth and Gibbs 1990; Walker and Zelditch Jr 1993) in the direction hoped for. Effectively managing or handling such processes is seen as involving the provision of some sort of pleasure/gain for different autonomously targeted audiences (a hedonistic or utilitarian understanding that each audience sees some benefit from an entity), which is, in turn, seen as ensuring shareholders' self-interest (and enabling managerial success in the role).

From this perspective, stakeholders (especially external ones) are seen as clearly rational and seeking to maximize their interests (Ross 1973). According to the literature, a positive increase in legitimacy is seen as an asset that enables businesses growth and survival (Bansal and Clelland 2004; Dobrev and Gotsopoulos 2010; Phillips et al. 2004; Ruef and Scott 1998; Suchman 1995; Suddaby and Greenwood 2005). These assumptions are logical within a belief system that sees the firm as an economic-legal entity whose quasi-moral agency is to be a rational profit seeker that only seeks to satisfy the needs of shareholders who managers mainly represent, aligning personal and shareholder interest fulfilment with accountability performance (Jensen and Meckling 1976).

In accordance with the above, and upon review of the legitimacy literature, it should be noted that ethical communication does not appear among the key concepts and basis of this literature. Managerial accountability and role success in legitimation process management are not linked to any notion of ethical character or to the moral maturity of managers. Even when it comes to moral legitimacy, Suchman (1995), for example, assumes that managerial capacity for effective impression management is key, while regarding morality through the lens of relativism and subjectivism. Hence, the legitimacy literature is weak in identifying an ethical basis for linking business, management, and society; instead, it sees legitimacy mostly as a cognitive act involving competent impression management over complex audiences. For example, in the literature on entrepreneurs' legitimacy management, Aldrich and Fiol (1994: 645) examine the *strategies* entrepreneurs might formulate in emerging industries where both cognitive and sociopolitical legitimacies are weak. Through this cognitive process, managers and key organizational representatives choose how best to engage in different kinds of impression management work to effectively master the (open, processual, pluralistic) legitimation process in order to influence various audiences' cognitions and feelings about an organization. However, therein, the management of legitimacy is a rather amoral task that requires technical, strategic excellence involving three key interrelated tasks: gaining, maintaining, and repairing legitimacy (Suchman 1995).

Legitimacy is therefore thought of in terms of separation, i.e., the idea that arguing economic and ethical responsibilities involves two separate domains (Freeman 1994, 2000). Supporting the critique that the literature supports an amoral techno-rational role for managers, we draw on Swanson (2018a, b), who argues that managers that excessively hold on to this notion of separation tend to develop an amoral or immoral view of business decisions, including how to go about their accountability responsibility as a moral-ethical act. Swanson suggests that a sense of separation prevents a coherent theory of ethical and responsible leadership with the assumption of the separation thesis that weakens managers' sense that they are part of a wider ethical community with a commitment to the possibility of shared flourishing through business (economy) and society more broadly. These critiques can be addressed once business (and management) legitimacy are understood from a virtue ethics perspective on the common good and managerial virtue.

A Recovery of Virtue Ethics and Its Application to Business

For its part, virtue ethics (henceforth, VE) is a long-standing Western tradition that was initiated in Greece, with eminent thinkers like Socrates, Plato, and Aristotle, and continued into the Middle Ages (especially with Thomas Aquinas) but largely lost favor in modernity (MacIntyre 1967). It regained philosophical interest in the second half of the twentieth century (Chappell 2013; MacIntyre 1981; Melé 2012; Sison and Ferrero 2015). Since then, its application to the business world has increased significantly, even gaining ground over other, more mainstream approaches, namely, Deontology and Utilitarianism (Koehn 1995; Chun 2005; Melé 2009; Ferrero and Sison 2014).

Although there are different streams among virtue ethicists – including Neo-Aristotelians, Confucians, Humeans, Smithians, Nietzscheans, etc. – its main branch focuses on a recovery of the Aristotelian tradition (Hartman 2008; Ferrero and Sison 2014) and Thomistic moral philosophy (Koehn and Wilbratte 2012). "Etymologically, 'virtue' comes from the Latin word *virtus*, which in turn originates from 'vis,' meaning 'force,' 'power,' or 'strength.' *Virtus* is the Latin translation of what was, originally, a Greek concept, *arête*, which stands for 'what is best' or 'excellence' in human beings" (Sison 2015: 241–242). Indeed, for Aristotle, virtue is an excellence that consists in "living or doing well" (Aristotle 2009, NE 1095a) in accordance with rational activity; in other words, it corresponds to what is best in human beings. This excellence is attained based on personal traits, in particular, prudence or practical wisdom (*phronesis*), which refers to the habit of acting correctly (Solomon 1992; Moberg 2008), especially in supporting the good in social matters.

Hence, the idea of virtue plays a central role in the development of man's natural capacities in community in order to attain his highest aim: happiness and excellence (*eudaimonia*, usually translated as human flourishing). For Aristotle, the focus is not on action but rather on the agent: "*Virtue ethics* tell us that what is right is *to be a certain kind of person*, a person of virtue" (Zwolinski and Schmidtz 2013: 221, *emphasis added*). A virtuous agent (a person understood as a unity of virtue) freely chooses to act fulfilling the moral accountability we have to one another as linked to the possibility of human flourishing, which is only possible in community and finds its fullest meaning when directed toward the good of the community, that is, toward the common good (Sison 2015). More specifically, personal flourishing or happiness is to be found in sharing a good life with family, friends, and fellow citizens (Aristotle 2009, NE 1097b). Human goods such as friendship, education, work, health, and religion are achieved in human communities, and only in this way do they help constitute *eudaimonia* (Sison and Ferrero 2015).

From a VE perspective, "the human good turns out to be the soul's activity that express virtue" (Aristotle 2009: 1098a). In the case of business firms, they are intermediate associations (Sison and Fontrodona 2012, 2013) whose aim is to attain a common good (Sison 2016): "[t]he common goods of those at work together are achieved in producing goods and services that contribute to the life of the community and in becoming excellent at producing them" (MacIntyre 2016: 170). In other words, the firm is defined as a community of work (Solomon 1992) whose purpose is to offer products and services to satisfy material needs and promote well-being (Kennedy 2006) in a sustainable, productive, and profitable way (Melé 2012).

Personal development among its members is more important than any other good that the firm can achieve. Therefore, when the firm establishes different forms of collaboration with its stakeholders, a common good approach identifies a socially responsible action in that the intention behind it is not so much focused on strategic advantage as it is on the development of other people and communities within the firm's regular activities. When firms are described in terms of the common good, CSR becomes a matter of personal virtue and social justice. Concerning the former, corporate responsibility to the common good is based on the moral status of persons as moral agents, in their capacity to assume responsibilities with society. As a matter of justice, a socially responsible action is a basic moral duty to other people's development and thriving when in direct or indirect relationships with them (Finnis 2011). A commitment to the common good is possible via personal virtue in terms of friendship and solidarity.

However, the still predominant economic account of the firm – inspired by neoclassical economic theory – mainly assumes that the firm is a legal entity, a quasi-moral agent that acts within a market economy as a rational profit seeker with the only end of satisfying the needs of its immediate stakeholders, i.e., the firm's shareholders (Jensen and Meckling 1976). From this perspective, shareholders and other stakeholders (internal and external) alike are understood as clearly rational and seeking to maximize their interests (Ross 1973). Accordingly, managers are seen as agents that operate to satisfy shareholders – principals' needs and interests (Davis et al. 1997). Meanwhile, the firm's human-social fabric is perceived as a *nexus of contracts*: the firm defines its relationship with its human "resources," which it sees itself as "possessing" via the power of labor contracts. In addition, it promotes a management style based on technocratic, value-neutral, and rational behavior (Hendry 2004; Akrivou and Sison 2016).

Business Legitimacy and Management Responsibility from a VE Perspective

We will now turn to business legitimacy from a VE perspective and first explain the Aristotelian notions of the common good and *ethical communication* (Meyer 2017). We will then discuss VE assumptions regarding how both emanate from a virtuous character and what it takes to link them with basic ethical accountability for managers to enable mutual growth for all stakeholders. Legitimacy, and the very choice of actions involved in legitimation, must at its core involve a moral-ethical aspect, which, in turn, must drive managers' ends and the means with which they serve. This is entirely at odds with key assumptions of legitimacy theory today.

Assumption of shareholder primacy also implicates managers, as shareholders' legitimate representatives, in responsibility for safeguarding their own and shareholders' interests; yet, this is not a proper way of understanding issues surrounding legal status, ownership, and authority responsibility. As Mansell and Sison (2019) suggest, this idea is neither premised upon long-established tradition in the professions along economic history, nor is it in line with Aristotle and virtue ethicists: "In the Aristotelian tradition, to understand what something is, we have to inquire into its reason for being, or 'final cause'. For human beings the final cause is 'the good'... This final cause is called 'common' when it can be achieved only on the condition that all the individual members of a group achieve it in a non-excludable and non-rivalrous manner" (2019:11).

Hence, in virtue ethics, the concept of the "common good" underlies the firm and assumes that the good is held in common by organizational members as a community (Sison and Fontrodona 2012; Mansell and Sison 2019). So an essential collaborative activity and the joint pursuit of a common purpose gives organizational members' continuity of identity (and not to just managers and shareholders), and this is what represents the common good of the firm, which lasts and is sustainable over time (Mansell and Sison 2019). In light of the principle of subsidiarity (Melé 2005), the good of the business and any organization or institution in the sphere of the economy needs to genuinely serve the flourishing of larger collectives tied to wider political organizations.

In addition, regarding the ownership of corporations (businesses), both virtue ethics and legal scholars explain the logic of the argument against the idea of shareholders owning the corporation and thoroughly explain why shareholders who expect managers to act as their sole agents to support their interests, including the handling of legitimacy, do not do so legitimately (Mansell and Sison 2019). Some sources explain, however, that this does not mean that employees or other stakeholders – e.g., consumers, or even the community – own the corporation; instead, all of these groups are bound by their chosen responsibility to work in common (collaborating for the common good of the firm as part of the wider professional and political institutions). In the end, the corporation owns itself as an independent legal entity, as is the case for human beings (Mansell and Sison 2019; Stout 2012).

In this sense, managerial authority comes either from the collective grouping of all who are members of a body that aims for the common good (which includes, but is not exclusive to, shareholders) or from a higher superior source outside the corporation, or from both. Legitimacy in this sense is conduct of craft, which allows for a legitimate corporation to inform and show how it sustainably pursues the common good, while management would need to demonstrate that it is acting on behalf of the good of all, essentially defining an effective legitimation. Management's role in the legitimacy process becomes enabling and facilitating processes of communication and knowledge sharing (Tsoukas and Vladimirou 2001; Nonaka et al. 2008), which would allow all members who partake in that common good to exercise their duty (or right to enjoy the prosperity and well-being made possible by the corporation) in equality and in full respect of each and every entity (and the distinct persons who are members of each group).

From a virtue ethics perspective, the managerial role in legitimation processes must enable quality dialogue among its members to enable and support one another in the common pursuit of a purpose that, in this case, only needs to be a purpose in consistency with *eudaimonia.* As Mansell and Sison (2019: 11) note – quoting Vanberg – "to speak for the group per se is not to assume a reified entity that pursues 'organizational goals' independent of its members judgements and wishes."

For ethical communication that corresponds to the notion of rhetoric to capture an Aristotelian virtue ethics conception, Meyer (2017) reminds us that the communicator or the potential leader/manager has to rely on the ethical character of the communicator or his/her moral maturity (*ethos*), the quality of what is being communicated and key arguments involved in the action of communication (*logos*), and the appropriate emotional-affective disposition for listeners (*pathos*). However, the *ethos*, or character (of the manager), is the most important of the three (Meyer 2017). He or she should convince the audience that communication comes as action from a good person, who is honest, responsible, and fair-minded. *Logos* reflects the fact that the speaker has strong, reasonable, compelling, and truthful arguments; therefore, the appearance of truth via cognitive mastery of communication or the affective mastery of audiences' needs is not proper in this case (as per Meyer 2017).

Finally, the quality of ethical communication in the Aristotelian virtue ethics tradition depends on the extent to which it can trigger appropriate and good emotions among listeners or the receiving audience, in the sense that an emotional "sensation then, turn into the triggers of choice, decision and (appropriate) action" (Meyer 2017: 123) if we understand rhetoric in the Aristotelian sense. Thus, technical mastery of the audiences' needs or feelings and the clever channelling of rhetoric to influence or stimulate them do not qualify as proper ethical communication that characterizes success in a business legitimacy process but instead constitutes psychosocial manipulation of audiences to reach the speaker's ends, something that Aristotle understood as vice or *panourgia* in terms of the quality of practical excellence involved.

Conclusions

Within the above context, and the alternatives that virtue ethics lends, legitimacy as an end goal must rely on being able to choose ethical means since proper means-ends virtuous choices are an important feature of Aristotle's understanding of virtuous action in the practical sphere (NE VI). In the case of legitimacy, this means that all action should rely on genuine, ethical communication and not on bare, technically persuasive or clever rhetoric that aims toward winning the impression management game among different audiences.

However, for all the above to come together, the key antecedent is virtue in character by all who engage in legitimate work; virtue ethics purports that ethical outcomes are not possible unless the actions involved originate in virtuous persons (Hartman 2008; Zwolinski and Schmidtz 2013). A "qualified agent" (Hursthouse 1999: 28) – a person of virtue, who displays practical wisdom or *phronimos* – uses rational principles for determining what and how to virtuously ensure business legitimacy via ethical communication in order to determine the good (correct, most appropriate, virtuous) action within a context of specific and complicated particulars. This means that, to arrive at an ethically legitimate action, choices and communication do not just aim at addressing or convincing of each audience as an autonomous actor (via persuasive or effective rhetoric, so to speak). Rather, communication in consistence with virtue ethics ought to be an act of ethical development (for the self and others) where no audience's interests would have primacy over another audience's well-being.

From a VE perspective, the moral quality of leaders' personal character is elevated to a key antecedent for both proper and effective business legitimacy outcomes and for how to choose and perform means of ethical communication. In order to effectively convey genuine organizational qualities and correctly inform and engage a business with all stakeholder concerns, a leader or organizational manager must have, in accordance with Aristotle (Meyer 2017), firstly, the cardinal virtue of practical wisdom (*phronesis*, or the excellence that practical-ethical reason can acquire)and, secondly, virtue in its widest and richest sense, which encompasses richer and wider virtues attributable to "a certain kind of person with a certain complex mindset" to allow for richer and more sensitive moral processing beyond practical wisdom (Hursthouse and Pettigrove 2016). Thirdly, good will is also required (Meyer 2017).

This includes how to enable separate entities and the community of all who partake to work well together for the good as a common pursuit, how to grow in their relations in a way that allows for personal flourishing and systemic prosperity. All of this includes moral maturity, which is key (Akrivou et al. 2018). Consequently, managers (and more widely, other moral actors involved in legitimacy related work for the common good of the business on behalf of all other members, shareholders included) should already possess a mature and stable moral character. In the midst of a sensitive, complicated context and a variety of particulars, this enables (Koehn 1995) a role for virtue ethics in the analysis of business practice, a deep respect for the human dignity of all involved (Mea and Sims 2019), and an ethical awareness of professional roles beyond a mechanistic (Dierksmeier 2015) or psychologically competent anthropology (Pérez López 2002).

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Social Contract Theory and Business Legitimacy

15

Pedro Francés-Gómez

Contents

Abstract

This chapter reviews the most prominent approaches to business legitimacy from a contractarian perspective. First, the contractarian business ethics approach is presented. Second, the contractarian approach to business legitimacy is compared with the analogous concept of "social license to operate." Third, the chapter discusses the use of the social contract argument at different levels: economic system and organizational levels. Fourth, the approach to the legitimacy of ethical norms in business based on the influential theory of Integrative Social Contracts, advanced by Donaldson and Dunfee, is presented in detail. Fifth, the legitimacy of corporate governance based on a hypothetical social contract of the firm is presented. Finally, a reference is made to the purportedly contractarian approach to legitimacy associated to "order ethics." The chapter ends with the proposal of a liberal legitimacy principle for corporate power, taking Rawls's liberal legitimacy principle as a model.

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> Man is born free, and everywhere he is in chains. (. . .) How this change occurs? I do not know. What can make it legitimate? I believe I can resolve this question.

Jean-Jacques Rousseau, *Of the Social Contract*

> Ultimately, the social contract offers the only bridge between the consent of those who are governed and the possible or potential legitimacy of the entity that purports to exercise powers of governance.

James M. Buchanan, *Freedom in Constitutional Contract. Perspectives of a Political Economist*

Introduction

This chapter covers the use of social contract theory (SCT) as a philosophical argument to test the legitimacy of business. As a critical argument, SCT is rather used to *question* the legitimacy of accepted practices and institutions than to confirm it.

Social contract theory, as it was used in modern political philosophical thought by Hobbes, Rousseau, Kant, and Locke, is fundamentally concerned with political legitimacy, that is, with the question about the conditions under which government power should be accepted, and therefore obeyed, by rational individuals that see themselves as free and equal (cfr. Wempe 2009). After being criticized and then somehow forgotten during most of the nineteen century, the theory was brought back to life in the second half of the twentieth century by the works of John Rawls (1999; original edition 1971), John Harsanyi (1976, 1982), James M. Buchanan (1975), Robert Nozick (1974), and David P. Gauthier (1986). These more recent versions of the SCT concern themselves with the justification of social norms and institutions (including morality) so that their practical authority over us can be accepted from the point of view of each individual. Legitimacy depends therefore on the theoretical possibility of reconstructing institutional authority as the result of an agreement each could consent to. SCT is a heuristic, that is, a thought experiment for the purpose of moral self-clarification (Freeman 1990: 135). Actual consent is not usually needed in philosophical elaborations of the social contract. Now, the use of the social contract argument "as a framework for corporate morality" (Wempe 2005: 113) can be labeled contractarian business ethics (CBE).

CBE is a well-established approach to business ethics and organizational theory (Keeley 1988, 1995; Donaldson 1982 may be cited as forerunners; *cfr.* Ma et al. 2012 about the position of CBE among intellectual traditions in business ethics literature). This is due to a combination of reasons: First, the development of the neo-institutional economic theory of the firm (cfr. Williamson 2000) and the emergence of business ethics as an independent discipline – concerned with ethical issues in business *and* with the broader question of the legitimacy of business in general – partially overlapped with the revival of SCT during the twentieth century. The social contract method – in particular as developed by Rawls (1980) in "Kantian Constructivism in Moral Theory" – was very influential across disciplines (*cfr.* Norman 2015). Second, SCT is well suited for individualistic, pluralistic, and democratic societies, just the kind of society that hosts capitalistic institutions. The reason is that SCT, as opposed to other moral theories, does not assume that individuals share a common view of the good or a common theory of human nature. Most versions of the SCT are actually agnostic about these issues. SCT is therefore a powerful tool when the aim of the applied ethicist is to reach an ideologically, culturally, and religiously diverse audience, as it is the case in business (Willke and Willke 2008). Third, SCT seems applicable to human associations that, at a first blush, may look like "small societies" pervaded with hierarchical relationships and the mix of common purpose and competitive individual interests that characterizes society at large. Fourth, Edward Freeman, father of the influential stakeholder view of the corporation (Freeman 1984), has explicitly claimed that SCT may provide a normative core for stakeholder management; other scholars have followed suit. Finally, SCT is related to the empirical fact that business requires a minimum of public support. Individual industries, firms, or projects, and the socioeconomic system of business in general could not survive without the actual acquiescence of social agents at many levels. Business is kept, after all, by an underlying social agreement (cfr. Donaldson and Walsh 2015: 189). This fact on its own has no normative implication, but it is certainly related to the rise of CBE.

The CBE approach to business legitimacy hinges on the fundamental normative concept of individual consent. Whether implicit actual consent or hypothetical consent, the basic idea is that business activity is legitimate if the participants/affected can or would freely consent to it. This chapter focuses on hypothetical consent theories (for a recent clarification of hypothetical consent in ethics, *cfr.* Enoch 2017). The claim that business legitimacy depends on affected agents' actual – explicit or implicit – consent is a claim about the "social legitimacy" of business. The kind of legitimacy that SCT seeks is *rational* legitimacy. Its main concern is not the actual, measurable, level of social acceptance of a given practice or norm. Even high levels of acceptance are sometimes based on misrepresentation, deception, or coercion. The contractarian approach is expected to offer public justification for reform (cfr. Rawls 1999: 12); it will be generally critical about many social norms, fostering the collective efforts to effect a change (Shrivastava and Ivanova 2015).

Legitimacy has been argued to have empirical, social, cultural, cognitive, and normative dimensions; SCT is primarily about the *normative* dimension; in the words of the contractarian scholar M.A. Button:

> The promise and appeal of this traditional understanding of contract, taken both philosophically and practically is that, if it is possible to show what rational individuals seeking their own various ideas of the good would (or could) agree to as reasonable rules for their common association, then we would have a coherent and persuasive way of thinking about the proper ends and limits of political society, justice and morality. We would possess standards of justice and an understanding of political morality that could be applied to all kinds of contemporary practices as a test of their legitimacy. (Button 2008: 24)

It is not uncommon to identify legitimacy with *justice.* However, it is possible to distinguish a SCT of legitimate institutions and a SCT of *just* institutions, the first concept being broader than the latter: while deeply unjust institutions would be illegitimate by the standards of any SCT, it is not the case that only perfectly just institutions are legitimate by the same standards. Certain practices or norms may be considered legitimate from a contractarian point of view (they would be rationally agreed upon by all affected under specified circumstances) while falling short of realizing the contractarian ideal of justice – or, for that matter, *any* ideal of justice. SCT can be seen as a two tier theory. At one level it is a procedural theory about the justification of social norms and principles: at this level *legitimacy* is established. At a second level, it is a constructivist theory of justice – about which basic general rights and obligations are justified as the result of a hypothetical agreement reached under the right circumstances and following a fair procedure: at this level a legitimate *principle of justice* is proposed. There are many empirical reasons why institutions may not attain justice; and this does not make them necessarily illegitimate in the first, procedural, sense.

This chapter focuses on three main questions around CBE and business legitimacy: the distinction between a SCT of business legitimacy and the related business concept of a Social Licence to Operate (SLO) (section "License to Operate and Contractarian Legitimacy"); the legitimacy of business ethics norms (section "Integrative Social Contracts Theory (ISCT) and the Legitimacy of Ethical Business Norms") and the legitimacy of corporate governance (section "Legitimacy and Governance"). Section "Levels of Analysis: Legitimacy of the Economic System and Legitimacy of Corporations" is introduced to discuss further the application of the social contract to business and how it deals with different levels of analysis: societal, economic, and corporate; finally, section "Conclusion" summarizes the basic tenets of the social contact approach to business legitimacy.

License to Operate and Contractarian Legitimacy

This section will spell out the distinction between the theory of the social license to operate (SLO) and the SCT of business legitimacy. The distinction between ideal and non-ideal theory will be introduced as a way to further clarify how CBE differs from the SLO approach, despite superficial similarities.

The SLO theory is a theory of the *social* legitimacy of business. It refers to the social acceptance – mainly in the form of tacit consent – of business activities, in particular those activities that have a clear and potentially harmful impact on communities or on valued social goods. Although SLO has been dubbed a "fashionable expression" (Demuijnck and Fasterling 2016: 676) that originated in business practice, it has been argued that it is linked with the theory of the social contract. According to Demuijnck and Fasterling (2016: 679), "from the normative perspective, the SLO is in place when organizational actions are genuinely justified in the eyes of society rather than perceived as legitimate on the basis of manipulation or influenced by the demands of certain powerful groups. Moral legitimacy can be achieved by engaging with affected persons and groups and by finding solutions and compromises (. . .). This clearly follows a contractarian logic."

The problem here is twofold. First, the use of "normative." The term is used within the framework of analysis popularized by Suchman (1995). This framework is a sociological theory of organizational legitimacy, in the tradition of Weber's analysis: Suchman distinguishes pragmatic, cognitive, and moral legitimacy. Institutions may enjoy the social perception that we call "legitimacy" – the belief that their authority is justified, and their actions are desirable, acceptable, or appropriate – from their usefulness (pragmatic), from the familiarity with them (cognitive), or from their alignment with moral standards and values. This third source of legitimacy may be said to involve a "normative" perspective (Cfr. Elms and Phillips 2009). However, this is confusing. After all, utility and familiarity are also normative concepts. The fact that an institution is justified because it is perceived to be useful is no less normative than its being justified because it is perceived to be coherent with dominant social values. In both cases, justification in the eyes of society may be genuine or based on falsity or error.

The second problem is the use of the term "contractarian logic." SCT in its most common use involves the ambition to generate, through a hypothetical argument, a benchmark of justifiability independent of social perceptions (Cfr. Freeman 1990); however, in the quotation above, the contractarian logic seems to refer to an attitude to get social support in an honest way. The so-called normative perspective is proposed as a test about the moral quality of the gained SLO, but the test is not exactly contractarian, since it does not use the heuristic of a unanimous agreement but what seems to be an empirical description of a fair procedure to reach "compromises." For sure, a SLO based on good deliberative practices is the best way to legitimize a project or company under social pressure; and it may be reasonably conjectured that the purpose of a deliberative agreement is to approach the hypothetical unanimity of the social contract; but it is still social legitimacy (much in Weber's sense) what is sought. Social legitimacy is in fact defined as the alignment of business activities with social norms, values, or expectations (Suchman 1995). Policies such as stakeholder engagement and a sincere disposition to reach compromises may be the morally justified way to get it; but these policies and attitudes do not change the nature of what is obtained, namely, effective public acceptance.

The SLO has been construed in management from an instrumental point of view – a “business case” for SLO has been developed (*cfr*. Deephouse and Suchman 2008; Russell et al. 2016). From this pragmatic viewpoint, SLO is the object of the ordinary tools of strategic management. Now, this strategic approach makes it difficult to pair SLO with moral legitimacy philosophically understood (Melé and Armengou 2016; Kinderman 2013). Demuijnck and Fasterling (2016) themselves point to how easy may be for corporations to obtain SLO while ignoring weaker constituencies – precisely those whose rational and informed consent would be more unlikely (*cfr*. also Long and Driscoll 2007). Furthermore, the business case for SLO is weak: it may be convincing about individual projects, but it is much less so when applied to corporations as enduring institutions. The management of social legitimacy crises concerning particular projects – one of the skills at which any well-trained manager should excel – is useless to deal with the legitimacy crisis that arguably affects the whole system of global business (Warren 2003; Shrivastava and Ivanova 2015, Donaldson and Walsh 2015: 182). SLO is managed by corporations within the parameters of “business as usual.” Including SLO as an element of a contractarian approach to legitimacy obscures the nature of the contractarian test. The whole point of SCT is to provide a benchmark for business practices and for the economic system as a whole that can go beyond socially legitimate existing practices.

This is not to deny that a relationship between rational and social legitimacy does exist. This relationship may be clarified by bringing in the distinction between ideal and non-ideal theory that Rawls introduced in *Theory of Justice* (Rawls 1999, 2001).

Let’s remember that the goal of Kantian constructivism (the version of the social contract argument adopted by Rawls) is to dig out the principles embodied in our understanding of ourselves as free and equal people living in society, by using the heuristic of a unanimous agreement behind a veil of ignorance. The metaphor of the social contract is set up under a number of constrains that, while being realistic, try to capture our ideals of agency and practical normativity. The assumption is that, if the description of people is acceptable to all, and the right choice of principles is made, then it is possible to envision what Rawls calls a well-ordered society, a society in which there is a public conception of justice that almost everyone abide by. This kind of society is one in which disagreements among individuals are tractable because, even if interests and views about the good life differ, there is consensus about how to deal with social conflict. Such consensus represents the common understanding underlying social cooperation and, indeed, social life. In a well-ordered society, the public conception of justice guides institutions, and, through the four-stage sequence (Rawls 2001: 48), it shapes constitutional provisions, legislation, and administrative and judicial decisions.

Rawls focused on ideal theory, that is, on the justification of principles for a well-ordered society. He was well aware that “existing societies are of course seldom well-ordered in this sense, for what is just and unjust is usually in dispute” (Rawls 1999: 5). In addition, principles of justice rarely meet general compliance. And finally, past injustices might have influenced institutions so deeply that they impact even the conception that people have of themselves, making ideal theory wholly irrelevant for them. Rawls's focus on ideal theory was justified on his view that, in order to effectively deal with the empirical obstacles to justice, one needs to have a clear road map. But the fact that he did not pay much attention to non-ideal theory does not mean it is less important.

Drawing upon Simmons (2010), it can be said that non-ideal theory deals with two unavoidable existing phenomena: non-compliance and "burdened societies" – this second phenomenon refers to social conditions that do not allow the effective establishment of contractually derived rights (Simmons 2010). The way SCT deals with these phenomena is by considering how to restore or set up the conditions for justice as a long-term goal. Non-ideal theory assumes that social reform must be achieved gradually, by means of courses of action that are politically feasible and likely to be effective (Simmons 2010: 7). Non-ideal theory focuses on existing conditions and empirical data about mechanisms for social reform. Given its objective, non-ideal theory may accept that certain social arrangements that are incongruous with our conception of free and equal citizens are still provisionally legitimate from the perspective of the social contract. Those social arrangements are not coherent with a principle that all could accept as the common basis for a well-ordered society, but they might still enjoy unanimous consent by agents aware of the burdens and contingencies of their own situation, provided that they are an effective step toward a just society.

This is relevant for business legitimacy in the following way: The well-ordered society based on the two principles of justice would be, according to Rawls, a property-owning democracy. While it is not fully clear what this means, it would be probably a society with institutions significantly different from existing ones. It would feature a market economy; but it would also include property rights and contractual laws designed to make sure that concentrations of wealth would not be likely; the extreme forms of corporate power that currently exist would be prevented; basic services and a share of social wealth would be guaranteed for all; etc. Business would be legitimate, in sum, only if they passed the test of the liberal principle of legitimacy (Rawls 2001: 41).

Now, since we do not live in property-owning democracies, this ideal of legitimacy cannot be achieved in the short term. But the consequence is not that all existing business practices are straightforwardly illegitimate. The test of non-ideal SCT may be applied to elucidate how different institutional arrangements or individual organizations deal with existing injustices. This is an empirical question. We do not know in advance whether, for example, an active organizational policy of nondiscrimination – that might be unnecessary in a well-ordered society – will drive society in the desired direction or not. Social consensus based on public and honest deliberation may be the best argument for the policy, until empirical data are available. Extant social contracts may be an indication that the policy in question would be okay from the perspective of non-ideal SCT, due to the fact that actual people is experiencing the burdens and contingencies that non-ideal theory is supposed to take into account. In this indirect way, social legitimacy enters the logic of the contractarian approach.

An example framed in the Rawlsian approach adopted in the previous paragraphs may help understand this suggestion. Blanc and Al-Amoudi (2013) argue that, due to “remarkable historical changes [referring to the weakening of the welfare state] that distinguish our current societies from the society within which Rawls wrote TJ,” the range of institutions belonging to the Basic Structure of Society should now include corporate institutions (CI). They refer to empirical data in two ways: first they deploy data to prove that the welfare state has been weakened across the globe; second they accept that “the status of CIs cannot be decided entirely *a priori* but must also be informed by empirical considerations relative to each society’s political, social, and economic context” (Blanc and Al-Amoudi 2013: 498). In sum theirs is an example of the use of Rawlsian SCT to test the legitimacy of CI. Their position is that, because the historical trend has taken welfare states farther and farther away from the ideal of a Rawlsian well-ordered society, certain forms of private associations (namely, corporate actors) that might have been considered legitimate by Rawls have ceased to be so. Our context demands that CIs be – perhaps legally – constrained in their very operation and governance structure, so that they distribute basic goods, in particular the primary good of self-respect, according to the principles of justice applicable to the basic structure of society. Now, this theoretical conclusion may be confirmed by a social consensus in the same direction – public perception that CIs are failing society because of the inequality they promote or the alleged legitimacy crisis of global business. But this social consensus is strictly irrelevant to the conclusions of normative non-ideal theory, except in that it may ease the path for reform.

Let’s finally remark that the Rawlsian approach adopted to explain the difference between ideal/non-ideal SCT does not preclude its application to other conceptions of the social contract. While “property-owning democracy” may be the legitimate economic form of a well-ordered society for Rawls, Buchanan and Gauthier are generally taken to advocate laissez-faire economics as essential for justice. However, actual markets are quite far from the ideal of free competition and equal opportunity. Therefore Buchanan’s and Gauthier’s theories face exactly the same problem as Rawls’s when they set out to propose social reform.

Levels of Analysis: Legitimacy of the Economic System and Legitimacy of Corporations

SCT has been historically a theory of *political* legitimacy. At the level of the political community, agreement must be hypothetical because actual unanimity is normally unattainable. New members enter society with no consent on their part (by being born); and exit is, if not impossible, so costly that it is not a realistic option for most people. In addition, political power involves the use of coercion upon the very citizens that are supposed to constitute the sovereign. All this contributed to use hypothetical consent as a philosophical tool for the rational justification of political authority. Once the basic rule of the social game have been established, real (formal and informal) contracts among individuals may shape the business realm with no need for further hypothesizing. This is why the adaptation of the political argument to the realm of business has been considered controversial (Wempe 2009). CBE may be based on one of these assumptions:

(a) Economic institutions (from free markets to corporate institutions) take part of the political constitution of a community; therefore they should be contractually justified as an integral element of the justification of political authority.
(b) Economic and business relationships and organizations are the result of free decisions of individuals within the framework of more basic institutions and constitutional rules, such as property rights, freedom of contract, redistributive schemes, etc.; however, some business organizations involve authority relationships that require public justification *just like* political organizations do.

In Rawlsian terms, (a) may be identified with the thesis that "corporations are part of the basic structure" and (b) with the thesis that "corporations are private associations" (cfr. Heath et al. 2010: 431-433). And here lies the problem, because, private associations should not require public justification. The attempt to use Rawlsian SCT to justify schemes of corporate governance would be misguided in purely Rawlsian terms (Singer 2015). For private associations, *legality* would be very much coextensive with legitimacy: the only contractarian test on the legitimacy of business would be a test on legal compliance. It is through the legal system that society makes sure that companies and other economic agents behave within the boundaries of the principles of justice (cfr. Lütge 2012, 2012a; Pies et al. 2009, 2013). If a group of people freely decide to form an economic association and render obedience to a despotic leader without claiming any benefit for them; and they do so without violating any laws, harming the rights of anybody, or forsaking their own rights; why should the rest of us interfere? It is perfectly legitimate that they do so.

The application of SCT to individual business organizations under assumption (b) requires making a case that these organizations are *really* political communities in some sense. Witness Nèron's words: "as 'organizational regimes,' they resemble political regimes by having shared but contested goals and purposes, conflicts, chains of authority and commands, complex collective decision-making mechanisms, and relations of power" (Neron 2015: 104). The comparison with the family is often brought to bear: as feminist scholars pointed to the family as a blind spot in the theories of justice, highlighting the political meaning of family relationships, so contractarian business ethicists need to show the political nature of business corporations. Nèron (2015) is an example of this kind of argument; and he reminds us that Rawls himself came to acknowledge that treating capitalist firms as mere private associations is a mistake (*cfr*. Rawls 2001: 178 about workplace democracy; Blanc 2016; Palazzo and Scherer 2006).

This seems to bring us back to the view that corporations, and certainly the framework of corporate law in which they operate, belong to the basic structure of society. However, business ethicists tend to treat the corporation as a key institution with its own legitimacy problems. It is true, as Shrivastava and Ivanova put it, that "it is difficult to isolate legitimacy challenges of corporations; they go hand in hand with legitimacy challenges to the entire socio-political system that brought those corporations to power" (Shrivastava and Ivanova 2015: 1212-1213). But individual analyses of "isolated legitimacy challenges" are often more nuanced and more illuminating than general theories of the just society. The distinction made above between ideal and non-ideal theory is useful here: in ideal theory it may be true that the legitimacy of corporate institutions depends on their conformity with the basic principles of a just society; but in non-ideal theory, existing social institutions must be taken for granted, and corporations must be assumed to function according to rules – provisionally legitimate – that may in fact impede that they serve purposes that a theory of social justice would ideally demand from them. In this case, the legitimacy of corporate structures and actions needs to be examined within these parameters. The reflection goes from the conditions for the legitimate operation of business in "the world as it is" to the reforms that will eventually allow that business make their full potential contribution to society.

The fact is that the scholarship on CBE (cfr. Wempe 2009) proceeded to apply SCT both to what could be termed the "basic economic structure of society" and to individual industries and corporations, without a detailed discussion of the proper conception of business and the business corporation from a social-contract perspective. To make things worse, the forerunner of the tradition, Donaldson (1982), speaks of a contract *between* society and business, as if a previously established society – by an ancestral *pactum unionis,* there must be supposed – negotiates with an equally pre-existing "world of business" that includes basically large corporations with their characteristic power relationships.

At this moment, however, it is safe to say that the two levels of analysis are at least clearly distinguishable. For most Rawlsian scholars, the bearing of the SCT on business is through an original social contract or the principles derived thereof (Blanc 2016; Bishop 2008; Hsieh 2008; Moriarty 2005). CBE thus conceived operates mostly at the level of social justice. Norms internal to corporations, market institutions, and ethical norms of economic dealings would be legitimate if they are derived from or according to the principles and basic social norms established by the political social contract argument.

The level of analysis may be that of the corporation itself if its political nature is paired with its being a global actor, rather than a member of a political society (Heath et al. 2010; Palazzo and Scherer 2006; Scherer et al. 2006). In this case the organization is supposed to be a sort of self-contained society – often identified as the "stakeholder organization" or the union of all relevant constituencies of a given corporation – that needs to establish legitimacy principles for itself within a broader framework, say, that of global business, that may or may not provide justified principles (for a critique, *cfr.* Willke and Willke 2008). Here the contractarian argument may rely on the implicit contracts theory, as is the case of Dunfee (1991), or on a hypothetical version of a contract among all stakeholders (Sacconi 2000).

Finally, it must be remarked that the SCT approach does not usually focus on the legitimacy of individual business actions or decisions. At this microlevel, contractual justification is entirely possible – Scanlon (2000) famously offers a contractual formula for individual morality, and some authors have done research on social contract justifications of business ethical decisions (Robertson and Ross 1995) – but it generally relies on general acceptability of principles (or systems of rules) for social cooperation; therefore the stress is on common norms, rather than on individual attitudes, sentiments, or even reasons. This makes the contractarian judgment about individual acts somehow derivative. The fact is that CBE focus is on the social and organizational aspects of ethics.

Integrative Social Contracts Theory (ISCT) and the Legitimacy of Ethical Business Norms

Donaldson and Dunfee's book *Ties that Bind. A Social Contracts Approach to Business Ethics* (1999) is the most influential work in contractarian business ethics. In line with the tradition of the social contract, the aim of this work is to establish the moral legitimacy of norms: in this case, business ethics norms.

Applying the contractarian method to ethical, as opposed to political-legal norms, is not new. Gauthier (1986) exemplifies a kind of argument that lays the foundation of all distinctions between good and evil, starting from a pre-moral "state of nature." Donaldson and Dunfee's argument does not purport to erect the whole of morality from entirely nonmoral premises; they do not even try to build a rational business morality from a fictitious pre-moral market. They assume that the business world is a constitutive part of a global society equipped with moral and religious beliefs, as well as with ethical norms, habits, and interpretations developed over time by human communities; and this traditional morality carries over to the economic and business realm.

Their book sets out to solve the problem of how to make sure that the norms –sometimes written in legal documents and contracts, sometimes implicit – that pass for "ethical" in business are binding for a moral person immersed in the context in which the norm is generated and it is supposed to apply. They equate the binding force of ethical norms – their being morally obligatory and therefore a valid standard for moral judgment – with their legitimacy: the concept of legitimacy carries all the moral force in this theory.

Donaldson and Dunfee used SCT in two ways. First, they used it in an empirical way, to define authentic ethical norms – norms defining the range of what is proper/improper and right/wrong business conduct – as those that are generated and supported by the actual consent of a given economic community. Second, they use SCT in a hypothetical way, as a rational test on the legitimacy of those very community-generated norms. From an empirical point of view, they accept that the "unwritten agreements and unspoken promises among groups that must interact successfully in order to achieve both individual and mutual goals are the core framework for economic ethics" (Donaldson and Dunfee 1999: 37). But they refuse to accept that moral authority derives from the tacit consent of members of different groups or communities. Even if communal tacit agreements – or micro-social contracts – provide the content of business ethics norms, their normative force is argued to derive from the hypothetical agreement among fictitious macro-social contractors that represent a universal and rational point of view.

The hypothetical macro-social contract that serves as a legitimacy test draws upon Rawls's depiction of an agreement in an original position. We are asked to imagine that all of humanity "convenes to establish a moral agreement." The parties to the agreement are rational and autonomous, but the veil covering their personal circumstances is much thinner that in Rawls's theory. The parties know that economic efficiency requires the above mentioned community-generated unwritten agreements and common understandings; and they are aware of their particular economic and political preferences. The parties see themselves as moral persons, but not necessarily altruistic, so they would set up a system in which they have the best chance of achieving their own goals. Key in Donalsdon and Dunfee's reasoning is their suggestion that the parties "would realize that they must rely – at least partially – upon community-specific micro-social contracts for establishing contextually appropriate rules of economic ethics" (p. 27). The macro-social contract they envision is presided by this realization. The basic precepts of a macro-social contract for business ethics consist of four clauses: The first clause authorizes communities to freely generate their own norms; the second clause places conditions on how this freedom is to be used so that it respects individual autonomy (norms must be based on consent and buttressed by the individual rights to voice and exit); the third clause reads: "In order to become obligatory (legitimate), a microsocial contract norm must be compatible with hypernorms." Clause four is about how to prioritize in case of conflicting legitimate norms.

What we find here is that the so-called global contractors acknowledge, on the one hand, that there is no basis to establish a thick universally valid economic morality – hence they must rely on the norm-generating power of business communities and groups – and, on the other hand, that there exists a thin universal morality made of principles so fundamental that they serve to evaluate lower-order norms (cfr. p. 44). The concept of hypernorms is used to establish the boundaries of the moral free space of business communities. Hypernorms allude to moral principles that are discernible in a convergence of religious, political, and philosophical thought. One way to approach the notion of hypernorms is to think of the most basic of human rights: they are recognized by almost every political constitution, and they are at least formally adhered to by the members of the United Nations and by many large corporations.

In sum, the hypothetical macro-social contract makes norms legitimate by imposing limits on what micro-social contractors are allowed to consent to. The result of this theory is that within the boundaries of legitimacy, communities may impose diverging norms as the "ethical or right thing to do" for their members – what Hussein (2009) calls "communal authority thesis." However, norms that are marked as non-legitimate by the hypothetical reasoning of the macro-social contract would not be obligatory even if they are socially supported.

It is not clear that ISCT is *really* a contractarian theory of the legitimacy of business (cfr. Wempe 2009; Hsieh 2015). Despite the language and labels used, it is a theory that relies, after all, on either local ethical conventions (the extant micro-social contracts) or global moral conventions (hypernorms). The alleged contractarian thought experiment refers only to the hierarchy between these two sets of conventions and the safeguard of individual basic rights. The obvious question is what role is the idea of agreement really playing here. Note that this argument has been raised even against Rawls's theory (Cfr. S. Freeman 1990). S. Freeman's argument for the necessity of the notion of agreement in Rawls's theory may be adapted to argue for the contractarian nature of Donaldson and Dunfee's. The notion of agreement would play a role quite distant from the immediate interest of applied ethics: It would represent the underlying principles that allow people to establish practices of mutual public justification suited for autonomous individuals (cfr. S. Freeman 1990: 140). Accepting that defense of the contractual nature of Donaldon and Dunfee's work may imply supposing that the realm of business requires its own foundation for public justification, which is questionable. It is easier to accept that the *exercise* of *Ties that Bind* is an exercise in public justification, rather than a work on the foundations thereof. Under this assumption, ISCT may not count as a proper contractual theory.

Legitimacy and Governance

A different way to look at the contractarian test of business legitimacy is to consider any business institution and ask whether its basic rules could be the result of a rational impartial agreement among its members. Here the test applies not only to "ethical" rules but to all kinds of governance rules of the institution. If the rules can be reconstructed as a fair agreement among rational people seeking their own goals, then the institution is legitimate no matter how the rules themselves are conceived of: some may be general legal provisions (applicable to a class of institutions or to all economic agents); some may be corporate rules, policies, guides, and decision procedures; some may be ethical business rules in the narrow sense, that is, social conventions specifying accepted standards of proper conduct.

Lorenzo Sacconi (2000, 2006, 2011, 2013) proposed a test for the legitimacy of the firm that basically consists of imagining what kind of governance structure would be set up by all relevant stakeholders of a corporation if they had to draft a constitution for the firm without knowledge of the position each was going to occupy. This form of veil of ignorance assures that the constitutional draft would be fair. But the prospect of mutual gain and the knowledge that productive activity is much more efficient if it is hierarchically organized would still justify unequal distribution of power within the firm. The rational bargaining among prospective stakeholders would therefore focus on which inequalities and prerogatives are justified and how to keep them in check. And since unanimous consent about differences requires that they are perceived as justified – related with contribution and allowed for the common benefit, for example – an important component of the agreement would be the precise rules of distribution of the join benefit attained through institutional cooperation. In this way, Sacconi deduces the set of general traits that would characterize a legitimate firm: First, the objective function of the firm must be defined by the hypothetical point of agreement among all relevant stakeholders. It must be noted that this is not a chimerical objective, as defenders of the shareholder view of corporations (Jensen 2002; Mansell 2013) denounce. This is not the place to argue for that, but it is obvious that any "objective function" of the firm involves more than one measure. At the very least, it must include one measure subject to one restriction: say, shareholder value constrained by compliance with the law. So there is always more than one single element in the function, and that implies no contradiction. Sacconi, drawing upon neo-institutional cooperative views of the firm (Aoki 1984; Fia and Sacconi 2018), opposes the received wisdom that managerial decision based on multiple objectives is impossible. He simply observes that a joint function (including the goals of each stakeholder weighted in the proportion unanimously agreed upon ex ante) can work as the objective function of the firm perfectly well. This is not to deny the basic constrains of economic sustainability and legal compliance. Rational stakeholders are aware of those constrains; they would go ahead with the constitutional agreement of the firm if, given those constraints, their joint cooperative activity would still yield a surplus that is rewarding for them all.

The second trait of the legitimate firm is that it must include control mechanisms. The fact that the function of the firm assures each stakeholder a fair share in the firm's surplus may be enough in a world of angels: if each and every person could be trusted to comply with their legal and institutional obligations. However, the inequalities justified on reasons of efficiency are likely to result in abuse in partial-compliance contexts (recall again the role of non-ideal theory). Therefore, explicit and well-funded CSR policies and ethical compliance programs would surely feature in the design of a legitimate organization. The touchstone of an original contract should make us think of the guarantees that rational people would demand before joining an organization in which they could end up being subject to the discretionary decision power of others.

Still another contractarian approach is represented by Lütge's account of business ethics, drawing upon order ethics and the contractarian model of Ackerman (1980) and Buchanan (1975, 2000). Drawing upon the methodology of Buchanan and Tullock's (1962) *Constitutional Political Economy*, Ingo Pies and co-authors (Pies 2017; Pies et al. 2009, 2013) have proposed an "ordonomic" approach to business ethics. Lütge has simultaneously developed the connection of this approach to the contractarian tradition (Luetge et al. 2016). Legitimacy is built upon the rational-choice idea of mutual advantage, in mixed-motive, positive sum games. Social interaction is described as involving many social prisoner's dilemma-like situations that drive everyone to an undesired sub-optimum outcome. Overcoming sub-optimality requires agents to cooperate: they need to adopt a joint strategy that is mutually advantageous. Mutual advantage captures the underlying idea of equal respect, as opposed to the utilitarian idea of aggregate welfare, for example – although short of the Rawlsian ideal of public reason based on an understanding of people as deserving and demanding justificatory reasons. So far, these ideas are not essentially different from other contractarian justifications of social institutions. The distinctiveness of the ordonomic approach is that it does not rely on the “sense of justice” of individual actors. On the contrary, it refuses to ask individuals to make sacrifices in the name of justice. The institutional framework must make individual morality superfluous. The approach is based on the paradox that corporate Institutions are capable of forms of moral commitment that are not easy for individuals. Individuals committing themselves to act according to a joint cooperative strategy need to be ready to forsake opportunities for benefit, and this makes cooperation unstable. Corporations however have no previously defined “benefit”; they are constituted by our design; so there is no contradiction in designing them so that uncooperative actions are simply made impossible (coercively prohibited, extremely costly, easily punished, etc.). Therefore, it is easier to rely on careful institutional design and assume individuals may be free to pursue their interests within that framework. It is a matter of setting the governance structure upon the right reasons – making clear that the workings of the institution are mutually beneficial and therefore acceptable to all – and adopting rules imposing the right incentives, so that a social game is defined that conspires, so to say, for mutual benefit and Pareto optimality. That situation is legitimate because it reflects the social framework that would be rationally consented to by individuals focused on their own self-interest.

In sum, order ethics legitimizes legal and institutional schemes that turn social dilemmas into coordination games, so that individuals act in a maximizing way, while they contribute to the benefit of all. These situations are stable by their own nature. The task of ethics is moved to another level: the level of justifying before each individual the shift from the *status quo* to the proposed new game. This justification is based on the assumption that each individual will find mutualistic arguments convincing as long as optimality and maximum possible individual benefit are secured.

Conclusion

SCT is a philosophical argument directed to the question of the legitimacy of social institutions. Its basic normative idea is that submission to social norms and commands – be it the law, morality, or the directives of those in certain social roles – is justified in so far as their authority can be plausibly explained as the result of a voluntary agreement of those subject to obedience. Contractarian approaches to the legitimacy of business explore, therefore, whether explicit, tacit, or hypothetical consent is present in relation to contested authorities in business. The aim of the theory is normative: legitimate institutions and their norms have a right to demand compliance and their members or addressees a corresponding duty to obey. According to the SCT, legitimacy establishes the morality of social rules.

In business, SCT may be used as a moral check in three main contexts: in the context of the economic constitution (whether for profit organizations and the market mechanism are legitimate, etc.) (Luetge et al. 2016; Bishop 2008; Neron 2015; Donaldson 1982); in the context of the corporation (e.g., whether the stakeholders of a firm would rationally agree to the form of governance that gives priority to managers and shareholders) (Sacconi 2011; Hsieh 2008); and in the context of ethical norms of business: examining the legitimacy of different ethical norms as they prevail in business communities (Donaldson and Dunfee 1994, 1999).

At any of these levels, the SCT of business legitimacy should make us think on rational (self-interested) and reasonable (willing to publicly justify actions) individuals as sources of moral authority. SCT is a heuristic that may help solve the question whether a given institution or norm would actually obtain the consent of rational and reasonable individuals. The heuristic relies on hypothetical contract. This is to assure that consent is mutually beneficial, rather than fraudulent and exploitative, as it happens to be in many actual instances of consent-based economic relationships. In the end, the contractarian seeks to assure that legitimate business institutions and rules do work for our mutual benefit. The fictitious unanimous agreement is a heuristic device to keep us in guard against biases and specious arguments that may seem to justify unwarranted individual sacrifices.

To put an end to this chapter, and to exemplify one of the possible uses of SCT in business, we may try to adapt the principle of liberal legitimacy proposed by Rawls (2001) to the question of the legitimacy of corporate power. This is how the principle would read:

> The exercise of the prerogatives of corporate governance is proper and hence justifiable only when it is exercised in accordance with a constitution of the firm the essentials of which all internal stakeholders and economic agents directly affected by the firm's operation may reasonably be expected to endorse in the lights of principles and ideals acceptable to them as reasonable and rational economic agents.

Such principle would surely require long clarifications and developments that do not belong here. It is stated to show the potential fruitfulness of SCT as applied to the question of the moral legitimacy of business.

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Value Positioning and Business Ethics: Keeping Promises as Business Legitimation

16

Alexander Brink and Frank Esselmann

Contents

Abstract

This contribution strives to argue for a company's true value positioning as its value promise to its stakeholders. A company will be increasingly rewarded if it, first, admits to its values and positions them; second, communicates – i.e., to

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mandatory declare – them; and, third, keeps them to their stakeholders ("walk the talk"). Keeping promises means business legitimation. To explicate our thesis, we will first introduce the promised-based theory of the firm as an alternative to the traditional theory of the firm. The promised-based theory of the firm further develops two prominent pieces of research: Josef Wieland's governance ethics and Michael Porter's shared value concept. We will differentiate between global and local legitimacy. Finally, we will provide examples of different types of value on a local level. Our management implication is to leave the red ocean of functionalities and to dive into the blue ocean of values.

Keywords

Corporate governance · Promised-based theory of the firm · Value promising · Value positioning stakeholder theory

Introduction

Imagine a world in which the consumer would really take brand promises for granted, in which the employee relies on what is presented on web pages and what is promised in job interviews, in which the supplier binds himself to the spoken word as honorable merchants did formerly, and in which environmental and human rights organizations truly believe in sustainability report statements. What would happen if all these consumers, employees, suppliers, and nongovernmental organizations ended their relationships with the company as soon as their expectations were disappointed?

In such a world, presumably, companies would think seriously about *what*, *how*, and *why* they promise. They would be wisely advised to promise only those things they could actually keep. What is basically true for a contract, *pacta sunt servanda*, applies also to a promise, *promissiones sunt servanda*. Indeed, a contract binds stronger than a promise – the mechanism, however, is similar because a contract is a special kind of promise.

This contribution strives to argue for a company's true value positioning as its value promise to its stakeholders. A company will be increasingly rewarded if it, first, admits to its values and positions them; second, communicates – i.e., to mandatory declare – them; and, third, keeps them to their stakeholders ("walk the talk"). Keeping promises means business legitimation. To explicate our thesis, we will first introduce the promised-based theory of the firm as an alternative to the traditional theory of the firm (Section "The Promised Based Theory of the Firm"). The promised-based theory of the firm further develops two prominent pieces of research: Josef Wieland's governance ethics and Michael Porter's shared value concept. We will differentiate between global and local legitimacy (Section "The Promised Based Theory of the Firm and Business Ethics"). Finally, we will provide examples of different types of value on a local level. Our management implication is to leave the red ocean of functionalities and to dive into the blue ocean of values (Section "Management Implications: Value Positioning and Value Promise").

The Promised-Based Theory of the Firm

The Basic Idea

There is a quite popular view of economics as a decision theory. For example, this is true for the neoclassically based, rational choice approach. This approach fundamentally understands the decision-maker as a rational actor. The so-called homo economicus makes decisions based on given preferences and changing restrictions (cf. Manstetten 2002, 48, comment 12).

Over the past years, the scientific community has revealed a wealth of outcome that, without exception, detects the weaknesses of the *homo economicus* model. An almost infinite number of results from experimental research demonstrate that certain assumptions of the model are indefensible. Primarily, this is true for the assumption of complete information. New institutional economics, for example, has dropped this strong assumption and has operated since then on the weaker assumption of incomplete and unequally distributed information. Further, experimental economics has shown that individuals have instable preferences, which are neither coherent nor constant. Herbert Simon's pioneering work on bounded rationality, Daniel Kahnemann's papers on framing, and Richard Thaler's contribution on nudges have been honored – as much other homo economicus critical research – by the Nobel Memorial Prize in Economic Sciences (cf. Simon 1957; Kahneman and Tversky 2000; Thaler and Sundstein 2012).

But, from a practitioner's point of view, the *homo economicus* model is also questionable for another reason. Indeed, decisions are essential within business administration. What is missing, however, is the consideration that decisions are also negotiating processes between at least two contract parties, with certain ideas of the world and different individual values. Therefore, in a strict sense, the smallest economic unit is not the individual *decision* but the contractual *transaction* between at least two parties. Reality is more complex than theory: *instead of one decision-maker in theory, there are at least two contract parties in practice*.

From Choice to Contract: The Company as an Unsecured Nexus of Contracts

In his remarkable paper "The Theory of the Firm as Governance Structure: From Choice to Contract," Oliver E. Williamson, with regard to James M. Buchanan, claimed to replace the decision-based rational choice approach of economics with a contract-based understanding – at least as an alternative to the decision model in that respect (cf. Williamson 2002; Buchanan 1969, 1975; Brink 2011a, b):

> But the science of choice is not the only lens for studying complex economic phenomena, nor is it always the most instructive lens. The other main approach is what James Buchanan [. . .] refers to as the science of contract. Indeed, Buchanan [. . .] avers that economics as a discipline went ‚wrong' in its preoccupation with the science of choice and the optimization apparatus associated therewith. Wrong or not, the parallel development of a science of contract was neglected. (Williamson 2002, 172)

On the business side, Michael C. Jensen and William H. Meckling, as well as Armen A. Alchian and Harold Demsetz, see the firm as a nexus of bilateral contracts (cf. Jensen and Meckling 1976; Alchian and Demsetz 1972). The authors focus on a contract "under which one or more persons (the principal[s]) engage another person (the agent) to perform some service on their behalf" (Jensen and Meckling 1976, 308).

Explicit contracts are secured by law, whereas implicit contracts are unsecured. On this basis, the firm can be understood as *a nexus of contracts*. To enable the firm to keep its implicit contracts, one needs appropriate *governance structures*, which have a motivational and incentivizing function to keep their implicit commitments beside the legally enforceable element (see Zingales 1998; Brink 2010b; Tirole 1999).

From Contract to Promise: The Firm as a Nexus of Promises

In the following, we will see the contract as a special form of a promise:

> The moralist of duty thus posits a general obligation to keep promises, of which the obligation of contract will be only a special case – that special case in which certain promises have attained legal as well as moral force. But since a contract is first of all a promise, the contract must be kept because a promise must be kept. (Fried 1981, 17)

There are at least four similar characteristics between a contract and a promise that allow a "*contract as promise*" view as suggested in the article. First, both are relational in that they are implicit and voluntarily accepted (cf. Kimel 2003, 80ff.; MacNeil 1985; Fried 1981; Williamson 1985). Second, both are hybrid coordination mechanisms (cf. Coase 1937; Williamson 1975; Calton and Lad 1995). Third, both are risky (cf. Fried 1981; Searle 1971; Brink 2010a). Fourth, both are empirically as well as normatively grounded (cf. Searle 1964; van Oosterhout et al. 2006).

The mutual voluntary acceptance of the promise – the first characteristic – indicates the relation to the contract: "[A]cceptance offers a further point of correspondence between the moral institution of promise and the legal institution of contract" (Fried 1981, 43). Following John R. Searle, a promise is a promise if and only if the promisee voluntarily accepts the promise the promised action intends to deliver or at least accepts the commitment of the promise (cf. Searle 1964; Fried 1981, 95ff.; Kimel 2003, 34ff.).

The second characteristic is that a promise is conventionally binding (cf. Priddat 2003, 295). The convention creates a new coordination mechanism, which stands as an equal next to market and hierarchy (cf. Coase 1937; Williamson 1975):

> If we understand conventions as solutions to co-ordination problems, then the co-ordination problem linguistic conventions of this kind (e.g. using the words 'I promise') are a solution to, is *how to communicate* such an intention. (Kimel 2003, 8f.; cf. also Lewis 1969)

Network organizations as "relations that are based on neither hierarchical authority nor market transactions" (Nohria and Eccles 1992, 288) are predisposed to a promise in our understanding as a governance mechanism.

The third characteristic implies a high degree of uncertainty which can either be interpreted as a risk, where the extent of the incident and the probability of occurrence are calculable, or as an insecurity, where the extent of the incident and the probability of occurrence are not calculable (cf. Knight 1921). The risk bearer is traditionally also the residual recipient and therefore the addressee of the profit. In fact, it is the residual risk at stake resulting from a specific investment (cf. Brink 2010b; Boatright 2002; Zingales 1998). However, there is an important difference between a decision and a contract with regard to risk. While with the decision the crucial aspect of the risk is the point of time when the decision is irreversibly made, the crucial aspect of the contract is the obligation of a future action – i.e., risks and uncertainties of future situations or convictions (cf. Fried 1981; Searle 1971). Decisions are usually made by individuals and only sometimes by groups. A contract needs at least two contract parties. In the literature, we often find the term relational contracts (cf. e.g., Kimel 2003, 80ff.; MacNeil 1985; Williamson 1985; Calton and Lad 1995, 275f.). Sociologists explain such relational contracts by determinants like social relations, amount of time invested in the relationship, emotional binding, intimacy of the relationship, or the level of reciprocity (cf. Granovetter 1973, 1992; Coleman 1990).

The individual self-binding, which is the fourth characteristic of similarities between a contract and a promise, is important for both the contract and the promise (Fried 1981; Atiyah 1981; Kimel 2003; Priddat 2003):

> The institution of promising is a way for me to bind myself to another so that the other may expect a future performance, and binding myself in this way is something that I may want to be able to do. (Fried 1981, 14; cf. also Searle 1964)

In this context, one can distinguish two distinct levels of conventions which apply for both the contract and the promise. The first level, *linguistically conventional*, means that a convention about binding oneself to the spoken word exists: "[P] romises can sometimes be said to facilitate a *form* [sic!] of co-ordination between promisor and promisee" (Kimel 2003, 9). Beside this *formal level of convention*, the *material level of convention* addresses the concrete content of the coordination problem.

By descriptively expressing a promise normatively, an obligation becomes manifest – a phenomenon, which is mentioned by Searle in his seminal paper *How to Derive "Ought" from "Is"* (cf. Searle 1964). Boatright follows Searle: "This contractual theory is both *descriptive* and *normative*" (Boatright 2002, 1838). Van Oosterhout et al. refer to "content-independent" normative commitment" (van Oosterhout et al. 2006, 522) and close to Fuller to an "internal morality of contracting" (van Oosterhout et al. 2006, 521; Fuller 1964):

> It should be clear from the start that the notion of contracting is not a morally neutral idea, since it already assumes an adherence to certain values, rights, and background institutions without which no normatively appealing understanding of contractual commitment could exist. (Van Oosterhout et al. 2006, 525)

As soon as one gets involved with a contractual situation, one has already accepted normative foundations:

> Hence, all actual contracting in business and economic organization is substantively constrained to begin with by the normative commitments imported with the adoption of a contractualist perspective. (Van Oosterhout et al. 2006, 525)

This sketched path from decision via contract to a promise is a way of developing normative standards. Fried expresses this normative turn in economics in the following words: "By promising we transform a choice that was morally neutral into one that is morally compelled" (Fried 1981, 8).

Companies that move the promise to the center of their strategy build relations with various stakeholders that transcend the binding contract clauses like product guarantees or employee contracts. Then, keeping promising becomes business legitimacy. Consequently, one has to keep promises in the same way that one has to keep a contract:

> The moralist of duty thus posits a general obligation to keep promises, of which the obligation of contract will be only a special case – that special case in which certain promises have attained legal as well as moral force. But since a contract is first of all a promise, the contract must be kept because a promise must be kept. (Fried 1981, 17)

Critics can point out differences between a contract and a promise. For example, a contract differs from a promise – according to one objection – in the strength of the binding mechanism: Violating a contract may lead to punishment, whereas violating a promise may lead to loss of friends or to remorse. But this is not a strong argument because it is just a gradual and not a structural difference. The weaker binding mechanism of the promise requires a stronger *inner controlling* (e.g., via conscience, insight, awareness, conviction) and a weaker *outer controlling* (e.g., punishment, incentives, compensation).

Our title, "Promised-Based Theory of the Firm," refers to Ronald H. Coase's paper on "The Nature of the Firm" (cf. Coase 1937). While Coase was in search of the *origins* of the firm, we are in search of the *legitimation* of the firm.

The Promised-Based Theory of the Firm and Business Ethics

Over the last years, business ethics literature has brought about a new branch called *Contractualist Business Ethics*. Following our idea, *Contractualist Business Ethics* moves the contract instead of the decision to the center of the economic transaction. In the next section, we will address the most prominent representatives on three levels:

- At the *macro level*, Donaldson and Dunfee provide an *Integrative Social Contract Theory* – one of the most important contract-based theories (cf. Donaldson and Dunfee 1994, 1999a, b). The central idea is “to put the ‘is’ and the ‘ought’ in symbiotic harmony, requiring the cooperation of both empirical and normative research in rendering ultimate value judgments” (Donaldson and Dunfee 1994, 255).
- At the *meso level*, Hill and Jones offer a *Stakeholder-Agency Theory* by which the management (agent) closes a contract with various stakeholders (principals). Consequently, the management is the agent of various stakeholders. The result is a nexus of contracts: “[E]ach stakeholder is a part of the nexus of implicit and explicit contracts that constitutes the firm” (Hill and Jones 1992, 134). Through the contractual obligation of both management and stakeholder, a balancing of stakeholder interests is possible (cf. Zingales 1998; Brink 2012, 2017).
- At the *micro level*, the *Theory of Psychological Contracts* by Denise M. Rousseau understands a psychological contract as an individual conviction or a mutual obligation between two parties (cf. Rousseau 1995, 15; Brink 2010c). As the violation of contracts is not legally enforceable, Rousseau called implicit contracts *promissory contracts* (Rousseau 1995, 15). At this level, it is important to remember that a contract is a special form of a promise.
- Furthermore, there are some minor positions: Van Oosterhout et al. focus on the internal morality of the contract (cf. van Oosterhout et al. 2006, 521). It is the contract mechanism itself which provides humans the possibility to live together: “Hence, all actual contracting in business and economic organization is substantively constrained to begin with by the normative commitments imported with the adoption of a contractualist perspective” (van Oosterhout et al. 2006). John Boatright points out the negotiation process between the various parties: “Contracts result from bargaining by these constituencies over the terms of their compensation as well as the institutional arrangements that protect this compensation from postcontractual expropriation” (Boatright 2002, 1838). Phillips offers a stakeholder concept that is based on social contract theory referring to John Rawls’ theory of justice (cf. Phillips 1997; Rawls 1971). Other business ethicists work on a reconstruction of organizations (cf. Keeley 1988) or see the contract as a trust-building action in hybrid network organizations (cf. Calton and Lad 1995).

Management Implications: Value Positioning and Value Promise

Promise und Governance Ethics

Governance ethics is the analysis and reflection of moral characteristics in governance structures (cf. Wieland 1999, 46ff.). This theory can be traced back to Josef Wieland, who understood governance ethics as the science of the comparative analysis of the morally sensitive governance arrangement and the communication of specific business transaction by cooperation (cf. Wieland 1999, 69). Values, virtues, and ethical beliefs are moral resources to initiate, execute, and control business transactions. Those business transactions are based on a contract or – in our understanding – also on a promise.

Wieland's governance ethics is a local justice approach, considering context-specific complexity. The moral codification can offer global dimensions, while the economic codification always has local reference (cf. Wieland 1993, 21). Thus, the firm is making local decisions, i.e., referring to concrete transactions. For example, human rights are universal in a global sense, but they become effective only with a special economic transaction. In terms of Wieland, it is the moral dimension of a distinct economic transaction which counts (cf. Wieland 2001, 9). Arguments are weighed between various decision logics (moral, legal, technical, economic, etc.) in this concrete situation. In some recent publications, Wieland provides a special kind of governance mechanism: so-called deliberative processes. In this, he offers the missing link between legitimation and application of norms (cf. Wieland 2007, 13; Habermas 1999, 283ff.).

Wieland's approach aims at the creation of *cooperation chances* (Wieland 1999, 34). The idea is to continually improve the ability and willingness to cooperate within a cooperation economy, which combines competition and cooperation (*co-opetition*). Morality has paid off positively in reputational capital and reduced transaction costs. Our position is very close to this. Through the acceptance of the promise, e.g., by buying a product, business transactions are local and context specifically legitimated. The cooperation rent increases, i.e., both the customer and the management win. This basic idea of a "shared value" is first provided in this clarity by Michael E. Porter, which is discussed more detailed in the next section.

Shared Value at Global Level: The Approach of Michael E. Porter and Michael R. Kramer

Shared value can be described as a management strategy in which companies find business opportunities within social problems (cf. Porter and Kramer 2002, 2003, 2006). In an ideal world, management creates economic as well as societal value. This ideal concept replaces the shareholder value concept of the early 1990s, in which the value creation for the shareholder was the main management task. Value creation is also relocated from shareholder value to shared value. Shared value is a promise from the shareholders on the one side to the customers (and other stakeholders) on the other side.

This position is a *global legitimacy point of view*: the global responsibility of a global organization toward a global stakeholder community. Porter does not provide the local responsibility of a local sub-organization toward a local stakeholder group. Furthermore, he does not provide details on how to solve possible conflicts between global and local level. From a practical point of view, this deficit needs clarification. Here is an example from the supply side: a sales agent (= local sub-organization) recommends a product to a customer (= local stakeholder) from a fairness point of view (= local responsibility). Another example would be a human resource manager (= local sub-organization) who develops a fair compensation system (= local responsibility) for his employees (local stakeholder group). In both cases, the morality is specific, i.e., temporary or locally binding and legitimate.

On the demand side, stakeholder needs have changed over time. Personal values are behind those needs. There is an intense discussion in the literature about this phenomenon. The theoretical roots can be traced back to the work of the American psychologist Abraham H. Maslow and are renascent in current research insights of ethics as well as of behavioral and psychological economics (cf. Maslow 1943, 1954; Schein 1980, 1985). The latest marketing concepts in this respect are *cultural branding* and the *value pyramid* (cf. Holt 2016; Almquist et al. 2016).

Customers challenge manufacturing methods, and employees ask for meaningful work and, in both cases, for a good purpose. Suppliers strive for reliability; critical stakeholder groups not only analyze the product and service offers but simultaneously the whole value chain. They all ask for business legitimacy. They want to know what the firm stands for, with a binding declaration of something they can rely on – a promise.

As mentioned before, morality is no more and no less than a normative convention and insight of individuals, groups, companies, or societies. The view is broadly known as *cultural relativism* or *moral relativism* (cf. Grace and Cohen 2005). There is a different level of relativism depending on how strong personal values and ethical standards vary within a group, an organization, or a society. Market transparency supports stakeholders' decision-making process. The more open an organization or a society is, the freer individuals are in the choice of values. Therefore, true value positioning including a true value promise is necessary. Stakeholders are often not able to make the decision. Since values can be interpreted differently, that there are strategic interests, that one evaluates a situation incorrectly, or that information is missing (*moral bounded rationality*, cf. Donaldson and Dunfee 1995). The reasons are uncountable, and one has to think about different options of regulative actions like laws, self-regulation, nudges, or voluntary oaths.

While Porter's vision is rather strategic (global value positioning and global value promise), our understanding is a more practical one. We will provide a local value positioning and a local value promise. Thus, in this regard, Porter reminds below his potential. In the following section, we try to close this gap by offering a local perspective and by making it compatible with the global perspective.

Value Promising at the Local Level: The Approach of Frank Esselmann and Alexander Brink

In the previous explanations, we strongly argued for a promised-based theory of the firm. Corporate responsibility (in that sense) is a promise to stakeholders, and keeping promises means business legitimacy.

The stakeholders legitimize business transactions through the acceptance of the promise. If the company positions its values transparently to the customer, and the customer appreciates these values by buying the product, this special stakeholder simultaneously legitimizes this local business transaction at a given point in time. If the customer does not buy the product, this special stakeholder does not simultaneously legitimize this local business transaction at a given point in time. The more customers legitimize the business transaction, the stronger the level of legitimacy is. The firm should position and promise their values to all their stakeholders. This is also true for the relationship with the employee. True value positioning and true value promises for the employee work if the employee himself appreciates this special value by application and – given he succeeds – stays with the company as long as the firm meets his expectations. This relationship is all about local validation and situational morality.

While a performance promise, a product promise, or a quality promise referred to the *know-what* and the *know-how*, value promising touches the *know-why*. Both Porter's global level and our local level are now explicitly driven by normative issues, in addition to strategic and operative issues (cf. Bleicher 1991). The firm explicitly or implicitly declares that it will stick to particular norms – some are formulated as a contract, while others are formulated as a promise.

Management Implications: From the Red Ocean of the Functionalities to the Blue Ocean of Values

The red and blue ocean story traces back to the seminal Harvard publication by W. Chan Kim and Renée Mauborgne (cf. Kim and Mauborgne 2004). According to the authors, the red ocean covers an existing market (mostly with overcrowded industries), in which one fights rivals for market segment, and the profit and growth perspective is shrinking. The blue ocean concept creates a new market segment, and new demand is established through acquisition: "Competing in overcrowded industries is no way to sustain high performance. The real opportunity is to create blue oceans of uncontested market space" (Kim and Mauborgne 2004, 173).

Referring to the Almquist's value pyramid, for example, we transfer this idea to values (cf. Almquist et al. 2016). The red ocean is about a competition of functionalities, covering needs, and underlying lower values like saving time, simplification, connection, or information; the blue ocean concept is about a competition of higher values like self-actualization, attractiveness, or heirloom. Red ocean investments are possible but at higher costs. For most companies, the functionality battle against the platform economy is lost. Ethics as the reflection theory of morals has a *regulating* role in the red ocean, whereas it serves an *orienting* role in the blue ocean.

A good example of the upcoming regulative power is the General Data Protection Regulation (GDPR). With this framework, politics will strongly influence the red ocean of functionalities. The discussion about transparency and privacy at social media platforms is an example of the endeavor out of the red ocean into the blue ocean (cf. Koops et al. 2017). Transparency can be defined by law, but privacy in its essential characteristics cannot. The GDPR just safeguards a minima moralia. On this basis, one needs wise decisions about how to position a firm with value toward the customer. Aristotle called these wise decisions “phronesis.” Consequently, the concept concerns gaining new markets and being aware of what the company stands for.

In general, it is all about stakeholder groups – especially customers – their values and needs have to fit with the company’s values (and vice versa: the company’s values have to fit with those of the customers’). Profit is the key for the company: sales not for any price but for a good price. That is the core idea of Porter’s shared value approach. However, the kind of exchange has changed: the customer demands a “value package” for his money, his time, and his attention.

We are facing great challenges in the search of value consensus in a growing globalized and digitized world. Laws and governmental frameworks are too slow and clumsy and especially without consent in most cases. A regulation by global company commitments does not work for most transactions. We see the firm’s local value positioning as the crucial link for a prospering society.

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Ethical Blindness and Business Legitimacy 17

Kristian Høyer Toft

Contents

Abstract

Ethical blindness describes the temporary inability of a person to make moral judgments and acting morally in the context of working in an organization. Such a failure of moral judgment can be harmful and may damage the entire organization, its reputation, and public legitimacy. This chapter provides both an introductory overview and definition of the theory of "ethical blindness." The chapter proceeds by first introducing to the general social phenomenon of ethical blindness. Then it presents the specific theory of ethical blindness proposed by Palazzo et al. (J Bus Ethics 109:323–338, 2012). The structure is as follows: First, the chapter shows how the theory relies on an epistemology of individuals' cognitive propensity to be fallible in combination with a theory of individual "sensemaking" and "framing." The sensemaking process is under external pressure from social contexts within the organization and its surrounding society. The possible outcome of inflexible and too "rigid framing" is ethical blindness – an

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incapacity to be sensitive to moral demands elicited by the situation. Second, the normative aspect of the theory is outlined to argue for a pluralistic democratizing of the business organization as a means to prevent ethical blindness in the organization. The theory of political CSR is suggested as a means to secure business legitimacy and counteract ethical blindness in organizations. Finally, the chapter concludes with a brief discussion of the practical usages of the theory of ethical blindness as a possible template for a tool to educate employees to withstand pressures that might lead to harmful ethical blindness in the working place.

Keywords

Ethical blindness · Framing · Sensemaking · Moral imagination · Political CSR

Introduction

When good people work in bad organizations, they tend to succumb to acting immorally. Or, so the theory of ethical blindness predicts. Organizational history is replete with examples of ethical blindness spanning atrocities during the Nazi regime of the Second World War to the morally corrupt culture predominant in financial institutions leading to the financial crisis of 2008. A spectacular example of "ethical blindness" is found in the "dieselgate" emissions scandal in 2015 (Bovens 2016; Rhodes 2016). Volkswagen and a significant part of the entire automobile industry covered up the actual emissions from cars. The scandal revealed a general culture in the car industry of denial and blindness to the wrongdoings. No particular engineer or leader could be picked out to carry all the blame for the fraud, but rather a morally defunct culture enabling the cheating to happen in the organizations seemed to make collectives and a number of individuals responsible for the scandal. However, the idea of ethical blindness sees the individual and not the culture as ethically blind, since only real persons and not organizations can feel remorse, or at least this is the assumption according to common sense. Ethics and moral theory reflect the assumption that only human individuals have the capacities needed for qualifying as moral agents. A moral agent should have a sense of what is morally at stake in the situation and have a capacity for making and acting on rational moral judgments. A proper moral agent is also a real person with intentions, feelings, commitments, and personal relations, as well as a moral conscience. Therefore, in ethics and moral theory, the assumption is that humans are autonomous moral creatures and that corporate agents like business organizations cannot to the same degree be morally capable; they are artificial moral persons (Orts and Craig Smith 2017; Pettit 2007; cf. French 1979). Hence, the morally corrupt culture revealed by the dieselgate scandal does not exempt individuals from moral responsibility and blame. And, the theory of ethical blindness presented in this chapter agrees with this (Palazzo et al. 2012, 335).

The ideal philosophical theory of moral agency therefore assumes that real human beings are born with a moral standing and through upbringing and education they acquire a mature moral judgment that makes them capable of navigating in the real world of moral conflicts, pressures, and dilemmas. However, in real life humans are also negatively affected by the social context in which they live. The social context might support the sound moral world view one has acquired, or it might suppress and reject it. Individuals often are under a "contextual pressure" to adapt to the values and hierarchies of the work place, so they cannot apply ethical norms to a situation in an impartial manner (Palazzo et al. 2012, 323). Hence, the theory of ethical blindness is about "nonideal" conditions of morality in organizational life (cf. Rawls 1994). People might be on average good from the outset, but immoral organizations tend to corrupt them.

What Is Ethical Blindness?

This chapter provides an overview and discussion of the phenomenon "ethical blindness." Since the concept has been developed and refined in the recent research literature by the authors Guido Palazzo, Franciska Krings, and Ulrich Hoffrage in their seminal article "Ethical Blindness" in the *Journal of Business Ethics* (2012), this will be considered as the key reference point for this chapter. The authors define ethical blindness thus:

> People may behave unethically without being aware of it—they may even be convinced that they are doing the right thing. It is only later that they realize the unethical dimension of their decision. We call this state ethical blindness: the decision maker's temporary inability to see the ethical dimension of a decision at stake. (p. 324)

Emphasis is here on the temporal aspect that "later they realize the unethical dimension." This aspect of the definition of ethical blindness narrows down the number of examples and cases that falls within its scope. For instance, the case of Adolf Eichmann narrated by Hannah Arendt (1963) seems on the surface to exemplify ethical blindness. Eichmann served as a leading civil servant responsible for the Nazi regime's deportation to the concentration camps during the Second World War. After the war, Eichmann was indicted at the Nuremberg Trials for crimes against humanity. Eichmann admitted responsibility for the deportations, but he considered nonetheless this as his moral responsibility being a civil servant to the state. In fact, he showed no remorse, according to Arendt, and he went as far as justifying his acts with reference to Immanuel Kant's ethics of duty. Hence, he paraphrased the categorical imperative of Kant, saying that he acted so that his actions could be justified by the will of the leader (the "Führer"). The example of Eichmann seems to be a clear-cut case for what ethical blindness is about. However, it falls short of the definition that Palazzo et al. suggest, since Eichmann shows no regret. In fact, he even rationalizes the atrocities he contributed to with a corrupt Kantian justification. Surely, Eichmann resembles a severe case of ethical blindness as he demonstrates a profound inability to relate to the very basics of right and wrong on any account. Moreover, a major reason why the theory of ethical blindness can be of more practical use compared to teaching ethical theory is due to the fact that "more ethics" need not be "better ethics." Hence, it might not be helpful to teach employees and students about ethical theory if they have no sense of the pitfalls that moral agency presents. The Eichmann case illustrates this too well, since he did not have any clue about how to read Kant and therefore could misuse Kant's ethical theory to defend his abhorrent practice. Similarly, ethics training and ethics tools are not sufficient to avoid corporate fraud. More is needed, and the theory of ethical blindness might well be a good remedy to make clear the pitfalls that practitioners meet.

The reason for constraining ethical blindness to only include cases of people showing remorse is to avoid cases of "amoralism" (socio- and psychopathy in the popular psychological literature). If a person is permanently and incurably ethically blind, it makes no sense to exert any moral pressure or blame, since he is beyond the reach of morality, being an amoral person.

This limitation of the scope of the theory suggested by Palazzo et al. (2012) therefore also gives rise to concerns about its ability to handle cases where "psychopaths" ruin the working environment of an organization (cf. Sørensen and Villadsen 2018). However, the theory does have relevant information to offer about the culture that impacts morally "normal" functioning people, since they are the victims of a corrupt moral culture, a culture possibly enacted and supported by amoral leaders and colleagues (Palazzo et al. 2012, 334).

Now, consider the case of the business graduate as a standard example of ethical blindness.

Suppose a young person goes to business school and is inculcated with the view that the profit norm is superior to other concerns such as the environment and gender equality. This view is epitomized in the headline of Milton Friedman that the "social responsibility of business is to increase its profits." Businesses are private enterprises and not social welfare institutions that provide public goods such as regulation to protect the environment or promoting gender equality. Suppose the business school graduate embarks on a career in an organization that celebrates profit maximizing as superior to other ethical concerns; there is a high likelihood that she will be confirmed in the truth and value of the overriding status of the profit motive (ibid. 329–330; Ghoshal 2005). Adding to this, assuming that the surrounding society offers little contestation to the profit motive's role in business, the graduate cannot be blamed for believing that it is morally permissible to sidestep ethical concerns for the environment and gender equality. Everything and everyone the graduate meets confirm this as a truth. However, assuming also that this particular graduate did have a good upbringing inculcating the virtues of being kind and taking into consideration other peoples' needs and the value of having a clean and unspoiled environment, the graduate arrives at business school with a moral compass in good order, but during her education and job experience, she is increasingly challenged to overrule her original moral views learned in her youth. She will also find it disturbing that the social atmosphere in the workplace is competitive to the extent that bullying and marginalization are part of the everyday interaction between colleagues. However, this is justified by the tacit assumption that only the best and toughest thrive in this "elite" organization that outcompete others on the market. As time passes she internalizes this view even though it is in tension with her prior view of the wrongness in bullying. Eventually, she tends to embrace the morally corrupt culture of the organization because over time she adjusts to what is "normal" in this organization and becomes a passive bystander or an active contributor to harms she would normally condemn (Palazzo et al. 2012, 331). Years later she works in another organization and now has returned to her original moral views and feels regret about her being part of the corrupt organizational culture.

This example of the graduate is a straightforward example of ethical blindness because the moral failure is *temporary*, it is inflicted upon the individual from the outside and made her *deviate* from her normal moral views, and she was *unconscious* about being ethically blind (ibid., 325).

However, the standard case of ethical blindness can be contested because people are also morally corrupted during upbringing at home and at schools. And, it is possible that some people from birth are less empathetic and altruistic compared to others. Moreover, people can will to be blind to ethical concerns, for instance, they can deliberately seek to avoid knowing the "facts" of an unethical industry (Gjerris 2015). And, according to Aristotle people often lack the will power to act morally as they exhibit *akrasia.* The theory of ethical blindness can accept these challenges as deviations from the standard case because individuals are also responsible for "co-creating" the moral situation they are in (Palazzo et al. (2012, 333)). Individuals are not mere victims of the social context even though the theory of ethical blindness tends to present them in this way according to what can be described as the "standard case" illustrated by the business graduate.

Furthermore, the theory of ethical blindness is not a typical ethical or moral theory about justifying the right and the good. It does not commit itself to either a deontological or a consequentialist or a virtue ethical outlook. It is neutral about what ethical theory is true, if any (ibid. 334), and is rather focused on explaining how ethical blindness is possible. However, the theory does have one ethical prescription which is that pluralism and openness in an organization are better than the opposite to prevent ethical blindness (ibid. 335). This ethical commitment can be seen as instrumental to avoiding ethical blindness. The commitment to pluralism in the organization is not to be confused with moral relativism.

It is a deep philosophical discussion in the branch of epistemology and ethics if not all knowledge and values are relative, but the theory of ethical blindness does not try to resolve these issues. Rather the theory predicts that people are carriers of a so-called rigid framing that makes them too ignorant compared to how a generally more enlightened publics would perceive the situation. Palazzo et al. (2012, 335) spell it out:

> Importantly, the insider perspective of the organizational decision maker remains the point of reference but the yardstick for normative evaluation can either be polis or cosmos.

The theory of ethical blindness is exemplary of a comprehensive theory of business ethics, since it comprises both the levels of the individual, the organization, and surrounding society at large, i.e., the micro, meso, and macro levels (cf. Gonin et al.

2012). And, it bridges the research fields of organization theory and business ethics that need to be better connected in the literature (Heugens and Scherer 2010). Therefore, the theory is cross-disciplinary as it relies on various sources from philosophy, the humanities, business studies, organization theory, the social sciences, psychology, and cognitive science. The idea to rethink the organization as a significant part of society is gaining traction currently and is witnessed by recent developments in political philosophy (Anderson 2017; Herzog 2018).

The next sections will give a more detailed understanding of the content of the theory of ethical blindness including its normative aspects. The epistemological assumptions underlying the theory as well as its sociological outlook on the significance of the social context to ethical blindness are presented. Furthermore, the temporal dimension is discussed as this is pivotal to understanding ethical blindness. Following is a discussion about the significance of a pluralist democracy surrounding organizations. This gives the cue to discuss whether a theory of deliberative democracy can be expanded to include the business organization as proponents of political CSR envisage. The aim of linking the theory of ethical blindness to political CSR is to draw the outline of how *business legitimacy* can be secured and protected. Finally, the chapter concludes with future prospects for using ethical blindness as a practical "device" in humanistic management education. How can the theory of ethical blindness help teaching ethics in business organizations in order to leverage and enhance business legitimacy?

Explaining Ethical Blindness: Cognitive Psychology and Time

Ethical blindness can be explained and the theory has its focus on description. There are explanations available from scientific sources like cognitive psychology that can shed light on why people temporarily lose their ethical compass. First of all, human beings are naturally limited in their rational capacities; they are fallible and make wrong decisions because they have limited access to evidence and are inclined to be biased. Recent experimental moral psychology conducted by Jonathan Haidt and others has documented that people tend to act on their intuitive feelings of right and wrong regardless of whether this is rational (Palazzo et al. 2012, 325). Moreover, people are easily affected by the way a situation is presented to them in terms of language, framing effects, and social pressures. Such studies show that moral agency is not as ideal and rational as ideal theory presupposes. Hence, the fact that people can be manipulated feeds into the theory of ethical blindness and explains why it is possible to temporarily dispense with one's moral sense.

Even though the normal limits to human cognition and its fallibility provide cues for ethical blindness, they are only part of the explanatory story, since individual bias can be supported by the social context as well.

Individuals use a mental "framing" of language and ideas to make sense of the social context they live in and, in particular, in this case the organizations they work for. This is the proximal context for sensemaking. Moreover, according to sociology and neo-institutional theory of organization, the distant "social context" of a particular society also has impact on how individuals make sense of their world within the organization. Hence, the organization's power structure, its hierarchies, prevalent values, and moral cultures as well as society's ideology and political culture are social contexts for individual "sensemaking" and framing of meaning when interpreting a situation (ibid, 327).

Especially, the inherent tendency to group thinking or a "tribalism" of "us vs. them" can exacerbate the risk of ethical blindness. In the Ford Pinto case, the employees at the Ford company considered the outsiders as lacking insight on what the car industry was all about, and politicians as regulators were trying to wipe out the company (ibid. 329).

The temporal aspect of the sensemaking process adds to the chance of resulting ethical blindness. Time can be a challenge for someone who wants to stick to her ethical orientation as time provides changing circumstances for interpretation of the past. Time can be a slippery slope leading to undesirable consequences. Palazzo et al. also point to several risks in regard to time because work is usually *routinized* (p. 331) and therefore tends to marginalize reflective and critical thinking. They suggest four theories of the temporal dynamic that might lead to ethical blindness: (1) temporal construal theory, (2) the concept of just noticeable differences, (3) hind-sight bias, and (4) the phenomenon of escalation of commitment (ibid.). The first regards the temporal distance between the decision and its consequences. The farther away in the future the consequences are, the easier it is to make unrealistic commitments. The example of acting on climate change serves as an example here, since we are committed to the needs of future generations but find it difficult to make the necessary adjustments here and now to fulfill such commitment. Hence, ethical blindness is a risk. The second is the "slippery slope" argument that if person P accepts A and then B, it is easier over time to also accept C and even D, even though P would be against C and D at the beginning. People can get used to evil in smaller portions so to speak. The third temporal dynamic is about interpreting the past in light of the present to make a coherent story. Hence, the past wrongs can be explained away and excused in the present context of "new knowledge." The fourth about "escalation of commitment" resembles the notion of "path dependency" known from institutional theory. Since procedures evolve over time, it is difficult and costly to move backward and change established practices. However, if such practices are harmful, they could over time lead to ethical blindness.

Similar observations about the negative impact on individuals to conform with corrupt organizations are made by Mats Alvesson and André Spicer (2016, 9):

> Functional stupidity is the inclination to reduce one's scope of thinking and focus only on the narrow, technical aspects of the job. You do the job correctly, but without reflecting on purpose or the wider context.

This critical diagnosis of a general tendency to act unreflective and without notice of the ethical aspect of the wider situation in the working place is therefore not an observation made only by the theory of ethical blindness. So, what can be done to prevent ethical blindness?

How to Avoid Ethical Blindness and Protect Business Legitimacy?

The very same factors that can be a cause of ethical blindness also present possible solutions to avoiding it. Even though ethical blindness in milder versions are part of human everyday moral life due to human fallibility and weakness of will, the more severe and harmful kinds should be avoided. Palazzo et al. do not present a clear-cut definition of the distinction between "ordinary" mild and severe harmful versions of ethical blindness. By definition ethical blindness is assumed to be potentially harmful because it creates an organizational disposition to allow for moral harm by rendering it unconscious, invisible, and silent. Perhaps the victims of moral harm can also suffer without knowing it and thus being ethically blind with regard to their own situation. This is most likely the case as can be seen in the wake of the "me too" movement and how it has changed the ideological context of organizations. What could count as flirting in the past is now considered a violation of personal integrity. In particular, this shift in perception is most evident in the creative industry where the "me too" movement started (Sørensen and Villadsen 2018).

With the aim to avoid ethical blindness in organizations, the theory moves into the normative terrain. Here, the concern is not about describing and explaining factors that could cause ethical blindness, rather the aim is normatively about that we *ought* to prevent harm. Palazzo et al. are explicitly committed to this normative aim, "Overall, we posit that flexible framing is better than rigid framing" (ibid. 335), which leads to their main advice on how to avoid ethical blindness:

> The greater the variety of beliefs in a repertoire, the more fully should any situation be seen, the more solutions that should be identified, and the more likely it should be that someone knows a great deal about what is happening. (Palazzo et al. 2012, 327)

The main remedy to avoid or diminish the risk of ethical blindness is to counteract "rigid framing" by letting as many different and opposing frames come into play within the organization. Thus, even though consensus is important to make organizations work, equally important is it to ensure a space for contestation and disagreement. For instance, securing an institution for "whistle blowing" might be a remedy though it presents reasons for skepticism as well (Brenkert 2010). At least, employees should be able to express disagreement with management; otherwise the risk of ethical blindness is lurking.

The common epistemological ideal of gaining knowledge through openness and search for evidence to back up claims holds true in counteracting ethical blindness, though Palazzo et al. emphasize Hannah Arendt's notion of *moral imagination* (ibid. 332–333; cf. Brenkert 2018; Werhane 2008; cf. Morgan 1997), what best equates to "counterfactual" thinking: Is it possible to perceive situations differently? At least, being able to do so is a remedy to avoid ethical blindness, Palazzo et al. argue. Even though they do not talk about the ability to use moral imagination as a virtue, this is one possible interpretation relevant to the readers in business ethics (cf. Solomon 1993).

Another remedy is "boundary spanning" where management keeps communication with the outside world open and in flux to counteract the tendency to create internal organizational microcosms (ibid. 334). The emphasis on the wider society's importance to the internal organizational life is pivotal in the theory of ethical blindness proposed by Palazzo el al. The macro level is a significant part of the theory. This is also where the theory becomes challenging and controversial, since it poses the normative claim of a duty to promote a culture in society (also outside the narrow realm of the organization) that counteracts ethical blindness. Such a culture is a pluralistic and democratic culture:

> To the extent that flexible framing is superior to rigid framing on the individual level, it makes sense to promote conditions in societies and organizations that foster a climate of tolerance and pluralism instead of fundamentalism and dogmatism (Habermas 1996; Popper 1995; Rorty 1991; Walzer 1997). Flexible framing is unlikely to develop if rigid definitions of what is right and wrong dominate, and if alternative opinions are suppressed and critical voices silenced. The most effective cure for ethical blindness is an atmosphere of open, democratic, and critical deliberation. (Palazzo et al. 2012, 335)

Hence, the best remedy to avoid ethical blindness involves the political level of promoting a democratic culture in which "democratic organizations" thrive. This claim is challenging because it poses political demands on states and civil societies that are often not possible to comply with. Countries led by authoritarian regimes do not provide a benevolent environment for avoiding ethical blindness. However, to what extent do allegedly democratic states live up to this requirement? As far as cases of corporate ethical blindness keep appearing in public media in the countries which qualify as democratic to some extend, there is a chance that these countries are not as democratic as Palazzo et al. would aspire to.

Business Legitimacy and Political CSR

The argument for seeking an open and democratic interaction between the organization and society to remedy and avoid ethical blindness seems to imply so-called *political CSR.* Political CSR is proposed to create business legitimacy by means of engaging in and promoting deliberative democracy (Scherer and Palazzo 2007). The move from business ethics to CSR as a token of political philosophy engaged with democratizing business corporations has been connected to the weakening of the nation-state in the process of globalization (Matten and Crane 2005). Corporations are seen as duty carriers of promoting democracy, a controversial view that has created some debate in political philosophy (Moriarty 2005). This debate invokes the deeper issue about whether and how far business corporations are purely private institutions or "franchises of the state" (Ciepley 2013). And, it invokes questions about workplace democracy, since what exempts private business organizations from the demands of democracy that are applauded in society in general (Anderson 2017; Landemore and Ferreras 2016)? Assuming in accordance with Palazzo et al.'s conception that a democratization of the organization is beneficial to avoid ethical blindness and to ensure business legitimacy, does it make sense to let business firms take active part in democratic deliberation? Academically, the theory of political CSR has had a huge impact on business ethics. In practice, it is, however, easy to dispute if corporations are successful democratic deliberators (Sabadoz and Singer 2017; cf. Cederström and Marinetto 2013). In particular, the theory of deliberative democracy relies on political consensus and tends to ignore or marginalize the voices that dissent (Young 2001). Business firms might have (financial) interests in pursuing stakeholder dialogue resembling deliberative democracy to ensure their public legitimacy, but they might not be capable of voluntarily entering the argumentative power-free space that Habermasians prefer (Scherer and Palazzo 2007).

Hence, to counteract the risk of ethical blindness, a culture of open contestation should be secured within organizations in combination with promoting a democratic culture in wider society - as far as this is possible for profit-driven corporations. Surely, organizations should not curtail democracy by lobbying for their own narrow private interest. Such a minimalist outline of a template to secure business legitimacy in society seems appealing. But it is an open question what follows from this. Is a more comprehensive approach similar to achieving deliberative democracy followed by instructions from the theory of political CSR compatible with the normative aspiration inherent to the theory of ethical blindness? This is difficult to say, but certainly the theory of ethical blindness does not exclude such an ambitious answer; rather it seems to imply it by alluding to the values of pluralism and democracy in its advice to counteract ethical blindness.

Conclusion: Future Prospects for the Theory of Ethical Blindness

The particular compelling feature of ethical blindness as theory is its ability to both diagnose the causality and propose a normative framework for counteraction. As such it provides a tool to be used in both teaching and in management consulting. The proliferation of ethics programs in business communities meant to educate professionals making them aware of unethical behavior in combination with the continually expanding agenda of sustainability and corporate responsibility create positive traction for a theory like ethical blindness. In fact, the theory should work well in tandem with a general introduction to ethical theory and business ethics. As business schools are criticized for not taking ethical issues seriously and there is a general call for humanistic management education, it is obvious to include the theory of ethical blindness into the business school curriculum. Moreover, since the theory is also suitable for practitioners to use, - maybe with some guidance from a professional business ethicist - it is obvious that the theory could also be of benefit to management consultants addressing poisonous and unethical working environments. What is needed is to convert the insights offered by the theory of ethical blindness into more practical tools to guide in a consulting process.

As an academic research question, the theory of ethical blindness also opens up new future prospects for research and practice. The question about democratizing business corporations by means of deliberative democracy to ensure business legitimacy is in need of further research and justification. The current developments to be found in the crossing-over between business ethics and political philosophy questioning the public-private distinction, the management prerogative, as well as the nature of corporate moral agency together testify to the fact that matters of ethical blindness in organizations are moving research forward towards a more comprehensive and coherent conception of business organizations and legitimacy.

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Part V

Sociology, Societal Change, and Legitimation Paradigms

Mainstream Management and Management Accounting Scholarship: Aspects of Legitimacy

18

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Contents

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Abstract

This chapter considers the legitimacy of mainstream management and management accounting scholarship. What is at issue is the recourse generally by scholars to a particular approach which is positivist and objectivist. While this approach is regarded, including by this author, as legitimate, it is argued here that the exclusive use of this approach is insufficient to cover the knowledge required to understand organizations and organizational processes, particularly in times of environmental and technological change.

Positivism's requirements that scholarship must be neutral and value-free have influenced many mainstream scholars to choose subjects such as organizational structures and systems, regarded as outside the purview of human influence. The way these subjects are researched is also intended to meet the criteria of objectivity, assumed to be scientific. Surveys, often based on Likert-type scales, with results subjected to quantitative analyses, are considered to fulfill these requirements.

Such ideas are contested on the grounds of appropriateness and feasibility. Using an example from a seminal work on organizational change, it has been shown conclusively that human agency throughout organizations is highly significant in determining the success or otherwise of managerial change strategies.

Claims that this research is scientific are also questioned. Philosophers of science have shown that science does not conform to the logical positivist cannon in terms of neutrality and the use exclusively of quantitative methodologies. This is supported by social scientists arguing for the need for a variety of approaches to avoid serious disservice to the knowledge produced.

Arguments are made for more legitimacy in management scholarship through extending research to include subjectivist, qualitative research encompassing the attitudes and intentions of organization members at all levels. This, it is argued, would constitute a more sustainable, practically useful, and more legitimate scholarship.

Keywords

Legitimacy · Management · Positivism · Interpretivism · Quantitative · Qualitative · Scientific · Sustainable · Practical · Emancipatory

Introduction

This chapter will have as its focus the legitimacy of management as represented in mainstream management and management accounting scholarship. Management is used in a general sense to include management accounting scholarship. Issues around legitimacy of management more generally and the way management has been regarded during the last 100 years are touched on.

In political science legitimacy has been about the right of a government or authority to exercise power. In the seventeenth century, Locke argued that political legitimacy was based on the consent of the governed (Ashcraft 1991). The concept of consent is later applied to members of organizations – employees – with regard to their managers. Legitimacy has also been characterized as the acceptance of the claim that the political institutions that exist are those that are the best for the society they govern (Lipset 1983). This idea too will be applied to ideologies about managers and management.

Much more recently, as part of his 2019 Reith Lecture series, Lord Sumption, a recently retired Supreme Court judge, described legitimacy accorded the state as "less than law but . . . more than opinion." It depended on:

> a general acceptance of its decision-making processes, not necessarily of the decisions themselves but of the method of making them. (Sumption 2019)

Again this is relevant to managerial decisions, where there is a general acceptance of their legitimacy, at least by certain sections of the society, including many academicians, but where these decisions may be modified, if not completed flouted, by subordinate members in the organization.

Management Legitimacy

Legitimacy in this chapter is used to signify the prerogative and capability of managers to have sufficient knowledge of their organization; its structures, systems, and processes; the people working at various levels in different sections; the strengths regarding their organizations; and also the problems that might arise in them. In recent decades managers have also had to be aware of the changes in the wider environment, particularly in terms of markets and technology, and more latterly the pressures from globalization. They need to have the competence to devise strategies for appropriate changes to their organizations and for their implementation. This is no easy task, as has been attested from the early 1960s (see e.g. Burns and Stalker 1961, 1966, 1994) through to the 2010s (see e.g. Mansfield 2013).

There has been a long history, including a long controversy, over the legitimacy of management. In the 1930s Berle and Means wrote a seminal work pointing to the increasingly central and powerful role of management through the rise of corporations, which led to an important alteration in private property – the basis of capitalism. Instead of this wealth being controlled by its owners and shareholders, the rise of the modern corporation increasingly placed its control into the hands of professional managers, whom they described as the "princes of industry" (Berle and Means 1932: 2).

There are different views, of course, as to the desirability of managers having this power and control, not only over large corporations but also in the UK increasingly over organizations over which control had previously customarily been exercised by professional experts rather than by professional managers. This was because the former's expertise was required in those organizations. These include public sector organizations such as the National Health Service, where clinicians had previously had the power to make decisions (Reed and Anthony 1993); utilities such as energy companies, where engineers had traditionally been in control (Carter and Crowther 2000); and academics who had previously themselves led departments, faculties, and their universities (Farnham and Horton 1993a).

New Managerialism

However, from the late 1970s, with the coming to power of the conservative Thatcher government, substantial political, organizational, and managerial changes were introduced for various economic and political reasons. Not without fierce opposition, particularly in the health service, what was instituted was a "new managerialism," based on the way management was run in the private sector (Reed and Anthony 1993). This entailed a very different philosophy and ethos from the previous one of service. From then on it was to be based on managerialism – the idea that managers rather than professionals should run these services and that their modi operandi would be based on private sector practices, as these would provide more improved, efficient, and customer-oriented services (Carter and Crowther 2000).

There were early debates about the merits and suitability or otherwise of using private sector model managerialism for the public sector. Arguments against this type of management being appropriate for the public sector included the idea that the private sector was largely based on market principles, which meant that the "bottom line" was profitability and economic efficiency (Farnham and Horton 1993c).

These values and practices were forerunners to those evident in later full-blown neoliberalism (Green 2016). What began to be publicly valued and practiced was a path toward individualism, and with this, personal freedom and inequality, which would be realized through a free market, deregulated the economy. This went against the principles of collectivism, social rights, and the equality of a Keynesian welfare state (Farnham and Horton 1993b).

The legitimacy of transposing management based on these principles to the public sector has been queried. Although the public sector also had to be run efficiently and ensure costs did not overrun its allocated revenue, their goals and criteria for success had not been about profit. Rather, they had been about social aims such as mutual help and the interests and social and medical welfare of their communities (Reed and Anthony 1993).

Rationalism in Management

The accountability of management in private organizations has been regarded as being primary to shareholders. This has resulted in managers in these organizations basing their managerial strategies on economistic, rationalist, and generic principles, focused on economic efficiency as the ultimate criterion for success (Farnham and Horton 1993c). Rationalism is a belief that there is an objective reality uninfluenced by human agency and that this reality is knowable, through the researcher, who is regarded to be neutral and value-free. People, their attitudes, and intentions do not need to be studied as they are considered to be passive and non-influential. (Chua 1986). This reality consists of objective elements connected with each other logically, according to rules. They are able to be determined, and therefore one can have confidence in arriving at valid knowledge (Preston 1991). (See Green (2019) for further explanation.)

This again poses questions as to the appropriateness of such strategies for public service organizations. Indeed they are beginning to be queried also as exclusive goals for private organizations through concepts such as corporate social responsibility and sustainability (Aras and Crowther 2012; Crowther and Lauesen 2016).

Such questions are relevant to the main arguments in this chapter, which are based on a critique of rationalist ideas with particular reference to mainstream management scholarship. The critique given later is wider than a consideration of public service organizations and also questions the legitimacy of these managerial strategies with regard to private organizations.

Academic Foundations of Rationalism

Rationalism was grounded on certain theoretical ideas in the early part of the twentieth century. The general bases for these ideas are outlined below. They were translated into what became known as scientific management theory and classical management theory. They were both based on ideas that it was the management's prerogative and task to achieve their organizations' goals through developing and implementing appropriate strategies for planning, staffing, coordination, and budgeting. This involved full control of their organizations by managers, who were regarded as being in a position to have the knowledge and skills to determine their organizations' structures, technical systems, and divisions of work (Green 2019).

The generic nature of these skills, regarded as being solely within the purview of managers, was reinforced by both management and motivation theorists on both sides of the Atlantic, from Drucker (1954, 1974) through Herzberg et al. (1959) to Mintzberg (1973) as well as by later theorists (Farnham and Horton 1993c). A further reinforcement of rationalist, objectivist approaches to what was legitimate management was the idea that both theory and practice had to be scientific. This meant that the management had to concern itself with what were regarded as scientific principles – principles also regarded as based on objective, rationalist knowledge to do with factors not subject to subjective ideas, attitudes, and opinions – as, for example, those held by employees (Green 2017a). This is elaborated below in terms of the type of research regarded as legitimate.

The nature of what is scientific is contested later in this chapter, in particular with what has been regarded in management and management accounting mainstream academic research as scientific. This has implications both for the legitimacy of management practice and for the theoretical foundations presented in this research and in management textbooks used to educate students in various management fields (Green 2019).

Academic Scholarship

The type of academic scholarship under discussion is mainstream management and management accounting writing based on research and published in academic journals. The main journals from which examples are taken here are principally *Administrative Science Quarterly* and *Accounting, Organizations and Society.* Other management, organization, and management accounting journals are also cited.

"Mainstream" constitutes the subjects that are widely regarded as legitimate in the academic community and in its institutions. The concept is then extended to research on these topics and the research methods used. Such research is normally published in academic journals, as in those mentioned above. The higher ranked the journal, the more status and resources for the department or university, and the better the prospects of promotion and resources for the scholar (Green 2019).

In the management and management accounting fields, mainstream scholarship, along with all other scholarships, is normally based on certain principles: ontological (what is considered to be real in the world); epistemological (what counts as knowledge and therefore worth studying); and methodological (how to find this knowledge) (Green 2017b). Certain practices follow from these principles. The ramifications for the legitimacy of management resulting from its mainstream, orthodox approaches are now examined.

Functionalism

Mainstream approaches in management scholarship have been classified as functionalist (Burrell and Morgan 1979). The functionalist ideology is managerialist, in that it looks at scholarship, organizations, and management from the point of view of managers. It has a unitarist approach – that is, that all members in an organization are "on the same page." They all have the interests of the organization at heart and therefore have similar interests, values, and goals. Any problems or conflicts that may arise between members result either from poor management communication or from "troublemakers" in the organization, such as trade unionists. But although all organization members are regarded as having similar goals, they are not, according to functionalism, accorded similar powers. It is only managers who have the prerogative and abilities to make decisions and implement them (Green 2017a).

Functionalism has been carried over into mainstream management scholarship (Burrell and Morgan 1979). An extreme aspect of functionalism has been a "scientific," objectivist approach (Burrell and Morgan 1979). Such an approach has constituted the ontology, epistemology, and methodology of the work undertaken in mainstream management and management accounting research. What this has meant is that research has concentrated on objectivist rather than subjectivist objects of inquiry. (An object of inquiry which some might think of as the subject matter being investigated is used in Bourdieu's sense as an object of "observation and analysis" (Bourdieu 1990a: 27).)

Positivism

Objectivism, linked to what was regarded as scientific, had been propounded by various theorists, and particularly by those called the logical positivists, who purveyed an extreme version of these ideas. Logical positivism was a philosophy that regarded legitimate knowledge only as knowledge that was based on "objective" data, acquired in an objective manner, and verifiable through sense data (Turner 2001). This meant that what was regarded as subjective information was regarded as invalid, including ideas, values, and opinions. Moreover the way the research had to be undertaken was also to be objective, without letting the subjective ideas and attitudes of the researcher get in the way (Green 2017b).

Translated into management scholarship for the object of inquiry to be objectivist meant ruling out the understandings, attitudes, and intentions of the members of the organizations studied, as these would be subjective. This view was held particularly in terms of employees, who were regarded by some also as lacking knowledge of their organizations. One author went so far as to say that employees "may even be quite unable to comprehend the exact nature of the present organizational structure" (Donaldson 1996: 172).

Ontologically then, what were regarded as "real," valid, and legitimate objects of study were those features that were considered to be value-free and not subjective. What became popular subjects for research regarding organizations were their systems and structures, as these were regarded as objective and not prone to human subjectivities and, as Donaldson had claimed, unlikely to be comprehended by employees (Green 2017b).

Epistemologically, what has therefore counted as knowledge about organizations has been the research based on objective features such as their systems and structures. As mentioned earlier there was also a requirement for research methods to be objective in order for the work to be regarded as scientific and therefore having a claim to legitimacy in the academy. What was largely enacted as objectivist, scientific work in management and particularly management accounting research were large-scale surveys using Likert-type scales. As mentioned above, this research has often been set in the context of organizational change due to external factors such as changes in the market and in technology (Green 2017b).

Management Research

Burns and Stalker's book (1961, 1966, 1994), mentioned earlier as being about the difficulties of achieving organizational change, exerted much influence over many management and management accounting scholars. Much of their work was based on Burns and Stalker's research findings that organizations, to be successful in situations of change, had to change their structures from hierarchical or "mechanistic" to flexible or "organic" ones (see Green 2019 for a fuller analysis of Burns and Stalker's ideas). Much of the research undertaken in mainstream management research was to investigate this thesis: were organizations in stable conditions maintaining hierarchical systems and structures successful; were those in more volatile situations more successful if they changed to more flexible structures and systems (Green 2017a, 2019)?

As mentioned, the research was generally carried out using surveys based on Likert-type scales. The interviewees were normally senior managers, sometimes the senior manager of the organization on his own. (In the 1950s and early 1960s, managers were unlikely to include women.) At times the survey was preceded by an interview with some managers in order to help formulate questions for the survey (Green 2019). This research was then analyzed using statistical techniques, which were often justified at some length. This was regarded as objectivist, scientific research – an idea that is contested later in the chapter.

Legitimation of Management Scholarship

It has been claimed that mainstream management research is objectivist, scientific, and therefore legitimate. These claims have been upheld by the academy in various ways. Journal editors often preferred this type of scholarship to qualitative, subjectivist research. And theirs were the journals which often received the highest rankings, crucial for the fortunes of their university or department and for the careers of the scholars whose work was published in these journals (Green 2019).

The Cold War and McCarthyism were further stimuli in encouraging research that was empirical and quantitative (Tadajewski 2009). There were also pressures, for example, from the Ford Foundation, to do work which involved research, "stiffened" with statistics and quantitative methods (Barley and Kunda 1992: 376; Maher 2001). This was in part due to the anxiety caused in the West by the successful launch of Sputnik by the Soviet Union in 1957 (Maher 2001). This legitimation has reinforced ideas that this choice of subject matter and research methodology is a valid scholarship, to be preferred to alternative types of research, particularly qualitative, subjectivist scholarship, as in the interpretive approach (Green 2019).

The interpretive approach, often used as an umbrella terms for qualitative, subjectivist work, is outlined here to show its contrast to positivist, objectivist research. It has been developed to refute and counteract logical positivist and later neopositivist ideas (Green 2017a). According to interpretive approaches, what is real in the world and should be studied are people, their views, and actions rather than inanimate structures. It is people who create the world, and only through studying them can one gain knowledge of the world they inhabit – the social world. Appropriate research methods would be those concerned with gaining knowledge about people's understandings of their situations. Surveys and questionnaires would not be suitable for such research. Instead qualitative methods, such as participant observation and interviews giving respondents freer rein to express their views, are examples of research methods used (Green 2017a, 2019).

In mainstream research, because the choice of respondents by researchers has generally been senior managers of the companies they have studied, this legitimates managers as having the knowledge about their organizations' systems and structures and also implicitly or indeed explicitly accords these managers the authority to devise structural change strategies and the capability to implement them successfully. The absenting of employees in more subordinate positions from the research assumes that they do not have any knowledge relevant to organizational issues such as change. It also assumes that they do not need to be "in" on any discussions about such matters, probably because they are regarded as passive, loyal recipients of managerial decisions, as indeed is inherent in functionalist ideas about how organizations operate (Chua 1986).

Critic of This Approach

Employee Passivity

This critic starts with the last point – the passivity, loyalty, and acceptance of managerial decisions by employees. Burns and Stalker, in their research into 20 English and Scottish electronic companies, faced in the middle of the last century with the challenges of new technologies and new markets, found the opposite of passivity, loyalty, and acceptance of managers' strategies for change to their companies in this new environment (Green 2019).

Instead they found many failures in these strategies, particularly in the Scottish companies, which hitherto had enjoyed government custom, and had not been exposed to market competition. The failures were due to the actions of organizational members – starting from employees in more subordinate positions through managers at different levels, reaching right up to the chief executives of these companies (Burns and Stalker 1961).

Insecurities, Careers, and Conflicts

There were different reasons, all affecting the feelings, attitudes, ambitions, fears, levels of expertise, and capabilities of employees at different levels and in different departments in these organizations. Examples included insecurities about the changes; some suffered from bureaucratic inertia, not wanting to consider more flexible processes they were unused to (Burns 1966). Career ambitions were a further reason for the compromising of management strategies in some organizations. There were rivalries and conflicts between the newly appointed technical experts and longer-standing employees, including managers. Many felt threatened by the scientific experts, who often accorded privileges to themselves not enjoyed by everyone else and not sanctioned by the management (Burns and Stalker 1961). For a fuller analysis, see Green 2019.

There were departmental conflicts, for example, between salesmen and engineers for resources, policy, and patronage. Moreover, there were informal alliances between employees, often ignored by researchers, which nevertheless had a great deal of influence over organizational processes and which could modify or render inoperative decisions made through the formal structures that managers employed (Burns and Stalker 1961; Green 2019).

Chief Executives

Chief executives were also not immune from experiencing difficulties with organizational change. They, in contrast to the assumptions made by mainstream researchers about the power and prerogative of senior managers, had an almost impossible task facing them. They were expected to have detailed knowledge of their organizations; to be able to estimate the environmental challenges facing their organizations; and to have the knowledge to suggest strategies for change and the skills to be able to implement these strategies in their organizations (Burns and Stalker 1961; Green 2019).

These chief executives were hampered not only because of the huge demands made upon them but also because their knowledge of their organizations and possibly also of the environmental problems facing them were necessarily restricted by the fact that they were isolated because of their position and their subordinates did not always provide them with relevant or adequate information. In fact withholding information from superiors was seen by Burns and Stalker to be present at different levels throughout the organizations they studied (Burns and Stalker 1961; Green 2019).

These are just some examples of the problems commonly present in organizations, particularly when undergoing change. In a book republished in 2013 which was mentioned earlier, the problems of organizational change, employee resistance, and managerial challenges were shown to be no less prevalent or consequential for the success of the companies researched (Mansfield 2013, *passim*).

Choice of Respondents

Despite the careful and painstaking work done by researchers using functionalist, objectivist methods, it still puts into question the comprehensiveness and adequacy of knowledge that is based on research which avoids looking at how employees, from chief executives downward, understand, regard, and act on issues in their organizations, be they managerial strategies or other factors.

Given the difficulties Burns and Stalker found that managers faced, including their lack of knowledge about what was happening in their organizations and their vulnerabilities regarding their lack of expertise in their new technological environments, it is perhaps surprising that academic researchers did not consider throwing their research nets more widely than the solitary senior manager frequently interviewed or surveyed. There might have been political considerations to maintain the precedence of managerial prerogative, power, and legitimacy. In addition, established custom had served researchers and their institutions well. The ideology of positivism and objectivism, the basis of this type of scholarship, may also have been too strong to contest. The critique of this ideology below, however, shows serious weaknesses in its precepts.

Scientific Principles and Methods: A Critique

Objectivism in the Natural Sciences

The view of logical positivists, as mentioned, was that knowledge that was properly scientific had to be empirical, observable, acquired through sense data, and verifiable through experience. The way such data was analyzed was through quantitative methods such as sampling, scaling, and statistical analysis (Turner 2001). This was the basis of much mainstream research in the social sciences in general and, as has been claimed, in management and management accounting as well. For these subject areas to be legitimated as being "scientific," researchers were advised to engage in what were regarded as the scientific methods of inquiry above (Halfpenny 2001).

However, these claims as to what counts as scientific work have been contested by philosophers of science. Most famously, Thomas Kuhn's *The Structure of Scientific Revolutions,* originally published in 1962 and running to four editions, challenged positivist approaches. According to Kuhn, scientific methods of inquiry were much broader. The objects of inquiry were not restricted to empirical, observable data. Rather, they consisted of universally recognized achievements providing model problems and solutions. Science included "any field in which progress is marked" (Kuhn 1970: 162). It was to do with solving problems concerned with the "behaviour of nature" (Kuhn 1970: 168).

Moreover, there were various ways in which information could and should be acquired – and not only through sense data. Kuhn and another philosopher of science, Paul Feyerabend, both argued that there were no strict or unchangeable rules and standards for acquiring scientific knowledge. Nor did the methods have to be through experiment and observation (Feyerabend 1993: xi, 11).

Kuhn, whose ideas centered on the development of new paradigms, argued that the opposite was the case. The ability of scientists to develop new paradigms and therefore new knowledge involved their asking new questions, thinking of new solutions, and finding new ways of dealing with data (Kuhn 1970). Rather than being rigid imitators of "established behavioural patterns," scientists needed to be open to new ideas and new ways of looking at things (Feyerabend 1993: 159).

Other positivist cannons were challenged. The stipulation that quantitative methods of analysis had to be used was disputed. Feyerabend pointed out that quantification was not always appropriate even in subject areas where it might be assumed to be. In one of the "apparently most quantitative of all sciences, celestial mechanics," it was difficult to use quantification and much easier to use qualitative (topological) methods (Feyerabend 1993: 2).

Moreover, there was no contradiction between, nor exclusivity regarding, these different methods of analysis. For Kuhn qualitative and quantitative methods, far from being in opposition to each other, often complemented each other in research. Quantitative-based science often followed on from initial qualitative work:

> . . . so general and so close is the relation between qualitative paradigm and quantitative law that, since Galileo, such laws have often been correctly guessed with the aid of a paradigm years before apparatus could be designed for their experimental determination. (Kuhn 1970: 29)

Perhaps the most "sacred" and strongest conviction for science's superiority and sole legitimacy to knowledge, and therefore justification for the mainstream management and management accounting scholarship outlined above, was the claim that science, unlike qualitative, subjectivist research, was objectivist and neutral and not subject to the researcher's subjectivities nor to other human influences.

These claims too have been challenged. Hanson, also a philosopher of science, pointed out how a subject could be understood, interpreted, and analyzed differently according to the researcher's background and interests. One example he gave was of the different interpretations the astronomers Tycho Brahe and Kepler would give of the dawn: one would see the sun moving above the horizon; the other the earth rotating away to reveal the sun. The data was the same; the interpretations were different – "*ex post facto* interpretations" by the astronomers (Hanson 1972: 8).

Kuhn argued against science being value-free. He pointed to normative value judgments in scientific communities, which exerted considerable influence over the work of scientists in their particular community. It influenced many decisions about how scientists should go about their work: what approach should be taken; what counted as appropriate objects of inquiry – the relevant and valid scientific problems to be investigated; what were acceptable solutions; and what constituted scientific achievement (Kuhn 1970). (See Green (2019) for further analysis.)

Objectivism in the Social Sciences

The conviction that there can be objectivism in research in the social sciences is open to debate. It has been shown that there are arguments by eminent philosophers of science that, even in the natural sciences, objectivism is not necessarily a given and that there are subjective elements often present. In the social sciences, including the management fields, there are many objections to the idea that research can be objective or indeed scientific, in the senses mentioned above – value-free knowledge acquired through sense experience and analyzed through statistical techniques.

Bourdieu, writing about the social sciences in general, came down fiercely against claims that such research was scientific. He argued that much of this research had the appearance of having scientific legitimacy in terms of the instruments used:

> The mania for methodology or the thirst for the latest refinements of componential analysis, graph theory, or matrix calculus assume the same ostentatious function as recourse to prestigious labels or fascinated attachment to the instruments – questionnaires or computers – most likely to symbolise the specificity of the craft and its scientific quality. (Bourdieu et al. 1991: 70–71)

However it lacked the rigour of true scientific work. What often passed for scientific work was, according to Bourdieu, mere “scientificity.” Rather than imitating accepted scientific models and methods,

> scientific practice never takes the form of an inevitable sequence of miraculous intellectual acts, except in methodology manuals . . .. [It requires] the long effort . . . which little by little leads to the *conversion* of one’s whole view of action and the social world that is presupposed by ‘observation’ of facts that are totally new because they were totally invisible to the previous view . . .. (Bourdieu 1990a: 16) (emphasis original)

Implications for Management Scholarship

Scientific Work

If one accepts alternative, broader definitions of science, what counts as scientific research, and what is mere “scientificity,” one has to reconsider the claims for the legitimacy of the ideology and practices of mainstream management scholarship.

Firstly, it has been shown through Kuhn’s and Feyerabend’s analyses that there is not only one way to do science. In fact for them, the opposite was the case. In order for knowledge to develop, Kuhn (1970) argued that scientists (and for the purposes here – scholars) needed to think “outside the box” as to what constituted problems that were worth studying, as well as appropriate methods of research and possible solutions. Otherwise it would be difficult for new ways of thinking to arise. These ideas challenge the exclusivity of positivist, scholarship, and the full legitimacy of orthodox management scholarship based exclusively on objectivist approaches.

Neutral and Value-Free Scholarship

Challenges to scientific work being value-free and neutral by Kuhn (1970) and Hanson (1972) make management scholarship particularly vulnerable to charges of managerialism – looking at organizational features and issues only from managers' perspectives and seeing fit to interview and survey managers exclusively for information about their organizations, with a disregard for the potential value of subordinate employees as respondents and for their potential power to influence organizational outcomes.

Recourse to an analysis of organizational systems and structures as explanations for the success or otherwise of managerial change strategies needs to be justified in terms of their adequacy as an explanation. As argued above, human agency, in addition to appropriate systems and structures, was found by Burns and Stalker, among others, to be crucial in explaining successes and failures of the implementation of organizational change policies (Green 2019).

Researcher Choices

Functionalist, objectivist research methodologies have been used on the grounds of their being value-free and neutral. This can be contested in various ways. Criticism is not being made of the methods used – largely survey questionnaires. These have their value, particularly as they can reach a large number of respondents whose answers can be compared and statistically analyzed with confidence that such comparisons are sound and can produce useful findings.

What is challenged here is that these methods are neutral and value-free. Although it has been held that the subject matter is objective as it is outside the realm of human subjectivities, it can be argued that it is nevertheless a choice. It is a conscious choice to assume that organization systems and structures are sufficient to explain organizational outcomes in situations of change over, for example, the knowledge that might be gained from knowledge about the subjective responses of organizational members to such change. The choice therefore is a subjective one by the researcher and needs to be justified (Green 2019).

If one considers the respondents, a claim can be made that the choice of respondents – in this case senior managers – is also a subjective choice. As argued earlier, such a choice can be seen as a politically motivated act – legitimating and bolstering the power of managers to make decisions about organizational change strategies and their implementation.

And again, as discussed earlier, participation in this by employees lower down the organizational ladder might lead to better decisions being made and to greater acceptance of the changes by subordinate members of the organization. Dermer and Lucas (1986) showed how in large organizations senior managers did not necessarily know what was happening lower down their organizations and could be much mistaken – with consequences for the effectiveness of their decision-making.

Research Methods

While questionnaires have their uses, they are limited. Many researchers went to considerable lengths to develop questionnaires that would give them information about the control systems and structures of the companies they were researching. One example is Simons, a respected researcher, who published his research in the highest-ranked journals. He investigated companies to establish whether Burns and Stalkers findings that successful companies had to change their structures in times of environmental change were substantiated (Simons 1987).

Simons carried out lengthy semi-structured interviews with senior managers to establish the situations of their companies in terms of challenges to change, and the differences between them, in order to get ideas for his questionnaire design. Questions were developed after consulting existing literature on questions in similar areas and after they fitted with the interview data supplied by senior managers about control characteristics they considered important (Simons 1987).

This was careful, painstaking, professional research. However there were limitations. Given what was said earlier about the restricted knowledge that senior managers might have of what was happening at all levels of their companies, it was, arguably, not enough to interview only managers at the highest level. The validity of such information would be even less if only one manager per organization was interviewed. According to Van der Stede et al. (2005), scholarship is weakened in these circumstances, as one respondent's views are not verifiable and in any case cannot represent all the views in her organization.

Well-known problems with questionnaires include the fact that the questions are predetermined and respondents have to fit their answers to those questions, which may not exactly fit their own organizations' circumstances. The questions too can only elicit general answers. To use Simons' questionnaire as an example, one of the questions was about the extent to which internal audit groups were used to check financial information systems and reports in their organization (Simons 1987). All that the respondents could do using a Likert-type scale was to indicate whether this was the case to a high degree or to lower degrees. No information could be extracted about how this was done; what were the advantages, disadvantages, strengths, or weaknesses of this system; and how this affected the organization and its members (Green 2019).

Furthermore, the questions, however well-researched, are in the end devised by the researcher and therefore in the end are subjective choices (Green 2019). Stainton Rogers (1995) argued that questionnaires tell us more about the person who has constructed the questionnaire than about the respondents from whom it is designed to gather information.

Ultimately, claims that this type of research is more objective and therefore scientific, are weakened by considerations of how philosophers of science such as Kuhn and Feyerabend have described science and scientific methods. Objectivist research methods have been challenged by others too. Bourdieu also regarded objectivist research in the social sciences as being poor simulacra of serious scientific research methods, lacking the intense, constant, and persistent scrutinizing that questioned, developed, and modified the subject matter as more research was carried out.

Conclusions

Ways Forward

So what might be the way forward regarding management scholarship? The first step could be awareness of where subjectivities lie with the scholarship – the researcher's choices with regard to her general approach, including the object of inquiry, the respondents selected, and the research methods used. More serious and extensive modifications to mainstream management scholarship would be to take seriously the ideas put forward by Kuhn and Feyerabend for the need for scholarship to be more painstaking and eclectic in its questions, solutions, and research methodologies.

This would require broadening the scholarship from the functionalist approach alone to include alternative paradigms. The interpretive paradigm, along with the use of qualitative research methodologies, would address more subjective subject matter. One could go "more alternative" and use radical paradigms, which would examine organizational processes and issues from the point of view of employees lower down the ladder, and highlight questions about power and control by management and also about latent and actual resistance to managerial strategies. Postmodernist approaches might question the meaning of "management," investigate how it was practiced (and not practiced), and in that context examine the possibly artificial distinctions and bipolarities constructed between managers and the managed (see e.g. Derrida 2002 *passim*).

Holistic Research

Combining different ontological, epistemological, and methodological approaches has been advocated by various theorists writing more broadly about the social sciences. Bourdieu argued passionately against the use of an objectivist approach which excluded subjectivism. While the former was concerned with objective factors independent of human minds and wills, the latter was concerned with equally important matters as to how people experienced interactions and how they influenced the social realities in which they were situated (Bourdieu 1990a).

What Bourdieu contended was that the exclusive use of either approach could not provide adequate explanations. Such divisions were invalid and dangerous. They were the "most ruinous" of divisions in the social sciences (Bourdieu 1990a: 25). Neither approach could provide a sufficient explanation on its own, and these separate types of scholarship led to "mutilations" in sociological analysis (Bourdieu 1990b: 34).

Both approaches were needed for adequate scholarship – objective structures could influence and constrain human actions, but people could equally well influence events. Certain situations in organizations required the analysis of structural factors; others required knowledge of human factors – of people's understandings of what was happening in their worlds and the actions they intended to take or had taken (Bourdieu 1990a).

Such ideas have been supported by some scholars in the management/management accounting fields. Brown and Brignall (2007), for example, argued for a mixed method approach, where there would be mathematical techniques used for accounting relationships complemented by qualitative approaches for organizational and human issues. They themselves used a mixed approach and a triangulated methodology. Similarly Modell (2009) supported mixed methods research, basing his work on a long history of management accounting research which had combined quantitative and qualitative methods. And Davila et al. (2009) expressed interest in rich research using a cross-sectional, multi-method, multi-case research design (Green 2019).

Practical Application

As Burns and Stalker (1961, 1966, 1994) showed, outcomes resulting from organizational change strategies were mostly unsuccessful in the organizations they studied. And, as mentioned earlier, other theorists have also often found this to be the case, e.g. Mansfield (2013). The practice in mainstream management scholarship of looking only at objective factors such as organization systems and structures had omitted studies of organizational members, their attitudes to managerial strategies, their intentions, and their translation into action, be they full acceptance of these strategies, modifications, or resistance to them.

This has had repercussions in terms of "absences" (Bhaskar 2008) in management scholarship, with the danger of only partial information and ideas being imparted to scholars, students, managers, and other practitioners about systems and structures, but not about human agency and the potential effects of this, both positive and negative, on the success of managerial strategies and of organizational outcomes. These absences have included managers' vulnerabilities with regard to the extent of their knowledge about their organizations, their employees, different departments, their environments, and the potential difficulties likely to arise through their policies and strategies for the implementation of changes.

Such omissions, in conjunction with other potential difficulties in the relationships between academic scholars and professional practitioners, are not likely to serve practising managers well and could increase any existing distrust or lack of interest in what academicians have to offer (Green 2019). A critical accounting scholar, Panozzo, described management accounting scholarship as being removed from what was happening in real life in organizations through its use of highly idealized constructions, irrelevant to organizational practice (Panozzo 1997). What accountants did was to produce

> abstract models postulating the existence of idealized worlds and excluding involvements in field research . . . [which were] hardly justifiable in the social sciences. (Panozzo 1997: 459)

Toward More Legitimate Management Scholarship

Problems, including those of fuller legitimacy, it has been argued in this chapter, exist because of the mono-focused approach that mainstream management and management accounting scholarship has (with exceptions) adopted. It should be reiterated that this is not an attack on objectivist scholarship per se. Rather it is an analysis of the ontological, epistemological, and methodological limitations of using only one approach to the exclusion of others. As Bourdieu (1990a, b) said, each approach had its limitations, and both were needed for satisfactory scholarship.

The absences in the mainstream management approach have been about the majority of people in the organizations studied, including their attitudes and actions, which in some cases constituted potential threats to the successful implementation of managers' strategies. This scholarship can be faulted for downplaying the latent power that employees could have in certain situations. This, it can be argued, while being politically on the side of management, also potentially weakens it through not raising this as a problem that could arise if organizational change was mishandled.

The denial of the possibility of employee resistance modifying managers' strategies or causing them to fail entirely can be seen as de-emancipatory. Many writers have analyzed the knowledge and discourses produced by management in this light (Green 2012). Habermas' classification of the dominant type of knowledge as the technical reason, which, he argued, constituted a focus on managerial ends rather than employee interests or participation, was a way in which control was appropriated by managers (Habermas 1972).

Bhaskar, in his work on critical realism, argued that this was the case because of the absences created through these exclusions in dominant scholarship. He was for the "absenting of absences" (Bhaskar 1993: 83). What he and others wanted was a more holistic scholarship which recognized both subjective and objective factors and their interdependence. In this way a more totalizing and emancipatory scholarship could be achieved (Green 2019). It would have more sustainability – epistemologically, practically, politically – and therefore also in terms of legitimacy.

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Society's Megatrends and Business Legitimacy: Transformations of the Legitimizing Business Paradigm

19

Susanne Holmström

Contents

Abstract

Recent decades have witnessed a transformation of the legitimizing paradigm that mediates the interrelation between the business community and the rest of society. The transformation is activated by a series of parallel but diverse challenges to society's cohesion driven by society's evolution at different dimensions of society. The rationality of legitimacy has grown from being given to being discursive. What was formerly seen as reciprocal opposites – such as considerations of life and nature as opposed to considerations of profit – is increasingly seen as mutual preconditions. New polycontextual forms of co-regulation have increased and changed the company's legitimizing environment. What was formerly seen as private has to a large part become of common interest and

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consequently subject to public searchlight. Empirical analyses show how society tries to solve its problems produced by the blind reflexivity gradually evolving with the stabilization of modernity by activating reflective forms of coordination.

Keywords

Reflection · Reflective paradigm · Megatrends · Legitimacy

For a company to be seen as legitimate has always been decisive to its supply of resources – investments, sales, motivated employees, general support in society. However, the preconditions of legitimacy change. The interrelation between the business community and the rest of society is not constant. It follows society's evolution and is mediated by changing legitimizing notions. Today, in societies characterized by modernity, it is taken for an almost granted precondition of legitimacy that business companies take on a societal responsibility that exceeds quick profits, and that they are prepared to justify their decisions in public. However, only a few decades ago these were new and unusual demands which collided with the then prevailing notions of legitimacy within the business community and were encountered with fierce opposition and counteractive corporate strategies (cf. ► Chap. 80, "Legitimizing Practice Forms During Transformation of a Legitimizing Business Paradigm: Changing Strategies and Reasons").

Legitimizing notions establish certain patterns of expectation and contribute to social order and society's cohesion by defining what is perceived as legitimate, i.e., what is seen as right or wrong, relevant or absurd, reasonable or unfair, normal or boundary spanning – in short: What is seen as *socially acceptable*, i.e., what is suitable behavior in specific situations and contexts. Legitimizing notions coordinate our way of interacting as well as our relations to organizations and their reciprocal interrelations. They constitute a "generalised inclination to accept so far undecided decisions within certain boundaries of tolerance" (Luhmann 1993a: 28), i.e., define a frame for decision-making premises and corporate practices in return for trust, license-to-operate, and general acceptance and support in society.

Empirical observations show how different societal forms and stages of the evolution of a specific societal form activate different legitimizing notions. When the private enterprise emerged with modernity in the late seventeenth and the eighteenth century, focus was on the rights of the then new private sphere in relation to the state, and on the development of economy, politics, science, education, medicine, family, etc. as independent spheres with each their rationale. After the feudal society's violent forms of coordination, the emerging market sphere was seen as society's civilizing mainstay which via the public sphere held the then new state power accountable and warranted the dawning democracy (Habermas 1989). The business company was born as legitimate and societally responsible.

Modernity broke with the perception of legitimacy as something inherent with reference to authorities such as God, sovereign, or a moral order. The modern era's secularization and fragmentation can be seen as society's conversion from a concurrent *other-reference* to religion in the legitimizing processes to *self-reference* in a range of gradually differentiated societal areas such as economy, politics, science, etc. (Luhmann 1995: 461). Correspondingly, in the course of the development of modern society, it was legitimate that these societal areas focused narrowly on their own individual development on their own individual premises.

As society evolves, established legitimizing paradigms and practices grow outdated. They no longer contribute to provide social cohesion and are subject to repeated processes of transformation. During the latter half of the twentieth century and the start of the twenty-first, the most recent transformation has taken place. New legitimizing notions and practices have evolved to cope first with modernization's increasing strains on life and nature, second with society's accelerating complexity and diversity, and third with the growing global interdependence and modernity's clash with different types of society.

These transformations are general trends in all parts of society. In the business community, they manifest in themes and practices that, as different forms of resonance to society's evolution, have moved from the periphery into being central issues to a company's existence: social and societal responsibility, sustainability, accountability, transparency, multiple bottom lines, cross-sectoral partnerships, corporate citizenship, public relations, public affairs, corporate social innovation, governance networks, and co-regulation in interplays with an increasing range of stakeholders. Together, these notions form a new legitimizing business paradigm focusing on a more sensitive approach to life and nature, as well as to the mutual interconnectedness between society's diverging rationales and interests. (For an analysis of this transformation process and legitimizing practice forms, see ► Chap. 80, "Legitimizing Practice Forms During Transformation of a Legitimizing Business Paradigm: Changing Strategies and Reasons").

Empirically, we can observe the transformation of legitimizing notions that mediate the interrelation between the business community and the rest of society – but how can we explain them theoretically? The explanatory suggestion unfolded in this chapter is based upon the thesis that legitimizing notions support society's cohesion and change in response to challenges posed by society's evolution. To substantiate this thesis the problems that challenge society's cohesion will be identified, and an analysis of how a new legitimizing paradigm copes with these challenges will follow. In a sociological perspective, this means a focus on the sense-making social filters that constitute our notions of what is right, reasonable, relevant, and right – i.e., of what is legitimate. As approach, the sociologist Niklas Luhmann's theory of epistemology, society, and organizations is chosen, in particular because Luhmann's extensive complex of theories makes it possible to link observations at the level of society's evolution to events in organizations and in everyday practice with a stringent theoretical consistency.

Thus, the chapter's theoretical understanding of social dynamics and society's constitution is based predominantly on Luhmann's theories. However, analyses and theories on the transformations of legitimizing notions into a reflective business paradigm on six societal megatrends are based on the research and theoretical developments by the author of this chapter. First, those parts of Luhmann's theories that are applied as analytical optics are briefly presented. Second, societal megatrends are identified that have activated the transformation of the legitimizing business paradigm. Finally, as the mainstay of this paradigm, the specific second-order mode of self-observation, reflection, is identified; i.e., the ability of a company to raise its perspective so that it sees itself as if from above, in the larger societal context, instead of observing the world blindly from within from a narrow tunnel vision.

Social Cohesion

The basic contention of the research presented in this chapter is that we have to adopt a counterintuitive approach with a focus on the self-referential social dynamics if our observations are to be at level with contemporary society. So, in order to capture the complexity and diversity of the social processes constituting the interrelation between organizations and society-at-large today, the focus is on society and organizations as constituted by sense-making social processes mediated by specific social filters of recognition without which the world complexity would be an incomprehensible chaos to us.

Social processes are specific communicative elements (Luhmann 1995: Chap. 4; cf. also ▶ Chap. 80, “Legitimizing Practice Forms During Transformation of a Legitimizing Business Paradigm: Changing Strategies and Reasons”) which by constantly causing and connecting to new communications reproduce society. The basic point is that the continuation of this recursive stream of selection of meaning conditions society’s cohesion. Society’s evolution – and subsequent transformations of legitimizing notions – means processes seeking to support the continuous flows of communication.

Society differentiates in meaning systems with individual criteria of interpretation and with individual legitimizing notions in order that particular patterns of expectation are reproduced. These filters consequently determine what is seen as right and wrong, relevant and irrelevant, appropriate or absurd – in short: legitimate. In this way, communicative connection and thus social cohesion is rendered probable. The type of society framing the legitimizing paradigms upon which this chapter focuses is modern society, a functionally differentiated society (Luhmann 2012: Chap. 4, VIII). As fundamental filters for social interaction, society has differentiated in principally equal, however, incompatible societal spheres of meaning, with each their individual self-legitimizing rationale directed toward a specific function – politics, law, science, economy, medicine, religion, journalism, family, and more.

Functional differentiation is the basis of the modern welfare society – however, is not without inherent problems to its own continuation. From different theoretical positions, during the latter half of the twentieth century, analyses suggest that the modern society is in a crisis. According to Habermas (1981), a divide of legitimacy has arisen between a system rationality and a lifeworld rationality. Bauman (2000) describes the transition from solid modernity’s rigid norms and rules to liquid modernity. Beck focuses on how modernity reflexively produces risks – as "self-confrontation with the consequences of risk society that cannot be dealt with or assimilated within the frames of industrial society" (1992: 6). Luhmann suggest the risk that society "rigidify into repeated, but no longer environmentally adequate, patterns of behavior" (Luhmann 1995: 372). Functional systems have developed and stabilized to a degree of large specialization and division of society and a tendency to generating reciprocal strains in between functional rationales, as well as strains on life and nature.

Legitimizing notions of unproblematized growth and blind progress are challenged. Society activates a series of protest position in the form of social movements (Luhmann 1986, 1996), which gradually organize and contest established legitimizing paradigms. Since the problem proper – the self-containedness of functional rationales – cannot be addressed directly, turbulence strikes in society's decision-making machines, organizations, which in their decision-making premises apply the functional rationales (Luhmann 1999, 2000a). A specific focus is on the strains by the economic rationale, and on its dominance in business companies with profit maximization as their absolute criterion of success. After decades of complex co- and counterplays in between society's different positions, gradually a new legitimizing paradigm catches on. It motivates to considering life and nature and enables flexible forms of coordination in between society's sectors, while at the same protecting society's basic structures. Society absorbs the turbulence, the protests against itself in learning processes with new legitimizing noting and practices that support the social cohesion of contemporary modernity characterized by diversity, uncertainty, dynamism, and liquidity.

Society's Megatrends

The premise is that we understand the transformations of legitimizing notions as part of society's evolutionary processes that seek to hold the flows of communication going. When we endeavor to understand the new challenges to business legitimacy, we therefore have to identify the problems or society's cohesion that are activated at different dimensions of society in the transition from full (or solid) to ultra (or liquid) modernity: (1) society's relation to life and nature; (2) the organization of society's decision-making; (3) the primary differentiation of society into functional systems; (4) the political coordination of society; (5) social safety strategies; and (6) societal forms.

Each dimension activates a fundamental problem and gives rise to a distinctive evolutionary trait in society where new legitimizing notions are activated (Holmström 2008, 2010, 2018b). These megatrends interact in the transformation of the interrelation between the business community and the rest of society. However, they unfold on each their specific issue arena with each their themes, conflicts, interests, positions, perspectives, paradoxes, interrelations, and forms of practice and pose different challenges to business companies.

Insensitive Society: People, Planet, Profit

The first evolutionary trait is the most visible and, on face value, the most simple and straightforward of the six megatrends identified below. However, it relates to the probably most counterintuitive aspect of society. *The insensitive society* is produced by society's structurally determined (in)sensitivity to its environment, i.e., to non-social processes. The megatrend manifests in an extensive range of themes: from business companies' prioritization of issues such as stress, child labor, animal welfare, and climate changes to the unequal distribution of the world's resources, in confrontations between NGOs and business companies and in legitimizing notions of *the triple bottom line* (Elkington 1997; Shell 2000), of business strategies such as *Closer to Nature* and *Good Growth* (Arla Foods 2018a), and of compliance with UN's Sustainable Developments Goals (UNSDG 2018). Where the legitimate room for decision-making was formerly defined by narrow objectives of unproblematized growth and progress, today companies must endeavor to balance considerations of profit with considerations of people and planet.

The basic premise is to understand society as social processes – and society's environment as nonsocial processes, i.e., organic, chemical, biological, physical, and psychical processes. Society automatically reconstructs anything, including the well-being of nature and human beings, through its social filters, each with specific criteria for relevance and success. For organic, chemical, biological, psychic, and physical processes to be observed, interpreted, and communicated in society, they must be reconstructed into social processes according to society's meaning structures, and even then much is lost or distorted in translation. For instance, the economic rationale cannot observe its side effects such as pollution, deforestation, stress, or oppression of human rights before they affect market conditions and consequently can be seen with economic distinctions. Moreover, what is observed is reconstructed by economic distinctions. A similar (in)sensitivity applies to all societal rationales. A fundamental benchmark of politics is: will it help us gain votes? Of science: will it create new insight? Of mass media: is it new information? In their criteria of relevance, the functional rationales serve as gatekeepers which specialize society's sensitivity.

This (in)sensitivity leads to unintended strains on human beings and nature. For, as modern society stabilizes, the differentiated functional rationales generate increasing knowledge and growth. This means that nature and humans are increasingly being interpreted by functional rationales and strained by their criteria of relevance and success. Apparently, a critical mass is reached toward the latter half of the twentieth century. Social movements confront the established structures of society and gradually organize effectively in NGOs. Increasingly, demands of wider considerations of nature, animals, and human beings catch on and activate new legitimizing notions. A new business paradigm endeavors to internalize considerations of life and nature, articulated in statements such as those by Danish healthcare company Novo Nordisk: "We maximize profitability by contributing to sustainable development and balanced growth; we explore business opportunities by initiatives that address social needs or help reduce environmental impact" (Stormer 2007).

We may understand society's response to its limited resonance as a reprogramming of society's functional rationales to larger sensitivity to life and nature – without weakening these rationales. It is done by an almost paradoxical u-turn of the legitimizing notions that mediate society's interrelations with its environment. From having been seen as reciprocal opposites, the consideration of society's different criteria of relevance and success on the one hand (i.e., the generation of knowledge in a research institution, of news at an editorial office, of education at a school, of political power in a government, of profits in a business company) and on the other hand considerations of life and nature are gradually seen as mutual preconditions (Holmström 2013).

The new legitimizing notions increase society's structural resonance to its non-social environment. However, there are limits to this resonance. For society's resonance is determined by society's meaning filters. It fosters extensive limitations. It is an immanent mechanism of social processes that meaning systems can be affected by events in their environment; however, the resonance depends completely on the system's filters of interpretation. Whether anything is relevant to economy depends on whether it makes a difference to economy. Correspondingly, it goes for organizations with their primary reference to science, politics, education, health, etc. that they must be able to observe the relevance with their systematically conditioned optics to be motivated to taking considerations.

However, conversely it also means that organizations are "defenselessly exposed" (Luhmann 1986: 22) when environmental strains finally catch on to their criteria of relevance and success. This is the case when environmental considerations pay off in the business community; when stress can be made the object of the production of new knowledge in science; when focus on climate changes creates political popularity; and when lifestyle disease can be made into news. Hypersensitivity is constantly lurking and threaten to distort society's structural resonance on its strains on life and nature. Attempts of problem-solving will ultimately cause new strains – such as when climate-friendly branding and CO_2 neutral "green" products explode when in market demand; however, with extensive administration and resource demanding reports on the triple bottom line as a result.

Decision Society: Risk Versus Danger

The megatrend of *decision society* is activated by the dimension where society organizes its decision-making. The propelling problem is, first, the increasing focus on decisions, the premises of which are not given but results of contingent choices that could have been made differently, and, second, the increasing perception of the asymmetry between decision-makers and those potentially influenced by a decision without having a final say or even being involved in the decision-making (Holmström 2005; Luhmann 1993b). The notion of decision society captures the growing awareness of the inherent asymmetry between decision-maker and those potentially affected by the decision. It contributes to explaining the demand for "responsible," "accountable," "sustainable," and "transparent" decision-making.

Organizations are society's decision-making machines (Bakken and Hernes 2003; Becker and Seidl 2005; Luhmann 2000a), decision implying a *fixation of social expectations*. It is via organizations and only there that society can operate collectively. Organizations refer to more of society's functional rationales in their decision-making – however, by far most of them identify and legitimize themselves with primary reference to one functional rationale. It furthers the decision-making processes and strengthens the structures of expectation when you know whether you deal with a business company, the editorial office of a newspaper, a hospital, a school, a university, or a political party. Thus, the fundamental legitimacy to any organization is to fulfill its primary function within society. A business company must secure its economic dynamics; a hospital must be able to treat ill people; a research institution must produce new knowledge; journalistic media must publicize new information; a government must be able to govern; and so on.

Previously, as long as a company complied with these well-established norms of society, its decision-making was generally considered legitimate by the company's environment from almost blind confidence. In the late twentieth century, part of the emerging questioning of norms originating in functional rationales fueled the growing perception that the premises of decision-making are based not on given, shared norms, but on contingent choices that could have been made differently. When norms are seen as contingent (Gumbrecht 2001; Luhmann 1998), everything from fertility to obesity and climate changes are attributed to decisions. As society's decision-makers, companies and other types of organizations are held *responsible* for the consequences of their decisions. Decisions are made a question of the company's choice, and the company is made responsible for the consequences of its decisions in a wider perspective. In a globalized world, this responsibility is broadening, extending from a company's peripheral subsuppliers to the side effects of a product in a distant country. Correspondingly, *sustainability* which involves taking responsibility for the future has become a prominent issue. Even when the victim's perspective joins forces with public opinion and via social as well as conventional mass media provokes a massive front against a company, it remains illegitimate for a company to adopt the victim's perspective. The company must present itself as a responsible, dynamic decision-maker. Reference to unproblematized norms of the established society no longer automatically means responsible decision-making.

The interrelation between decision-maker and potential victim of the decision is born asymmetrical. The decision-maker is more or less prepared to take a *risk*, whereas the potential victim is hypersensitive to the *danger* to which she is exposed by decisions made by others. Because the asymmetry between decision-makers and those potentially influenced by a decision without having a final say or even being involved in the decision-making is perceived as increasing, the victim's perspective explodes and finds immediate resonance with the selection criteria of news media (Luhmann 2000b). Fear, worry, and distrust spread. The legitimacy of decisions is constantly questioned from the perspective of the potential victim. However, where organizations are forced, on the one hand, to make decisions, these decisions can, on the other hand, refer to no ultimate reason. These traits lead to public attention being continuously alerted, to the position of fear being stimulated over and over, and to prejudices and worries about the future prevailing. Consensus is not possible: partly because society is differentiated in irreconcilable perspectives; and partly because, since future consequences cannot be known in advance, there can be no unambiguously right solutions. The ultimate risk is for decision-makers to give in to the rationale of fear, give up making decisions out of fear for the consequences, or to transfer the power and responsibility of decision-making to those potentially affected by the decision.

At this dimension, legitimacy implies the delicate balancing act of performing autonomous decision-making (that is, minimizing exterior control and regulation) not in opposition to transparency and involving those influenced by the decisions, but as mutually preconditioned; of seeing the decision-making competence as being strengthened by being shared with the environment. Making autonomous decisions paradoxically requires involving those potentially affected by the decisions.

Partnership Society: Conflict and Cooperation

The notion of *partnership society* relates to the growing specialization of economics, politics, science, medicine, education, etc. This specialization is the precondition of the level of knowledge and recognition today. However, it produces increasing strains in between the functional rationales on the one hand, and on the other hand increasing interdependence.

Consequently, this megatrend manifests partly in legitimacy crises on suspicion of strains of society's fundamental structures (e.g., bribery, corruption, nepotism), partly in different forms of cooperation and partnerships across conflicting perspectives based on legitimizing notions that further cross-sectoral collaboration that respects the individual integrity of the different sectors. These are manifestations of society safeguarding its fundamental patterns of expectation.

The idea behind the transition from the former feudal, stratified society to the functionally differentiated society which took its start in Europe in the late seventeenth century is modernity's assumption that science, education, family, economy, etc. must be freed of the influence of religion in order to develop specialized knowledge and complexity on their own individual terms. These ideas constitute our modern society today and are the basic premise of legitimacy. Violations are tabooed and delegitimized as corruption, nepotism, bribery, populism, prostitution. They violate society's structures and consequently the patterns of expectation that facilitate communicative connection – i.e., they threaten society's basic idea and social cohesion.

The more specialized and closed the functional rationales grow – the more do they grow interdependent of each other's specific specialization and integrity. For example, the development of new treatments and therapies in the medical system requires the production of new knowledge in the science system, which depends on the economic system for its financing, which depends on the law system for intellectual rights, which depends on the political systems for legislation, which depends on journalism and mass media in order to mirror itself in public opinion, etc. However, at the same time – and herein lies the main challenge – they are mutually interdependent on that they *all function independently in each their way* with each their specific function, knowledge, competences, and dynamics intact. Consequently, legitimizing practices imply that decision-makers increasingly see independence and interdependence as mutual preconditions. Likewise, mutual engagement and individual integrity are inextricably linked in various forms of cross-sectoral partnerships.

The challenges to legitimizing notions are to strengthen disintegration and diversity and, at the same time, to support cooperation across society's differentiated perspectives – without their integration, for this would reduce society's level of knowledge and complexity. The features captured by the notion of partnership society imply that a company (and almost any other type of organization) must mirror its decision-making in an increasing polyphonous diversity of rationales and potential partners, and construct its legitimizing environment as an increasing range of stakeholders – without giving up its integrity primarily based in one of the diverse functional rationales. The basic driver of most organizations remains mono-functional (for example, a business company's primary rationale continues to be economic, while a research institution remains devoted to science). However, decision-making processes reflect how decisions made from the organization's own basic perspective, whether for instance economy, science, or medicine, are seen from different rationales such as education, family, politics, or mass media (Andersen 2003). In order for the organization to strengthen its own particular competence and interest it must respect the competences and interests of different perspectives. What was formerly seen as reciprocal opposites are now seen as mutual preconditions: the precondition of strengthening the individual functional rationales is the consideration of their mutual interdependence – and vice versa.

Perhaps most importantly, the partnership society activates a large sensitivity in between society's diverse perspectives. Consequently, this societal feature constitutes a central motive and a principal premise for ongoing legitimizing deliberations and practices by a company. The mutual interdependence has produced a mutual hypersensitivity and consequently a need to take into consideration the requirements of legitimacy from different perspectives – requirements rooted in the other megatrends presented in this chapter. To a certain extent, a business company can neglect the demands of an NGO. However, the situation changes when NGO criticism via mass media catches on to the increasing diversity of perspectives upon which the company depends for its continued existence.

Governance Society: Between Public and Private Interests

The megatrend of *governance society* relates to the megatrend unfolding at the dimension of society's political regulation. Problems of modern society are directed toward the political system, the function of which is to produce society's shared binding decisions (Luhmann 1990). In the late twentieth century, traditional political steering programs are strained by, first, society's accelerating degree of complexity, knowledge, and dynamism, second, the problems stemming from the other megatrends presented in this chapter, and, third, globalization's lack of global governing structures. These challenges to social cohesion can no longer be solved by the combination of unicentered other-regulation via law and control on the one hand and on the other hand decentered self-regulation via market procedures. Instead, a subtle and flexible form of societal coordination emerges, based on polycontextual legitimization processes that contribute to motivating society's members to take mutual considerations from the idea of a shared societal horizon – and, at the same time, to strengthen the individual functional dynamics.

The governance society's *polycontextual co-regulation* replaces or complements the traditional conflicts between the *multicentric self-regulation* where the differentiated dynamics – economics, health, science, education, family, etc. – increasingly strain each other, and the state's *unicentric other-regulation* which impedes the individual dynamics (Buhmann 2018; Sand 2004; Sørensen and Torfing 2005; Willke 1997; Willke and Willke 2007). With co-regulation, political initiatives intervene not only from outside by conventional law. Via promoting various forms of CSR as a precondition of legitimacy, trust, and competitiveness, national as well as supranational institutions such as UNs Global Compact and OECDs guidelines for multinational companies increasingly subtly influence companies' internal considerations of their own role and responsibility in society, acknowledging that "any system can steer itself only, with the modification that other systems can regulate it not against, but exactly through its self-regulation" (Luhmann 1997: 53). For instance, legal requirements to the effect that larger companies must account for their work with social and societal responsibility in their annual reports do not stipulate the responsibility from outside but contribute to internalize the societal horizon within companies and to the transparency and accountability that facilitate co-regulation.

To a business company, co-regulation is based on legitimizing notions characterized by three pillars: Societal responsibility, influence on society's will and way, and public accountability.

First, responsibility: Legitimizing notions imply that business companies "voluntarily" take on societal responsibility that exceeds the abidance by law and the immediate narrow task defined by the primary function – for business companies to ensure profits, employment, the material production of society, etc. The idea of a shared societal horizon and of a common interest is integrated in decision-making premises and processes. To some extent, it means taking on tasks traditionally being assigned to states – for instance, education and health initiatives, projects for clean and adequate water supplies to developing business models to improve the economic conditions for small local businesses in developing countries.

Second, societal influence implies that business companies legitimately may – or even should – partake in public deliberations about society's visions, will, and way. Societal influence extends from partaking in public debates and in often state-initiated governance networks together with other private organizations, public institutions, and a multitude of NGOs in order to solve societal problems together

– to influencing public health by inspiring to good food habits via information campaigns and cooperating with public schools on lesson plans and educational material, etc. (cf. e.g., Arla Foods 2018b).

Third, public accountability: The traditional legitimizing reference of the political system, public opinion, grows a legitimizing reference to private companies. Governance coordination relies on the regulating force of polycontextual interplays between the public perspective, news media, various NGOs, and an increasing number of stakeholder publics. Control mechanisms and sanctions take new polycontextual forms, such as mass-mediated legitimacy crises, distrust, and failing support from a diversity of stakeholders. Whistle-blowing grows legitimate. From having had to legitimize itself in relation to its inherent environment of the marketplace and in relation to the state by abiding to law, a company must legitimize itself in a larger and more complex environment.

Co-regulation implies an extensive potential for flexible decision-making as well as for legitimately influencing society's will and way, however, also a delicate balancing of what was formerly seen as reciprocal opposites as mutual preconditions: private and public perspectives; particular interests and the idea of a common interest; and economic and political rationales from the idea that "a healthy company requires a healthy society – and vice versa." The company must be able to consider the interconnectedness of society's diversity, while, at the same time, maintaining economy (or another defining rationale for different types of organizations) as its primary driver to fulfill its basic function in society. It must be able to do this without going to any extremes, in other words without growing into a semipolitical institution or straining democracy with economic power.

Trust Society: Between Authenticity and Responsiveness

The megatrend of *trust society* captures the growing need for *trust* as a safety strategy for social interaction as society grows increasingly liquid, hypercomplex, diverse, dynamic, uncertain, and chaotic. It has become increasingly unpredictable what to expect outside small circles of family, colleagues, and friends. Trust facilitates interaction, even in complex and uncertain social contexts, is the glue of contemporary society (Bentele and Seidenglanz 2008; Jalava 2003; Luhmann 1982), however, is based on a different and more demanding kind of legitimacy than was former predominant safety strategies. The manifestations of this evolutionary trait consequently range from aspirations of earning trust as apparently the most sought-after corporate resource today, frequent trust surveys, complex stakeholder webs and branding, to crises of legitimacy for companies that have not understood how blind confidence belongs to the past, or that do not live up to expectations.

All social interaction requires a safety mechanism that produces expectations to the effect that you risk entering into interaction with anyone. It goes for every social interaction, from entering into a conversation to buying a product from a company to engaging in a partnership. In recent decades, society's predominant safety strategies have changed radically. In the full (or solid) modernity of yesterday, society was relatively foreseeable, familiar, and uniform. You more or less knew what to expect. Most companies relied on a certain degree of *confidence* based on their stakeholders assuming that interaction was secure because they knew what to expect from the company. The "generalized inclination to accept so far undecided decisions within certain boundaries of tolerance" was based on the expectation that the company was being restricted from outside, by law and formal rules, and/or was restricting itself from inside, bound by shared, taken-for-granted norms determined by tradition or convention. So, confidence as a safety strategy is based not only on a conventional form of law which is to some extent outdated with recent forms of co-regulation, but also on a conventional form of legitimacy which is outdated by the transformation of the rationality of norms from given and unproblematized into the discursive rationality of ultra (or liquid) modernity.

Instead, trust has grown the glue of ultra modernity and one of the most sought-after resources by companies today. Trust is based on expectations that are based neither on control regulating the company from outside nor on shared, taken-for-granted norms regulating the company from within. Instead, trust is based on the trustee's extrapolations of information and experience that is insufficient for definite knowledge and for secure anticipations, but which establish certain expectations about the future behavior of a company. Based on these expectations, stakeholders choose whether the advantages in trusting the company – and thus making themselves vulnerable to the consequences of a company's decision-making – overshadow the possible risks. To earn trust, the company has to continuously weigh and justify decisions in ongoing discourses with the environment, and to take into consideration different stakeholders' criteria of evaluating advantages and risks in interacting with the company. So where previously, stakeholders were mainly passive, and relations rested in a well-ordered view of the world (see also ► Chap. 80, "Legitimizing Practice Forms During Transformation of a Legitimizing Business Paradigm: Changing Strategies and Reasons," Figure x), today, earning trust implies a far more active and complex environment.

Globalization adds an extra dimension to the challenges of trust society. Confidence as well as trust proves problematic when a company operates in a foreign culture. Shared norms as the basis of confidence are few. And trust is inhibited because expectations are subject to interpretation by fundamentally different societal meaning structures (Bachmann 2001).

The specific features of the trust society consequently activate the need for an organization to perform a series of three paradoxical balancing acts: first, because trust rests in a continuous test of expectations, and does so in a liquid society, the company must be seen as authentic and consistent for expectations to be stabilized, and, at the same time, as continuously changing in response to liquid norms and demands of dynamism and innovation. Second, because a stakeholder chooses to trust the organization only if her extrapolation of information about and experience with the company makes her decide that the benefits in trusting the company outweigh the risks, the company has to balance the reciprocal risks and benefits involved to create "win-win situations" (that is, to see the counterpart's benefits in interaction not as opposing one's own benefits, but as mutually preconditioned).

Third, because stakeholders' evaluation criteria of risks and benefits in trusting a company will differ considerably (for example, a patient will see the risks and benefits in trusting a pharmaceutical company differently from a politician; a scientist holds different expectations than an animal activist, and so forth), the company may have to balance the need for a stable self-presentation with the need for multiple self-presentations.

It grows a constant challenge to create and to live up to certain expectations while balancing stability and change, authenticity, and responsiveness. On the one hand, the company has to be self-contained to earn trust. On the other hand, it has to be open to different perspectives in order to continuously adjust its boundaries for legitimate decision-making. A company must continuously change in order to remain the same. On one hand, consistent images of expectations are a precondition of trust. On the other hand, society's dynamism and turbulence activate the need for a company to continuously adjust its decision-making premises in negotiations with its environment as a precondition of earning trust. At the same time, because stakeholders cannot check all decisions and operations, in order to earn trust, it grows essential to present the guiding values of decision-making premises.

Glocal Society: Between Global and Local

The final megatrend, captured by the notion of *glocal society,* presents probably the most difficult balancing act because it deals with basic, and most often tacit, assumptions. It relates to the conflicts between legitimizing notions as globalization increases the interdependence and sensitivity between regions characterized by different societal forms that were previously separated. The glocal society appears in manifold manifestations, in particular in legitimacy crises where compliance with legitimate local customs and values in one region conflicts with a company's domestic values or even with what is perceived as global values. For instance, poor labor conditions uncovered with a subsupplier in a distant country – although legitimate within a local frame of reference – may produce a legitimacy crisis in the company's home country.

Globalization intertwines with the other megatrends presented in this chapter. However, the notion of glocal society relates specifically to the way in which different types of society breed different legitimizing notions and consequently different legitimizing corporate settings (Holmström et al. 2010; Kostova and Zaheer 1999) and requires a balancing act between local considerations and the idea of a global opinion.

The megatrends and the legitimizing business paradigm unfolded in this chapter originate from norms, perceptions, and challenges related to a specific type of society with roots in Europe and dominance in what we call the West: the functionally differentiated society dominated by *rational* values. The notion of *rational* in this context does not postulate that the rational society is more reasonable, logical, or efficient than different types of society; however, relate to that fact that fundamental values and norms originate from a series of societal rationales – economy, science, politics, education, etc. Today, the values and institutions of the rational society characterize Europe and regions originally colonized by Europe, in particular the USA, Canada, Latin America, Australia, and New Zealand. This type of society has fostered ideas of pluralism, individualism, equality, freedom of expression, etc., and has led to ideals of corporate social responsibility, multiple bottom lines, sustainability, transparency, stakeholder engagement, and co-regulation.

International guidelines such as OECD's guidelines for multinational enterprises, UN's Global Compact, and the international standard for corporate responsibility, ISO 26000, are based on the ideas of the rational society. It produces conflicts and gray zones in the encounter with different types of society basically characterized by fundamentally different norms and worldviews – conflicts and gray zones left for companies to handle. For the main part of the global guidelines, standards and principles are not supported by a horizon of legal sanctions. They depend on the subtle mechanisms of co-regulation. And where conventional political institutions have had to throw in the towel, the business community is encouraged to front-line action, equipped with its strong economic arguments. A status as world citizens and global problems solvers are demanded by companies in areas which are traditionally seen as the responsibility of states. Companies are made responsible for their actions around the world to a degree which by far extends abidance by local law. Companies can no longer rely on the relatively firm ground of the law, but must operate in the swampy morass of legitimacy, in a tension field of conflicting interests and cultures with each their individual legitimizing notions and expectations. And it makes it no easier for a company to navigate when the domestic Western opinion insists on unproblematized precedence to legitimizing notions based on the values of the rational society.

There are different frames for explaining fundamental differences of legitimizing notions – not least systems of faith are an important factor (Kamali 2001; Koehn and Leung 2008; Zirkin 2007). However, based on societal forms as analytical categories, it is possible to identify consequences to the legitimizing notions with implications for the legitimate room for a company's decision-making, and for its way of legitimization (Baraldi 2006; Luhmann 1998, 2012). The conflict between different legitimizing notions can be divided into two categories.

Subtle and often neglected legitimacy conflicts are those bred by the first category of conflicts, which relates to different ways of coordinating the same type of society. As example, different forms of market economic politics in countries characterized by modern society's structures of functional differentiation are illustrative (Campbell et al. 2006). Liberal market economy, with the most prominent example being the USA, is categorized by decentered self-regulation, shareholder values, and the objective of quick profits. Coordinated market economy as in, for example, Germany is categorized by central regulation and legitimizing references to formal rules, contracts, etc. In countries such as Denmark and Holland, this type a market economy has developed into a negotiation economy categorized by flexible and polycontextual regulation in "multi stakeholder dialogues" across society's sectors and by a business community characterized by more long-term perspectives (Pedersen 2006). This diversity creates different legitimizing notions to the extent that the apparently same business ideals of stakeholder engagement, CSR, and sustainability are understood and interpreted differently – a more or less unnoticed phenomenon in everyday practice, however, a source of systematic misunderstandings.

The second category gives rise to more ultimate and visible conflicts. It relates to conflicts between fundamentally different societal forms – most often between the stratified, relational society and the functionally differentiated, rational society. For these two societal forms systematically generate a long series of conflicting values with extensive consequences to the legitimizing notions mediating the interrelation between a business company and the rest of society. Between pluralism, individualism, innovation, debate, and normative change on the one hand and on the other hand homogeneity, hierarchy, collectivism, tradition, faith, and normative stability. Between the importance of rational arguments in the West on the one hand, and on the other hand the importance of social relations in the East. The relational, stratified, status-coordinated society sees the world via strata, classes (Luhmann 2012: Chap. 4, VI). Functional rationales do not constitute society's backbone. Societal layers – ethnic and religious groups, families, etc. – trump functional rationales. Society's dominating meaning systems legitimize hierarchy, family, and group belonging, i.e., difference in relations in between people. Basic norms and values acclaim tradition, orthodoxy, and authorities. The relational society is a primary societal form in particular in Asia. It affects everything from the status, role, and responsibility of companies to labor policies, culture of negotiation, partnerships, stakeholder composition, and the validity of law.

Consequently, the legitimizing notions analyzed above as responses to challenges to social cohesion on five dimensions of modernity are not universal; they will conflict in particular with legitimizing notions in primarily relational societies. A reflective corporate practice, which implies the acknowledgement of contingency, a pluralist legitimizing environment, and a proactive attitude to political issues, will be illegitimate. Even human rights are seen fundamentally different in a rational and a relational perspective.

To navigate legitimately – and that means "glocally" – within globalization's ambiguity of societal and cultural forms and simultaneously maintain a consistent identity requires for a company that, from seeing its native country's values as universal, it must be able to see the plurality of fundamentally different values. Being "truly global" first and foremost means being local – i.e., understanding the roots of the company's worldview in order to be able to open tolerantly to different local worldviews and in order to recognize own blind spots.

It is, however, not as simple as it may sound. For it means that in order for an organization embedded in modernity's rational society to live up to domestic legitimizing ideals, it must be able to embrace conflicting legitimizing paradigms. Modernity's ideals of pluralism, inclusiveness, and tolerance ultimately amount to embracing non-pluralism, non-inclusiveness, and non-tolerance. Within companies rooted in values of modernity, this paradox still seems to feed legitimacy crises: to live up to their own legitimizing ideals of diversity, inclusiveness, pluralism, and tolerance, they have to be able to embrace different legitimizing paradigms that may advocate opposing values of collectivism, hierarchy, and tradition – a paradox that apparently has not yet been deparadoxified in the legitimizing discourses of ultra modernity.

A Reflective Paradigm

Today, the turbulence in society's legitimizing notions during the later decades of the twentieth century seems to be absorbed by society's learning processes. This does not mean that everything is in the way it used to be. The learning processes have transformed the legitimizing paradigm that mediate the interrelations between society's decision-making machines – organizations – and the rest of society. These learning processes apply to society as a whole (cf. also, e.g., Roth et al. 2018 for a broadened focus on several functional rationales instead of a political–economic gaze only); however, the focus of this handbook is the business community where a range of traversing features can be identified on the series of parallel but different megatrends.

First, the rationality of legitimacy has changed from being given to being discursive. Legitimacy is at ongoing discussion. This discursive legitimacy enables flexible and dynamic forms of coordination in ultra modernity's complex, diverse, and dynamic society – however, also makes heavy demands on a company's discursive and reflective competencies. When legitimizing notions grow problematic, from being tacit assumptions they become visible in society. Throughout the latter half of the twentieth century, the social constructions within which legitimacy rested were challenged and gradually opened up to negotiations on changes. However, this discursive legitimacy seems to be not only a transitional phenomenon in the transformation of the legitimizing business paradigm. For, where legitimacy previously rested on convention and given norms, constant negotiations in discursive processes characterized by liquid, ambiguous norms have grown the foundation of today's legitimizing notions and practices. Previously, the room for legitimate decision-making was given and legitimacy ensured when an organization abided by law and honored its functional criteria of success and relevance (i.e., profits for business companies, treating disease for hospitals, education for schools, production of knowledge for universities, etc.). Today, ongoing legitimization has grown into an existential issue. The role and responsibility of the company in society is discussed, reported, and profiled in the public sphere, in stakeholder engagement, and in pluralist fora and cross-sectoral partnerships.

Secondly, the legitimizing notions as programs for decision-making processes have changed and taken an apparent u-turn. Paradoxes systematically pop-up in the period of transformation such as "in order to consider profit we have to not consider profit"; "in order to take market considerations we have to not consider the market"; "in order to benefit our particular interest we have to disregard our particular interest"; and "in order to strengthen our autonomy we have to give up control." A paradox implies the simultaneous presence of contradictory elements and may lead to blockage of the decision-making processes in an organization. There are, however, means of “deparadoxification” (Luhmann 1993c). Accordingly, for these paradoxes to integrate into decision-making processes without blocking them, they seem to be systematically deparadoxified by legitimizing statements such as “we demonstrate financial responsibility by acknowledging social and environmental responsibility”; “we build the business by engaging in actions to benefit society”; and “we earn shareholder value by earning stakeholder trust” (Stormer 2007). What was once considered competing priorities – like economic success vs. environmental practices – is now seen more as a complete, complimentary package. In 2019, “sustainability is no longer just a trend, it’s a business imperative” (Global Fashion Agenda 2019). New legitimizing notions have turned former extra-economic themes into intra-economic themes that can more easily be digested by the decision-making processes of a business company (Table 1).

Third, a large part of what was formerly seen as private matters has been transformed into issues of public interest and is subject to public searchlight via news media and social media. What goes on in the private business sector is now seen as influencing the common good on a series of areas: From the consequences of production and products such as climate changes and lifestyle diseases to the growing influence on society’s will and way by means of societal commitment in new forms of co-regulation. With the increasing recognition that even seemingly trivial decisions by organizations can – for good or ill – affect individual well-being on a global scale, the company must be constantly prepared to legitimize its decision-making not only in the relatively unambiguous horizon of state and market, but in an ambiguity of the public perspective, mass media, and a growing range of stakeholders.

Table 1 Deparadoxification of the self-legitimizing notions of the business community

Megatrend	Formerly: reciprocal opposites	Today: mutual preconditions
Insensitive society	Profit><people, planet	Considerations of people and planet out of consideration for profit – and vice versa
Decision society	Autonomy><transparency	Transparency is a precondition of autonomy – and vice versa
Partnership society	Independent><interdependent	Independence depends on interdependence – and vice versa
Governance society	Particular interest><common interest	Considering common interest is a precondition of considering particular interests – and vice versa
Trust society	Authenticity, integrity, consistent identity><responsiveness Consistent, stable identity><change Benefits to us><benefits to stakeholders	Responsiveness is a precondition of authenticity and integrity – and vice versa Continuous change is a precondition of consistent, stable identity – and vice versa Benefits to stakeholders is a precondition of benefits to us – and vice versa (win-win)
Glocal society	Domestic values><alien values	Understanding domestic values is a precondition of understanding alien values – and vice versa

The first three features require a specific second-order self-observation by the company in relation to its environment. This type of self-observation presupposes the *fourth* feature, which can be identified as the mainstay of the new legitimizing business paradigm, as the formula for legitimacy: The ability of *reflection*, i.e., the ability of raising the company's perspective to a second-order level in order that the company sees itself as if from above in the larger societal context – instead of seeing the world from within from the narrow first-order perspective of *reflexivity* (Holmström 1997, 1998, 2007, 2008, 2018a, 2018b). (See ▶ Chap. 19, "Society's Megatrends and Business Legitimacy: Transformations of the Legitimizing Business Paradigm" for more on the specific social systemic category of reflection, and the manifestation of reflection in different forms of practice.)

Reflection on the Megatrends

Reflection (adjective: reflective) and reflexivity (adjective: reflexive) denote two fundamentally different perspectives. Full modernity was characterized by reflexivity's monocontextual, narrow, and unambiguous first-order perspective from within. Gradually, this reflexive perspective threatened social cohesion. As a countermove, ultra modernity's legitimizing ideals involve a raise of perspective to the open, polycontextual second-order level – a sociotechnological mechanism that is condensed in the notion of reflection (Luhmann 1995: Chap. 11). Reflection implies that the company sees itself in the larger context, sees itself within the socio-diversity, and sees the mutual interdependence of society's differentiated sectors and motivates the company to develop self-restrictions and balancing mechanisms in its premises and processes of decision-making. Consequently, reflection leads to decisions being made from an "enlightened self-interest," as formulated by the UN in the introduction to the principles for responsible business conduct, Global Compact (Annan 1999).

Legitimizing notions are interpreted differently by different social filters. Nevertheless, we may identify a common trait in the legitimizing notions mediating the interrelation between the business community and the rest of society today: the specific second-order level of self-reference denoted as reflection. For an organization to navigate in the complexity and diversity of contemporary society from an understanding of the delicate balancing of people, planet, and profit; of autonomy and transparency; of independence and interdependence; of market and society-at-large; of consistency and change; and of domestic and alien values requires learning processes within the organization toward raising the perspective from the self-centered, negligent first-order tunnel vision of reflexivity to the enlightened second-order perspective of reflection. Reflection allows transforming what were formerly marginalized as externalities into internalities: life and nature, potential victims of decision-making, different functional rationales, the idea of a societal horizon, the risks involved in trusting the company, and unfamiliar societal and cultural values. Externalities are still selected and reconstructed from specific social filters. Nothing else is possible, but even this inadequacy seems to allow the facilitation of flexible ways of coordination while strengthening the skeleton and structure of society, thus securing the continuation of the communicative processes constituting society – social cohesion. Reflection is not a way of escaping self-reference, but a way of handling it.

Learning processes toward the mode of reflection are theoretically probable and empirically identifiable at two fundamental, interrelated dimensions of society which both manifest in companies. First, the programs guiding the application of the individual systems' rationales in functional systems tend toward a reflective self-observation. This second-order mode of programming replaces the reflexive application prevailing during the construction period of the functionally differentiated society. Second, in organization systems which – when the level of observation is raised to reflection – on the one hand find each their specific identity and act independently, and on the other hand learn to understand themselves in relation to their environment and in an interplay with different societal sectors and perspectives and consequently integrate restrictions and mechanism of balancing different interest in their decision-making processes. In this way, reflection facilitates the company's self-understanding in relation to society-at-large. It enables flexible forms of coordination, which embrace society's growing complexity, dynamics, and diversity, and at the same time protect society's basic structures – i.e., the patterns of expectation that make communicative connection and interaction within society probable and are the fundamental precondition of social cohesion.

The function of reflection can be identified on each of the six megatrends. On the megatrend of insensible society, a reflective perspective is required in order for society to observe its effect on its environment – life and nature – as if from outside society. As explained in the section on the insensible society, this is not possible. However, a reflective perspective facilitates balancing the considerations of nature, life with profits (or knowledge, news, political power, or other of society's criteria of relevance and success) as mutual preconditions.

The decision society illustrates how a reflective perspective is required in order to make the premises and processes of decision-making sensitive to those potentially influenced by the decision in the larger perspective – and, at the same time, to acknowledge the responsibility of being in the decision-maker's position. It requires a reflective perspective to see risky decisions as unavoidable and to see the conflict between decision-maker and the potential victim of the decision-making as a consequence of society's construction. The conflict cannot be resolved – but you can learn to live with it.

In the partnership society, reflection facilitates considerations on the delicate balancing between individual integrity and mutual engagement. On the one hand, the disintegration is maintained as the foundation of the functionally differentiated society. On the other hand, as a precondition of their independence the differentiated positions endeavor to consider their reciprocal interdependence. Society manages to cohere in all its disintegration.

In the governance society, reflection facilitates the balancing of particular interests and the idea of a common interest, of political and economic rationales (or, for different types of organizations than the private business enterprise, with scientific, medical, journalistic, etc. rationales). The company sees itself in the socio-diversity as a precondition of being able to consider the mutual interconnectedness in society, and still understands how to preserve its dynamic as society's economic base – without neither growing into a semi-political institution nor straining democracy with economic power.

The paradoxical balancing of the trust society requires a reflective position for the company to counterbalance responsiveness and integrity as two sides of the same coin – i.e., to understand and respect its stakeholders' perception of the risks involved in trusting the company on the one hand, and on the other to understand and respect its own function and role in society.

The notion of glocal society contributes to explaining the legitimizing notions of a meta-reflective position. Meta refers to the level of societal form and fundamental cultural roots. Where a reflexive perspective implies a blind ethnocentric position, meta-reflection implies that the company acknowledges its worldview as basically rooted in a specific cultural and societal context instead of taking it for granted. From the company seeing its own domestic values as given and universal, a *meta-reflective* perspective uncovers a pluralist diversity of fundamentally different values (Holmström et al. 2010). It helps the company to continuously clarify its identity instead of taking it blindly for granted. The company sees that conflicts are inevitable, however, endeavors to elucidate their background instead of resorting to blind confrontation.

It applies to all megatrends that where the company in the old reflexive paradigm saw itself as the hub of the universe, the reflective perspective challenges to a more nuanced view of the world and facilitates a (world) society where the dominating coordinating mechanism is neither an attempt of monocentered other-regulation (Fig. 1 left) nor polycentered self-regulation (mid), but polycontextual co-regulation where organizations as well as individuals understand themselves as one among a multitude of different and autonomous but mutually interconnected members of society (right).

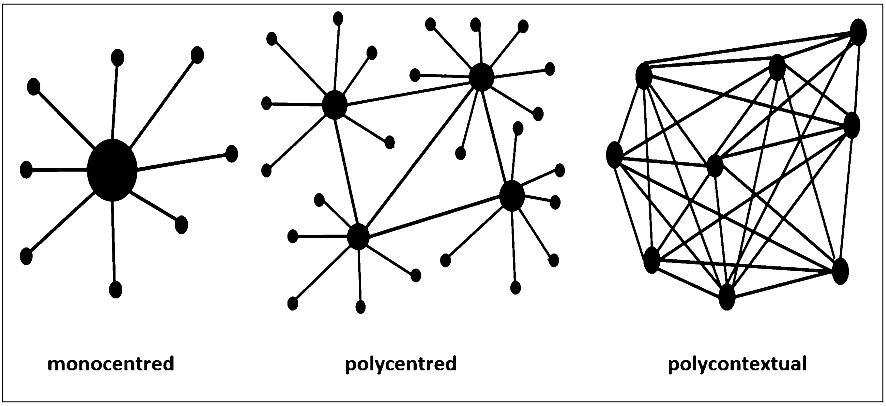

Fig. 1 Changing perspectives on society's structure implying monocentered other-regulation, polycentered self-regulation, and polycontextual co-regulation, respectively

Hyperirritation and Indifference

The reflective business paradigm is embedded in a different self-description of society than was the former, reflexive paradigm, which was attacked as illegitimate in the latter half of the twentieth century. Even though an analytical reconstruction shows how the transformation from a first-order reflexive to a second-order reflective perspective has contributed to adjust the functionally differentiated society to remain the same, i.e., to preserve the basic structures of society intact, there are distinctive differences between society then and society today and consequently between the challenges to legitimizing notions then and now.

In the overall societal perspective, the transformation of the legitimizing business paradigm is embedded in an adjustment of modern society; from a society that was based on a consensus-oriented self-description with notions of central regulation and common norms toward a society that describes itself as polycontextual. Previously, society was characterized by conflict on consensus. Today, it seems characterized by consensus on conflict. Conflict as a basic condition is acknowledged. Spin as the battle of defining reality has grown part of the societal "conversation" in acknowledgment of the fact that there is not one truth, not one perspective, no conclusive argument – but that everything depends on the perspective. The backcloth is described with concepts such as hypercomplexity, hyperirritation, diversity, flux, dynamism, co-regulation, and globalization – characteristics which define quite different challenges and consequently different legitimizing strategies than only a few decades ago.

The challenges are constituted by a world where everyone and no one steers; where norms are discursive and diverse; where the skeptical victim's perspective constantly lurks and threatens to ignite global crises of legitimacy; where trust is an existential but capricious resource; where organizations are reciprocally interdependent of cooperation and partnerships with different rationales, and must understand how to navigate between fundamentally different societal values. A company can no longer make do with legitimization based on well-defined rules, conventional law, and stable, common norm sets, but must base its legitimacy on continuous interplays with supplementary or even conflicting perspectives and positions – with no possibility of consensus or conclusive argument, with no unambiguous environment. Legitimacy is no longer given as in the former first-order reflexive paradigm. Ultra modernity is characterized by a discursive legitimacy. The legitimate room for decision-making is continuously debated and requires reflective and communicative forms of practice. Society's formal form of centralized regulation is complemented with a specific form of co-regulation where everyone contributes to regulating everyone in complex (de)legitimizing interplays. Where companies previously could plead the right of the private sphere to decide in peace and quiet without interference from outside, today they must be continuously prepared for mass media's random trust checks, the public searchlight, and the global billions of opinion declared at social media.

New Turbulence Lurking?

Following the theoretical focus on the dynamics and nature of social processes, transformations of legitimizing notions are understood as part of society's evolutionary processes of modernization. In this perspective, learning processes have no other aim but to continue themselves. With the fundamental theoretical platform upon which the research presented in this chapter is based, evolution theory is no theory of progress (Luhmann 2012: Chap. 3, I). Evolutionary learning processes do not necessarily lead to a better society, in the sense that it creates better conditions for the life of humans and the well-being of nature, but to a society that creates better conditions for itself, i.e., can embrace more social complexity and diversity.

The function of the new legitimizing notions seems to be to handle society's increasing complexity and diversity in a flexible and inclusive way. However, at the same time, the complexity of the new legitimizing notions creates new complexity which demands balancing and reflection in relation to an increasing number of issues: How develop a company's sensitivity to the rest of society – without the company drowning in hyperirritation and the diffuse complexity of the environment? How define the legitimate boundaries of a company's responsibility – when these boundaries continue to change over time and over place? How determine premises for the company's legitimate decision-making – when these premises are never given, but are developed in a continuous doubling of decision-making processes? How embrace a political rationale and consider public interest – without taking on illegitimate political power against democracy's fundamental principles? How balance financial considerations on the one hand and social and environmental considerations on the other – not as opposites, but as mutually interdependent? How ensure the company's legitimacy in the cultural and societal diversity of globalization – in between often contradictory interpretations of the company's conduct? And how maintain a trustworthy identity when the company's local response is monitored in an increasing global transparency?

In the immediate analysis, reflection as the mainstay of the new legitimizing business paradigm may seem a panacea. However, reflection is risky because the company will continuously question itself, its raison d'être, and decision-making premises. It is resource-demanding because it activates a constant doubling of decision-making processes: decision-making on decision-making premises that are no longer taken for granted, or even a multiplication of decision-making processes through the constant mirroring in different rationales. It is paradoxical because it implies that a social filter is applied to observe itself: a company must use its own decision-making premises to observe its decision-making premises. It constantly triggers attempts of deparadoxification.

The backcloth of a society characterized by the second-order self-observation of reflection is the acknowledgment of contingency and a hyperirritated state of society which apparently cannot be suspended by more knowledge, or more information. Reflection copes with contingency, however, also increases the perception of flux, and may lead to hyperirritation, feelings of powerlessness and indifference, paralyzation of decision-making processes, or distorted resonance, such as for instance extensive resources spent on social reporting and alertness to social media. This hypercomplexity can be confusing and chaotic and may lead to companies giving up when faced with the complexity produced by new legitimizing notions, losing self-confidence in the close cooperation with conflicting rationales, following public opinion and those most visible and vociferous, drowning in the cacophony of the social media, or totally surrendering to routine, symbolism, and symptom management without any recollection of the context that originally made the legitimizing notion and legitimizing practice forms make sense. So, after this adjustment of modernity, we may expect a gradual return to reflexivity, although with new perceptions of legitimacy based on ideals of reflection stabilized – upon which new evolutions and transformations of legitimizing business paradigms can take their start.

Cross-References

► Legitimizing Practice Forms During Transformation of a Legitimizing Business Paradigm: Changing Strategies and Reasons
► Society's Megatrends and Business Legitimacy: Transformations of the Legitimizing Business Paradigm

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Corruption, Norms, and Business Legitimacy

20

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Contents

Abstract

Formal organizations in modern societies are based on contract relations that facilitate to rationalize organizational behavior according to the central norm of a functional system (economy, politics, law, religion, welfare, family, etc.). Beyond such functional regulations, business legitimacy reflects the social embeddedness of organizations and codifies the cultural norms of the organizational members' internal and external behavior. Corruption, in common understanding, is a deviant behavior that breaks the fundamental norm of modern societies, that is, undermines the strict separation between the private and the public sphere. Management theory in general treats business legitimacy as means to regulate the relation between organizations and their social environment. On the basis of two empirical case studies two concepts of business legitimacy are distinguished: the classical formal business legitimacy as reactive and the substantial business legitimacy as proactive policy. It will be demonstrated that the understanding of business legitimacy correlates with the idea of management as steering respectively as reflexive management of regulation of self-regulation. Finally, the

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options in management and business legitimacy are discussed in the context of the paradigmatic shift from domination to governance in the transition from the Fordist to the Flexible Production model (for an overview, see: Thompson, Fordism, post-fordism, and the flexible system of production. Centre for digital discourse and culture. Virginia Polytechnic Institute and State University, Blacksburg, n.d.).

Keywords

Accountability vs. responsibility · Business democracy · Common good · Competence vs. expertise · Corporatism · Corruption · Donation · Formal vs. substantial business legitimacy · Leadership · Legitimation · New governance · New Public Management · Public private partnership · Regulated capitalism · Self-commitment · Self-management · Sponsoring · Trust

Introduction

Formal organizations in modern societies are based on contract relations that facilitate to rationalize organizational behavior according to the central norm of a functional system (economy, politics, law, religion, welfare, family, etc.). Beyond such functional regulations, business legitimacy reflects the social embeddedness of organizations and codifies the cultural norms of the organizational members' internal and external behavior. Corruption, in common understanding, is a deviant behavior that breaks the fundamental norm of modern societies, that is, undermines the strict separation between the private and the public sphere. Management theory in general treats business legitimacy as means to regulate the relation between organizations and their social environment. On the basis of two empirical case studies two concepts of business legitimacy are distinguished: the classical formal business legitimacy as reactive and the substantial business legitimacy as proactive policy. It will be demonstrated that the understanding of business legitimacy correlates with the idea of management as steering respectively as reflexive management of regulation of self-regulation. Finally, the options in management and business legitimacy are discussed in the context of the paradigmatic shift from domination to governance in the transition from the Fordist to the Flexible Production model (for an overview, see: Thompson n.d.).

Steering or Governance?

Since Plato the helmsman figures as metaphor for the political leader. In the 1960s and 1970s of the last century, cybernetics became the general model of political and social technocracy, but abruptly lost its attraction (and financial support). In the dawn of the nation-state the belief in steering people, organizations, and the society is paling. People do not feel dominated by a central power but depending on diverse forces. In philosophy and social science the concept of power shifts from a substantial (power as substance or force accumulable by an individual) to a relational (power as a form of interaction) definition, substitute hierarchical domination by heterarchical governance. Linguistically the Greek κυβερνάω was molded to the Latin *gubernare* escorted by the semantic turn from steering to administer, finally from domination to governance. Actually, in governance theory, management became a key term and a bridge concept between economics and politics, for example, in New Public Management. For a long time, management was understood as leadership, that is, steering on the basis of an exclusive expertise, what makes sense only in a hierarchical organization operating on the basis of command and control in an economy of scale and scope with a pure quantitative understanding of growth. In the prime age of modernization theory, management was a form of dominance. Nowadays, in the time of demand economy and quality production, flat organizations need leaders with high social competence and figuring as primus inter pares of a team. Knowledge is not anymore monopolized in the hands of an elite but shared as medium to coach processes of self-regulation and organizational learning. Monitoring then operates as auditing of self-regulating high-skilled team workers. The core of teamwork is a project, and in autonomous projects everybody is manager of his own. Management appears as the new utopia of self-realization, now called self-management – even in body building as well as in the therapy for mental training and the construction of intimate relationships between couples or family members.

In short, instead of imperial top-down steering in a hierarchical organization with a paternalistic bureaucratic structure, we observe a new management of contingencies and interdependencies in flat and open network organizations with temporary autonomous project groups, split authority, overlapping competences (cross-sectional tasks), influence of outsourced functionaries, and consultants. Network organizations operate in an environment with permeable and floating borders between social systems like politics, economics, and the global civil society that established itself as a new moral industry of CSOs/NGOs. In consequence, the core of modernity, the functional differentiation of society, is no longer functional for the flexible production model. The relation between functional systems or organizations and their environment becomes critical and subject of negotiations. Finally, management gets reflexive and converts into a technology of second order or observation. Reflexive management is aware of the limits of command as well as the risks of self-organization: bureaucratic overregulation produces stagnation, unregulated markets or networks as forms of spontaneous order tend to chaos, corruption, and anomia. To overcome the organizational dilemma, reflexive management initiates processes of regulation of self-regulation and, as a new form of organizational practice, changes the mode of business legitimacy. Monitoring by indicators related to a matter is supplemented by the evaluation of social behavior. Business is no longer justified exclusively by economic benchmarks like effectivity, efficiency, output, success, and profitability but by values like transparency, accountability, responsibility, and sustainability as key concepts of new governance. Traditionally following instrumental rationality, business legitimacy switches over to social engineering and morality (Kellner and Heuberger 1992). A good example for this re-setting is compliance that as a means of business legitimacy attracted attention especially in the recent anticorruption policies.

In general, compliance is the implementation and performance of best practice-rules in an organization. The nature of compliance indeed varies in accordance to the understanding of legitimacy. If legitimacy is defined as appropriateness to formal rules, then compliance is hardly more than lip service and being in conformity with official articles of the corporation without any impact on the company's performance. Actually, we observe a shift from compliance with legal norms on a contractual basis to tackling social problems. In teamwork one is not only responsible for something in relation to a job description, but also accountable to others, one's teammates in the project group, the principal, and the corporation as social unit in total. The figure of the extrinsic guided organizational man with restricted responsibility to role in a formal structure is substituted by the concept of the intrinsic motivated self-entrepreneur with full accountability to civil society. In contrast to the cognitively and ethically underequipped organizational man, the post-modern self-entrepreneur operates on the post-conventional level six or seven of Lawrence Kohlberg's model of moral development (Kohlberg 1973). This shows that effective and sustainable compliance is ridden with high-level prerequisites. If it is realistic to presume such a development of moral competences as, for example, the sociological theory of individualization (Beck 1992) and post-materialistic culture (Inglehart 1977) suggest, will be examined theoretically referring to the concept of economic culture and empirically in two case studies in the following paragraphs.

Economic Culture and Business Legitimacy

Economic culture is defined by Peter L. Berger as "the sociocultural context within which economic activities and economic institutions exist" (Berger 1991: XX), in other words, is the general frame of reference for business legitimacy. In general, legitimation is justification of someone's activity, and in contrast to planning, a process of secondary objectivation of meaning. As secondary objectivation legitimation is not simply rationalization in the sense of apology (Marx) or camouflage (Freud), but constitution of meaning, and is playing a key role in the process of the social construction of reality. As Berger and Luckmann explain, legitimation has – especially in the modern world – the fundamental function to integrate the disparate semantics of the diverse functional systems and their specific institutional orders (Berger and Luckmann 1966). Referring to Durkheim, Jürgen Habermas describes the phenomenon as verbalization of the sacred, that is, interpretation as translation of (ritual) activity into the propositional structure (argumentation) of speech-acts (Habermas 1987). Speech-acts (e.g., religious myths) are not the wrong or false repetition of the original meaning of a primordial act (ritual), but the attribution of meaning per se. For Alfred Schutz (Schutz and Luckmann 1973) human activity (German: Handeln) as outcome of planning and designing one's life-course is meaningful, but must not coincide with the motive or even rational intention of an actor. Phenomenologically, acting is the inner experience (German: "Er-Leben") of one's bodily behavior that is exposed to the cause-and-effect relationship of the natural and social world. Hence, the act (Deutsch: Handlung) as the outcome of human action is a fact in social reality and exists independent from its genitor. The act as fact in the external world might become an object of reflexion and legitimation as secondary objectivation, that is, differed attribution of meaning by any human being. Action is primarily objectivation, that is, generating a social fact and making sense. But not before legitimation as interpretation and secondary objectivation of the act is executed, the act and the outcome of action have communicative meaning and social relevance. By legitimation the product of human activity and its creator are given their place in the world order. In the concept of legitimacy as secondary objectivation of meaning in the process of the social construction of the reality of the firm as social unit (see next paragraph), compliance emerge as active involvement and personal engagement of all employees. In other words, compliance implies democratic sharing of an organizational culture and self-commitment to a code of conduct representing a common interest.

Business legitimacy codifies what is seen as appropriate economic behavior in relation to the given economic culture of the time. In this perspective the difference between entrepreneurial and managerial capitalism is pivotal. Managers belong to the academic elite as the carrier group of a democratic culture even in organizations in the so-called knowledge society (Drucker 1969; Bell 1976) that substituted the liberal doctrine of the entrepreneurial capitalism in the "long" nineteenth century. Historically, business democracy was a core concept of the Left, paradigmatically realized by the Social Democrats in Scandinavia, and copied by the German Social Democrat government under chancellor Willy Brandt. Peter L. Berger warned that the decline of the self-related and authoritarian habit of the entrepreneurs weakens the competitiveness of the Western capitalism in contrast to the Asian and South American capitalism that supports strong leadership (Berger 1991). In the following two case studies, this hypothesis will be tested.

First Case Study: New Public Management and Public Private Partnership as Sources of Corruption

The corruption case that is subject of the following analysis of the public prosecutor's files of the inquiry caused a stir in German public. Background behind the case was the public invitation to tender for the construction of a waste incineration plant. In order to carry out the project according to the Public Private Partnership model a so-called waste utilization association (Abfallverwertungsgesellschaft – AVG) was established of which 50.1% belonged to the City of Cologne, 24.8% to the City Utilities Company of Cologne, and 25.1% to a private shareholder. In order to achieve high quality for a reasonable price in the interest of the city and taxpayers, the managing director of the AVG – an administrative specialist who had resigned from his civil service status – developed an elaborate concept of tendering and carrying out the project. He divided the construction plans into several lots with separate catalogues of services and prices, so that in each case the technologically optimum and least expensive solution could be selected. The provider with the largest construction sum was supposed to be appointed as prime contractor for all construction services. After the drawing the managing director in his function as a public contracting body thus still has the possibility of influencing the assignments by means of a combination of selections by lot according to price and service aspects. From an entrepreneurial standpoint as well, the system offered him substantial possibilities for intervention. There was a large political interest in the matter for reasons of "regional business development," "location promotion," and "securing jobs in the region," and in particular for the sake of giving a plant manufacturer from the region a chance during a critical period for the branch. The managing director of the AVG was personally interested in finding a partner "with the right chemistry," because complications were expected in view of the magnitude of the project, the success of which could only be assured by means of a more or less trustful relationship between the contracting body and the contractor. Moreover, negotiations with a firm that wanted to secure its entry into a new and promising business area and thus long-term survival by taking over the "reference and prestige object" appeared to be easier than with firms already established in this area. AVG operated much more than is usual in the public sector as a project developer with entrepreneurial intentions and not exclusively as the contracting entity for the construction project. Managerialism at the interface between administration and the private sector evoked a conflict between the different rationales for action, which the managing director of AVG had to solve. The public tender procedure, which is mandatory for projects of this size in order to protect the public interest, stood in conflict with the entrepreneurial intentions and management objectives. The corrupt conduct of the previously "spotless" administrative specialist must thus be viewed within the context of the risks, which result for the executive manager from the contradictory logics of action in a Public Private Partnership.

In subjective terms, his criminal conduct was also a consequence of privatization. The top public official's switch from public administration to the management of a privately run municipal firm with private shareholding automatically led also to the privatization of services of public interest. The lifelong security of a public official was traded for the employment in the private sector, which is by principle uncertain, as future events cannot be predicted. These risks of private pension schemes, which were initially subjectively hidden by the money fetish associated with the high salaries, subsequently also became a gateway for the susceptibility to criminal acts. The private shareholder of AVG functioned as an "intervening variable." He was an entrepreneur active in the region, who – according to the President of the Administrative District – was striving to build a "little monopoly" in the regional waste management sector, which was seconded by a Social Democrat from North-Rhine-Westphalia, who was well known for his "mediation services." They approached the managing director with the bribe idea. Bribes amounting to 3% of the construction sum were purportedly standard practice in the branch and people had to "think about their future." Above all, the latter point caught on with the managing director, who suddenly seemed to realize that his future would not be entirely certain after the end of the project. Here the co-shareholder from the private sector pinpointed the soft point at which the previously "spotless" state official could be seduced. In the end the bribes amounted to the substantial sum of more than 24 million Deutsch Marks.

However, what is more important in structural terms is the fact that the managing director did not partake in corruption to enrich himself, but also to implement and optimize the management system he had designed. This ultimately led to the blending of economic and political corruption. The managing director not only secured substantial material advantages but also a significant degree of power. By manipulating the invitation to tender he enabled the regional plant constructor to become the main contractor and thus his willing accomplice. Not only did he coerce the main contractor to minimize the subcontractors' charges in order to secure and increase his own profit, but also for the sake of coming up with the bribes through fake invoices, by which the participants to the complot were to be rewarded. On the one hand, the managing director certainly had his fun with the elaborate construction of the project sequence (which only he really understood) and the resulting power. On the other hand, he created at the same time a set of lies with his construction plan, with which he was able to legitimate and justify his own conduct to himself.

The managing director may have been introduced to the practices of the construction branch by a private businessman (who took charge of transferring the bribes to Switzerland), but he came up with the management system himself, which cleverly used briberies as a regulatory instrument. In the eyes of the managing director it must have been a stroke of genius that he was not only able to reconcile the state official's commitment to the common good with the entrepreneurial logic of private economic conduct as well as his private interests, but at the same time achieve seemingly optimum results. The delicate building deal then collapsed when a politically responsible party indicted himself and the managing director was exposed as a small relay man in the large network of the notorious Cologne clique. The illustrated case of corruption is not only the best example of a misguided almost ingenious person, but also an expression of a general social trend, the neoliberal revolution, here in the concrete manifestation of New Public Managements in public administration and a structural problem inherent to it. However, the special feature of this case was how the managing director of AVG used corruption as an instrument of management, and in concrete terms as a means of cost control and quality assurance.

Second Case Study: Reflexive Management and Non-directive Business Legitimacy

A best practice example of non-directive business legitimacy and reflexive management is the case of a midsize high-tech company in the Rhine-Main area near Frankfort. The company was established as a software office in the mid-1970s when in consequence of the invention of micro chips the IT revolution in industrial process engineering started. The entrepreneur, an electronic engineer, and his team developed made-of-order solutions for optimizing process technologies in different industrial branches by microprocessor control systems. The company's success was not only a result of high expertise but also of the innovative organizational idea to combine the software office with an IT hardware production plant that was bought out by the entrepreneur after some time. By proximity to the customers and a holistic project management – the entrepreneur called them "comprehensive innovations" – comparative advantages and synergies could have been achieved in the form of matched hard- and software-solution as well as of time and costs savings. Recently the company has 365 employees of which a hundred are software developers, all together making a turnover about 60 Billion Euros. The company has been transformed in a stock corporation, led by the former entrepreneur as CEO, who as majority stockholder has still the decision-making power and exerts the dominant influence on the corporate culture.

The nature as innovative high-tech firm triggered the emergence of an advanced corporate governance structure. Engineering in autonomous project teams of high-qualified experts is incompatible with a command and control structure. Furthermore, the CEO is no longer involved in the operational work for many years. Optimal for breeding innovative high-tech solutions is a corporate culture based on self-commitment and trust. For the CEO, the fundamental principle of leadership is responsibility for the workforce and the customers what means outstanding performance of the company. The firm has a common good for the workforce and its customers, not self-interest and profit has priority for him as a leader. "In my Christmas sermon I preach every year: Folks, on top of the priority-list is the costumer, because he pays for all of us. On the second rank follows the well being of the employees, because you do the work. (. . .) And then, in the third instance, if at all, we care about the shareholders, who are demanding for profit. (. . .) Since thirty years I sermonise, 'we are not served'. (. . .) If I would like to present you our products, I would not say 'Mr Schiller, please bring me', but (to you), 'a moment please, I will go to take and bring them by my own.' (On the contrary) Mr Kessler is offering coffee, because it is part of his job. It's his duty. (. . .) A company's main objective is the creation of steady employment for the workforce and constant returns on the shareholders' assets. But this is possible only by achieving customer satisfaction, and you can get customer satisfaction only by satisfaction of the workforce. And exactly the value creation in our company, here a lot operates in the shadow. (. . .) We are not a screw plant, where you can count at the end of the day, what has been done."

The spirit of his business legitimacy is getting to the point, when he explains the difference between sponsoring and donation. For him sponsoring is a form of advertisement generating added value and, therefore, is in the firm's interest, because its brand name is brought to public. In the contrary, a philanthropic donation for the CEO has nothing to do with the economic strategy of the firm, but is simply a private affair, and if dishonestly done in the name of the company simply corruption. Making a donation is the privilege of a patron (in German "Mäzen"), who disposes of his private property, while a company leader is a trustee of other people's assets (stakeholders or shareholders). A rich patron also can accept the invitation for dinner by a bank that wants him as customer, but not a trustee. The same is true for an employee, for example, in the purchasing department, who is in contact with extern actors and exposed to a high risk for corruption, that is, the misuse of an office for private gain. The CEO defines procurement as martial art. The purchaser has to fight for the best price, what he is unable to do, if he is too familiar with the supplier or trader. Owner or employee, both have always to be aware of the difference between his role as private person and incumbent. This attitude may be considered as not at all atypical for the business legitimacy of midsize companies in Germany. Not surprisingly, the CEO is criticizing the corporate culture in big companies where leadership is alienated from the workshop and the workforce. In midsize companies, he says, the areas of responsibilities are built around the human capital. In consequence, midsize companies have patchwork organizations. In big firms they look for people who match with the organogram, hence, you have a chessboard structure with a helicopter on the top. Such a helicopter-like top manager is able to operate only, because he finds his landing place on the peak of a standardized organizational structure far away from the peculiarities of the workshop. He manages a virtual firm, making decisions on the basis of abstract parameter representing the performance of the division managers, who are controlling the operational work in their area of responsibility. In a midsize company such a helicopter manager would be absolutely isolated and forced to strike new roots in the workshop and the workforce.

The CEO realized that the core problem of organizing and managing the company is to provide for reciprocal respect between the teammates and for trust in the other's work even if one cannot understand, what the other is really doing. Here the CEO, too, found a brilliant solution, that is an ingenious example for reflexive management and non-directive business legitimacy. Everywhere in the company's building modern art is presented – not as decoration as it might look like at first glance than as an important factor of corporate culture. The CEO's intention was not to intimidate his workforce by confronting them with requisites of representative culture and superior formation. In the contrary, identifying himself with his employees, he upturned the intellectuals' (in German "Bildungsbürger") scornful view on the barbarian consumers of the entertainment culture, and proclaimed modesty: "As illiterate people in the field of arts, we have to be tolerant." He is convinced, that every day, when an employee is coming to work and is confronted with modern art that he does not understand and, may be, does not like, nevertheless learned to respect it as a masterpiece. This way, the CEO believes, the employees get aware that he has to respect and, finally, appreciate the work of his colleagues although he has no understanding of it. "After having had an intensive viewing of four, five, six paintings of this artist, I believe, when I guide them (his employees) through the aisle and ask them, 'tell me, whose artist's paintings are coming . . . then you have already discover a pattern. (. . .) If you start tolerantly studying the paintings, the fulminating moment happens that you accept the artist eye to eye and have the experience of a serious event. That does not mean that all in the firm became art lovers. But they have realised that we all respect and tolerate one another. It has a positive impact." The CEO emphasizes that tolerance is the precondition for a devote examination of the paintings and the miracle of the discovery of patterns. The perception of art helps to overcome ignorance and arrogance, finally initiates a conversion to an open-minded fellow.

In this context, the CEO's voluntary engagement as president of the regional chamber of commerce with more than 32,000 duty members is significant. His motive to be engaged in civil society work was not so much to fight for his interest as economic leader or to gain access to networks of "useful acquaintances" and new customers. Pushed by his entrepreneurial demon, he was looking for new challenges to be confronted with and to understand so far unknown social realities like politics: He characterizes his activity as "studium generale in real-time." Meanwhile, most of his duties from the engagement is done by routine, in short time (half a day) and without burden, so that he can enjoy the extraordinary moments of exciting experiences in the field of local and regional affairs. Being invited to exclusive events as guest or speaker he gains social acknowledgment by people beyond business-affairs.

Comparison of the Case Studies and General Conclusions

The case studies present the narration to excellent and moral integer persons, one as success-story of a midsize company's CEO who gains high reputation in society, the other as tragedy of a general manager of a Private Public Partnership who gets corrupt and, in consequence, failed in his business and in his total life. We can say, the one found his way, while the other lost it. The question arises, if the stories tell only individual destiny or allow understanding a historical trend.

The analysis demonstrated that the former civil servant elaborated a technocratic power play to make his proof as general manager of the Private Public Partnership under market conditions. He evinced charismatic leadership like a Svengali of a virtual system combining the apparently incommensurable: profit maximizing and fruition of a common good, utilitarism and corporatism. But in his new job, the common good by and by faded to an abstract idea beyond his rampant market and shareholder orientation. Utilitarian motives like monopolizing knowledge of domination, profit maximizing and manipulating people, began to dominate his behavior as general director, finally provoking self-seeking and manipulative behavior of the antagonists. His long-lasting bureaucratic habit as former civil servant ("sire ira et studio") obstructed the agility and softness a manager of a company in a free market needs. He underestimated the uncertainties and risks of the business, of the networks, and of a private life without lifelong alimentation by the state; hence, he got vulnerable, and at last captious for corruption. In the end, he was caught in the strings of his own puppet show that more and more resembles a spectacle of "wild capitalism."

A quite different impression conveys the second case of the midsize company's CEO, an electronic engineer, former entrepreneur and developer of a software house. Starting his career in the workshop as engineering consultant, he learned his business from scratch and constantly was in close contact with the customers and his own workforce. He combines excellent technical expertise with high social competences, finally generates forms of a reflexive management. In his relation to customers, owners, and employees, he practices a corporatist “regulated capitalism,” not primarily driven by profit maximizing. For him, the company’s main objective is creation of steady employment for the workforce and constant returns on the shareholders’ assets. In his classical stakeholder philosophy, both objectives are not seen as contradicting or conflicting forces but as complements; and, as CEO, he has to balance the different stakeholders’ interests. In his role as trustee the CEO represents the company as a common interest and figures as instance of regulation of the different stakeholders’ self-regulation (financial, technological, managerial) by implementing an esprit de corps between his teammates and all other stakeholders. Nevertheless, regulated capitalism is capitalism. The fundamental market principle of competition is still the central motive but rationalized, objectified, and tamed. The CEO made it very clear when he defines procurement as martial art. The purchaser has to fight for the best price, what he is unable to do, if he gets too familiar with the supplier or trader. What looks like pure utilitarism in fact is a categorical imperative of an intrinsic economic morality that obligate the purchaser to act in conformity to the company’s interest as a common good.

In the case of the general manager of the Private Public Partnership, business legitimacy functions as ideological justification and rationalization in the Freudian meaning, as camouflage of unprofessional and corrupt behavior. In the case of the midsize company’s CEO, business legitimacy was a consistent worldview and professional habit functioning as the moral basis of the successful performance of the firm. In this concept corruption makes no sense. In the beginning of his carrier the CEO was taken to task. Fearing for the next job, he bribed the representative of his customer. He soon realized that to schmear was not only unnecessary but caused the increasing risk to loose the trust and any business relationship to the customer at all and, finally, complicated the relation to the customer’s representative who for his own self-protection started to tease him by escalating a scrupulous order control. Corruption, he learned, destroys the prestige as a reliable partner of high expertise and, in the end, hollows his moral integrity as basis of autonomous decision-making and agency as it was the case with the general manager of the Private Public Partnership.

If we distinguish moral as a real actor’s habit in everyday life and ethics as deliberation and justification of idle norms and values, then business ethics and business legitimacy “is the theoretical and practical work to develop a well justified morality for the function of business corporations in society” (Rendtorff 2009: 14). In consequence, we have to differentiate between formal and substantial business legitimacy and compliance. Usually management theory operates with a concept of formal business legitimacy seen as “a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions” (Suchman 1995: 574), or as the process “by which an organization seeks approval (or avoidance of sanction) from groups in society” (Kaplan and Ruland 1991: 370). But “this will not happen as long as” the organization, as Michael Porter pleads, “sees its social agenda as separate from its core business agenda” (Porter 2010). Formal business legitimacy is designed as the reactive process of disclosure and defending or coping strategy after a threat of the company's image provoked by an incident or misconduct like the Exxon Valdez oil spill and the Bhopal Disaster (Deegan et al. 2002; Warren 2003) respectively the corruption scandal in connection with the construction of the waste incineration plant in Cologne that was brought to court. On the contrary, substantial business legitimacy is more than a charter of extrinsic norms; it is a proactive process of the company's performance based on the value-oriented habit and intrinsic conviction of all stakeholders. In short, substantial business legitimacy and effective compliance is possible only in a corporatist organization of capitalism with strong stakeholder orientation. Peter L. Berger was right if he warned against the loss of entrepreneurial culture, but he failed when he identified the entrepreneurial habit with the authoritarian model of bourgeois dominance in the nineteenth century. Actually we realize the emergence of a generalized and – insofar – democratized entrepreneurial economic culture in the new industry and other innovative high-tech-branches of economy all over the world.

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Stakeholder Value Creation: Legitimating Business Sustainability 21

Riikka Tapaninaho and Johanna Kujala

Contents

Abstract

The purpose of this chapter is to examine how business sustainability is considered and legitimated in stakeholder value creation studies. Based on a review of stakeholder value creation literature, a stakeholder value creation typology is presented. The typology consists of four categories, which are (1) focal firm orientation with economic value perspective, (2) stakeholder orientation with economic value perspective, (3) focal firm orientation with multiple value perspective, and (4) stakeholder orientation with multiple value perspective. Each category tells a somewhat different story of what the purpose of business is, who are the important stakeholders, what role does sustainability play in business, and how business sustainability is legitimated. A closer analysis reveals that the category of stakeholder orientation with a multiple value perspective shows the most potential to build the legitimacy of business sustainability on the

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profound meaning of sustainability with economic, social, and environmental dimensions. In this category, business sustainability is legitimized in terms of cooperative stakeholder relationships, continual negotiations, and collective efforts, where versatile value is created for various stakeholders, including values related to sustainability. The recommendations for future research draw attention to versatile and broad understanding of value, stakeholders, and value creation and dynamic, systemic, and multilevel stakeholder relationships and collaboration as subjects to understand the legitimation of business sustainability.

Keywords

Management literature

Introduction

The ways of doing business are under increased societal scrutiny, and in order to legitimate business sustainability, firms should meet the social, environmental, and economic expectations of various stakeholders. Often the mainstream management literature, however, falls short in acknowledging the numerous stakeholder responsibilities of business. Especially, as the importance of creating versatile value beyond economic measures has become more and more important in legitimating business sustainability. As sustainability is a complex concept to incorporate into business context, management theorists seem to lack a systematic examination of the premises of business sustainability (Gallo and Christensen 2011; Starik and Kanashiro 2013).

Stakeholder theory has been suggested as a management theory of this century as it serves well in understanding and redefining the role of business, value creation, and sustainability (Freeman 2010; Hörisch et al. 2014). However, research on stakeholder value creation is still rather fragmented, and few scholars have attempted to advance a general framework for combining stakeholder theory, sustainability management, and business legitimacy. Stakeholder approach has also been criticized for not addressing true sustainability challenges, as the basis for the stakeholder approach is mainly anthropocentric and emphasizes the focal firm view (e.g., Banerjee 2000; Clifton and Amran 2011). To promote sustainability in mainstream management literature, it is essential to increase our understanding of how sustainability and stakeholder value creation are connected and how business sustainability is legitimated in stakeholder literature (Hörisch et al. 2014).

This chapter argues that recognizing stakeholder responsibilities and understanding stakeholder value creation are an important part of legitimating business sustainability. The chapter builds on an increasing amount of literature on how organizations are applying the ideas of stakeholder value creation. The purpose of this chapter is to provide a structure for current work on stakeholder value creation, to examine how business sustainability is considered and legitimated within stakeholder research, and to identify ideas for future research. By examining the linkage between stakeholder value creation, sustainability, and business legitimacy, this chapter advances a general framework on stakeholder theory and sustainability management.

The rest of the chapter is organized as follows. First, the concepts of sustainability and legitimacy as basic concepts for discussing business legitimacy will be introduced. In the next section, stakeholder value creation research is structured according to four key categories. Then the chapter discusses how business sustainability is legitimated in each of these four categories. The chapter is concluded by discussing topics for further research within the fields of stakeholder value creation and business sustainability.

The Concepts of Sustainability and Legitimacy

Sustainability in its most profound meaning refers to meeting "the needs of the present without compromising the ability of future generations to meet their own needs" and consists of environmental, economic, and social dimensions (United Nations World Commission on Environment and Development 1987). Business sustainability should consider and meet the requirements of these three dimensions, too (Bansal 2005). In a business context, however, sustainability often does not cover all dimensions and usually concerns the "economic and/or ecological and/or social aspects of the relationship between business and society" (Gallo and Christensen 2011: 316). This casts a doubt on how well business organizations consider sustainability after all.

The use of the sustainability concept varies to a great extent both in breadth and depth in stakeholder literature, and there is a difference between the explicit and implicit use of sustainability. Explicit sustainability refers to studies that mention sustainability or sustainable development explicitly, whether as the main focus or in the form of random allusions or case examples (e.g., Pinkse and Kolk 2012; Sharma and Henriques 2005; Stubbs and Cocklin 2008). Implicit sustainability, in turn, refers to the use of sustainability or sustainable development as an indirect concept, for example, by addressing social dimensions, environmental dimensions, or both (e.g., Berman et al. 1999; Jawahar and McLaughlin 2001). This chapter considers the ways by which business sustainability is argued for and legitimated both explicitly and implicitly.

The concept of **legitimacy** refers to "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman 1995: 574). Legitimacy is considered a central concept in management and organization studies, and many efforts have been placed in examining and explaining its effects on organizational behavior. Despite these efforts, the concept and its use remain ambiguous, and different configurations prevail to date (Suddaby et al. 2017).

Suddaby et al. (2017) recognize three distinct legitimacy configurations within the management research: legitimacy-as-property, legitimacy-as-process, and legitimacy-as-perception. The first perspective, legitimacy-as-property, perceives legitimacy as something measurable and stagnant an organization must acquire and maintain in relation to its external environment (ibid.). The second perspective, legitimacy-as-perception, concentrates on individual-level cognitive processes in legitimacy evaluations (ibid.). The third perspective, legitimacy-as-process, focuses on legitimacy construction in interaction between different parties giving agency to various actors at multiple levels and emphasizing continuous and active negotiations among social actors about what is socially legitimate within the context in question (ibid.). In the legitimacy-as-process perspective, legitimacy construction is thus perceived to occur in cooperative stakeholder networks.

Business Sustainability in Stakeholder Value Creation Research

During the recent years, stakeholder value creation has become one of the major themes in stakeholder theory. This is due to the power of stakeholder theory to discuss and explain business value creation beyond the narrow shareholder value and include the expectations and interests of a large set of different stakeholders who are affected by and can affect the actions of a business organization (Freeman 1984, 2010). To create a structure to ample of stakeholder value creation literature, this chapter examines previous research with two dimensions: (1) focal firm vs. stakeholder orientation and (2) economic value vs. multiple value perspective. This examination results to a stakeholder value creation typology that allows for examining the previous work on stakeholder value creation from both theoretical and practical viewpoints, as well as paying attention to the diverse ways of legitimating business sustainability (Fig. 1).

With the stakeholder value creation typology, this chapter will organize the most important work in the field of stakeholder value creation into four categories: (1) focal firm orientation with economic value perspective, (2) stakeholder orientation with economic value perspective, (3) focal firm orientation with multiple value perspective, and (4) stakeholder orientation with multiple value perspective. The various categories of this typology have, obviously, some intersection, and their distinction is superficial to some extent. However, each category shares similar interests and themes, telling a certain type of a story about stakeholder

	Focal firm orientation	**Stakeholder orientation**
Multiple value perspective	(3) Focal firm orientation with multiple value perspective	(4) Stakeholder orientation with multiple value perspective
Economic value perspective	(1) Focal firm orientation with economic value perspective	(2) Stakeholder orientation with economic value perspective

Fig. 1 **Stakeholder value creation typology** was constructed based on the review of stakeholder value creation articles published in the leading management and specialty journals from 1985 to 2015. The scholarly articles were examined in relation to their orientation toward stakeholders (focal firm vs. stakeholder orientation) and value (economic value vs. multiple value perspective). Finally, a sample of relevant studies was included in the analysis presented in this chapter

value creation and business sustainability. In the following, each of these categories is examined in more detail.

Focal Firm Orientation with Economic Value Perspective

The first category in the stakeholder value creation typology, focal firm orientation with economic value perspective, emphasizes economic value predominance within the current economic paradigm. In this category, economic value creation is considered as the primary function of business organizations, and basis of business legitimacy lies on financial performance, while business sustainability is treated as secondary to traditional performance measures (e.g., Choi and Wang 2009; Garcia-Castro and Francoeur 2016). The main stakeholders engaged in the negotiations about the business sustainability and legitimacy are those who profit from the firm's economic performance, such as shareholders, or are of utility for a firm, such as suppliers. Focal firm orientation combined with economic value perspective may reinforce organizational behavior that neglects broader societal values and cooperation regarding sustainability and build the legitimacy of business sustainability on economic value creation solely.

Studies representing the focal firm orientation and economic value perspective rationalize that giving primacy to economic value creation function is the most beneficial approach to all stakeholders at the end. Furthermore, stakeholder approach is criticized for being too vague a guideline in managerial decision-making, which often requires trade-offs between stakeholder interests (Jensen 2002; Sundaram and Inkpen 2004.) Therefore, the primary corporate objective function is suggested being the firm's long-term value maximization (Jensen 2002) or shareholder value maximization (Sundaram and Inkpen 2004). However, some studies examine how the interests of shareholders and stakeholders could simultaneously be met, showing evidence that it is possible to meet the expectations of different stakeholders without negative impacts on shareholder value (Ogden and Watson 1999).

Instrumentality and economic value creation emphasis are also present in this category. The focus is on how stakeholder management contributes to firm performance, showing both positive (e.g., Choi and Wang 2009; Hillman and Keim 2001) and negative effects (e.g., Garcia-Castro and Francoeur 2016). Additionally, the motivation to address stakeholder concerns is linked to positive effects on financial performance (e.g., Berman et al. 1999). Jawahar and McLaughlin (2001) argue that the motivation and interest to manage stakeholders depend on the correspondence between the firm's life cycle stage and stakeholders' utility for the firm within that stage. Rowley (1997), on the other hand, argues that the firm's stakeholder management activities (resisting or more cooperating) depend on a firm's stakeholder network density and the firm's own negotiating position within it.

To sum, the category of focal firm orientation with economic value perspective represents stakeholder research, which builds on the primacy of organizational interests and business value before other value considerations and focuses on examining instrumentally whether or not various stakeholder issues should be attended to. Hence, the efforts regarding different stakeholders are made in relation to potential benefits for the focal firm and its performance, and business sustainability is legitimated with economic values and financial performance from the focal firm's point of view.

Stakeholder Orientation with Economic Value Perspective

While still leaning on the economic or business value predominance, the category of stakeholder orientation with economic value perspective tells a story in which stakeholder relationships and cooperation are viewed necessary for value creation. By acknowledging cooperative networks as important for business success, broader interests of different stakeholders become under the organizational scrutiny. However, the focus on business performance defines the setting instrumentally, leading to a limited approach to value creation compared with a broader sustainability view.

Orientation toward a wide set of stakeholders is expressed in many ways in this category. Considering the importance of different stakeholders and their cooperation for a firm's success, Garcia-Castro and Aguilera (2015) argue that the stakeholders should profit from the created economic value proportionally related to their efforts, such as the resources and capabilities they have provided for value creation. In addition, the role of trust is discussed in many studies, especially in relation to instrumental stakeholder theory. It is argued that trusting cooperative relationships lead to organizational wealth and competitive advantage (Jones 1995; Preston and Donaldson 1999; Wicks et al. 1999) and that different dimensions of trust are important for different stakeholders (Pirson and Malhotra 2011). Coff (2010) points out that the bargaining power of certain stakeholders may influence firm performance negatively. Moreover, the theme of blurring organizational boundaries draws attention to different internal and external stakeholders, and it is argued that stakeholders should be given more attention than is usually done in the value creation processes (Henisz et al. 2014; Korschun 2015; Schneider 2002).

To sum, the main focus in the category of the stakeholder orientation with economic value perspective is on those stakeholders, who can affect business performance. Therefore, business sustainability is legitimized by creating economic value in the stakeholder network and by negotiating with those stakeholders who are important within the firm's cooperative stakeholder networks and central for the financial performance of business organizations.

Focal Firm Orientation with Multiple Value Perspective

In the category of focal firm orientation with multiple value perspective, sustainability issues are increasingly present, either explicitly or implicitly. However, there seems to be no shared conception of sustainability, as some studies discuss mainly environmental (e.g., Driscoll and Starik 2004) and others mainly social issues as sustainability matters (e.g., Jones and Felps 2013). Some scholars criticize that stakeholder theory is based on an anthropocentric, Western economic paradigm, which does not adequately consider the broader environmental and social sustainability issues such as the needs of marginalized stakeholders (Banerjee 2000; Gladwin et al. 1995). Especially, the traditional corporate social responsibility (CSR) approach is criticized, as it is regarded as something separate from a firm's value creation disconnecting the social responsibilities from the economic ones (O'Riordan and Fairbrass 2014; Sachs and Maurer 2009).

A firm-centric approach is well present in the studies interested in stakeholder identification and management. For example, Mitchell et al. (1997) contend that stakeholders are perceived important by managers based on three attributes possessed by stakeholders, that is, power, legitimacy, and urgency. Bundy et al. (2013), on the other hand, argue that stakeholder issues become salient in relation to the organizational identity and the strategic frames that managers follow. In effect, organizational aspects and managerial cognitions are seen to be affecting the stakeholder management practices firms adopt (Crilly 2013; Crilly and Sloan 2012).

Some studies are interested in reconceptualizing value creation. For example, Haksever et al. (2004) direct attention to managerial decision-making, which has potential to either create or destroy value for different stakeholders. Additionally, Jones and Felps (2013) present that firms should follow the objective function of stakeholder happiness enhancement instead of shareholder wealth maximization.

Studies focusing on environmental and sustainability management expand the view of value creation by explicitly connecting sustainability to business. Driscoll and Starik (2004) ascribe the environment status of the most important, or primordial, stakeholder. Many studies are interested in what makes firms adopt environmental or sustainability management practices. For instance, Sharma and Henriques (2005) contend that firms adapt sustainability practices in relation to the influencing capacity and resources of their social, ecological, and economic stakeholders. Industry, ownership and firm size (Gallo and Christensen 2011), and institutional factors (Bansal 2005) are seen to affect firms' sustainability performance, too. Additionally, the cognitive frames of managers are argued to have an effect on managers' sustainability sensemaking (Hahn et al. 2014).

To sum, in the category of focal firm orientation with multiple value perspective, sustainability is perceived as an essential part of business, and it is argued that sustainability should have a place on every firm's agenda. A wide variety of stakeholders are identified, and their concerns are included in managerial practices and decision-making. The main emphasis in this category is on firm-centric, managerial approaches. However, some studies shed light on the potential flaws of the firm-centric approach especially in the context of sustainability and argue that firms should improve their sustainability practices and see the environment as one of the stakeholders.

Stakeholder Orientation with Multiple Value Perspective

The category of stakeholder orientation with multiple value perspective starts to tell a new kind of story of stakeholder value creation and business sustainability. This story is built on the firm's purpose and responsibility to create value beyond economic measures with and for all stakeholders (Freeman 2010), emphasizing the importance of cooperation as well as multiple value considerations. In this category, business sustainability is related to multi-stakeholder settings tackling "wicked" socioeconomic problems, to the ecological orientation of firms, and to sustainable business models. For example, Shrivastava (1995) presents an approach of eco-centric management, in which stakeholder welfare, the quality of life, and sustainability are seen as the main goals for business organizations. More recently, Pinkse and Kolk (2012) assert that multi-stakeholder partnerships are of utmost importance addressing the complex climate change and sustainability issues. Moreover, addressing sustainability issues and especially environmental sustainability as one of the main business goals is justified with the systemic view where both the society and the firms are dependent on the environment (Marcus et al. 2010).

Studies on sustainable business models place sustainability and multi-stakeholder collaboration in the center of business organizations. Sustainable business models require correspondence of internal structures and cultural capabilities (Stubbs and Cocklin 2008) and transformational value creation logics (Schaltegger et al. 2016). Hence, complex sustainability challenges are seen to touch both business organizations and management theories to an extent that they need to adapt or transform accordingly (Derry 2012; Hahn et al. 2010).

More traditional research on stakeholder value creation presents principles and conceptions to promote stakeholder orientation and multiple value creation. One of the main principles ("The Principle of Stakeholder Cooperation") emphasizes voluntary, cooperative stakeholder networks, where all stakeholders can jointly satisfy their needs (Freeman 2010; Freeman et al. 2007). By managing the multi-attribute utility functions of stakeholders and their synergies, firms can enhance value creation possibilities and find new, innovative ways to create value for all stakeholders (Harrison et al. 2010; Tantalo and Priem 2016). Furthermore, trust and justice are seen to nurture value creation possibilities and reciprocal stakeholder relationships (Bosse et al. 2009; Harrison et al. 2010; Jones and Wicks 1999; Myllykangas et al. 2011). In effect, stakeholder theorists have devoted a lot of effort to advance responsible business, drawing attention to the inseparable pair of business and ethics (Freeman 2000).

Just recently, stakeholder theory has been strengthened regarding sustainability by Hörisch et al. (2014), who argue that firms should try to make sustainability a shared value for their stakeholders. Yet, there is no common conceptualization of value within stakeholder value creation studies. What is of value has been defined, for example, with regard to perceived utility by a stakeholder (Harrison and Wicks 2013) or with the concept of stakeholder capability, for instance, the capability of being green (Garriga 2014). Despite the lack of common conception of value, stakeholder approach serves well in addressing the economic, social, and environmental values that are important for different stakeholders due to the similarities of sustainable development and stakeholder relations management approaches (Steurer et al. 2005).

To sum, the category of stakeholder orientation with multiple value perspective goes beyond the traditional single value, focal firm perspective and perceives business inherently consisting of the collective efforts of different stakeholders and versatile value creation. While the studies within this category do not share a similar approach to sustainability, it is increasingly perceived as one of the most important values of our times (e.g., Hörisch et al. 2014). Accordingly, business sustainability becomes negotiated within stakeholder relationships and is continuously constructed and legitimized in the dialogue between different environmental, social, and economic stakeholders and the focal firm.

Legitimacy Views of Business Sustainability

The literature on stakeholder value creation has evolved considerably during the past decades both in terms of quality and quantity. The presented stakeholder value creation typology allows for showing how different stakeholder value creation approaches consider and legitimate business sustainability. Each stakeholder value creation category tells a different story of what is the purpose of business, what affects its legitimacy, which stakeholders are important, and what role sustainability plays in business. A closer examination of these categories reveals varying presumptions, worldviews, and even paradigms leading to varying sustainability considerations, too. Starting from the traditional focal firm with economic value frame, the literature is now increasingly acknowledging sustainability issues and versatile value creation beyond firm financial performance. Thus, also the ways to legitimate business sustainability are changing. Table 1 depicts how business sustainability is considered and legitimized within stakeholder research by identifying the diverse ways to legitimate business sustainability along the different categories of stakeholder value creation typology.

In the first two categories representing the economic value perspective, legitimacy is built on shareholder value maximization, firm financial performance, and creating competitive advantage. While some studies acknowledge the importance of wider stakeholder networks, the economic value is still the most important focus, and stakeholders are engaged to create competitive advantage and improve financial outcomes. In this line of thinking, there is a risk to reinforce the economic value creation function of firms at the expense of environmental and social sustainability. The requirements of three business sustainability dimensions may not be met, as economic value overrides social and environmental values. Moreover, the future orientation of sustainability thinking may be forgotten, and the short-term economic outcomes override the long-term sustainability goals. These views can be seen to represent legitimacy-as-property perspective (Suddaby et al. 2017), as they legitimize business sustainability with the end result of business actions, i.e., something quantifiable and stagnant business organizations must gain and retain in order to

Table 1 Legitimacy views of business sustainability summarize the results of the qualitative content analysis of stakeholder value creation literature and the legitimacy views they represent in relation to business sustainability

Categories of stakeholder value creation typology	Legitimacy views of business sustainability	Authors
Focal firm orientation with economic value perspective	Legitimation is built on the primacy of economic and shareholder value maximization resulting in benefits for all stakeholders	Jensen 2002; Ogden and Watson 1999; Sundaram and Inkpen 2004
	Legitimation is built on stakeholder management contributing positively to financial performance	Berman et al. 1999; Choi and Wang 2009; Garcia-Castro and Francoeur 2016; Hillman and Keim 2001
	Legitimacy is built on the changing importance and salience of stakeholders in relation to a firm's needs and situation	Jawahar and McLaughlin 2001; Rowley 1997
Stakeholder orientation with economic value perspective	Legitimacy is built on cooperative stakeholder relationships and sharing the created economic value between different stakeholders	Coff 2010; Garcia-Castro and Aguilera 2015
	Legitimacy is built on giving importance to a broader set of stakeholders	Henisz et al. 2014; Korschun 2015; Schneider 2002
	Legitimacy is built on trusting, cooperative stakeholder relationships creating competitive advantage	Jones 1995; Pirson and Malhotra 2011; Preston and Donaldson 1999; Wicks et al. 1999
Focal firm orientation with multiple value perspective	Legitimacy is built on expanding the environmental and social responsibilities of a firm	O'Riordan and Fairbrass 2014; Sachs and Maurer 2009
	Legitimacy is built on the abandonment of the anthropocentric, Western economic paradigm that serves poorly the sustainability considerations	Banerjee 2000; Gladwin et al. 1995
	Legitimacy is built on analyzing the saliency of stakeholder issues that depend on organizational structures and individual-level perceptions	Bundy et al. 2013; Crilly 2013; Crilly and Sloan 2012; Mitchell et al. 1997
	Legitimacy is built on the expanded conceptualization of value creation taking care of various stakeholders and their well-being	Haksever et al. 2004; Jones and Felps 2013

(continued)

Table 1 (continued)

Categories of stakeholder value creation typology	Legitimacy views of business sustainability	Authors
	Legitimacy is built on perceiving environmental and sustainability issues as firm responsibilities	Bansal 2005; Driscoll and Starik 2004; Gallo and Christensen 2011; Sharma and Henriques 2005
Stakeholder orientation with multiple value perspective	Legitimacy is built on placing sustainability issues in the center of business organizations and value creation	Derry 2012; Hahn et al. 2010; Marcus et al. 2010; Pinkse and Kolk 2012; Shrivastava 1995; Stubbs and Cocklin 2008
	Legitimacy is built on cooperative stakeholder networks and value creation processes, in which what is of value is negotiated and constructed continuously; focus is on creating as much as value as possible to all stakeholders	Bosse et al. 2009; Freeman 1984; Freeman 2010; Freeman et al. 2007; Garriga 2014; Harrison and Wicks 2013; Harrison et al. 2010; Hörisch et al. 2014; Jones and Wicks 1999; Myllykangas et al. 2011; Steurer et al. 2005; Tantalo and Priem 2016

survive. In this approach, the efforts to influence business organizations by stakeholder groups representing social and environmental issues become important in advancing sustainability issues.

The last two categories representing multiple value perspective combine the economic and social responsibilities of the firms more tightly together. However, there is no consistent view about what business sustainability is truly and how it should be strived for in business organizations. The category of focal firm orientation with multiple value perspective follows the idea of legitimacy-as-perception (Suddaby et al. 2017), as business sustainability is legitimized in individual of firm-level processes analyzing and conceptualizing stakeholder salience and environmental responsibilities. Again, broad stakeholder engagement and cooperation would be needed in order to reinforce sustainability views in business and to allow for different stakeholders to participate in negotiating about what is of value and how to enhance sustainable value creation.

While all the approaches presented in Table 1 have their place and rationale, the last category of stakeholder orientation with multiple value perspective is the only one to consider business sustainability and its three pillars equally. Abandoning a firm-centric, economic view leads to recognizing the broader social and environmental issues that concern all of us and requires cooperative efforts of businesses, stakeholders, and society-at-large. This approach perceives business legitimacy in terms of cooperative stakeholder relationships, which through continuous negotiations and collective efforts create versatile value for all stakeholders. While sustainability issues are not always considered explicitly, there is an increasing interest to expand stakeholder considerations to consistently include sustainability matters and to perceive sustainability as one of the main goals of business organizations. From the legitimacy point of view, business sustainability is built on addressing sustainability issues as an essential part of business organizations and their value creation processes. Moreover, legitimacy is constructed in a continuous dialogue between the firm and its stakeholders on what is of value to whom and how to develop collaborative stakeholder value creation processes. Such approach relates well to the legitimacy-as-process view (Suddaby et al. 2017), as legitimacy is constructed in interaction between different parties and in continuous and active negotiations among various stakeholders and refers to the legitimacy construction in cooperation with different social actors. The participating actors and the context in question influence how complex sustainability issues without the right answers are addressed.

Avenues for Future Research

As the premises of stakeholder value creation and legitimating business sustainability have become more explicit and clear in this chapter, some recommendations for future research can be suggested supposing that sustainability issues matter for management theories and business. Regarding the study premises, future research should make the conceptual foundations of stakeholders, value, and sustainability more visible by explicitly stating which paradigm and presumptions the research setting is built on and which discussions it wants to participate in. This is important especially regarding the lack of consistency in the use of sustainability concept within the stakeholder research. As building business sustainability requires reconsideration of the purpose and role of business in society, it would be useful to define and strengthen a shared understanding of the concept itself to start with.

Furthermore, future research could elaborate on the ideas of business sustainability presented in the category of stakeholder orientation with a multiple value perspective further. For example, examination of cooperating stakeholder networks presents itself as an interesting research avenue in order to better capture how sustainability as one value perspective is negotiated about and how value creation and value can be understood broadly. Future research could also focus on multi-stakeholder settings instead of emphasizing the focal firm activities, as business sustainability is regarded requiring collective efforts. In essence, dynamic, systemic, and multilevel stakeholder cooperation between different constituencies remains an interesting research area. Quite a recent research stream on sustainable business models, in particular, shows potential to examine current business practices and needed changes from the sustainability view. In effect, truly sustainable business models lack both real-life examples and research to date.

Conclusion

To conclude, this study examined how business sustainability is considered and legitimated in stakeholder value creation studies. Close examination revealed a great variance within stakeholder value creation studies and in their approaches to sustainability. Depending on how stakeholders and value were understood, the legitimation of business sustainability followed either the legitimacy-as-property, legitimacy-as-perception, and legitimacy-as-process views. However, studies emphasizing the importance of stakeholder cooperation and value beyond economic measures provide us with valuable conceptual constructions, where the future story of business sustainability can be built on. The recommendations for future research draw attention to versatile and broad understanding of value, stakeholders, and value creation, as well as on dynamic, systemic, and multilevel stakeholder relationships and collaboration. The conceptualization of sustainability within stakeholder value creation and the elaboration on the purpose and role of business with regard to sustainability serve as interesting focus areas for future research, too. This calls for explicit statements about the role of sustainability in our thinking, values, and consequent management theories.

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Part VI

Public Governance, Co-creation, Innovation, Taxation, and Business Legitimacy

Legitimacy in Co-creating Governance Networks

22

Andreas Hagedorn Krogh and Jacob Torfing

Contents

Abstract

The rise of governance networks through which public and private actors co-create public value outcomes has two important consequences for the legitimacy of private businesses. On the one hand, private companies participating in governance networks and public value co-creation get to influence political and administrative decisions in legitimate way. On the other hand, participation in public value co-creation means that private businesses are increasingly expected to legitimize their own, interest-based actions in relation to society's collective goals in order to gain access to governance networks and public–private collaboration. This chapter charts the development of new forms of interactive governance and presents an overview of the forms of networked governance in which private companies typically participate. It addresses the question of legitimacy at the levels of the network and the individual company, respectively, and discusses some of the strategies for constructing and managing the internal and external

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legitimacy of network actors. Finally, it is sketching out some future research avenues that may deepen our understanding of the legitimacy of private business participation in public governance.

Keywords

Public-private partnerships · Network governance · Metagovernance · Co-creation · Legitimacy

Introduction

With the 2016 US presidential election of Donald Trump, the 2016 Brexit referendum in the UK, and the concomitant rise of right-wing populism in Europe, the nation-state has reasserted itself as a critical political construct (Anselmi 2018). The return of the nation-state in the 2010s is remarkable, precisely because it is occurring after half a century of steady decline in the capacity of the nation-state to ensure the socioeconomic regulation of its own population. While the new wave of right-wing populism has surely slowed the decades-long "hollowing-out" of the state – at least rhetorically – there is still some way to go before the continued development toward post-national, pluricentric governance is either halted or reversed (Stoker 2019).

Since the mid-1970s, political power and competence have gradually shifted *upward* to international and transnational governance institutions; *downward* to local governments and user boards; and *outward* to interactive governance networks of interdependent public and private actors who come together to solve problems of common concern (Jessop 2002). Governance networks now exist at the local, regional, national, and transnational levels and in practically all policy areas, including public health, labor, transportation, migration, education, climate change, and environmental sustainability (Scherer and Palazzo 2011). The state's gradual loss of its supposed monopoly on political governance has nurtured a notion of a shift "from government to governance" (Rhodes 1997; Sørensen and Torfing 2007; Gjaltema et al. 2019). Here, "government" refers to formal political institutions, whereas "governance" refers to both formal and informal processes through which public and private actors with various experiences, forms of knowledge and expertise, and other relevant resources formulate and realize collective goals, often through partnerships, networks, and relational contracts (see also Torfing et al. 2012).

Co-creation, defined as processes of public value creation in which two or more social and political actors develop and implement new solutions to shared problems, represents one of the most recent developments in the attempt to govern society and the economy in a shared-power world (Ansell and Torfing 2014; Fogsgaard and de Jongh 2018). In recent years, co-creation has gained ground as a proactive governance strategy for dealing with the wicked problems found in our increasingly complex, fragmented, and dynamic societies (Pestoff et al. 2012;

Ansell and Gash 2018). Researchers, politicians, and practitioners all consider - co-creation in collaborative networks to be an effective tool for distributing responsibility, mobilizing resources, spurring innovation, and creating public value outcomes (Torfing 2016).

The rise of governance networks and co-creation as a public governance strategy has two important consequences for the legitimacy of private businesses in the eyes of the public. On the one hand, private companies participating in governance networks and public value co-creation are able to influence political and administrative decisions in legitimate ways (Jessop 2002). The new collaborative forms of governance stand in stark contrast to dubious forms of lobbyism or outright corruption that have little or no legitimacy. On the other hand, participation in public value co-creation means that private businesses are increasingly expected to legitimize their own, interest-based actions in relation to society's collective goals in order to gain access to governance networks and public–private collaboration (Scherer and Palazzo 2011: 914–917). In other words, if a private company wants to join resourceful and influential governance networks, it cannot only concern itself with its own short-term, bottom-line results and the formal laws and regulations that prevail in its field of operation. It must be able to justify its actions and results in relation to political demands regarding social responsibility, job creation, skills development, social equality, climate change mitigation, and so forth, even if these requirements are not yet translated into formal legislation and regulation.

This chapter focuses on the participation of private businesses in public governance and co-creation and their legitimacy as politically and socially responsible actors. First, we review the historical development of public governance in Western liberal democracies, which culminates in the widespread use of governance networks and growing interest in co-creating public value outcomes with private companies. Second, we provide analytical definitions of network governance and co-creation with reference to the most influential theories in the field. Third, we present an overview of the forms of interactive and networked governance in which private companies typically participate. Fourth, we address the question of legitimacy at the levels of the network and the individual company, respectively. Fifth, we introduce the concept of meta-governance and discuss some of the strategies for constructing and managing the internal and external legitimacy of network actors. Finally, we conclude by summing up the main points of our argument and sketching out some future research avenues that may deepen our understanding of the legitimacy of private business participation in public governance.

A Brief History of Public Governance

Governments have always interacted with private associations, organizations, and companies that, as pressure groups, have tried to influence government policies. For a long time, scholars, journalists, and the public perceived these contacts as illegitimate forms of lobbying associated with shady business beyond democratic control. This has changed over the course of the past couple of decades, however, during which time governance networks and public–private co-creation have gained prominence as effective, legitimate, and much-needed alternatives to the traditional governance mechanisms based on hierarchy and markets.

In the postwar period, public bureaucracy was the preferred provider of public governance and public services. Public welfare systems developed and grew steadily throughout the 1950s, 1960s, and early 1970s, and the wider access to social welfare combined with persistent economic growth ensured broad support for the political-administrative system. In 1973, however, the economic crisis undermined the socioeconomic foundations for the expansion of the welfare state, which sparked a profound legitimacy crisis. The failure to secure continued economic growth and social welfare spurred neoliberal attacks on public bureaucracy. For instance, the Trilateral Commission set the agenda with its now renowned report on the so-called crisis of democracy, which was published in the wake of the economic crisis (Crozier et al. 1975). According to this report, the public sector and hierarchical systems of government were "overloaded," since the growing demands on the welfare state exceeded the available public resources. At the same time, the report asserted that society had (and would continue to) become increasingly "ungovernable" due to the growing complexity, fragmentation, and individualization that undermine the attachment of citizens to public values and their support for collective solutions. In the worst-case scenario, the population would lose trust in elected government and support anti-democratic populist movements.

In the early 1980s, neoliberal ideologues formulated a radical response to this dire diagnosis: to roll back the welfare state and privatize large parts of the public sector. Upon taking office in 1979, British Prime Minister Margaret Thatcher promoted the neoliberal agenda under the political slogan, "more market, less state." However, trimming down the state quickly proved much easier to about talk than to implement in practice. In fact, public social spending *increased* steadily in the UK over the course of the 1980s (Pierson 1994). The neoliberal attack on public welfare systems nevertheless gained foothold in several Western countries.

A more moderate and arguably more successful recipe for altering public governance in the face of the economic crisis took shape in the late 1980s. The public reform wave of New Public Management (NPM) that swept across the Western world in the late 1980s and 1990s made no attempt to do away with the social welfare systems, as such. Instead, it problematized the public monopoly on service delivery and the tendency of public service production to be of poor quality and excessively expensive (Hood 1991). The solution was to enhance competition between public and private service contractors, to strengthen public management through the introduction of performance management, and to increase the customer orientation of public bureaucracies by allowing service users to choose between service providers.

Initially, the NPM reforms enjoyed great support among public policymakers and administrators, but criticisms gradually emerged as the lack of results and unintended negative consequences became evident (Hood and Peters 2004; Hood and Dixon 2015). Outsourcing is expensive and often undermines quality in the public sector. Performance measurement is bureaucratic, crowds out public service motivation among employees, and hampers cross-sector collaboration and innovation. Free service choice schemes for citizens encourage “exit” instead of “voice,” whereby important information for the continuous improvement of public services is lost (Torfing 2009). Finally, increased competition and the fragmentation of governance seem to present an inadequate response to a growing number of wicked problems where causes and effects are unclear, complex, and interwoven, which, rather paradoxically, call for more crosscutting coordination and collaboration (Koppenjan and Klijn 2004).

At the turn of the millennium, public authorities increasingly looked to governance networks as a way of mobilizing and activating private resources, knowledge, and the self-governing capacities of private actors when realizing political objectives and developing solutions to wicked problems (Sørensen and Torfing 2007; Sørensen and Triantafillou 2009). New collaborative forms of governance, promoted as New Public Governance (NPG), gradually supplemented and supplanted NPM (Osborne 2006, 2010; Torfing and Triantafillou 2013). The 2007 financial crisis made the broad mobilization of societal resources an imperative for governments around the world. Since then, the notion of co-creation has received significant attention in public governance theory and practice. Public policymakers, administrators, managers, and employees are now increasingly inclined to involve citizens, businesses, and other private actors when developing and implementing new policies, service systems, and services (Bovaird and Löffler 2012, 2018; Torfing et al. 2019). The following two sections delve deeper into the theories behind the new trends in public governance and formulate analytical definitions of network governance and co-creation, respectively.

What Is Network Governance?

Pluralist and corporatist theories have dealt with the interactions between private and public actors in different ways. Pluralism descriptively studies – and normatively celebrates – the multiplicity of private interest groups that spontaneously organize all societal interests and compete to influence policy decisions, with the state playing the role of a neutral bystander. However, corporatist scholars soon criticized pluralist interest group theory for discounting the pivotal role of the state and its selective involvement of a few strong interest groups. Instead, corporatism focused on the merger of a few private and public actors into the dominant power elite. In turn, pluralists criticized corporatism for its tendency to overlook the competition between sociopolitical elites and to exaggerate the close and stable relationships between the state and central labor organizations (Kenis and Schneider 1991).

Policy network theory developed in the early 1990s in response to criticisms of both pluralism and corporatism. Describing various types of networks on a continuum from closed and exclusionary networks (policy communities) to loose and inclusive networks (issue networks), it expanded our understanding of state–society interactions (Marsh and Rhodes 1992). It also reconceptualized the role of the state as the designer, facilitator, and manager of multi-actor networks, which laid the foundations for later theoretical developments focusing on how governance networks are managed and meta-governed (Kickert et al. 1997; Sørensen and Torfing 2007).

Parallel to this evolution in the political sciences, organizational theory developed a similar concept of interorganizational networks, which is even more relevant for understanding the participation of businesses in governance networks. It builds on the basic assertion that researchers should not conceive of organizations as closed mechanical systems but rather as open systems operating in an environment comprised of other organizations (Aldrich 1979). Thus, the key to understanding public and private organizations is to analyze their interactions and exchanges with other organizations within their particular organizational field (Powell and DiMaggio 1983; Powell 1991).

The theoretical discovery of interorganizational governance networks soon created a need to provide a precise definition of the term. The rapidly expanding research literature generally agrees on defining governance networks as a relatively stable articulation of mutually dependent but operationally autonomous actors from the state, market, and civil society, who engage in policymaking and contribute to the production of public value in a broad sense of visions, plans, scenarios, standards, regulations, and decisions (Sørensen and Torfing 2009: 236). Empirically, we can see how some networks are self-grown "from below," whereas others are initiated by public authorities "from above;" some are formal and others are informal; and some networks are open and have a changing circle of participants, while others are closed and imply permanent membership. Moreover, governance networks can have different functions: some facilitate cooperation by which actors merely exchange information and share knowledge; others sustain coordination whereby actors seek to avoid gaps and overlaps in the provision of services; while others stimulate collaboration through which the network actors develop and implement common solutions to shared problems (Keast et al. 2007).

What Is Co-creation?

Since the late 1970s, public authorities have been inspired by private companies that enhance value production through user-driven innovation that involves end users in the design and development of new products and services (Prahalad and Ramaswamy 2002; Leadbeater and Cottam 2007; Voorberg et al. 2013; Gouillart 2014). More recently, the term "co-creation" has emerged as a label for processes in which two or more actors collaborate to create new and better solutions to common problems and challenges. Today, scholars of public administration and management use the term to denote processes in which public authorities "cross the great divide" between the public and private sectors by involving citizens, businesses, and other private actors in the development and implementation of new policies, service systems, and services (Ostrom 1996; Bovaird 2007; Alford 2014; Nabatchi et al. 2017).

While the purpose of co-creation in the private sector is ultimately to make and raise profits, the overarching goal of co-creation in the public domain is to create public value; that is, to provide solutions that are valuable for the public and valued by the public (Bovaird and Löffler 2012). In practice, however, co-creation will also create individual value for the participating actors (Nabatchi et al. 2017; Bovaird and Löffler 2018). With respect to the more specific goals and outcomes of co-creation, scholars tend to distinguish between three forms of co-creation: *co-governance* involves collaborative policy formulation, planning, and prioritization; *co-management* involves collaborative development of public service systems and processes; and *co-production* involves individual citizens in the production of their own services (Pestoff et al. 2012).

While part of the co-creation literature reserves the term co-creation for processes involving public–private collaboration in all stages of developing new policies and services – from defining the problem, generating ideas, and selecting the most promising solutions to implementing and evaluating them – others see co-creation as a matter of degree (Bovaird 2007). Thus, we can speak of a greater or lesser degree of co-creation depending on the extent to which public and private actors take on the roles of co-initiators, co-designers, co-implementers, and/or co-evaluators (Voorberg et al. 2013). In any case, co-creation always involves producing something through collaboration. Thus, cooperative and coordinating governance networks do not engage in co-creation processes. Co-creation happens in either temporary or more permanent collaborative governance networks in which public and private stakeholders develop and implement new policies or services together in response to jointly defined problems and challenges.

Public–Private Relations

There is no consensus in the research literature on how to categorize relationships between public authorities and private companies, but the following overview highlights some typical examples of such relationships. As we move through examples 1–6 in the overview, the role of companies develops from performing specified tasks to co-creating policies and solutions to current societal challenges. The degree of collaboration, the ability of companies to exert influence on public governance, and the opportunity of public authorities to engage, commit, and influence the priorities and orientations of private businesses thus increase down the list.

1. *Public–private partnerships*
   Public–private partnerships in which public authorities and private contractors share the costs, revenues, and risks associated with building and operating a particular infrastructure are becoming increasingly widespread. The partnerships establish formal, project-based relationships between limited numbers of actors linked together through contracting. Examples include major infrastructure

projects, such as the construction of bridges, tunnels, ports, hospitals, and schools. Public–private partnerships focus on task completion and have virtually no political influence.

2. *Outsourcing based on relational contracts*
   Relational contracts have gained ground in recent years. They go beyond traditional outsourcing in which a public actor purchases and finances a particular service provided by one or more private companies selected through an open tender. Involving greater degrees of cooperation than traditional transactional contracting, relational contracts replace hierarchical rules and monitoring with ongoing negotiations and cooperation between the public and private parties through which service standards are set and evaluated and objectives developed.
3. *Monitoring networks*
   Business and environmental regulation is increasingly using "soft governance" in the form of voluntary norms and standards monitored by industry-specific agencies. To create ownership and ensure compliance with the norms and standards, public authorities often delegate the task of developing the norms and standards to self-regulating networks involving private companies, government agencies, and scientific experts. One example of this is the European airlines, which define their own safety standards in close dialogue with experts and EU authorities.
4. *Advisory networks*
   National and local governments increasingly choose to establish national, regional, and local councils and committees that are charged with the task of overseeing and advising relevant public authorities on how to coordinate and organize new initiatives. We find these networks in many business-related policy areas, such as employment policy, vocational training, technology development, and tourism. Also within crime prevention, governments increasingly mandate local councils and networks, where public and private actors deliberate and discuss public crime prevention strategies.
5. *Policy networks*
   When governments invite companies and business organizations to participate in the formulation of major political reforms, we talk about policy networks. These networks sometimes also play a role in the subsequent implementation process. While government maintains a privileged position in deciding which policy options to turn into public policy, the private network actors deliver important input and feedback to public policymakers in interactive policy development.
6. *Innovative problem-solving networks*
   In innovative problem-solving networks, public and private stakeholders co-create new and innovative solutions to shared problems. The problems are often complex in nature and not easily solved through standard procedures by a single agency alone. In other words, they require the active participation of both public and private actors with different perspectives and relevant resources. In such networks, private actors will typically be involved in defining the problem, generating ideas for solutions, implementing the selected solution, and evaluating and spreading the innovation.

Having considered various forms of public–private relations in the field of public governance – ranging from contracts to co-creation – which involve various degrees of cooperation, coordination, and collaboration, we now turn to the question of legitimacy. In the following sections, we shall first consider how governance networks can enhance the legitimacy of public governance and then discuss how such networks can enhance the legitimacy of private companies.

Governance Networks as Sources of Legitimacy of Public Governance

Within politics, the notion of legitimate authority comes from John Locke (1988 [1689]), who claimed that a government was legitimate only when it had the support of the people. Similarly, we can say that public governance is legitimate only when it enjoys support from relevant and affected stakeholders as well as the population as a whole.

Political scientists and governance researchers have traditionally distinguished between two basic forms of legitimacy of public governance: input and output legitimacy (Scharpf 1999). *Input legitimacy* arises when all of the relevant and affected parties have had opportunity to provide input to the public governance and to influence the final decisions. Here, legitimacy is a function of the inclusiveness of the decision-making process and the degree of participation. For example, a high turnout in the election of a school board of parents will increase the board's legitimacy, and the governance of water management based on the active involvement of all the relevant stakeholders will tend to produce legitimate solutions. *Output legitimacy*, on the other hand, arises when relevant and affected stakeholders and the general population find the impact of public governance to be positive and desirable. Here, legitimacy is a function of the quality and effectiveness of public governance and the degree of goal attainment. For example, an employment policy that ensures a desirable combination of high employment rates and low inflation is legitimate from this point of view.

More recently, scholars have added a third form of legitimacy to the conceptual mix, namely, *throughput legitimacy*, which concerns the quality of the process that translates inputs into outputs (Schmidt 2013). Throughput legitimacy thus begs the question of whether the governance process meets a number of normative requirements regarding transparency, procedural justice, and democratic deliberation. Here, legitimacy is a function of compliance with particular normative process demands. From this perspective, public governance is less legitimate when resulting from muddy and shady negotiations between a few political parties without any thorough prior discussion in the relevant parliamentary committee than when it results from a broad-based compromise secured through open, protracted deliberation.

Ideally, public governance should obtain all three forms of legitimacy. Efficient administrative solutions based on technical expertise and expert knowledge will not suffice if public governance does not deliver what the people want (Scharpf

1999; Steffek 2018). Some claim that there might be a trade-off between the inclusion of a wide set of actors (input legitimacy) and effective goal attainment (legitimacy) (Börzel and Panke 2007; Daugbjerg and Fawcett 2017) or between the inclusion of a diverse set of private actors (input legitimacy) and transparent decision-making processes (throughput legitimacy) (Iusmen and Boswell 2017). However, others find mutually reinforcing relations between the three forms for legitimacy in networked governance settings, arguing that the involvement of all relevant and affected stakeholders in high-quality processes tends to lead to new and better outputs and higher degrees of goal attainment (Doberstein and Millar 2014).

In its early years, network governance theory was eager to point out how governance networks can strengthen all three forms of legitimacy (Grote and Gbikpi 2002). As such, it highlighted how (1) the direct participation of relevant and interested parties increases the input legitimacy of public governance; (2) the exchange of knowledge, skills, and resources enhances problem-solving capacities, broadens ownership to new policies and solutions, and hence increases the output legitimacy of public governance; and (3) the joint negotiation of procedural norms of interaction in governance networks ensures reasonable and fair processes of deliberation that increase the throughput legitimacy of public governance.

However, a second generation of network governance researchers has problematized issues of legitimacy and accountability in network governance processes (Sørensen and Torfing 2007). First, governance networks do not always include all of the relevant and affected stakeholders, and, left to themselves, they tend to become closed and exclusionary over time (Hendriks 2009). Second, conflicts and policy deadlocks may hamper their ability to deliver sound policies and solutions (Daugbjerg and Fawcett 2017). Third, the processes are often complex and not very transparent, and the shared responsibility tends to obfuscate accountability (Millar 2013). In order to ensure the legitimacy of governance networks, these second-generation network governance researchers suggest that there is an urgent need for meta-governance and network management (van Meerkerk et al. 2015). The following section addresses the question of legitimacy at the level of the individual cooperation before we move on to consider how network managers can enhance the legitimacy of both public governance and participating private companies through meta-governance.

Companies as Legitimate Actors in Governance Networks

Private companies can participate in different types of governance networks in order to gain access to economic resources, partake in innovation, or influence decision-making but far from all companies invest time and energy in such participation. Small- and medium-sized companies may think they lack the resources required to participate effectively. Some bigger companies proactively initiate governance networks, but it is more common for private companies to be invited to join new or well-consolidated networks initiated by public organizations. Whether or not they are invited to join a governance network depends on their legitimacy as network participants.

A company will not be invited to participate if it lacks legitimacy, and a network actor that suddenly loses legitimacy risks being excluded from the networks in which it participates. It is devastating for a private company that wants to become part of a public governance network with vital political influence to be portrayed as the incarnation of special interests and dismissed as an illegitimate participant. The extent to which private companies appear legitimate in the eyes of other network actors and the public network manager largely depends on discursively constructed and negotiated perceptions and identities that highlight various features of individual businesses. The remainder of this section examines some of the discursively constructed figures that make companies appear to be legitimate network participants.

1. *The Representative*
   Some private companies appear legitimate because they can claim to represent someone or something of importance to the mission or task of the governance network, for example, if they represent a relevant industry or type of business and speak from a notion of common interest of several companies or if they represent particular professional or sector-specific views or perspectives that are important to the discussion in the governance network. Their representation can be formalized through public appointment or informal through the de facto acceptance of a company as representative of a conglomerate of businesses, an industry, or a sector. Larger companies will typically have an advantage when it comes to representing other companies.
2. *The Beacon*
   Legitimacy can also stem from a perception of particular companies as beacons attracting attention and leading other businesses down the right path. Network actors have an interest in getting significant companies to join the network to the extent that they have the capacity to get other companies to follow their lead and change their practices in accordance with the network's objectives and priorities. The participation of beacon companies in governance networks is thus justified by their reputation and influence on other companies. They do not necessarily represent these companies, but there is a presumption that other companies will listen to them and follow their example.
3. *The Front-Runner*
   Network actors are likely to see companies as relevant and legitimate network participants if they have generated better and more relevant results than other companies. By virtue of their innovative approach and/or market position, such companies may well be considered strategically important actors that can inspire the network with their disruptive ideas. An example of this type of legitimacy is Danish wind turbine manufacturer Vestas and its participation in a national policy network concerned with Danish sustainable energy and climate policy.
4. *The Expert*
   Some companies will possess unique knowledge, competence, and expertise that network actors consider to be crucial for the governance network and its

ability to solve its tasks and pursue its mission. Such indispensable expertise can either be of a technical nature or concern specific insights into a key industry, which enable the company to assess the practicable workability of proposed policies and solutions. The position of the expert as a source of legitimacy provides opportunity for smaller but knowledge-based and well-connected companies.

5. *The Supplier*
   Companies can also gain legitimacy by possessing financial resources that the network needs in order to progress. Such companies can offer to finance data collection, conferences, and field trips that can shed light on problems that the network is attempting to solve. They may also offer to finance the solutions agreed upon by the network.
6. *The Creative Idea Generator*
   Companies with a reputation for being particularly creative can also obtain legitimacy in some governance networks. Unlike the front-runner, they may not have been at the forefront of major innovations, and they may not possess the resources to supply new solutions with capital. In turn, they are considered creative idea generators and able to challenge widely held assumptions and to think outside the box.
7. *The Immaculate*
   Renowned, honorable, and untainted enterprises have good chances of being perceived as legitimate network actors, especially in industries and business areas otherwise ridden by scandals, broken vessels, and untrustworthy companies. A well-run and respected company, which might even take social, environmental, or political responsibilities, will often be able to turn its good reputation into legitimacy as a participant in governance networks with political influence and decision-making power.
8. *The Accomplished Network Actor*
   Legitimacy can also depend on prior experience with collaboration. If other network participants have positive experiences with certain companies and expect them to become active, trusting, responsive, and loyal participants in the governance network, then these companies will appear legitimate. This may also explain why networks often consist of “the usual suspects.” If a company has performed well in a previous governance network, then it will build a reputation as a reliable network actor whereby it becomes more legitimate to include in another network.
9. *The Veto-Player*
   The power to block the initiatives of a governance network serves as a boundary example of possible ways for private companies to obtain the status of legitimate network participants. If the network is unable to realize a viable solution unless a specific company is onboard, then the network will have to involve that company as an active participant in the formulation of new solutions. Critical and skeptical companies with significant influence and resources can thus obtain legitimacy as a necessary network participant.

The presented examples of how companies can appear as legitimate participants in governance networks are largely moldable images created through representation, negotiation, and the acceptance of statements about companies. The other network participants, the mass media, and the private companies themselves contribute to the construction of such images. They are fragile constructs that must be constantly nurtured and may easily be challenged, problematized, and questioned. For private businesses, there is a thin line between being a legitimate network participant and an illegitimate lobbyist. The legitimacy of private companies as participants in governance networks is therefore subject to sustained negotiations influenced by the institutional context and new events.

Since the images are moldable, they are also governable. The perception of companies is an important matter for the meta-governors who govern the self-regulating networks. The following section considers the role of meta-governance in constructing the legitimacy of private companies in governance networks.

Meta-governance and Legitimacy

Meta-governance is defined as "the governance of governance" or, more specifically with respect to governance networks, "the governance of self-governance" (Jessop 2002, 2011; Kooiman 2003; Sørensen and Torfing 2009; Gjaltema et al. 2019). Meta-governance is a conscious and strategic attempt at influencing the functioning and performance of a network without receding to traditional hierarchical forms of governance based on command and control.

The literature has pointed to a number of commonly used meta-governance tools (Sørensen and Torfing 2007). First, public and private actors exercise meta-governance through institutional design, where they define the purpose and tasks of the network, decide on eligible members, and delineate decision-making procedures. Second, meta-governors may also influence the interactions in the network by formulating and defining political, economic, and discursive frameworks for network interaction. Third, meta-governance can take the form of process management whereby managers facilitate interaction, activate passive actors, mediate conflicts, initiate learning processes, and coordinate network activities. Finally, public and private actors can exercise meta-governance by directly participating in the network itself and contributing to setting the agenda, developing solutions, and discussing alternatives with the other actors in the network.

In principle, any actor can exercise meta-governance and not just public authorities. However, successful meta-governance requires that the meta-governor possesses the four basic NATO resources of *nodality*, *authority*, *treasure*, and *organization* (Hood 2007; Sørensen and Torfing 2009). Thus, meta-governors must (1) play a key role in the network; (2) possess sufficient authority and legitimacy to make the other actors listen; (3) have access to resources that can fuel the interactive processes; and (4) have an organization behind them that can service the network. In general, public authorities are more likely to meet these four criteria than private companies. Public authorities sometimes hire private companies to co-govern and co-facilitate various forms of governance networks, and in rare instances private actors meta-govern networks at lower levels of governance. In general, however, private companies find it difficult to assume the role of meta-governors, especially because they often lack the necessary authority and legitimacy.

All actors who want to participate in a governance network must enjoy a minimum level of legitimacy in the eyes of the other network actors and the outside world. As previously emphasized, legitimacy is not a given but rather something that is constantly being constructed and deconstructed in sustained negotiations between situated actors. Interests, identities, knowledge, and reputation are relational constructs within decentralized systems of meaning delimited and held together by social antagonisms (Laclau and Mouffe 1985; Torfing 1999). In other words, the legitimacy of network participants and the criteria for inclusion and exclusion are contingent.

An important focus of meta-governors is to "set the right team" that will make the network function as effectively as possible. Constructing legitimacy through narratives and the attribution of meaning thus becomes an important task and a significant tool for the meta-governor. Through the exercise of discursive power, meta-governors can play an active and central role in constructing the legitimacy of the participants, including the private companies. Thus, meta-governors must not only care for the input, output, and throughput legitimacy of the governance network as a whole but also for the internal and external legitimacy of its participants.

Conclusion

While a wave of populism has brought the nation-state back in, it does not change the fact that the state is no longer the natural and privileged focal point of public governance. This chapter has shown how public policy is increasingly being co-created and co-implemented through governance networks. Private companies participate both directly and indirectly in various forms of governance networks and the co-creation of public value, but their participation depends on their legitimacy. Their self-interested, profit-maximizing nature burdens their legitimacy, but both the private companies themselves and public meta-governors play a crucial role in portraying private companies as legitimate network participants and, more generally, in ensuring the conditions for input, output, and throughput legitimacy and network governance and public–private co-creation.

The study of corporate networks is by no means new, but the participation of private companies in governance networks is under-explored in both business studies and network governance research. Thus, there is a need for further interdisciplinary studies combining insights from business studies with insights from network governance research and the growing literature on co-creation. The UN Sustainable Development Goals (SDGs) provide interesting opportunity for studying corporate participation in collaborative governance and co-creation and the endeavor to co-create legitimate solutions to pressing problems. The 17th and final SDG states that the first 16 SDGs should be reached through public and private collaboration in networks and partnerships. This recommendation calls for studies of how private companies can participate legitimately in public governance and how governance networks can produce joint solutions with a high degree of legitimacy.

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23 Public Sector Innovation, Social Entrepreneurship, and Business Legitimacy

Luise Li Langergaard

Contents

Abstract

The chapter discusses legitimacy in relation to public sector innovation, social entrepreneurship, and CSR. All three terms refer to organizing principles and managerial trends that, implicitly or explicitly, have implications not only for our understanding of organizations but also of the role and division between the three sectors of society. The chapter aims to understand legitimacy as a critical concept in relation to these three phenomena and analyzes and discusses ways to study legitimacy in relation to them. It draws on legitimacy studies in institutional theory with its sociological and empirically oriented approach and political philosophy with a normative understanding of legitimacy, and the potentials and challenges of these two approaches to legitimacy are discussed. Legitimacy in relation to public sector innovation, in a normative sense, always follows the idea about what the public sector is and should be. The study of social

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entrepreneurship deploys an institutional theory conception of legitimacy to challenge economic and rationalist explanations for the emergence of social enterprise, thereby displaying its ideological and political underpinnings. The study of CSR critically discusses an example of deliberative legitimacy, which represents direct transfer of a normative political concept of legitimacy to corporate legitimacy studies. The discussion shows that the premises of such a transfer need to be further developed in order to be empirically and normatively convincing.

Keywords

Democratic legitimacy · Business legitimacy · Institutional theory · Political philosophy · Social entrepreneurship · Public sector innovation · Corporate social responsibility

Introduction

Across the board, new ways of organizing oriented toward dealing with societal challenges, whether related to social needs, sustainability, welfare state challenges, or challenges with global markets, take up a significant place in organization and management research. It seems that there is a constant pressure for organizations to demonstrate that they can keep up with societal expectations by certain ways of organizing, managing, and adapting to contemporary societal needs. Among the newest trends and keywords of organizing in the public, private, and third sectors, respectively, are public sector innovation, corporate social responsibility (CSR), and social entrepreneurship. Despite the differences between the terms, all three indicate that something new is at stake, something reflecting the conditions of contemporary society, with its modes of governance and its social and economic challenges. These organizational trends hold promises not only at the organizational level but are also associated with a more modern, socially oriented, and sometimes more democratic world. In this sense, the terms implicitly hold promises of a better society, besides suggesting that new, more legitimate modes of organizing have emerged. They can be seen as a response to a decrease (or perhaps even a crisis (Cradden 2005)) of legitimacy of older forms of organizing. Allegedly they provide alternatives to "old development," charity, nonproductiveness, and paternalism in the ways NGOs and civil society organizations have worked (Dart 2004; Dees et al. 1998; Sigalla and Carney 2012); bureaucracy, inflexibility, and clientization in the public sector (du Gay 2004; Osborne and Gaebler 1992); too narrowly profit-oriented business conduct and strategy; or practices endangering social and environmental sustainability by focusing single-mindedly on economic sustainability (Scherer et al. 2013; Dyllick and Hockerts 2002). They thereby also become fashions, or "recipes," for organizations striving to obtain legitimacy, as they become an indication of being responsive and responsible to the organizational environment by meeting the claims and needs of society.

Thus, it is no surprise that the concept of legitimacy has taken up a place in research about these phenomena. Especially, in CSR research, the idea of corporate legitimacy or business legitimacy has received vast attention. Legitimacy is seen an important resource to firms and corporations as it provides them with a "licence to operate" (Baumann-Pauly 2013; Palazzo and Scherer 2006) and thus is important for organizational survival. Business legitimacy focuses on social acceptance and the role of the corporation in society beyond its role as merely a market actor. From an instrumental or managerial perspective, there is an interest in understanding how organizations or institutions obtain, maintain, and manage legitimacy understood as social acceptance gained from stakeholder groups or society more broadly (Suchman 1995). But legitimacy studies are not only about strategically managing the relationship with the organizational environment. Looking more broadly into the field of organizational legitimacy studies, notions of legitimacy range from sociological conceptions denoting society's or stakeholders' acceptance of an organization or corporation's conduct and way of operating to normative conceptions that also focus on what certain types of organizations should do in order to earn social acceptance.

The chapter explores the implications and possibilities of such different ways of conceptualizing legitimacy by discussing examples from studies in business legitimacy, social entrepreneurship, and public sector innovation from a critical perspective. All three phenomena carry strong normative connotations, and are sometimes portrayed, here lending the phrasing from Dey and Steyaert (2012, p. 91) as "necessary, even indispensable, for tackling today's most serious ills, and framing the matter in the language of morality and rationality." By a critical perspective is meant one that explicitly reflects on the (political, normative, and practical) implications of certain ways of conceptualizing and understanding legitimacy, especially in relation to such powerful organizational trends. Doing research implies not only describing theory and practice but also at the same time shaping it. Conceptualizing legitimacy can easily not only describe but also (sometimes unintentionally) attribute legitimacy to certain ways of organizing by portraying them as key to organizational survival and societal acceptance. Thereby the concept of legitimacy can have an ideological flip side if not conceptualized carefully. In this sense, they are not merely organizational but also political phenomena, and therefore it is relevant to take into consideration not only how organizations obtain legitimacy from a empirical perspective but also whether they deserve it from a normative perspective.

From this perspective the question is not merely how organizations manage stakeholder relations in order to keep their license to operate, but rather if we should understand legitimacy as a normative concept, i.e., a conception, which also implies concerns about when legitimacy is actually valid or deserved. Legitimacy as a normative concept is known from parts of political philosophy and philosophy of law. Habermas (1998), for example, states that the legitimacy claim of the law is about more than the addressees' mere de facto acceptance of it. It also regards validity, in other words whether it is worthy of acceptance, something which is also connected to the legitimation of a government organized in the form of law.

As Habermas states, it must be possible to obey law not simply because they are compulsory but also because they are legitimate. It is not merely about whether law is accepted but also about the fact that law claims to *deserve* recognition (Habermas 1998). Although this concept of legitimacy is rather far from, and cannot immediately be translated into, a concept of organizational legitimacy relevant across all types of organizations, there may be good reasons to consider how we should understand the normative dimensions of legitimacy in relation to the three mentioned phenomena, especially in light of the ways they sometimes challenge the relationship between societal sectors.

This chapter will argue that these three organizational trends tap into issues not merely about organizational or corporate legitimacy but one about the social, economic, and political spheres or sectors themselves. Three examples of understanding legitimacy shall be presented and discussed specifically in relationship to their critical potential. The examples are taken from CSR, SE, and public sector research and draw on conceptions of legitimacy, which are either empirically oriented or somehow normatively informed. The chapter goes through them one by one and finally discusses what the challenges are of navigating between empirical and normative conceptions of legitimacy. Although the three examples are very different, they all discuss legitimacy in a broader societal perspective, in which considerations about the societal spheres or sectors, implicitly or explicitly, have a place.

Structure

In the first part, two approaches to legitimacy studies will be presented, first institutional theory and second political philosophy. The presentation of these rather different approaches serves to set the scene for the discussion of legitimacy in studies of CSR, SE, and public sector innovation, as a number of these are based on these conceptions of legitimacy. The second and main part of the chapter discusses legitimacy in relation to public sector innovation, social entrepreneurship, and CSR. The presentations and discussions of these are quite different, but all focus on legitimacy as a concept that not only regards the organization in a generic sense but something that also relates closely to the sector of society that the organization is part of. In the section about public sector innovation, the point is that there are various legitimacy claims to the public sector, and more importantly, how legitimacy is understood depends on the idea of what the public sector is and should be; in other words it has political normative implications and is about the role of the state and public sector and not merely about organization. The study from the social entrepreneurship field is an application of Suchman's institutional concept of legitimacy to explain the emergence of social enterprise as a business-like contrast to traditional nonprofit organizations. Dart (2004) argues that the emergence of a neoconservative, pro-business, and pro-market ideology has led social enterprise to predominantly be construed and practiced in commercial terms. Thereby he applies the institutional framework in a way that has a critical potential, namely, to take a step back and look at the political underpinnings of the emergence and legitimation of certain organizational forms. Thereby it also becomes possible to question the rationality and functionality of these organizational forms by showing them as contingent rather than necessary. However, a more systematic normative discussion does not seem viable from this particular institutional perspective. The study of legitimacy in relation to CSR is taken from the field of political CSR theories because these theories take the broader political perspective into consideration when conceptualizing business legitimacy (Garriga and Melé 2004). An article by Palazzo and Scherer (2006) aiming to develop a concept of business legitimacy as deliberation will be presented and discussed. This contribution is particularly interesting for this chapter, as they also present a politicized view of the firm and thereby raise a critique of what they consider to be mainstream CSR and mainstream conceptualizations of legitimacy. This section is the longest one of the analysis because the example opens up for discussing distinctions between empirical and normative conceptions of legitimacy and the possibility of transferring notions of legitimacy from one sphere or sector to another. Thereby this section also rounds off the discussion of the analysis part before the conclusion.

Concepts of Legitimacy in Institutional Theory and Political Philosophy

The concept of legitimacy has been taken up within various disciplines, such as sociology, management, and organizational theory, as well as political philosophy and legal theory. Within all these disciplines, a range of understandings of legitimacy exist, but only a selected few shall be presented here in order to set the scene for the following discussions of legitimacy in relation to public sector innovation, social entrepreneurship, and CSR.

Legitimacy in Institutional Theory

Theories of organizational legitimacy build on and further develop notions of legitimacy from sociology, for example, from Weber, who developed the concept of the legitimation of corporate and governmental power structures, and Parsons, who later broadened the focus of legitimation to a cultural-institutional perspective. According to the latter of these perspectives, goals that organizations pursue must be congruent with wider societal values in order to accord legitimacy (Ruef and Scott 1998). The concept of legitimacy has since been adopted by organizational studies, especially by resource dependence theory (Pfeffer and Salancik 1978) and institutional theory (Deephouse and Suchman 2008). On the basis of these, Suchman (1995) distinguishes between two groups of legitimacy studies in organizational theory, a strategic and an institutional. Strategic approaches adopt a managerial, instrumental perspective in order to find ways in which organizations can manipulate and deploy evocative symbols in order to garner support from society, thereby being able to manage and control these processes. Legitimacy is here perceived as an operational resource that organizations deploy in pursuit of their goals, and a high degree of control over the legitimation process is assumed, viewing it as something manageable, purposive, and calculated (Suchman 1995, p. 576).

The institutional tradition, on the other hand, adopts a more detached stance looking at ways in which sector-wide structuration dynamics generate certain cultural pressures. Their interest is in understanding how pressures in the form of cultural norms, symbols, and beliefs constrain and empower organizations and organizational actors (Suchman 1995). Suchman places himself between these two approaches and defines legitimacy as “a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions” (Suchman 1995, p. 574). This conception of legitimacy refers to legitimacy as a state where an organization is judged to be appropriate by its environment, either by stakeholders or by society as a whole. Legitimacy is here an indication of social acceptance and is a reflection of the role of the organization or institution in society and how it lives up to expectations and norms. In this sense it is associated with a certain taken-for-grantedness (Tost 2011) and thus indicates there is no reason for further scrutiny or questioning.

Suchman’s (1995) distinction between three types of organizational legitimacy has been applied in studies of legitimacy in relation to CSR (Palazzo and Scherer 2006; Scherer et al. 2013; Rendtorff 2009; Baumann-Pauly 2013) and social enterprise (e.g., Dart 2004; Huybrects et al. 2014). The first, pragmatic legitimacy, rests on the self-interested calculations of an organization’s stakeholders and is motivated by perceived benefits. If stakeholders believe that there are benefits for them, they will judge an arrangement legitimate. “Moral legitimacy reflects a positive normative evaluation of the organization and its activities” (Suchman 1995, p. 579). It rests on judgments of whether the activity or organization lives up certain norms or values and whether the activity seems to be the right thing to do, rather than a calculation based on narrow self-interest. Cognitive legitimacy refers to meeting a more basic taken-for-grantedness and the expected reality of stakeholders and society, at the level where it is even impossible to think that things could be otherwise (Suchman 1995; Dart 2004). The source of legitimacy is thus stakeholders or society as observers of the organization, who assess its conformity to a specific standard or model (Ruef and Scott 1998).

Thus, this is a concept of interest to organizational studies, not merely from an instrumental perspective but also for understanding the relationship between organizations and the societal environments in which they operate. Studies of legitimacy and institutional environment may have explanatory power for understanding legitimacy crisis of corporations or organizations, as well as understanding isomorphic pressures and the growth of, and myths related to, certain organizational forms or principles. These theories of legitimacy thus seek to explain why legitimacy is achieved or accorded, namely, because certain ideas of appropriate organizational conduct and cultural norms are met. These sociological/institutional conceptions thus may have explanatory power in relation to empirically observed de facto acceptance of certain phenomena, but they do not provide any broader political or normative framework to place this within. As Palazzo and Scherer (2006) state: “The self-reference of organizational legitimacy theory separates it from an appropriate analysis of societal changes” (Palazzo and Scherer 2006, p. 75). These ideas of legitimacy seem to stay within an empiricist understanding of legitimacy as social acceptance, without concerns for the acceptability or normative validity of legitimacy claims. This includes the moral legitimacy, which only says something about whether the moral expectations of society are met and not about whether these moral norms are normatively valid or desirable. Such concerns for justification are, however, found in political philosophy.

Political Philosophy and Democratic Legitimacy

In political philosophy, legitimacy is not a concept about organization but rather about institutions, especially political, legal, and democratic institutions. A concept of political legitimacy can be sociological in character in the sense that it can be a concept about when the citizenry accepts a political order or rule, and the question of when this is the case can be an empirical, rather than a conceptual, one. Gilley (2006), for example, develops a measurement of state legitimacy across 72 countries based on a definition of legitimacy as: “a state is more legitimate the more that it is treated by its citizens as rightfully holding and exercising political power” (Gilley 2006, p. 500). This particular part of the definition refers mainly to the efficacy of political power and does not say much about when a state actually also deserved that treatment. Gilley adds, however, that this relies on certain conditions, for example, that citizens are able to make autonomous judgments, the separation of political power from other types of social power, and the validity of subjective views on the basis of legitimacy (Gilley 2006). He thereby adds a normative dimension to the definition. Political and democratic legitimacy has also been linked to public sector research and to the legitimacy of reform trends in the public sector (Eriksen 1999; Langergaard 2011).

Parts of political philosophy systematically connect the concept of legitimacy to normative conceptions of democracy and autonomy. This also allows one to ask when what passes as public opinion is genuinely legitimate. Nancy Fraser (2008), for example, in her discussion of a transnational public sphere in a post-Westphalian world, distinguishes between the normative legitimacy and the efficacy of public opinion – two ideas that are essential to the concept of the public sphere in critical theory. Together they specify that in “mobilizing the considered sense of civil society, publicity is supposed to hold officials accountable and to assure that the actions of the state express the will of the citizenry” (p. 76). Fraser scrutinized the idea of “transnational public spheres,” a notion that needs further explanation as the idea of the public sphere historically emerged in a context in which the nation state was not questioned as the territorial basis of political communities that could constitute a public. The concept of the public sphere was developed not simply to understand communication flows but also to contribute to a critical theory of democracy. In this theory the public sphere is conceived as a space for the communicative generation of public opinion. Insofar as the process is inclusive and fair, publicity is supposed to discredit views that cannot withstand public scrutiny and to ensure the legitimacy of those that do. Fraser is thus concerned with a reconstruction of critical theory in the current notion of a "post-national constellation." This requires not merely referring to the public sphere in a relatively casual common sense way but ultimately to reconstruct the conceptions of normative legitimacy and political efficacy of communicative power (Fraser 2008).

It is a challenge of walking a narrow line between two equally unsatisfactory approaches: on the one hand, an empiricist approach that simply adapts the theory to existing realities, thereby risking to sacrifice its normative force, and on the other an externalist approach that invokes ideal theory to condemn social reality. The latter approach risks renunciation of a critical tradition. Her alternative is "a critical-theoretical approach that seeks to locate normative standards and emancipatory political possibilities precisely within the historically unfolding constellation" (Fraser 2008, p. 77). Her aim is to reformulate the critical theory of the public sphere in a way that can illuminate the emancipatory possibilities in the present constellation.

Habermas (1998) also works with this double dimension of legitimacy by arguing that "the validity of a legal norm means that the state guarantees both legitimate lawmaking and de facto enforcement" (p. 158). The procedure for lawmaking is pivotal to the legitimacy of law. According to Habermas (2005), political theory has given a double answer to the question of legitimacy: popular sovereignty and human rights. The principle of popular sovereignty determines a procedure which with its democratic characteristics forms a basis for legitimate results (Habermas 2005). Both Habermas and Fraser thus work with concepts of legitimacy that are also normative, rather than mainly empiricist and sociological. They can do so because they connect it to a normative concept of democracy rooted in the idea of public reason expressed through a public opinion formed under certain ideal circumstances, such as rights to communication and participation, which ensure the public autonomy of citizens (Habermas 2005). Fraser (2008) furthermore emphasizes that issues of inclusiveness and participatory parity, i.e., that all interlocutors in principle enjoy the same chances to state their views, are essential to the legitimacy of public opinion formed in a democratic public sphere (Fraser 2008, p. 93). Public opinion when it has been formed under such democratic circumstances is legitimate, because it is *reasonable*. The deliberative democracy model rests on the idea that under certain ideal conditions, the democratic procedure ensures that public opinion is informed by a public, practical reason. To Habermas practical reason resides in the rules of discourse and forms of argumentation that borrow their normative contents from the validity basis of action oriented toward reaching understanding (Habermas 1996). The legitimating force is built into the procedure of the principles of democracy.

This view also has implications for the understanding of the environment or society, which "accords" legitimacy to organizations, institutions, or laws, in a way that provides a contrast to the institutional theories of organizational legitimacy in the sense that it is concerned with justifying how public opinion can be reasonable if it is formed under certain ideal circumstances. Institutional theories work from a distinction between a technical and institutional environment, where the institutional environment is defined by generalized view or norms about appropriate conduct, norms that may not be entirely rational or reflect the most efficient or most functional ways of doing things. Rather the institutional view is a challenge to the notion of organizations as "rational systems" and an emphasis on the imperatives stemming from cultural norms, symbols, beliefs, and rituals (Suchman 1995). According to Meyer and Rowan (1977), organizations are driven to incorporate practices and procedures, which are based on "rationalized myths" of their efficiency, however without them necessarily being that (Meyer and Rowan 1977). This also suggests that legitimacy is not necessarily based on the "best," most rational, just, or functional organizational solutions.

Legitimacy in Relation to Public Sector Innovation, Social Entrepreneurship, and CSR

Social entrepreneurship, CSR, and public sector innovation are all, as mentioned in the introduction, new keywords for design and management of organizations in the public, private, and third sectors, respectively. They are sometimes described as if not quite panaceas then at least a powerful emergence (Dart 2004) that seems to have gained solid ground as organizing principles promoted by academia as well as policy makers. They work not merely as descriptions of new ways of organizing but function at the same time as imperatives of the right or best way to organize. That being said, it is important to mention that all three are broad and contested concepts, rather than monoliths. Nevertheless, they all each in their own ways represent solutions, or sometimes even seem to offer *the solution*, not only to the rational, newest way of organizing but also to the biggest social, ecological, and political problems of our time. This makes the question of legitimacy and how to understand legitimacy when researching these phenomena pertinent, especially as they rest on ideas (and have implications) that reach beyond the organizational level and also touch upon core principles of the three sectors of society. The following section will take a look at them one by one and discuss examples of ways that legitimacy has been described and discussed in relation to them.

Public Sector Innovation

The concept of legitimacy appears in various ways in relation to public sector innovation, and the way to understand it closely relates to how the public sector in itself is understood. Some researchers claim that innovation in public administration has been used to frame the necessary transformation of the public sector in order to improve its effectiveness and efficiency, and not least its legitimacy (Bekkers et al. 2013). Innovation has become an ambition for public policy and is seen as imperative for public service organizations that wish to demonstrate that they are responsive, efficient, and effective (Albury 2005; Damanpour and Schneider 2008; King and Martinelly 2005; Mulgan and Albury 2003; Moore 2005) or that they “create truly collaborative services” empowering citizens to improve their quality of life (Parker and Parker 2007; Langergaard 2011). It has in many ways become an imperative to public sector organizations, and some even claim that innovation should be a core activity of the public sector (Mulgan and Albury 2003; Considine and Lewis 2007). Still, public sector innovation is not a ubiquitous concept or a monolith. Rather, there is a myriad of ideas about how we are to understand public sector innovation that takes forms especially reflecting developments of public sector governance paradigms (Hartley 2005), moving from managerialist and business-inspired influences toward more collaborate, network-oriented understandings in which civil society plays a larger role. The first stresses the relation between innovation and efficiency gains, breaking down red tape and entrepreneurial culture (Osborne and Gaebler 1992), while the second tends to stress meeting the needs and wishes of citizens, thereby contributing to the “publicness” of the public sector in order to improve legitimacy (Bekkers et al. 2013; Newman and Clarke 2009). Common to these perspectives is the association of innovation with post-bureaucratic organizational forms and principles (du Gay 2004), and legitimacy cannot be discussed without considering the relation between organizational form as a reflection of understandings of the role of the public sector.

Legitimacy of public sector innovation thus relates closely to legitimacy of public administration and is at the same time closely related to understandings of what the public sector is and should be, something that also relates to understandings of the legitimacy of the state. As Eriksen (1999) argues, theories aiming to reform and innovate the public sector on the basis of, e.g., microeconomic thinking tend to miss out on the broader institutional perspective and work with a reduced idea of legitimacy (Eriksen 1999). The attempt here shall thus be to understand public sector innovation in a broader perspective and to view the legitimacy of the public sector as well as public sector innovation as compound of various legitimacy concerns. The point is that these dimensions of legitimacy all depend on the organizational form and role of the public sector. When, for example, market-based organization or networks provide the framework and normative principles for public sector innovation it has implications for the understanding of the public sector and its role and obligations.

One of these is administrative legitimacy, which, if the organizational form is viewed as a rational tool carrying out tasks, implies identification of a logically correct solution by interpreting rules and facts or applying expert causal knowledge (Olsen 2005). In a broader perspective, bureaucracy, as well as other forms of organization in which innovative activities take place, can also be viewed as an institution with a raison d’être and organizational and normative principles of their own. In this case legitimacy also implies concerns for a larger organizational and normative structure where government is founded on authority. In the case of bureaucracy, it is based on the belief in a legitimate, rational-legal political order and the right of the state to define and enforce the legal order. Binding authority is claimed through a fourfold rule-bound hierarchical relation: between citizens and elected representatives, democratic legislation and administration, within administration, and between administration and citizens as subjects and authors of the law (Olsen 2005). The latter of these can be conceptualized as democratic legitimacy. Administrative legitimacy is not necessarily merely a question of a narrow solution to certain public tasks but also a question of solving these within the normative and institutional framework, which implies democratic and legal concerns, e.g., rule of law, citizen rights, and due process (Langergaard 2011).

Democratic legitimacy can, as described above, be seen as relying on the autonomy of citizens. Main points about this have already been presented above, so here it shall be unfolded a bit more with Habermas' idea of the co-originality of public and private autonomy. It means that law is directed to persons who could not even assume the status of legal subjects without subjective private rights. Thus, the public and private autonomy mutually presuppose each other. There can be no law at all without actionable subjective liberties that guarantee the private autonomy of individual legal subjects. And at the same time, there can be no legitimate law without democratic lawmaking by citizens in common who as free and equal subjects are entitled to take part in this process (Habermas 1996, p. 130). The point is that individual rights and autonomy are dependent of public autonomy and citizens recognizing each other as free and equal, who together take part in the making of laws regarding the conditions for their common life. From such a perspective, we could see the public sector as accountable to the public will that ensures the legitimacy of its authority. And citizens' rights are central here. This is one conception of the "public" that constitutes the "publicness" of the public sector (Langergaard 2011). If this is redefined and viewed from a consumerist perspective or a network governance perspective, the conditions for legitimacy are also redefined. For example, a consumerist perspective could redefine the input as a market-like demand from the public understood as an aggregate of preferences, rather than as something connected to autonomy and political rights (Langergaard 2011). Legitimacy in relation to public sector innovation, in a normative sense, thus always follows the idea about what the public sector is and should be. The point is that legitimacy of public sector innovation cannot be understood independently of such concerns. It is a question of upholding a focus on the public sector as societal, political institutions, which have certain tasks and conditions for legitimacy.

Social Entrepreneurship

Social entrepreneurship and social enterprise have received increasing attention in the reorganization of the third sector, nonprofits, and NGOs but also sometimes as new ways of doing business that are more "social." There are various definitions and understandings of social entrepreneurship that all emphasize different dimensions. Often social entrepreneurship is defined as a new way of serving social needs in society (Gawell 2013) or as entrepreneurial activity undertaken with the aim of producing social, rather than commercial, value (Dees et al. 1998; Dart 2004).

Social entrepreneurship is sometimes said to be an ill-defined, fuzzy concept (Diochon and Anderson 2011), and there is not yet consensus about what social entrepreneurship is and, for example, whether it is only applicable to nonprofit organizations (Hervieux et al. 2010). The concept is stretched between forces or marketization on the one hand and forces emphasizing collective action and civil society mobilization on the other (Hulgård and Andersen 2012). Empirical studies have demonstrated that this often leads to tensions in social enterprises (e.g., Diochon and Anderson 2011; Dey and Teasdale 2013; Eikenberry 2009; Mason 2012; Froggett and Chamberlaine 2004). This ambiguity has led to a variety of ways that legitimacy has been studied within social entrepreneurship research (Dart 2004; Huybrects et al. 2014; Hervieux et al. 2010). Hervieux et al. (2010) claim that the move by social purpose organizations toward more commercial means raises legitimacy challenges for social entrepreneurs and forces them to operate in the intersection of two fields with opposed legitimacy norms (Hervieux et al. 2010). Such studies may indicate that the blurring of boundaries and principles associated with societal sectors leads to ambiguity at the internal organizational level for social enterprises in search of legitimacy. Social entrepreneurship thus can be conflicted between civil society and market-based norms of legitimacy.

From the perspective of institutional theory, Dart (2004) aims to explain the emergence of social enterprise as a new prominent form of organization in the nonprofit sector. He applies Suchman's concepts of legitimacy and connects the emergence of the social enterprise form with wider societal, ideological, and political dynamics. The typology offers explanations for the "emergence of social enterprise as a newly legitimated institution and suggests that we can as readily frame social enterprise as a 'faddish' response to changes to the socio-political environment as a rational adaptation that produces valued results" (Dart 2004, pp. 411–2). Dart thus deploys the institutional theory concepts of legitimacy to challenge economic and rationalist explanations for the emergence of social enterprise. Rationalist explanations often portray social enterprise as a superiorly rational and functional solution to public sector funding and philanthropic resource constraints. The institutional theory perspectives, according to Dart, enable us to understand the emergence of social enterprise as a response to a broader and more complex societal context. It emphasizes the nonchoice and nonrational bases for organizational forms and structures and the conformity to societal and stakeholder expectations. In the process of legitimation, things are "infused with value beyond the technical requirements at hand" (Selznick 1949, p. 17 quoted in Dart 2004, p. 416).

Dart asks the question about how we can understand social enterprise as *legitimated* in contemporary society. This question refers to the process of legitimation from an empirical perspective, and in this sense is a different question than how to understand social enterprise as legitimate from a normative perspective, in the sense of desirable. Exactly the idea that legitimacy is not granted on the basis of reason or rationality, or because the organizational form, conduct, or principles are the most efficient, functional, or ethically sound, means that organizations or organizational principles can be perceived as legitimate irrespective of their actual consequences or implications. Social enterprise is portrayed as a business-like contrast to the traditional nonprofit organization, which has gained wide acceptance in a neoconservative pro-business social environment in which pro-market ideological notions have gained broad validity (Dart 2004). Studies of legitimacy in social entrepreneurship thus revolve around the tensions experienced in the intersection and between market logics and civil society logics. Thus, again organizational legitimacy is not merely about the organization but also about defining the sector in which it works.

Dart's (2004) article works within institutional theory and with legitimacy as a state where an organization is judged as appropriate by its environment, either by stakeholders or by society as a whole. Legitimacy is here an indication of social acceptance that is also a reflection of the role of the organization or institution in society and how it lives up to expectations and norms. In this sense it is associated with a certain taken-for-grantedness (Tost 2011) and thus indicates there is no reason for further scrutiny or questioning. But, the perspective of the analysis that elucidates the political underpinnings of certain understandings of social enterprise or social entrepreneurship makes it possible to raise a critique or at least opens for a potential discussion of alternatives, which, for example, links legitimacy of social entrepreneurship more closely to civil society. It does not, however, provide any normative content in itself by which to substantially problematize the emergence of market thinking in the third sector. In the following, an attempt to merge Suchman's concept of legitimacy with a normative concept of democratic legitimacy in the field of business legitimacy will be presented and discussed.

CSR and Business Legitimacy

CSR studies have focused intensely on legitimacy, something that is hardly surprising as CSR is seen as a means to business legitimacy (Garriga and Melé 2004). Bachmann and Ingenhoff (2016) present CSR as "a way for a company to gain the license to operate and goodwill in the public eye" (Bachmann and Ingenhoff 2016, p. 386). As with social entrepreneurship and public sector innovation, the CSR field offers "a landscape of theories but also a proliferation of approaches, which are controversial, complex and unclear" (Garriga and Melé 2004, p. 51) and is composed of a large number of definitions (Dahlsrud 2008; Cradden 2005).

How CSR is understood depends on how the relationship between business and society is viewed, including the role of business in society. When Friedman, for example, in an essay from 1970, argues that the responsibility of business is to increase its profits (Friedman 2008), it rests on certain assumptions about what a firm or an enterprise is (and should be), who it serves, and what the division of labor between private sector and public governance should be (see Robé 2012 for a critique of Friedman's argument). Such assumptions have political implications, viewing the private company as an apolitical unit, and can even serve as window dressing of ideology (Robé 2012). In the literature on business legitimacy, we find an array of studies all deploying different understandings of legitimacy (e.g., Rendtorff

2009; Baumann-Pauly 2013; Scherer et al. 2013; Palazzo and Scherer 2006). An important point here is that the debates on the legitimacy of corporations or firms inevitably touch upon the question of what a market-based corporation is, not so just empirically but also from a normative perspective. In other words, these research contributions centre around the question of the normative constitutive conditions for market-based organizations, i.e., not only what they are but what should they be and what is their place in society and economy – and thereby they touch upon deeper political philosophical questions as well.

Institutional and strategic theories of legitimacy, including Suchman's, are relevant for legitimacy management and thus for understanding how to gain, maintain, and repair legitimacy (Suchman 1995). However, they seem to have their shortcomings with regard to understanding these societal and political dimensions of business legitimacy and of placing the question of legitimacy within a broader political understanding of organizations in the context of different sectors or spheres of society. Palazzo and Scherer (2006) take up such a critique and conceptualize legitimacy in relation to CSR on the basis of a development of Suchman's division between pragmatic, moral, and cognitive legitimacy. Following what they present as a new political role of corporations in light of a "loss of efficiency in national governance systems values, and lifestyles" (Palazzo and Scherer 2006, p. 71), they develop a notion of moral legitimacy as "legitimacy as deliberation" within a communicative framework.

Their aim is to re-embed the debate on corporate legitimacy in political theory and to re-embed economy in its sociopolitical context. Palazzo and Scherer (2006) claim that there has been a shift in the economic and political context in which corporations operate, one that is characterized by globalization and by a shift from liberal to deliberative democracy and from a national to a post-national, pluralist constellation that alters the role of the political institutions and the state as well as the role of business in society. Questions of legitimacy are thereby linked not only to organizational conduct but also to the overall political and economic systems, in which organizations operate. CSR studies have tended to pay more attention to cognitive and pragmatic legitimacy than to moral legitimacy, thereby stressing compliance to law and a relatively stable and homogeneous societal expectation to corporate conduct. This apolitical representation of business, they claim, does not reflect the new context that they operate in and the actual roles that corporations take in society. They redefine the corporation as a political player whose legitimacy is based on civil society discourses, although they still depend on making a profit. Furthermore, they stress that corporate activities have expanded into different countries, cultures, and legal systems and thus rarely operate in a homogeneous ethical and legal environment. This leads to a multiplicity of often contradictory moral and legal requirements making it difficult to identify which demands will define the legitimacy of organizational behavior. This challenges the taken-for-grantedness that is associated with cognitive legitimacy. On the basis of these reflections, they develop a concept of corporate legitimacy as deliberation, which implies a shift toward moral legitimacy and which is intended to better take into account the new political role of corporations in society. Management of moral legitimacy is in this perspective conceived of as deliberative communication, which aims to convince others through reasonable arguments rather than by manipulation. In their redefinition they draw on political philosophers, for example, Habermas, and define political in line with Young (2004) as activities “in which people organize collectively to regulate or transform some aspects of their shared social conditions, along with the communicative activities in which they try to persuade each other to join such collective actions or decide what direct they wish to take” (Young 2004, p. 377 in Palazzo and Scherer 2006, p. 75).

The concept of legitimacy as deliberation is more or less a direct adoption of a model of deliberative democracy (as developed by, e.g., Habermas) into the field of corporate legitimacy. Their version emphasizes the role of civil society in light of the portrayed loss of state or government power. What they describe as “globalisation from below” (Palazzo and Scherer 2006, p. 71) where the shrinking power of the political system is partly compensated for by a politicization of civil society itself where NGOs plays a larger role and where the link between economy and civil society is politicized. The new basis of legitimacy is thus organizations’ involvement in processes of active justification vis-à-vis society through engagement in public deliberation, rather than simply responding to powerful groups. They thereby not only redefine the corporation as a political actor but also fundamentally challenge a traditional view on state, market, and civil society by bringing the corporation into the political sphere, a political sphere in which the state or other traditional political institutions apparently no longer have a central place.

Scrutinizing their argument, it appears that it is based on implicit and explicit premises that have implications for the concept of legitimacy that they develop and regards the question of what happens when a concept of legitimacy developed for understanding the political and public sphere is transferred to another sphere, in this case of private corporations. Their argument is based on a claimed shift from liberal to deliberative democracy. The main point of introducing this shift seems to be the claim that the liberal understanding of economy and corporations is outdated. Especially, the separation between state, market, and civil society and the liberal idea about these spheres are criticized for contributing to a depoliticized view on the corporation, because it sees corporations and economic actors as an extension of the private self and therefore not subjected to immediate legitimacy demands beyond legal requirements and rules of common decency (p. 75). With such a strict separation between the spheres and between political and economic responsibilities, the obligations of corporations to contribute to a broader common good or to political causes are modest, even if their operations and conduct have wide consequences not only for economy but also for societies, environment, and human rights. This leads Palazzo and Scherer to conclude that corporations today have become quasi-public because of their unintended side effect and lack of global regulation (p. 77). Such unintended side effects are hardly something new. Large corporations and industry in general have always had extensive effects on societies and nature, including a variety of unintended side effects. The shift from liberal to deliberative democracy is stated as an undisputable empirical fact, but without providing any empirical evidence for such a wider political shift, besides claiming that it follows from globalization and that states have lost power (p. 75). Such a claim is not politically neutral, especially not when it leads to the reformulation of a political sphere not only encompassing corporations but also attributing them a central and powerful role. By not critically addressing this loss of power of states and political institutions, and instead apparently accepting that corporations can take a political role, they risk not only to describe the power of corporations but also to legitimate an extended power of corporations – thereby effectively expanding the power that corporations already have.

At least two premises are central here, which constitute the normative foundation for their concept of deliberative legitimacy. First, the question of what a corporation is and should be. In other words, can and do corporations take on the political responsibility that Palazzo and Scherer seem to believe? There is a conceptual as well as empirical dimension to this question. On the one hand, the narrowly economic and profit-oriented view on corporations/firms is a theoretical construct, which can be challenged and is not without problematic ideological implications. On the other hand, it is a question of whether corporations in this time and age of global capitalism are ready to and have the incentives to behave responsibly as political actors in the way portrayed by Palazzo and Scherer.

The other premise is that we have a well-functioning transnational public sphere that is capable of providing the communicative input to the discursive legitimation processes of corporations. From an empirical point of view, there may be certain instances where such a public sphere appears to be real and to have power (e.g., in cases of legitimacy crisis of multinational corporation with, e.g., boycotts and loss of profit as a consequence), but the question is if such instances reflect more or less arbitrary mobilizations or if they should be read as the existence of a public sphere in a more stable sense. From a critical theoretical and democratic perspective, the question is if there is a public sphere, which can work as a space for communicative generation of public opinion in a sense that can be conceived of as legitimate from a normative perspective, as Habermas and Fraser are concerned with. The question is relevant because it points to certain assumptions about the legitimacy-granting environment, and thus it is essential to the concept of legitimacy being developed by Palazzo and Scherer. The premise seems to be that there actually does exist a public sphere that potentially can provide a morally or publicly reasonable judgment of the conduct of corporations and furthermore that it actually does it. They further claim that: “Today, citizens look deeply into the operations of a company and they therefore enforce transparency and accountability where it is not delivered on a voluntary basis” (Palazzo and Scherer 2006, p. 81). These are the empirical premises of the argument, and the question is how accurate these are. Some studies suggest that it is sometimes very difficult for consumers to get an insight into the operations of companies, sometimes due to subcontracting or other conditions that hinder such transparency (see Labowitz and Baumann-Pauly 2014). At a normative, conceptual level, there are premises which are not addressed but nevertheless seem to be central for their concept of legitimacy to work the way they intend it to. Fraser’s (2008) discussion of a transnational public sphere presented above reflects the conditions that must be in place for public opinion to have normative legitimacy, namely, inclusiveness and participatory parity. In order for the public opinion to be informed by practical reason, certain procedural circumstances must be in place, at least from a normative political philosophical perspective. Fraser (2008) mentions this challenge and argues the idea of legitimate public opinion is not easily associated with communicative arenas in which the interlocutors are not fellow members of a political community, which gives them equal rights to participate in public life. She also argues that it is hard to associate the notion of efficacious communicative power with discursive spaces that do not correlate with sovereign states. Thus, from the perspective of critical theory, it is not clear what it means today to speak of transnational public spheres. This means that there is a need to reconstruct the conceptions of normative legitimacy and political efficacy of communicative power (Fraser 2008, p. 77). Besides, the public opinion must also have some effective authority over corporations, and without political institutions, first of all to grant political rights to citizens, or to execute the public will and also regulate effectively by law, the scenario appears less convincing. Palazzo and Scherer do not address or attempt to deal with this challenge, which means that their concept of deliberative legitimacy stands without a well-developed normative, or empirical, foundation.

The move from Suchman's concept of moral legitimacy to communicative legitimacy implies a shift that is unaccounted for in the article, namely, from a sociologically oriented to a normative concept of legitimacy. Moral legitimacy in institutional theory denotes acceptance based on certain ethical or moral standards of society, but it is concerned with morality as an empirical phenomenon and not a normative one. Democratic legitimacy in the critical theoretical tradition is also concerned with questions of normative justification, i.e., when public opinion is formed under circumstances supporting public practical reason and thereby normative validity beyond mere de facto acceptance. The normative dimension concerns the procedure for public opinion formation and the conditions ensuring this rather than at the content or substance of public opinion. The point is that the concept of democratic legitimacy cannot immediately be transferred directly to a market context without reformulating the foundation that it builds upon. In order to reformulate the concept of the corporation and develop a concept of corporate legitimacy that takes the political role of corporations into account, one must rethink the empirical and normative foundation for a concept of normative legitimacy that fits the political view on the firm, but in a way in which the premises are laid out so that the ideological implications can be openly discussed.

Conclusion

The chapter has discussed legitimacy in relation to public sector innovation, social entrepreneurship, and CSR, three trends and widely promoted organizing principles for public, private, and third sector organizations, respectively. They are not only organizational principles but also about spheres of society and the organizational forms under them, especially when they are connected to a concept of legitimacy. Questions about what a corporation is and what it should be and do seem to be mixed in with discussions of CRS and legitimacy. Similarly, questions of what is a public sector organization and how innovation supports its main functions can only be answered within a certain idea about what the public sector is and should be, and thus it will always have normative, political implications. The question is where this leaves us with research in legitimacy in relation to organizational phenomena as these.

To start with, a sociologically oriented and more or less generic concept of legitimacy, as the one we find in institutional theory, can have explanatory power regarding empirically observable processes of legitimation. It can explain why certain organizations may maintain acceptance and their license to operate, and it can also help us to understand why some organizations end up in legitimacy crises with loss of reputation and profit as consequence. Depending on the view on these processes and their predictability and manageability, such knowledge may be of interest if one wishes to manage and control an organization's legitimacy. Furthermore, as we have seen with Dart's analysis of legitimacy of social enterprise, such concepts of legitimacy can be deployed in critical analysis elucidating how certain organizational forms or principles get support on the basis of wider ideological trends, rather than because they are necessarily more efficient, functional, or in other ways normatively superior. Such concepts of legitimacy cannot, however, provide input to a more substantial normative critique or discussion of the legitimacy of organizational trends.

Another difference between the institutional and democratic concept of legitimacy as they have been presented in the chapter is the understanding of who accords legitimacy and how, in particular from the question of rationality or reason. Whereas institutional theory does not attach any necessary rationality to legitimating processes, critical theory and political philosophy shows an interest in also the justification of legitimacy based on public opinion formation and thus rationality. This also provides the foundation for a normative concept of democratic or political legitimacy, where the procedure for opinion formation is important for legitimacy. Normative concepts of legitimacy, for example, democratic legitimacy, deliberative legitimacy, and sometimes legitimacy of the state, aim to answer another set of questions regarding organizations, or institutions, and their legitimacy. They are concerned with how we can justify that democratic input to law and political institutions is normatively binding and represents a public, practical reason. Transferring such a concept to contexts, such as corporations, where first of all the empirical conditions for opinion formation are very different and it is not clear how public opinion should be legitimate, second where the type of organization is not political in the same sense that a state or public sector organizations is, is problematic. The normative constitutive conditions for the respective organizational types are different, at least if one accepts that organizational legitimacy is linked to the sectors and their roles and even if one aims to redefine the corporation in a way that breaks with a narrow economic and self-interested conception.

The discussions of the chapter have argued that legitimacy is a concept reaching beyond the organizational level, but it has also been suggested that legitimacy claims, and thus conceptions of legitimacy, may differ between organizations in different sectors of society, thereby reflecting the political idea and role of these sectors. The question following from this is if we need different concepts of legitimacy or a concept encompassing a variety of forms to match the different sectors. This is however not without challenges – as it has political implications just as much a shifting the boundaries between the sectors has. Such an approach may risk losing empirical explanatory power in light of new hybrid forms and blurring of boundaries, and normatively speaking there is a risk of cementing certain ideas about the sectors and their roles, for example, by accepting that business corporations are merely economic actors pursuing strategic goals. However, with a critical approach that reflects openly upon the empirical, normative, and political implications, it should be possible to become clearer about legitimacy. As indicated above it depends on what the concept of legitimacy is supposed to give an answer to, whether the research interest is about managing legitimacy, understanding legitimation processes, critically assessing the normative legitimacy or desirability of certain organizational forms or organizational conduct, or to understand the role of different organizational form within a broader political, economic framework of different societal spheres.

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Publicly Owned Company Legitimacy: Opportunities and Challenges

24

Linne Marie Lauesen and Troels Kærgaard Bjerre

Contents

Abstract

Business legitimacy in publicly owned companies has underwent a journey since the initiation of the New Public Management era in the late 1980s until today. Many former natural monopolies, such as the water, waste, oil/gas, transportation, electricity, and postal sectors, have during the last 30 years been privatized and have been granted a license to operate based on economic as well as environmental regulation of these sectors. However, since the first two decades have dealt with business legitimacy issues concerning the price setting of common or natural resources, now the threat is pointing more toward a quality issue, which, ultimately, can and may affect the price setting policies as well. This chapter presents a historic overview of the business legitimacy situation of publicly owned companies and shows a case study of a Danish water company that faces

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dilemmas of how to deal with drinking water quality issues of pesticide pollution. The chapter concludes that the business legitimacy of publicly owned companies often consists of dilemmas, which make both the opportunities and the challenges of managing these kinds of companies.

Keywords

Publicly owned company · Business legitimacy · Natural monopolies · License to operate · Water company · New Public Management · Privatisation · Institutional Theory · Regulatory system · New bureaucracy · Political Theory · Regulative legitimacy · Procedural legitimacy · Business management · Efficiency · Effectiveness · Social license to operate · Price Cap · Production of drinking water · Case study · Pesticide pollution of the groundwater · Advanced treatment · Sustainable management · Clean groundwater · Source protection

Introduction

Publicly owned company legitimacy is often bound to special rights and duties, obligations, and expectations hinged to the public sector itself, weather such companies are formed out of former public sector estates (state, regional, or municipality) or have been constituted through public-private partnerships or privatized fully (Bakker 2003; Pollitt 1999; Lauesen 2014; Guislain and Kerf 1995).

These rights and duties, obligations, and expectations include, for instance, specific detailed specifications on service and supply, equal treatment of users, continuity of service, maintenance obligations, and perhaps investment plans to renew infrastructure. They are often connected with special resource sectors such as the water, waste, oil/gas, transportation, electricity, and postal sectors similarly (Pollitt 1999; Lauesen 2014; Fitzmaurice 2006).

In these sectors, different degrees of natural monopolies are present, and with natural monopolies – in opposition to a free market – legitimacy is often granted through a license to operate and a regulatory control system to ensure the public expectations of the behavior of the company in charge of the managing of these natural monopolies (Guislain and Kerf 1995; Majone 1996; Bakker 2003).

As an example – a publicly owned water company – can have granted its license to operate from the state and the local region or municipality in which the company operates with the control system on both state level (fx a regulatory state office) and municipal level (fx tariffs and other behavioral issues controlled by city council politicians or an elected board) (Guislain and Kerf 1995; Pollitt 1999; Bakker 2003; Lauesen 2014).

The reason as to why a publicly owned water company contains a natural monopoly status with few or no competitors, can possibly be traced back to national, international, and intergovernmental agreements regarding the resource – water – is and should be a public good and thus publicly owned and distributed evenly among citizens (Fitzmaurice 2006).

Sometimes, as for the case on water, access to the resource is so vital that states agree on that it cannot be left to the free market to profit on at the expense of those customers, who cannot afford to make a living or even to live and survive without free or cheap access to clean, fresh water. It is per se a natural monopoly (Lauesen 2014).

In the case on water, Fitzmaurice (2006) states that the access to this vital resource is connected with intergovernmental as well as national agreements on human rights, although in its early days, it was "not mentioned at all in either of the United Nations covenants on human right or in the 1948 Universal Declaration of Human Rights" (p. 540).

There are many examples of the various constellations of how natural monopolies have been managed by publicly owned companies or private companies and equally many examples on how the ideal situation as described above – ensuring human rights – is violated by both publicly and privately owned companies, which Fitzmaurice also mentions. However, this chapter will not focus on efficient versus inefficient management methods used by such companies, corruption or anti-corruption, nor any other of the very many issues attached to managing a public good.

The focus of this chapter is on the business legitimacy of publicly owned companies including its rights, duties, obligations, and expectations these companies are expected to fulfill, and which dilemmas and issues adhere to their licenses to operate.

As a showcase, we will demonstrate how a Danish small water company faces newly (2019), nationally detected issues of finding the pesticide dimethyl-sulfamide (DMS) in the groundwater, which is so difficult to remove that the best technology available for the job is based on ozone or hydrogen peroxide treatment, whose downside is that a side product, N-Nitrosodimethylamine (NDMA), which is carcinogenic, is created.

The philosophy is to deal with pollution at the source and minimize more advanced water treatment at the water utilities. This is expressed in the national groundwater policy, which states that production of drinking water should be based on clean groundwater.

How can such a dilemma be resolved?

Overview

First, we provide an overview of legitimacy perspectives for publicly owned companies, in which we highlight an institutional approach focusing on a political approach to legitimacy. Next, we show the opportunities and challenges for publicly owned companies' legitimacies with a focus on their license to operate. Then, we highlight the historic legitimacy failures in publicly owned companies as an initial result of privatizing former national monopolies, and finally, we discuss contemporary legitimacy issues with publicly owned companies with a case study of a Danish water company called Water & Waste Denmark. We conclude taking the contemporary issues into perspectives and suggest and invite to a discussion on how to protect the nature and the consumers in order to mitigate a potential legitimacy issue with the example from the Danish water sector.

Legitimacy Perspectives for Publicly Owned Companies

In the late 1980s, the legitimacy of publicly owned companies in monopolized sectors was formed due to a worldwide delegitimizing movement of state and municipality entities that was thought of as being ineffective and inefficient.

The neoliberal thought regime called New Public Management based on deregulation, marketization, privatization, and the aim to bring former state/regional/municipal resort areas to be more effective and efficient with modern business management ideologies began in the Anglo-Saxon regions (New Zealand, the UK, Australia, and the USA) and soon spread via the OECD to all member states (Pollitt 1999; Lauesen 2014; Majone 1996).

Some researchers mention various geopolitical issues initiating the delegitimization of state/regional/municipal sectors and forming the New Public Management movement, such as the oil crisis in the early 1970s followed by economic recession, high unemployment, and low GDP and productivity growth (Pollitt 1999, p. 3) in the 1980s. Others claim that opinion polls in the UK showed a majority against the privatization movement (Crewe et al. 1988; cited in Pollitt 1999, p. 7).

The privatization movement on natural monopoly sectors formerly managed by public bodies is typically established with a new regulatory state apparatus to oversee the managerial advancements and legal obligations upheld by the new – often – private companies. First, an attempt in 1989 (Bakker 2003) to create a kind of a market just by privatizing former natural monopolies failed, because tariffs skyrocketed on water, electricity, and gas (Pollitt 1999). There were de facto no competitors. Privatized natural monopolies were still monopolies. Many citizens could not pay their bills on water, electricity, and gas, and poverty escalated despite the regulatory state apparatus control from the Environment Agency, the Drinking Water Inspectorate, and the Office of Water Services (Ofwat) controlling environmental impact, controlling drinking water quality and groundwater management, and controlling tariffs and setting price caps, respectively.

Returns to shareholders of 20% in average (Miller-Bakewell 1998) and increase on so-called water poverty and water-related health issues among low-income consumers gave consumer advocacy groups success in various court cases and increased the political incentive to tighten the screws on privatized monopolies (Bakker 2001, 2003).

In the UK, a local tariff reduction scheme and price cap mechanism were established to keep costs and tariffs down. Annually, or biannually, all companies in the same sector are compared in a national benchmarking on multiple score systems, and based on average costs, earnings, assets, and so forth, all companies receive individual price caps reflecting how effective the model predicts them to be (come) (Lauesen 2014).

Competition was in the regulatory system sought after through an annual national benchmarking accounting setting the boundaries for pricing policies and tariffs in terms of price caps on the companies (Littlechild 1988; Pollitt 1999; Lauesen 2014). However, in the beginning, the regulation in the UK was regarded as light but has since become much tighter – especially in the water sector (Bakker 2003).

In the US, they used a so-called "rate of return" regulation, which allows a certain profit on their capital assets (Vickers and Yarrow 1988; cited from Pollitt 1999, p. 10). The effect, however, was that privatized monopolies sought to increase their capital assets instead of reducing costs and tariffs.

In the UK, new strong regulation dropped rates of returns to 0–2% in 2000, and tariffs dropped approximately to 12% in average. Hereafter, many UK water companies faced difficulties in maintenance and investment capacity, and alongside tremendous debt, the movement has turned from private toward public ownership and operation, multi-aggregation with less regulated sectors, or internationalization of operation (selling to overseas corporations) (Bakker 2003).

Failures that the Ofwat calls "intellectual neglect" – i.e., long-term asset deterioration due to underinvestment – caused by the pure focus on profit optimization in UK water companies (Bakker 2003) has led to an extensive outsource of operations, while asset owners are debt-financed.

The privatization movement has made multiple different company constructions from fully private companies operating a public good or resource to fully publicly owned companies doing the same – and many quasi-private companies in-between (Guislain and Kerf 1995; Bakker 2003).

In the UK, most former public monopoly sectors remain owned by private stockholders; however, the government can terminate their licenses after 25 years with a 10-year notice (Guislain and Kerf 1995).

Pollitt (1999) mentions the "wider share ownership and employee ownership" (p. 5) as a main driver for the fully privatization of UK monopolies, which – allegedly – occurred by accident. The sale of shares at a discount in Amersham International (1982), British Telecom (1984), British Gas (1986), BritOil (1982), and many more companies to come to individual shareholders and employees in order to encourage public mass participation in the privatization became very popular and gained political advantage for the Thatcher government throughout the 1980s. Many soon sold their shares with a benefit to fewer larger stockholders.

Since the beginning, UK companies have had a second movement, where some have either separated asset ownership from operation and maintenance, returned water supply to public control through a nonprofit consumer-owned corporation or community mutual, or aggregated with more unregulated sectors in large diverse conglomerates (Bakker 2003).

In other countries such as in France, the state typically owns the assets – except in special concessions, where a private operator owns the assets during the concession contract. Often, private companies operate the services in France (Guislain and Kerf 1995; Bakker 2003).

In the USA, most utility companies are fully privatized and represented in many states; other companies are still owned by the municipality. They all share a similar federal institutional setup and regulation across states; however, regulation differs very much and is not inherently as effective as it could have been (Beecher 2009; CSS 2011). In the USA the Environmental Protection Agency (EPA) regulates the law implementing environmental impact by utility companies for natural protection in general. The economic regulator is the public utility commission at state level organized by the National Association of Regulatory Utility Commissioners (Lauesen 2014, p. 161).

In South Africa, utilities are mainly privatized and regulated nationally (Lauesen 2014, p. 162).

In Asia (e.g., China, Indonesia, Pakistan, Philippines), a single, private bulk provider of power, water, and other utility services can sell it to any customer including public utilities. In this model, the private bulk provider bears the market risk, and has the right and tools to make buyers pay or cut off the supply, except for public utilities that may be protected from cutoffs, and instead provides government monetary guaranties to the bulk owner (Guislain and Kerf 1995).

In Scandinavia, some monopoly sectors are privately owned, while others are publicly owned (Lauesen 2014).

An Institutional Approach to Legitimacy

Legitimacy in institutional theory is understood from various perspectives. They vary from strategic-managerial perspectives to cultural, normative, moral, pragmatical, consequential, procedural, substantive, and cognitive organizational perspectives often found in institutional theory (e.g., Selznick 1949; Meyer and Rowan 1977; Cyert and March 1963; Weick 1969; Salancik and Pfeffer 1978; Zucker 1983; Greenwood and Hinings 1988; Scott and Meyer 1991; Meyer and Rowan 1991; DiMaggio and Powell 1991). Suchman (1995, p. 574) defines legitimacy from an institutional perspective as:

> Legitimacy is a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions.

Suchman (1995) attaches to the above definition a thorough description on how managers gain, maintain, and repair legitimacy; however, this suggests a perception of legitimacy as something one can *get* and *lose*. In monopolies, legitimacy is granted through a license on a much stricter entrance level than companies on the free market. Although monopoly companies can theoretically lose their license to operate and thereby their legitimacy, there is a very different approach and rules attached to it rather than traditional stakeholder relationship and dependencies.

Stakeholders can agree or disagree on decisions made by a monopoly company, but since most decisions are made in a political arena – under democratic voting principles – stakeholders, who may disagree, have a weaker claim than toward a company on the free market. Thus, sensitivity toward stakeholder claims is different in terms of the behavior of the monopoly company in a *desirable, proper, or appropriate manner within some socially constructed system of norms, values, beliefs, and definitions*; it is to a higher degree linked toward *laws, procedures,* and *rules* rather than individual perception and claims (Majone 1996).

In such a system, which could be called a new variation of the former bureaucracy (Weber 1968), DiMaggio and Powell (1983) argued in *The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields*:

> Bureaucratization and other forms of homogenization emerge, we argue, out of the structuration (Giddens 1979) of organizational fields. This process, in turn, is effected largely by the state and the professions, which have become the great rationalizers of the second half of the twentieth century. For reasons that we will explain, highly structured organizational fields provide a context in which individual efforts to deal rationally with uncertainty and constraint often lead, in the aggregate, to homogeneity in structure, culture, and output.

The legitimacy in that point of view lies in the context and the process toward homogeneity. If DiMaggio and Powell are right, legitimacy could be described in one word: *homogeneity.*

However, both Suchman's definition of legitimacy and DiMaggio and Powell's claim of collective rationality in institutional isomorphism are very broadly conceptualized aiming at any kind of organization in any kind of professional field.

Since most companies exist on the market, whose legitimacy is based on multiple stakeholder activities and freedom to adjust according to stakeholder pressure, monopoly companies are in a very special situation with a special regulation. Their legitimacy is attached to a license to operate different from actors on the free market. They need further specification than cognitive, cultural, and collective unconscious schemes. They are justified through consciously negotiated schemes based on geopolitical interests that – despite global governmental and constituency differences – are quite isomorph, not only in profession fields but down to company level (Majone 1996).

A Political Approach to Legitimacy

In political theory, legitimacy is understood as any kind of government that must rest on the consent of the governed (Näsström 2007). When a certain type of business is governed – weather it is governed on the free market or in a regulated sphere such as monopolies – the legitimacy of the regulated lies within the regulation.

Surely, businesses on the free market must also abide to various laws and rules, and they are to some extent overseen by authorities and regulations as well; however, monopolies – weather in China, the USA, the UK, Scandinavia, or South Africa – tend to be isomorph as a consequence of being governed by the regulation.

Monopolies are typically governed by a regulative legitimacy based on a set of politically decided rules and managed by ministries and public officials. Regulatory legitimacy is also referred to both political and institutional theories as *procedural legitimacy* (Berger et al. 1973; Scott 1977, 1992; Majone 1996; Suchman 1995). (Political theory includes the role of culture, religion, moral, cognitive, etc. in legitimacy issues as described under institutional approaches; however, the term used for this is in political theory called *substantive legitimacy* (see a further description of substantive legitimacy in DePaigne (2017)).) Regulators wield enormous power, yet they are neither elected nor directly responsible to elected officials (Majone 1996, p. 284)

Although the Weberian term *bureaucracy* in daily speech is often loaded with negative images of old-fashioned, rigid case management, tardiness, red tape management, and officials exercising controlling power more or less with or without a mandate, in modern times, "deregulated" societies – some call it a *new bureaucracy* (Du Gay 2000, pp. 98–99) – have emerged with the regulation of privatized monopolies.

In this new bureaucracy based on procedural legitimacy, regulation is itself legitimized through independent (typically ministerial) agencies or offices monitored by the court system (Majone 1996, p. 289). Thus, in order to insulate regulators from shifting political ideas and the destabilizing effect, new governmental trends might be issued. This, despite whether public officials are appointed by newly elected politicians in the US model or continue regardless of political shifts in government as in Scandinavia.

According to Majone, procedural legitimacy implies:

> . . .that the agencies are created by democratically enacted statutes which define the agencies' legal authority and objectives; that the regulators are appointed by elected officials; that regulatory decision-making follows formal rules, which often require public participation; that agency decisions must be justified and are open to juridical review. (Majone 1996, p. 291)

Differences in constitutional forms may have an influence and deviate from the above, especially in non-republication constituencies, where public officials are not appointed by elected officials and thus – theoretically – personally independent of the current politics in office.

Legitimacy Opportunities and Challenges for Publicly Owned Companies

Publicly owned companies that are characterized with a new bureaucratic, new institutional, and politically procedural legitimacy have been given a politically justified license to operate, which we will dig deeper into in order to understand its special rights and duties, obligations, and expectations hinged to it.

License to Operate

The basic political ideas behind the license to operate for natural monopolies – companies that formerly have state or municipality tasks – originate back to the 1980s' neoliberal movement exercised globally and distributed through the OECD into the New Public Management era (Hood 1991, 1995a, b; OECD 2005, 2006; Pollitt and Bouckaert 2004; Pedersen 2010; Pedersen 2011).

One of the major ideas in the New Public Management movement is that public management was bureaucratic, inefficient, too similar with eastern planned economy, and filled with unexploited resources (Pedersen 2010, p. 48). Instead, private business management and marked-based ideas were perceived as much more efficient, effective, involving multiple stakeholders, and thus much fairer.

To understand where those business management ideas historically come from, visiting the ideas of Frederick Winslow Taylor (1919) in *The Principles of Scientific Management* could be a place to begin:

> THE principal object of management should be to secure the maximum prosperity for the employer, coupled with the maximum prosperity for each employee. (Taylor 1919, p. 9)

A Tayloristic understanding of business-making aiming at "the greatest prosperity [that] can exist only as the result of the greatest possible productivity of the men and machines of the establishment" (Taylor 1919, p. 12) under legal and regulatory obligations contains both economic, environmental, and social responsibilities.

First, the economic responsibilities were toward shareholders, investors, suppliers, customers, and employees in terms of supplying them with returns on investments, pay- and repayments, interests, deliveries, and salaries. Second, businesses could have environmental restrictions or allowances, which public regulators would oversee. These could include land use permissions, pollution control systems, workers' health, etc.

The late Margaret Thatcher was said to be very fond of and inspired by Adam Smith, and her policymaking during the 1980s, where she and Ronald Reagan pleaded warmly for the New Deal/New Right in the UK and USA, respectively, formed some of the first steps toward the New Public Management era (Lauesen 2014).

Adam Smith (1776/2010) wrote in (*An Inquiry into the Nature and Causes of) The Wealth of Nations*, where he mentioned the *invisible hand of the market,* referring to a hidden force that drives businessmen to aim at prospering and making their capital work in home markets, which again creates jobs and security. "He argued that society would progress by removing government barriers and allowing economic actors the freedom to pursue their instincts for self betterment" leading to "society's goal of economic growth" (Smith 2010, foreword by George Osborne, p. xiv).

From the 1980s starting from New Zealand, the UK, and the USA, these neoliberal trends spread all over the world and have formed publicly owned companies, state-owned enterprises, public-private partnerships, etc. in many sectors from oil and gas companies, postal services, airports, electricity, and transportation sectors to water, wastewater, waste, city light, and many more sectors (Hood 1991, 1995a, b; Lauesen 2014).

As such, businesses on the market exist on the basis of the market in competition with peers and relying on demand and supply. However, (quasi-)privatized natural monopolies have a different background and springs out of services from the states, regions, or municipalities. In this chapter, we call these "publicly owned companies" (Lauesen 2011).

When the New Public Management had become mainstream globally in the 2000s with elements of business management focusing on privatization, business management, efficiency, effectiveness, outsourcing public services and operations, and benchmarking the results, the license to operate reflected all this, and had become the motor driving the new bureaucracy (Lauesen 2014).

In modern times, many other stakeholder groups have expectations and claims on private businesses such as neighbors, citizens, politicians, user groups, NGOs, etc. As such, a traditional business license to operate has become both economic, environmental, and not the least social at its core.

A short definition on what has now been conceptualized as a "social license to operate" (SLO) is according to Thomson and Boutilier (2011, p. 2): "a community's perceptions of the acceptability of a company and its local operations." It comprises the idea that a company is inversely related to the level of sociopolitical risk a company faces. According to Thomson and Boutilier, restricted access to essential resources (e.g., financing, legal licenses, raw material, labor, markets, public infrastructure) represents extremely high sociopolitical risk. Social acceptance establishes the company's credibility to be approved, and if trust is established, the social license could rise to the level of psychological identification, where the level of sociopolitical risk is very low.

The social license to operate for publicly owned companies share many common denominators reflected in Thomson and Boutilier's model, although they also differ sectorially and countrywise. For instance, in Scandinavia, the social license to operate in publicly owned companies implies high level of access to resources and raw materials and high levels of trust, whereas in other countries, the trust in former natural monopolies may be lower, for instance, in countries where privatization is much more explicit.

Legitimacy Failures in the Privatization of Natural Monopolies

The benchmarking and price cap model are part of the license to operate conditions for most privatized natural monopolies in Europe and elsewhere (Bakker 2003; Lauesen 2014; Pollitt 1999, p. 10). Although many privatized natural monopolies today are mergers of several local sectors, for instance, water and wastewater management, waste management, electricity, district heating, gas, etc., each division operates under the rationale of a license to operate like the other sectors.

However, despite establishing regulation and control systems, historically, natural monopolies have had their share of business legitimacy failures that have led to the reinforcement of regulation. In the UK, predatory price discrimination to drive out rivals fared multiple allegations in the 1980s and 1990s (Pollitt 2004, p. 18) in the gas, airline, and bus sectors. Initially in the water sector, there was no price cap on water bills, so the water companies could set prices according to their own expectations on profits (Bakker 2001). It was said by a minister that "investment in the public sector must earn a return comparable to investment in the private sector" (Bakker 2001, p. 149). In the 1990s, low-income consumers paid up to 14% of their income in water and wastewater bills, which was compared to a rise in dysentery rates, and in 1994, over two million households defaulted the water bills and were victims to so-called water poverty (p. 152).

Another example from the UK is the British privatization of the railways in the stock listed consortium RailTracks from 1994 ended with its bankruptcy in 2002 after four derailing disasters caused by poor maintenance of tracks (http://www.publicworld.org/docs/britrail.pdf).

In Denmark, a report from the energy authorities (2016) showed that the intended price reduction on the electricity marked foreseen in the privatization era from 2003 never came, but prices had raised to 17% from 2009 to 2016, whereas inflation had only been 10%. Other researchers have shown a similar trend in the UK, especially in sectors that nowadays are owned by private funds (see Hutchinson 1991; Bishop and Thompson 1992; Haskel and Szymanski 1993; Bishop and Green 1995; Koedijk and Kremers 1996; Martin and Parker 1997; all cited from Pollitt 1999; Table 4), whereas public enterprises have shown to outperform private companies over time (Hutchinson 1991).

In 1990, a Danish municipality's all management and operations on a wastewater plant was outsourced to a private company; however, when the municipality's water company in 2009 wanted to take the management and operations back, the private consortium went to court. It costed the municipality a clandestine amount of money, because they lost the case and had to pay amendments to the private company for lost profits Frederiksborg Amts Avis 2011.

Many other examples of legitimacy failures in monopoly companies could be described; however, the point is that the initial ideas behind the deregulation initiated in the 1980s have had many alterations since then because of failures in the privatization of former natural monopolies. Most alterations, however, has occurred in either ownership structure – from private and back to public ownership – or, and especially, in increased regulation in monopoly sectors.

The first lesson learned very early was that the greatest disasters in the privatization of natural monopolies have been seen prior to regulation, monitoring, and other control systems that were fully fleshed out. The profitability on natural monopolies has since been very little, as the case in the UK shows, and accessibility for resources has increased.

The second lesson learned was that assets should be owned by the public – i.e., the state, region, or municipality – or by some other consumer-owned constellation, that is rail tracks, electricity lines, water and wastewater infrastructure, roads, etc.

The third lesson learned was that privatization of management and operations may be a good business, if regulated justly. However, research shows that private management does not lower costs for consumers compared to public management. And trust issues tend to accumulate more in privatized monopolized sectors rather than when managed by public officials ultimately.

Contemporary Issues

Next, we will show a case study of a publicly owned water company in Denmark working with water quality issues that affect water supply companies not only in Denmark but also in many places in Europe.

Case Study: Water & Waste Denmark

Production of drinking water in Denmark is based on clean groundwater. The most common water treatment is aeration and filtration through sand filters. The philosophy is to deal with pollution at the source and minimize more advanced water treatment at the water utilities. This is expressed in the national groundwater policy, which states that production of drinking water should be based on clean groundwater.

But the groundwater resources are quite vulnerable to pollution. One of the major threats are fertilizer and pesticide pollution from agriculture since Denmark is among the most intensively cultivated countries in the world with agricultural land covering approximately 62% of the area (Ministry of Environment and Food of Denmark 2016).

Water & Waste Denmark is a water utility owned by the municipality of Svendborg. The water utility has a total production of 2.2 million m^3/year, which is a rather large utility in a Danish context. The production is based on groundwater from six wellfields. On five wellfields, the only necessary water treatment is aeration and filtration through sand filters. Advanced treatment with carbon filters has been introduced on a small wellfield (abstraction of approx. 50,000 m^3/year) with no alternatives to groundwater polluted with pesticides.

New Finds of Troublesome Pesticides in the Groundwater

Pesticide pollution of the groundwater in Denmark has been a major concern since the early 1990s. However, since the summer of 2017, new types of pesticide metabolites have been discovered in the groundwater. The new knowledge has uncovered pesticide pollution much more widespread than expected. Water & Waste Denmark is one of the water utilities facing the challenge. On the largest wellfield of the utility (Skovmølleværket), the groundwater is polluted with dimethyl-sulfamide (DMS). DMS is a metabolite from a pesticide used in fruit and berry production (tolylfluanid). Fruit and berry production is a preferred land use around the wellfield because of favorable climatic conditions with low risk of frost in the spring, where the fruit trees and berries blossom. The widespread pollution with DMS is a result of an intensive use of the parent drug from the late 1960s until a market withdrawal in 2007. Today, the parent drug causing pollution with DMS has been banned.

DMS is found in every abstraction well on the wellfield – usually in concentrations close to the drinking water standard of 0.1 μg/l. Point source pollution causes much higher concentration locally. In one of the abstraction wells, the concentration of DMS is more than 50 times the drinking water standard.

Currently, the trend of the pollution of the wellfield is hard to discern. The concentration in the groundwater fluctuates with the pumping strategy on the wellfield. Still, it is possible to mix groundwater from the abstraction wells to get a final concentration in the drinking water below the drinking water standard; however, whether this strategy will be sufficient in the long run is very uncertain.

Advanced treatment of the groundwater might be a necessity in the future to minimize the risk of not complying with the drinking water standard of 0.1 μg/l.

Technologies for Pesticide Removal

Groundwater polluted with DMS is difficult to treat. The preferred technological solution dealing with pesticide pollution is advanced treatment with carbon filters. But filtration through carbon filters has no effect on DMS. Intensive oxidation with ozone is the best option at the moment (Krüger 2019). Yet, this kind of treatment creates nitrosamine as a by-product. Nitrosamine is carcinogenic in even very low concentrations and from a health perspective a much worse compound to introduce to the water cycle than DMS. Fortunately, it is possible to remove nitrosamine from the water with a combination of intensive UV treatment and biofiltration.

Implementation

In other words, there is a technological solution to the water quality issues the water utility is facing. However, implementation of advanced treatment is not a favored option since it is not in line with the national groundwater policy. Nevertheless, production based on clean groundwater might be an impossible goal to fulfill in the forthcoming years. What are the options for the water utility? How can the water utility minimize the risk of introducing advanced treatment? And how can it legitimize introduction of advanced treatment when it is necessary?

One of the options considered is remediation at the abstraction wells with high concentrations of DMS. Abstraction wells with high concentrations of DMS are currently out of service; however, implementation of remediation pumping as a means to fixate and remediate pollution from point sources will minimize the risk of being forced to implement advanced water treatment.

The insights gained from the present situation also call for considerations concerning sustainable management of the groundwater resources in the long run. Though the present situation could be considered as *sins of the past*, it also sheds light on a present vulnerability of the aquifer that calls for precautionary actions if the risk of facing that kind of challenges in the future should be minimized. A proactive groundwater protection is thus an option to consider for the water utility. By introducing a proactive groundwater protection as a targeted measure in the catchment of the wellfield, it will be possible to maintain the visionary goal of drinking water production based on clean groundwater while introducing advanced water treatment as a temporary measure if necessary.

Conclusion

Although it seems that publicly owned companies have had solved their former business legitimacy issues regarding price setting and delivery obligations, new issues have been showed to threat the companies' legitimacies as well. In this regard, the example from the Danish water sector shows how the legitimacy has moved from being a monetary issue to being a quality issue.

The Danish national groundwater policy, which states that production of drinking water should be based on clean groundwater, could – as the case shows – be at severe risk of creating a legitimacy issue nationally facing the risk of water pollution from pesticides. This issue is not a Danish problem alone but is seen in more countries in the EU, for instance, in Germany and the Netherlands, as well.

We showed how a pesticide metabolite, dimethyl-sulfamide (DMS), in the groundwater is difficult to remove without advanced technology such as ozone treatment, whose downside is the creation of a side product, N-Nitrosodimethylamine (NDMA), which is carcinogenic.

We asked in the introduction: How can such a dilemma be resolved?

An evaluation of the health risks caused by consumption of drinking water contaminated with DMS shows that the detected concentrations in the groundwater don't pose a threat toward public health (Environmental Protection Agency 2018).

Thus, the water utility apparently does not have to worry about the consequences of consumption of DMS-contaminated drinking water. If it is necessary to introduce advanced water treatment, the purpose will mainly be for the compliance with the drinking water standard rather than consumer health issues.

This may not be the case with the next pollution find.

In addition, there may be other pesticides or metabolites in the drinking water that have not yet been detected in the screening of the drinking water quality.

This hidden threat adds significantly to the complexity of the dilemma. Maybe DMS is just the tip of the iceberg. Even though it seems that DMS is causing much trouble currently, it might be relevant so see DMS as the effect rather than the cause.

If DMS is seen as the effect, it might be possible to resolve the dilemma with a holistic approach where temporary advanced water treatment goes hand in hand with remediation pumping, intensified screening, and source protection, such as afforestation, conversion from conventional to organic farming, banned use of pesticides, etc.

The case is just one of the many new issues with metabolites from pesticides used in the near past. At the time of its use, these pesticides were allowed by the environmental authorities, so there are no scapegoats to blame.

However, there will be scapegoats to solve the problems, such as the utilities, its owners, and its customers. Since they are subject to political decisiveness, the legitimacy issue is placed in the political arena ultimately. Thus, utilities must lean on politicians to deal with legitimacy issues at stake. However, political agreement on limiting the use of pesticides and fertilizers is a derived dilemma in this discussion, and ultimately the polluter pays is not a real option.

The utilities affected by pesticide pollution fear the introduction of advanced technologies – not because technology cannot solve the problem but rather because of the bill to be paid today for the sins of the past lands on the customers' tables.

This dilemma frames both the opportunities and challenges for publicly owned companies regarding their business legitimacy.

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Ethics of Corporate Taxation: A Systematic Literature Review 25

Francesco Scarpa and Silvana Signori

Contents

Abstract

In recent times, corporations have been scrutinized for their tax behavior. Various groups of stakeholders have expressed their concern over certain corporate tax strategies that allow multinationals to pay ridiculous amounts of tax in the countries where they operate. Although national governments and international institutions are developing initiatives to reform tax rules to ensure that companies pay their fair share of tax, the international tax framework still offers MNEs several opportunities for minimizing their tax burden. In order to help businesses self-regulate their behavior in those "gray areas" where the tax law is imperfect and to drive changes in legislation, corporate taxation has recently been included in the business ethics field. In other words, the ethical responsibilities associated with corporate taxation have started to be investigated and companies are increasingly expected to exhibit a morally responsible approach to tax planning, above and beyond compliance with the letter of the law. The purpose of this chapter is to present a systematic review of literature dealing with the ethical issues associated

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with corporate taxation. A better understanding of the evolution, the scope and the state of the art of this academic debate is provided by the literature review. Three main topics will be critically discussed: the ethics of tax evasion, the ethics of tax avoidance and the ethics of tax practitioners. Finally, suggestions and future research paths will be offered, in order to encourage studies to foster the debate on the ethics of corporate taxation.

Keywords

Business ethics · Ethical theories · Corporate taxation · Tax avoidance · Tax evasion · Tax practitioners

Introduction

Corporate taxation has recently attracted considerable attention from a wide circle of stakeholders who have increasingly scrutinized companies for their tax behavior. International institutions, such as the OECD and the EU, are developing initiatives to reform tax laws in order to tackle tax avoidance and aggressive tax planning (e.g., the OECD/G20 BEPS Project) while prominent nongovernmental organizations (e.g., ActionAid, ChristianAid, Oxfam) and advocacy groups (e.g., the Tax Justice Network) have launched several campaigns to raise public awareness about the impact of corporate tax planning on society (see, e.g., Dallyn 2017). Furthermore, the media coverage of corporate taxation has increased significantly over recent years (Chen et al. 2019; Kanagaretnam et al. 2018). Additionally, consumers have begun to use their purchasing power to punish tax avoiders (Hardeck and Hertl 2014; Hardeck et al. 2019) and investors are interpreting this growing attention to corporate taxation as a source of increased risk and are calling for a more responsible approach to tax planning (UN PRI 2015, 2018).

As is evident from the abovementioned references, and as noted also by Radcliffe et al. (2018), recent years have been characterized by an institutional change in the "moral boundaries" of corporate taxation as stakeholders have begun to emphasize the ethical aspects of certain tax strategies, above and beyond compliance with the law. The issue of corporate taxation has been "transformed from a narrow technical discussion for specialists to one that is overtly ethical and social" (Beloe et al. 2008, p. 12). Indeed, it is now well established that corporate taxation falls within the business ethics debate (IBE 2013). Of particular concern is the discretion that multinational enterprises (MNEs) enjoy as to how to arrange their tax affairs and how much tax they pay within the legal framework. One of the greatest challenges is the inadequacy of the international tax framework which offers companies several opportunities for tax planning. Moreover, the need to stay competitive and attract investments has led both developed and developing countries to engage in a harmful tax competition known as "a race to the bottom" (Killian 2006, p. 1082). Hence there is increasing concern that MNEs are such powerful actors in the global tax system that they can shape and modify tax rules according to their own interests (Carminati 2019, p. 6).

As a consequence of this flourishing interest, in the last decade a considerable amount of literature has begun to investigate corporate tax practices through the prism of business ethics in order to address the corporate ethical responsibilities associated with taxation.

The purpose of this chapter is to systematically review literature dealing with the ethical aspects of corporate taxation in order to contribute toward a better understanding of the evolution, the scope, and the state of the art of this academic debate. In particular, the chapter offers critical insights into the philosophical approaches and the normative arguments advanced in favor of and against the morality of certain corporate tax practices (i.e., tax avoidance and tax evasion). Additionally, drawing on the results of the literature review, the chapter aims to offer paths and suggestions for future research.

The chapter is organized as follows: the first section presents the methodology (i.e., the systematic literature review) and describes how papers were collected, and analyzed. The following section offers a descriptive analysis of the literature, discussing the distribution of publications across time and journals, as well as introducing the main issues addressed by the papers (i.e., tax avoidance vs. tax evasion). Moving to the following section, the chapter discusses three main topics that have emerged from the literature: the ethics of tax evasion, the ethics of tax avoidance, and the ethics of tax practice. Finally, the last section provides a conclusion and suggestions for future research.

Collection and Analysis of Relevant Publications

A systematic literature review is adopted to ensure that all relevant publications are collected and analyzed through a replicable, transparent, accessible, and scientific process (Tranfield et al. 2003). The systematic literature review is one of the most widely adopted methods "for studying a corpus of scholarly literature, to develop insights, critical reflections, future research paths and research questions" (Massaro et al. 2016, p. 767). Relevant publications were collected using some major electronic management databases (i.e., Business Source Premier via EBSCOhost, ProQuest, Scopus, and Web of Science) and searching articles that in their titles, abstracts, and/or keywords included the words "*ethic* or "*moral*" and at least one of the following common corporate tax-related terms: "corporate tax," "corporate taxation," "tax haven," "tax planning," "tax avoidance," "tax evasion," "tax aggressiveness," and "transfer pricing."

All publications were reviewed to select only those papers which discuss a corporate tax-related issue from an ethical perspective. Moreover, additional articles were found by examining all the reference lists of resources identified through the database searches. Overall, the above-described selection process resulted in a total of 66 papers (please note that publications included in the sample are marked with an asterisk (*) in the references). These publications were analyzed to identify some basic features (e.g., name of the journal, year of publication and research question), the topic addressed, definitions of tax terms, the underlying philosophical approach/

es, and the normative arguments presented in favor of and against the morality of the corporate tax minimization activity that is addressed by the paper.

Descriptive Analysis

The starting point of this literature review is the discussion of some basic features of the publications under examination in order to gain a general understanding of the evolution of academic debate on the ethics of corporate taxation. The descriptive analysis focuses on the following aspects: (a) distribution of the publications over time; (b) distribution of the articles across journals; (c) introduction to the main topics discussed in the literature.

(a) *Distribution of publications over time*

Figure 1 reveals that the distribution of publications over the years can be divided into four phases: (1) the irrelevance phase, which lasted until the 2000s; (2) the emergence phase, lasting from 2000 to 2009; (3) the initial growth phase, which lasted from 2010 to 2015; (4) the consolidation phase, which started in 2017.

Before the year 2000, only three papers were published, indicating that corporate taxation was not considered part of the business ethics debate. During the first decade of the 2000s, the topic started to enter the academic debate even if the number of publications began to grow only in 2010. The period of initial growth (2010–2015) seems to have been driven by the financial crisis (2007–2008) that exacerbated the effects of tax minimization strategies on society. Additionally, the growth may have been fueled by the NGOs' campaigns on corporate taxation (e.g., ActionAid, Christian Aid, and Oxfam). Finally, the topic has gained greater relevance over the last 3 years (2017–2019), when 33% of the

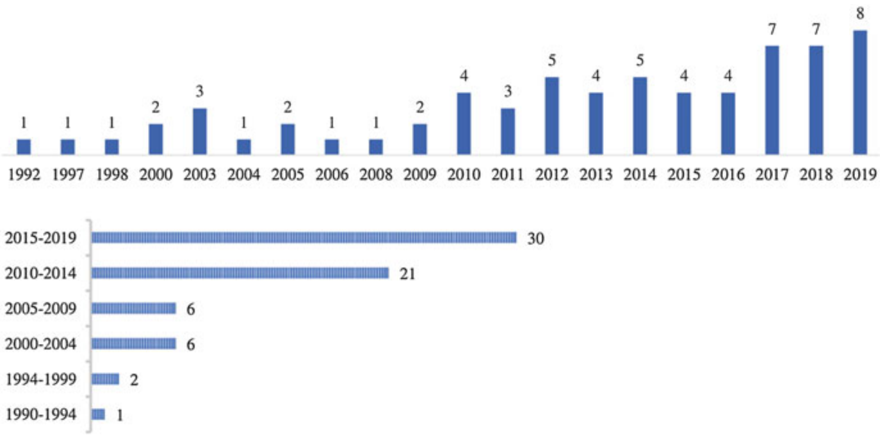

Fig. 1 Distribution of publications across the years

publications included in the sample were published. This phase may have been driven by the intense political and public debate which followed the publication in 2015 of the final package of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project, which provided governments with several solutions for closing the gaps in existing international rules that allow corporate profits to disappear or be artificially shifted to low/no tax jurisdictions.

(b) *Distribution of publications across journals*

Figure 2 lists the journals included in the study and the number of articles included from each journal. This analysis reveals that the 66 publications examined were published in 30 different outlets, while 5 of them were published as book chapters and one was a working paper (Bennett and Murphy 2017). As Fig. 2 highlights, the *Journal of Business Ethics* is by far the main outlet for articles on the ethics of corporate taxation, with 22 articles (33.33%) published. Second on the list is the *Accounting, Auditing & Accountability Journal* that published five articles (7.58%). Interestingly, they are the only journals to have published more than two articles.

As a second step, we grouped the journals by their research area. While most articles (43.94%) were published in business and society journals, articles dealing with the ethics of corporate taxation also appeared in social accounting (21.21%), law (15.15%), general management and international business (9.09%), and psychology (3.03%) journals.

(c) *Main topics discussed in the literature*

Up to now, previous business ethics literature has investigated three main topics related to corporate taxation, namely the ethics of tax evasion, the ethics of tax avoidance, and the ethics of tax practitioners.

Prior to any ethical analysis, much of the literature attempts to draw a distinction between tax avoidance and tax evasion. The most common way to distinguish these tax practices is that between legal and illegal activities. On the one hand, the term *tax evasion* is used for tax minimization activities based on illicit, criminal, dishonest, deceptive, and fraudulent actions taken outside the legal framework (Payne and Raiborn 2018, p. 470; Lenz 2018; Prebble and Prebble 2010, p. 702; Stainer et al. 1997, p. 214). On the other hand, the term *tax avoidance* is used to refer to activities aimed at reducing tax payments by legal means (Kirchler et al. 2003, p. 3; Prebble and Prebble 2010, p. 700; Dowling 2014, p. 174).

As outlined by Barker (2009, p. 242), the legal consequences are also different: while tax evasion is punished with imprisonment, judicial remedies for tax avoidance may be limited to civil penalties, the nullification of the tax position and the payment of back taxes with interest. Additionally, there are no sanctions against some legal tax minimization strategies (e.g., corporate headquarters located in a low-tax country) which may only negatively affect the relationship with stakeholders.

With respect to tax avoidance, some scholars have distinguished among different forms that are associated with various ethical issues. First of all, scholars use the term "appropriate" (Payne and Raiborn 2018, p. 470) or "State-induced" (De Colle and Bennett 2014) tax avoidance to refer to the process of reducing the amount of tax

Journal	Count
Journal of Business Ethics	22
Accounting Auditing & Accountability Journal	5
Accounting Forum	2
Accounting, Organizations and Society	2
Business Ethics: a European Review	2
Critical Perspectives on Accounting	2
Journal of Accounting, Ethics and Public Policy	2
Accounting Horizons	1
Accounting and the Public Interest	1
Accounting Review	1
American Business Law Journal	1
Boston University Law Review	1
Business & Professional Ethics Journal	1
Business and Human Rights Journal	1
Business and Society Review	1
Creighton Law Review	1
Development	1
Ethics and International Affairs	1
International Business Review	1
Journal of Business and Management	1
Journal of Economic Behavior and Organization	1
Journal of Economic Psychology	1
Loyola University Chicago Law Journal	1
Manchester Journal of International Economic Law	1
Nordic Tax Journal	1
Scandinavian Journal of Management	1
Social and Legal Studies	1
Society and Business Review	1
University of Michigan Law School Scholarship Repository	1
Virginia Tax Review	1
Working paper	1
Book Chapter	5
Total	*66*

Fig. 2 Journals included in the systematic literature review

based on enumerated provisions in the legislation, usually encouraged by the State to achieve socially desirable ends. Secondly, scholars label as "legitimate" (Barker 2009), "strategic" (De Colle and Bennett 2014), or "responsible" (Lenz 2018) those tax avoidance activities aimed at reducing corporate tax liabilities as part of a commercially sound business strategy and that comply with both the *letter* and the *spirit* of the legislation. Conversely, scholars use the term “unacceptable” (Demirbag et al. 2013, p. 101), “impermissible” (Barker 2009), “aggressive” (Lenz 2018; Payne and Raiborn 2018), or “toxic” (De Colle and Bennett 2014) to refer to tax avoidance schemes that are designed predominantly or exclusively with the intention of reducing tax and which are based on a literal interpretation of the law that places little weight on the spirit of the legislation, that is, “the legislative policy goals that inform tax law and the balance of competing social norms expressed in the tax code” (Ostas 2018, para. 20). This third form of tax avoidance raises some questions about its morality.

The importance of distinguishing between tax avoidance and tax evasion is corroborated by some empirical studies revealing that taxpayers stress the difference between legal (i.e., tax avoidance) and illegal (i.e., tax evasion) when they judge the morality of tax minimization strategies (Kirchler et al. 2003; Blaufus et al. 2016).

Although there are some contrary positions (West 2018; Prebble and Prebble 2010), this chapter follows the prevailing view that considers tax avoidance and tax evasion as two separate ethical issues, stressing the legal differences between them.

Discussion of Corporate Tax-Related Ethical Issues

As mentioned above, business ethics literature has addressed three main topics related to corporate taxation, namely the ethics of tax evasion, the ethics of tax avoidance, and the ethics of tax practitioners. In the sections that follow, the normative arguments that have been advanced in favor of and against tax evasion and tax avoidance will be investigated. Finally, the ethics of tax practitioners will be discussed.

The Ethics of Tax Evasion

There is a relatively small body of literature that deals with the ethics of corporate tax evasion, much of the literature on tax evasion having focused, in fact, on individual taxpayers (e.g., Bagus et al. 2011). Most scholars take for granted that tax evasion is “profoundly unethical” (Bagus et al. 2011, p. 376), since it is illegal and it “entails deception and concealment” (Payne and Raiborn 2018, p. 470). As argued by Stainer et al. (1997, p. 214) “by definition, evasion is illegal and hence unethical,” so that “few would dispute that. . . tax evasion is immoral” (Prebble and Prebble 2010, p. 715).

As noted by Young (2019), that illegal implies unethical is a typical assertion in the wider business ethics literature. For instance, legal responsibilities occupy a position close to the base of Carroll’s pyramids of corporate social responsibilities (1991), while according to Friedman’s (1970) popular view on corporate social responsibilities, firms’ profit maximization should be limited to what the law permits.

In his interesting review of the literature, McGee (2006) notes that three major views on the ethics of tax evasion have evolved over the last 500 years: (i) tax evasion is *always unethical* because there is a duty to God, to community, or to society to pay taxes; (ii) tax evasion is *always ethical* because the government always expropriates peoples' wealth; (iii) tax evasion is *sometimes unethical*, since there are some ethical obligations to support the government of the country where you live but that duty is less than absolute.

What emerges from McGee's (2006) review is the importance of exercising caution when interpreting the claim that companies always have an ethical obligation to pay taxes. Indeed, over the last 500 years, some theologians and philosophers have argued that tax evasion may not be unethical in cases where the government is an evil regime, where it engages in human rights abuse or in unjust wars, where tax rates are too high, or where the tax funds are wasted or wind up in the pockets of corrupt politicians or their friends (McGee 2012).

However, only few scholars argue the position that there is an ethical duty to obey tax law, so that tax evasion would be an immoral action. Ostas (2018) refers to Socrates' arguments (i.e., consent, reciprocity, fairness, and utility) to conclude that the ethical duty to pay taxes can be derived from the "general *prima facie* ethical obligation to obey reasonably just laws enacted by reasonably just societies." According to McGee (2012) it cannot be automatically concluded that individuals representing a corporation need to pay only corporate taxes that are considered to be just. Indeed, McGee (2006, p. 31) observes that it is unethical for managers or tax practitioners to help a corporation evade taxes, even if the tax itself is unjust, "because they have a fiduciary duty to the corporation's owners not to do anything that will reduce the stock price," given that evading taxes could result in fines and/or in the confiscation of corporate assets. A different approach is adopted by Avi-Yonah (2014), who contends that companies have a duty to obey the law and pay their taxes under any view of the corporation: (i) under the *artificial entity* view, companies have an implicit bargain with the State that expects companies to pay their taxes to contribute to the ability of the State to fulfill its obligations to its citizens; (ii) under the *real entity* view, the corporation should behave like an ordinary citizen and should try to comply with the tax law to the best of its ability; (iii) under the *aggregate* view, corporations have an affirmative obligation to pay their taxes to enable the State to carry out those social functions that they are barred from pursuing.

Turning now to empirical research, a number of studies have investigated the determinants of tax evasion. Inspired by the seminal theoretical models developed by Allingham and Sandmo (1972) and Srinivasan (1973), the first empirical studies were based on strictly economic determinants and a rational explanation of tax evasion, according to which the amount of tax individuals choose to pay depends only on the expected benefits of not paying taxes, compared with the risk of being caught. However, as noted by Mickiewicz et al. (2019, p. 76) one of the main conclusions from these empirical studies is that tax evasion is much lower than can be explained by expected financial utility.

Hence, as emphasized by Alm and Torgler (2011, p. 635), the real puzzle of tax compliance behavior is "to explain why people pay taxes" despite a relatively low likelihood of being caught. To explain this discrepancy, the concept of tax morale has been developed, that is, a moral obligation to pay taxes and a "belief in contributing to society by paying taxes" (Torgler and Schneider 2009, p. 230).

So, scholars have started to acknowledge that it is not possible to understand tax compliance decisions fully without considering that individuals are often motivated by factors founded on "aspects of morality, social norms, altruism, fairness, or the like, factors that we broadly – and somewhat inaccurately – classify as 'ethics'" (Alm and Torgler 2011, p. 636). However, only a few studies on tax morale are based on the business context. For instance, a series of experimental studies among self-employed business owners conducted by Maciejovsky et al. (2012) reveals that the relative effectiveness of economic determinants of tax ethics (such as audit probabilities and fines) is moderated by feelings and emotions. More recently, Mickiewicz et al. (2019, p. 89) found that the tax morale of business owners/managers is affected by the institutional system where they are embedded through three institutional mechanisms: "the normative – trust in the government and in the tax system; the cognitive – identification with the wider polity; and the regulatory – perceptions of deterrence."

The Ethics of Tax Avoidance

A large and growing body of literature has investigated the morality of (aggressive) tax avoidance. As discussed above, tax avoidance is a legal activity. Hence, we first need to discuss why companies should be morally castigated for engaging in activities that, by definition, fall within legal limits (Fisher 2014, p. 341) or, in other terms, why we need ethics to tackle tax avoidance.

This issue has been addressed by several scholars who hold the view that tax avoidance cannot be automatically considered a moral activity only because it is legal. For instance, Prebble and Prebble (2010, p. 744) note that "drawing moral conclusions from legal observations constitutes logical confusions." In the same vein, Hansen et al. (1992, p. 684) state that "legal and ethical are not always equivalent" and, thus, as pointed out by Payne and Raiborn (2018, p. 475) "abiding by legal mandates will not necessarily or always produce ethical behaviour."

As a second step, we need to clarify the role of the law in taxation. As argued by Honoré (1993, p. 5), the duty to pay tax is "in principle a moral obligation. . . to make a contribution to the expenses of meeting collective needs." Yet this moral obligation is incomplete because taxpayers cannot settle it for themselves: the role of the tax system is to translate and crystallize this moral obligation into legal norms to preclude arbitrariness and to create reciprocal trust that all taxpayers will pay their share (Gribnau 2017, p. 18). Nevertheless, once the legislature has created this legal obligation and written it in legal texts, regulations "will inevitably appear to be imperfect, ambiguous, lagging behind societal and economic developments and so on" (Gribnau 2015, p. 239). The tax regulatory framework is a matter of loopholes, inconsistencies, and imperfect laws that can be complied with in different ways, particularly in the global arena where rules are written by different, and often conflicting, sovereigns. In brief, as summarized by Gribnau (2017, p. 44) "to demand perfect legislation is to demand the impossible." Hence, the use and the interpretation of legal rules demand arbitrariness and personal evaluations (Aharony and Geva 2003), and it is here that ethical responsibilities arise. In other words, ethics in corporate taxation "may somehow involve abstaining from permitted legal ways and means to reduce tax and voluntarily going 'beyond the law' to apply some higher (undefined) ethical standards" (Demirbag et al. 2013, p. 103).

The view that companies are expected to go above and beyond compliance with tax laws is supported by anecdotal and empirical evidence revealing that MNEs which legally fail to pay their fair share of tax are increasingly considered to be unfair, immoral, and/or outrageous (West 2018, p. 1143; DeZoort et al. 2018; see also IBE's annual surveys of the attitudes of the British public to business ethics available at https://www.ibe.org.uk/).

In conclusion, tax avoidance is widely perceived at least as a morally doubtful practice, although it is legal. As a consequence, a considerable amount of literature has investigated the morality of tax avoidance using a variety of philosophical approaches, focusing on tax avoidance in general, or on specific tax avoidance strategies, like transfer pricing (Hansen et al. 1992; McGee 2010; McMahon et al. 2013; Mehafdi 2000; Ylönen and Laine 2015), tax inversion, that is, the relocation of a corporate headquarters to a different country with lower taxes, while the majority of the company's operations remain in the higher-tax country of origin (Godar et al. 2005) or the use of tax havens (Preuss 2012a, b). The following sections provide a review of the moral arguments which scholars have advanced in favor of and against the morality of corporate tax avoidance.

Moral Arguments Defending Tax Avoidance

Although most scholars question the morality of tax avoidance, a few lines of reasoning have been advanced to morally justify companies engaging in tax avoidance activities. What follows is a brief account of these positions, as summarized in Fig. 3.

(a) *Tax avoidance is a legal and not a moral issue*

A first position defends the legitimacy of tax avoidance considering its legal nature: since tax avoidance is legal it cannot be immoral. From this perspective, the payment of tax is regarded as a mandatory cost imposed by government and the only corporate responsibility is to minimize this cost within the rules of the law (Anesa et al. 2019; Friedman 1970): there cannot be any moral constraints on exploiting legal opportunities or on moral duties "to pay taxes greater than actual legal liability" (Windsor 2017, p. 156) because "even an extreme moralist could not expect the taxpayer to opt for the most costly election" (Hansen et al. 1992, p. 683).

Thus, this line of reasoning contends that if some tax activities are not considered acceptable it is the governments' task to change the legislation to make them illegal (Stainer et al. 1997, p. 214). To corroborate this position, the following tax court decisions are often cited (see Barker 2009; Prebble and Prebble 2010, pp. 714–715):

Philosophical approach	Main arguments	Sources
Tax avoidance is not a moral issue	There cannot be any moral constraints on exploiting legal opportunities or moral duties to pay taxes greater than actual legal liability	Windsor (2018)
Liberalism	Tax avoidance is a justified form of "self-defence" from a violation of natural rights	Machan (2010); McGee (2010)
Libertarian theory	Tax avoidance is an expression of the liberty to be free from an overreaching government, the freedom of property and the freedom to contract	Barker (2009)
The inefficiency of government	Companies are morally justified to legally minimize their tax burden since they are able to use tax savings to increase social welfare more efficiently than government	Davis et al. (2016); McGee (2010)
Managerial fiduciary duty	Managers have a duty to maximize shareholders' wealth by all legal means, including the minimization of the tax burden	Dowling (2014); Fallan and Fallan (2019)

Fig. 3 Moral arguments in favor of tax avoidance

> "Every man is entitled if he can to order his affairs so as that the tax attaching under the appropriate Acts is less than it otherwise would be" (Inland Revenue Commissioners v. Duke of Westminster, 1936).

> "Over and over again courts have said that there is nothing sinister in so arranging one's affairs as to keep taxes as low as possible. Everybody does so, rich or poor; and all do right, for nobody owes any public duty to pay more than the law demands: taxes are enforced exactions, not voluntary contributions. To demand more in the name of morals is mere cant" (Commissioner v. Newman, 1947).

(b) *Liberalism*
According to Locke, generally regarded as the father of liberalism, all individuals have "natural rights" (i.e., the right to life, liberty, and property) which are granted at birth. Building on Locke's doctrine, Machan (2012) considers tax avoidance as a justified form of "self-defence" from a violation of natural rights since taxation "coerces one to hand over a goodly part of one's earnings to people one has not freely chosen to receive them" (p. 75). In the same vein, McGee (2010, p. 34) draws on John Locke's concept of natural property rights to claim that taxation is an unjustified governmental interference in the natural, free-market ordering of things.

(c) *Libertarian theory*
Libertarian thinkers, such as Nozick (1974), are not only in favor of tax avoidance, but they even call for no taxation since it is seen as an interference with personal liberty and property (Gribnau and Jallay 2017, p. 73). Nozick's position is expressed in his famous statement: "taxation of earning from labor is on a par with forced labor" (Nozick 1974, p. 169). Thus, any efforts to restrict tax

avoidance would be similarly unjust (West 2018, p. 1148): individuals have the right to avoid tax as an expression of "the liberty of the subject to be free from an overreaching government, the freedom of property and the freedom to contract" (Barker 2009, p. 234).

(d) *The inefficiency of government*
This line of reasoning is based on the concept of efficiency in the redistribution of tasks among public and private actors. Scholars suggest that it is more socially acceptable to keep as many assets as legally possible in the private sector, when transferring them to an inefficient government results in a misallocation of resources (Stainer et al. 1997, p. 215). Thus, companies may be morally justified to legally minimize their tax burden if they are able to use tax savings to increase social welfare in other ways, such as through investment in infrastructure, research and development, and job creation (Davis et al. 2016, p. 49). McGee (2010, p. 35) even ventures to say that "society is actually helped if corporations have a policy of minimizing taxes."

(e) *The managerial fiduciary duty*
Consistent with agency theory, managers feel they have a duty to maximize shareholders' wealth by all legal means. This fiduciary duty implies that managers have to engage in all legal activities to minimize the corporate tax burden (Fallan and Fallan 2019, p. 2). So, if managers pay more taxes than the legal minimum, they are acting unethically because they are transferring to the governments assets and wealth that belong to shareholders (McGee 2010, p. 32) or other stakeholders.

Moral Arguments Against Tax Avoidance

As previously stated, much literature dealing with the ethics of tax avoidance has reached the conclusion that there are "good philosophical reasons... to socially ostracize this type of behaviour" (Lenz 2018).

As summarized in Fig. 4, various philosophical approaches have been used to support the immorality of tax avoidance, including *consequentialist* theories (which address right or wrong by emphasizing the outcomes of an action), *deontological* theories (which stress that what makes a choice right is its conformity with a moral norm), and *virtue ethics* (which emphasizes actors' virtues and moral character).

The following section discusses how these ethical theories have been used to reach the conclusion that corporate tax avoidance is immoral.

(a) *Utilitarianism*
Utilitarianism, a version of consequentialism, is linked particularly to the British philosophers Jeremy Bentham (1789/1996) and John Stuart Mill (1863/1998). According to utilitarianism, an action is right or wrong depending on its social consequences: an agent must act in ways that result in the greatest amount of good (variously described as happiness, pleasure, utility, or individual welfare), or the least amount of harm, for the greatest number of people affected by the action.

Philosophical approach	Main arguments	Sources
Utilitarianism	Negative social outcomes of tax avoidance outweigh the positive consequences	Hansen et al. (1992), Mehafdi (2000), Godar et al. (2005), Preuss (2012a), Fisher (2014), de Colle and Bennet (2014), Raiborn et al. (2015), Payne and Raiborn (2018)
Kantianism	Tax avoidance cannot be universalized without contradiction and without violating the principle of human dignity.	Godar et al. (2005), Prebble and Prebble (2010), Preuss (2012a), Raiborn et al. (2015), Lenz (2018)
Ethics of Rights	Tax avoidance violates basic human rights	Scheffer (2013), Darcy (2017)
Ethics of Justice	Tax avoidance violates Rawls' principles for a just society	Raiborn et al. (2015), Gribnau (2017), Payne and Raiborn (2018), Fischer and Friedman (2019)
Social Contract Theory	Tax avoidance violates the implicit social contract between business and society	Christensen and Murphy (2004), Payne and Raiborn (2018)
Virtue Ethics	Tax avoidance runs contrary to the development of virtues and moral character	Preuss (2012a), West (2018)

Fig. 4 Moral arguments against tax avoidance

Although no utilitarian analysis of tax avoidance has provided a comprehensive quantitative measurement of its consequences, there is a consensus among researchers that tax avoidance generates negative outcomes on a large number of stakeholders that are likely to outweigh the short-term financial benefits (De Colle and Bennett 2014; Godar et al. 2005; Preuss 2012a; Payne and Raiborn 2018; Raiborn et al. 2015).

On the one hand, benefits associated with tax avoidance are typically attributed to shareholders via increases in share prices and dividends and to their tax consultants via higher fees. Additionally, tax savings might potentially be used for the benefit of other stakeholders, like employees (i.e., higher wages), consumers (i.e., lower prices), and the broader community (i.e., more CSR activities).

On the other hand, negative consequences have been associated with governments (e.g., lack of revenue to fund public services, higher administrative costs to ensure tax compliance, threat to the tax system's integrity, harmful tax competition between States), management (e.g., reputational risks), and shareholders (e.g., reputational harm, risk that the management engages in other subversive and opportunistic activities, costs for tax penalties and legal experts). Additionally, tax avoidance may inflict harm on domestically based competitors, who cannot engage in cross-border tax avoidance strategies, on members of the general society, who may suffer from higher social inequalities, a greater tax burden and/or a lower level of social welfare, as well as on developing countries that rely on MNEs' tax payments for their economic and social development (Carminati 2019, p. 5; de Colle and Bennett 2014; Fisher 2014, pp. 354–359).

Finally, some scholars emphasize the negative outcomes of specific tax avoidance strategies: the use of tax havens may result in profound distortions of global foreign direct investments (FDI) to the degree that investment decisions are taken on the basis of tax and regulatory concessions (Preuss 2012a); a corporate inversion (Godar et al. 2005) might cause psychological harm to employees (e.g., fear of job loss), the current home government (e.g., feeling of betrayal), and the prospective home government (e.g., political stress within the new host); similarly, transfer pricing may generate psychologically negative outcomes at the level of the host countries, such as feelings of trust and hospitality abuse, local workforce exploitation, as well as a reinforcement of the politics of greed (Mehafdi 2000).

Although many scholars have contended that the negative outcomes of tax avoidance seem to prevail over the positive consequences, other scholars consider that these analyses are unsatisfactory and inconclusive because they fail to provide a quantitative measurement (Lenz 2018; West 2018).

(b) *Ethics of rights*

To date, only a limited number of scholars have framed tax avoidance as a critical issue from the human rights' perspective (Scheffer 2013; Darcy 2017). For this reason, Darcy (2017, p. 2) refers to tax avoidance as the "elephant in the room for business and human rights." Central to this line of reasoning is the need for governments to be financed both by individual and corporate taxes in order to facilitate and protect basic citizens' human rights (for instance, through education programs and public health care). Indeed, taxation has "a redistributive function, aimed at reducing the unequal distribution of income and wealth that results from the normal operation of a market-based economy" (Avi-Yonah 2006, p. 3).

Various leading initiatives in the development of human rights have acknowledged that tax avoidance activities "have considerable negative impacts on the enjoyment of human rights" (International Bar Association 2013, p. 93). Darcy (2017) suggests addressing the issue of corporate taxation using the three pillars of the UN Guiding Principle on Human Rights: (i) the first pillar – that is the State duty to protect human rights – requires States not to facilitate corporate tax avoidance; (ii) the second pillar – that is the corporate responsibility to respect human rights – requires companies not to engage in abusive tax avoidance and make a policy commitment on taxation; (iii) the third pillar – the need to ensure adequate remedies – requires greater engagement by the international and human rights bodies with corporate tax avoidance.

In contrast, Scheffer (2013, p. 366) suggests adding an eleventh principle to the UN Global Compact identified as "Fair Taxation": "Businesses should undertake measures to promote fair taxation of their revenues, including non-resort to tax avoidance schemes and prohibition of any tax evasion practices."

Furthermore, in 2015 over 150 organizations signed the Lima Declaration on Tax Justice and Human Rights (available at http://www.cesr.org/sites/default/

files/Lima_Declaration_Tax_Justice_Human_Rights.pdf) to call upon governments, companies, international institutions, tax lawyers, judges, and the human rights community at large to actively engage in the development of an international tax system that favors the full realization of human rights.

(c) *Kantianism*

The most famous and prominent deontological approach is the ethics of the German philosopher Immanuel Kant. He developed a theoretical framework, called the "Categorical Imperative", that is, "an objective, rationally necessary and unconditional principle" (Johnson and Cureton 2004) to derive moral duties and rules for addressing all ethical issues. The main message of the Categorical Imperative is to act only according to that maxim (principle or rule) by which you can at the same time will that it should become a universal law (Kant 1786/2012, pp. 421–429; 1797/2013, p. 231).

To determine whether tax avoidance is ethical from a Kantian perspective, the first question would be to ask if we would want everybody to engage in tax avoidance in all circumstances, without any contradiction in conception or will (*universal acceptability* and *consistency* principle). Secondly, there is the need to investigate whether by making use of tax avoidance the basic human dignity of people would be fully respected (*human dignity* principle).

The most comprehensive application of Kant's Categorical Imperative to tax avoidance is offered by Lenz (2018). He hypothesizes that managers and tax consultants pursue a twofold purpose: they aim to interpret legal norms aggressively to minimize taxes and, simultaneously, they wish for a stable, predictable, and just legal system, where judges, civil servants, and adverse parties interpret legal rules considering the letter and the spirit of the law. If these premises are accepted, Lenz comes to the conclusion that conceiving tax avoidance as a universalized maxim would lead to a contradiction of will: it is not possible to wish at the same time that all persons and corporations interpret the law up to the boundary of what is probably legally permissible to minimize taxes and that the legal system will remain fair and stable.

Furthermore, other scholars point out more logical contradictions in conceiving tax avoidance as a universal law: if everyone pursues tax avoidance schemes, the effects would be a rise in tax rates or the introduction of new taxes and, then, that no one would achieve any gains (Prebble and Prebble 2010, pp. 725–726; Bennett and Murphy 2017, p. 7); tax avoidance strategies can be effective only if they remain unnoticed (Aharony and Geva 2003, p. 388); some economic actors (like SMEs and individual taxpayers) do not have the same opportunities or resources as multinational corporations to engage in tax avoidance activities (Preuss 2012b, p. 3); with specific regard to corporate inversion, the maxim whereby all companies and individuals may change their citizenship in order to pay lower taxes would require "that no citizen be a citizen" (Godar et al. 2005, p. 3).

Finally, regarding the principle of human dignity (i.e., whether tax avoidance leads to treating humanity as an end), scholars maintain that tax avoidance does not result in a respectful treatment of human beings because general society would be damaged by the reduced ability of governments to provide public goods and services (Preuss 2012a, p. 116; Raiborn et al. 2015, p. 85).

In summary, much literature provides different arguments to conclude that tax avoidance is immoral under the Kantian philosophical approach.

(d) *Ethics of justice*

The frequent phrasing of the issue of tax avoidance in terms of (un)fairness suggests that modern theories of justice may contribute to the debate (West 2018).

One of the most popular theories founded on the concept of justice and fairness was developed by John Rawls (1971) who established a deontological framework based on three criteria which guide decision makers toward solving the ethical issues behind a "veil of ignorance" (i.e., without any knowledge of their attributes or roles in society): (i) the *principle of equal liberty*: each person is to have an equal right to the most extensive basic liberties compatible with similar liberties for all; (ii) *the difference principle*: social and economic inequalities are to be arranged so that they are to the benefit of the least advantaged; (iii) the *principle of fair equality of opportunity*: those most disadvantaged in society should have the best opportunities under conditions of fair equality of opportunity.

Payne and Raiborn (2018, p. 476) contend that tax avoidance might violate all Rawls' principles, because the "least advantaged" in society (i.e., individual taxpayers and SMEs) would not have the same opportunity as MNEs to engage in tax avoidance activities and might suffer from the lack of public assistance due to the reduction in tax revenues. Ostas and Hilling (2016, pp. 64–65) also claim that tax avoidance strategies violate Rawls' notion of justice because they "tend to erode the policy goals that support tax systems, namely fairness, simplicity, and certainty."

According to Rawls, a just society is based on reciprocity, cooperation, and mutual respect among citizens. In order to establish obligations for individuals, Rawls introduced the principle of fairness that asserts that members of society who have voluntarily accepted the benefits provided by a society and its institutions are bound by a duty of "fair play" to do their part. In other terms, benefiting from society leads to an obligation to reciprocate.

When it comes to corporate tax practices, Gribnau (2017, p. 47) contends that the duty of fair play requires companies "more than simply to follow the rules, in the sense of strictly keeping to the letter of the law. . .. and to exercise a certain restraint in taking advantage of them." Business and community are parts of a mutually beneficial cooperative scheme: companies use public goods and services (e.g., good infrastructure, a just legal system, and a well-educated workforce) while local communities can benefit from corporations' economic and social contributions. Then, tax avoidance runs contrary to the principle of fairness, resulting in companies acting as free riders.

Finally, a different approach is adopted by Fischer and Friedman (2019) who link the Rawlsian principles to Abrahamic Justice, mainly based on the dichotomy between *tzedakah* (righteousness) and *mishpat* (judgment). By doing so, they reach the conclusion that, despite the fiduciary duty toward shareholders, managers have a moral responsibility to pay a fair share of tax even if they can legally avoid doing so, and they may "operate under the assumption that shareholders aspire to a higher level of justice that is informed not just by legal compliance but also by standards of righteousness" (Fischer and Friedman 2019, p. 213).

(e) *Social contract theory*

Some scholars have framed the issue of tax avoidance with reference to the social contract tradition (Donaldson and Dunfee 1994, 1999), which maintains that responsibilities to society come from a sort of implicit social contract between business and society.

Christensen and Murphy (2004, p. 37) highlight that tax payments are "the lifeblood of the social contract" since they are vital to the development of society and its institutions. Hence, as noted by Payne and Raiborn (2018, p. 476), entering into the social contract, a business has "tacitly agreed to contribute its fair share to the tax base" and, then, to abide by both the spirit and the letter of tax law. From this perspective, tax avoidance is immoral since it breaches the social contract that binds every firm to the community in which it operates (De Colle and Bennet 2014, p. 66).

(f) *Virtue Ethics*

Virtue ethics is a major ethical theory that emphasizes the development of virtues, that is, "traits of character that constitute praiseworthy elements in a person's psychology" (Audi 2012, p. 273). The main message of virtue ethics is that a "virtuous person is a morally good, excellent or admirable person who acts and feels as she should" (Hursthouse and Pettigrove 2016).

West (2018) builds on virtue ethics to focus on the role of accountants, who are often involved in corporate tax avoidance activities. More in detail, West refers to MacIntyre's virtue ethics (2007) to reconceptualize and remove two factors (i.e., *pressure* and *rationale*) included in Cressey's (1953) fraud triangle (the third factor, i.e., opportunity, is not discussed). Firstly, the pressure factor (i.e., the motivation behind tax avoidance) is reconceptualized by stressing that a good accountant should prioritize the achievement of excellent accounting practices (e.g., the substance over form principle) over the motivation to pursue shareholder wealth. In a similar vein, an alternative rationale (i.e., the intellectual justifications to make fraud acceptable) for accounting choices is provided, emphasizing the aim to contribute to the common good of individuals and collective flourishing, rather than enhancing shareholder wealth.

Furthermore, Preuss (2012a, p. 118) contends that corporate tax avoidance clashes with the emphasis of virtue ethics on situational learning and the development of moral character. This assumption moves from the premise that ethical behavior should be uniform and related to every aspect of business (Christensen and Murphy 2004, p. 39; Stainer et al. 1997, p. 214). Nevertheless, a number of empirical studies document that some corporations engage in tax avoidance while also making public claims to being ethical and socially responsible (e.g., Col and Patel 2019; Davis et al. 2016; Fallan and Fallan 2019; Lanis and

Richardson 2012; Preuss 2012b; Sikka 2010) revealing the resistance to framing corporate taxation as a moral issue within the business community. This moral disconnect cannot live up to the principles of virtue ethics since it is clearly "inconducive to the character development of organisational members" (Preuss 2012a, p. 119).

The Ethics of Tax Practitioners

Tax practitioners represent one of the major players in the tax arena since they help individual and corporate taxpayers to comply with their tax obligations, especially in a system characterized "by the combination of self-assessment systems, complex tax codes, increased penalties for non-compliance with tax legislation and higher levels of cross border activity" (Doyle et al. 2009, p. 177).

Therefore, to complete the discussion on ethics with regard to corporate tax behavior, some brief considerations on the role of tax practitioners are now proposed.

The term "tax practitioner" is commonly used to cover a diverse range of business professionals (e.g., accountants, auditors, lawyers, barristers, tax experts working within industry) who "provide a broad range of tax services for their clients" (Marshall et al. 1998, p. 1268). Tax practitioners' services can be divided into two main categories: tax compliance, whereby practitioners prepare tax computations on behalf of taxpayers, and tax planning/avoidance advice, whereby tax practitioners attempt to devise ways of reducing the taxpayer's liability.

Tax practitioners have duties to multiple actors (Frecknall-Hughes et al. 2017, p. 731). On the one hand, they play an important role in the pursuit of the public interest and the common good, serving as intermediaries and government representatives in the tax system. On the other hand, they have a contractual obligation to serve their clients' financial interests (Shafer and Simmons 2008; Stuebs and Wilkinson 2010).

The last decades have witnessed the emergence of the "dark-side" of the tax profession (Addison and Mueller 2015) with a growing number of scandals uncovering the involvement of tax practitioners and accountancy firms in devising and mass marketing aggressive and ethically questionable tax schemes in pursuit of higher profits, bringing them into conflict with the State, the civil society, and the public interest (Sikka and Hampton 2005; Sikka 2008, 2010; Addison and Mueller 2015, p. 330). These scandals have led to problematize tax as a central moral issue within the accounting profession and, then, to debate over the ethical behavior of tax practitioners (Shafer and Simmons 2008; Carter et al. 2015). As noted by Apostol and Pop (2019), the tax consultancy has traditionally functioned as a commercial activity that generates profits by offering tax assistance to advance the interests of clients (i.e., *commercially driven* institutional logic). However, this logic has recently come under threat from an emerging *ethically oriented* institutional logic which transposes the numerous societal requests for tax practitioners to act in a way that considers the impact on the wider society rather than pursuing only the clients' interests.

Driven by the changing public expectations, a growing number of studies have investigated the ethics in tax practice, mainly exploring how tax practitioners actually balance the private and the public interests and debating how they "should make difficult discretionary decisions within the existing boundaries of what is arguably allowable" (Field 2017, p. 268).

The importance of ethics in tax practice was emphasized in the late 1980s by Finn et al. who identified ethical dilemmas involving tax issues as the most difficult problem for members of the American Institute of Certified Public Accountants (Finn et al. 1988, pp. 607–609).

In terms of thinking about "ideal ethical tax practitioners," scholars have stressed how important it is for tax practitioners to follow both the letter and the spirit of the legislation (Frecknall-Hughes et al. 2017; Ostas 2018). This requires that tax practitioners restrain from exploiting a literal interpretation of the law and that they "employ the full panoply of interpretative steps, including deference to legislative policy compromises, respect for judicial precedents, and most importantly, an application of traditionally embraced maxims of statutory construction" (Ostas 2018, para. 1).

A preliminary empirical study on the role of ethics in tax practice was conducted by Marshall et al. (1998) who reported considerable diversity among Australian tax practitioners' ethical stances. The diversity in the styles of tax practitioners is supported by Sakurai and Braithwaite (2003), who reveal that taxpayers differentiate between three types of idealized tax practitioners: (i) the creative, aggressive tax planning type; (ii) the tax practitioner who engages in the cautious minimization of tax; (iii) the low risk, no fuss practitioner who is honest and risk averse.

A significant finding of the literature is that most tax practitioners are reluctant to recognize the role of ethics in tax practice: empirical evidence suggests that they appear more concerned with reputational damage in relation to tax avoidance than any resulting ethical aspects (Doyle et al. 2009) and that they reason in a less principled manner when presented with ethical dilemmas in a tax context than in a social context (Doyle et al. 2014).

With regard to the underlying ethical framework that tax practitioners concerned with ethics use to formulate their decisions, literature provides mixed results. Cruz et al. (2000) suggest that when tax practitioners face clients' pressure to adopt aggressive reporting positions, their ethical judgment is more affected by the moral equity and contractualism approaches than philosophies of utilitarianism, relativism, and egoism. Differently, Shafer and Simmons (2011) provide evidence that relativism (i.e., judgment of what is traditionally or culturally acceptable) has the strongest influence on tax practitioners' behavioral intentions in ethically charged situations. Additionally, the experiment of Frecknall-Hughes et al. (2017) indicates that although tax practitioners show a more marked deontological orientation, also consequentialist factors play some role in their reasoning about moral dilemmas in the tax domain.

The importance of ethics in tackling the sale of aggressive tax schemes is supported by a number of studies which have investigated the influence of personal ethical beliefs and the ethical environment on tax practitioners' decision making.

Results suggest that tax practitioners are less likely to facilitate aggressive tax avoidance schemes when they believe more strongly in the importance of business ethics (Shafer and Simmons 2008; Shafer et al. 2016) and when the ethical culture of their organization is supportive of professional ethics (Shafer and Simmons 2011).

Additionally, some contextual factors can also play an important role in affecting tax practitioners' ethical judgment. Demirbag et al. (2013) reveal significant differences in tax practitioners' perceptions of corporate tax-related ethical issues between developed (proxied by the UK) and emerging (proxied by Turkey) countries while Fatemi et al. (2018) provide evidence that tax practitioners are significantly less likely to choose a tax-favorable outcome when in the communication of ethical standards the integrity standard (i.e., protecting the public interest) is presented before the client advocacy principle (i.e., pleasing the client).

Given the importance of ethical standards in constraining aggressive tax behavior, scholars highlight the need for increased training in business ethics among tax practitioners to develop their moral character and promote a culture that gives greater consideration to the impact of tax decisions on wider society, rather than the tax a client can save (Stuebs and Wilkinson 2010; Shafer and Simmons 2008; Bennett and Murphy 2017; Krupka 2019).

More recent empirical studies seem to suggest a change in tax practitioners' consideration of the public interest. Bennett and Murphy's (2017) case study reveals that when stakeholders (i.e., the tax authority and the accounting profession regulatory authority) put tax practitioners who promoted aggressive tax schemes under pressure, they responded by issuing new guidance on responsible tax practices. Furthermore, Radcliffe et al. (2018) found that tax professionals have responded to changing public expectations in a way that promotes a new understanding of tax "not merely as a practice that has moral implications, but as a practice that is more deeply imbued with morality than has hitherto been recognized" (Radcliffe et al. 2018, p. 55).

Conclusions and Suggestions for Future Research

The extended literature review presented in the previous pages reflects the lively academic debate that has been ongoing for the last few years about the ethics of corporate tax behavior. Most scholars acknowledge that, even if corporate taxation is regulated by law, there is room to include this issue within the business ethics field to help businesses self-regulate their behavior in those "gray areas" where the tax law is imperfect and to drive changes in legislation in order to bridge the gap between what is morally right and what is legally permitted. However, the presence of many different positions regarding the morality of tax minimization practices mirrors the richness but also the complexity of the question at hand. Indeed, a discussion about corporate taxation inevitably raises the complicated issue concerning the role of business in society and its interrelations with another important actor, that is, the government. On the one hand, governments are entrusted with the responsibility to act in the best interests of society. They receive consent from society (through votes) and should act to protect society's interests. On the other hand, companies are also entrusted more and more with the responsibility of advancing the interests of society, and there are no doubts that they have a “social responsibility” to carry out.

Furthermore, governments and businesses are mutually dependent on each other for pursuing their specific role. A strong government institution creates a solid foundation that allows businesses to operate and grow, while corporate income taxes are an important part of most governments’ revenue and, so, a vital source for supporting public activities. These lines of reasoning explain why most moral arguments against tax avoidance find their legitimacy in the belief that companies should contribute to society by the payment of tax.

Again, the traditional legal theories on justification for taxation (i.e., “the benefit” principle and the “ability to pay” principle) start with the consideration that a fair share of tax should be given to the State. In particular, the “benefit” principle considers an amount of taxes proportionate to the amount of benefits obtained by the State to be “fair,” while the “ability-to-pay” approach is based on the idea that the tax burden should be distributed among taxpayers in proportion to their faculty to bear the burden (e.g. Dodge 2004; Kaufman 1997). In both cases, companies must contribute to the governments’ expenditure to allow them to fulfill their responsibilities toward citizens and to carry out their public function.

On the other hand, businesses can contribute to society by providing jobs, infrastructures, investments, etc., and, therefore, the less they pay in taxes, the greater their contribution will be to society. Some moral arguments in favor of tax avoidance are justified by the presence of other rights or interests in contrast to those of the government. In other words, if managers pay more taxes than the legal minimum, they are transferring to the governments wealth or possibilities that belong to other stakeholders (not only shareholders) and, more broadly, to society.

In this sense, companies are expected to replace the State in the exercise of some public functions. This “subsidiary” or “substitutive” approach may also be observed in all those initiatives in which tax authorities introduce tax benefits to achieve a social end. In these cases, companies exercise specific social functions traditionally attributed to the State and, for that reason, they have a reduction in what they have to pay to governments. A relevant example is companies’ charitable foundations and the possibility to devote huge sums of money, deducted from taxation, to specific social causes. These initiatives often underline the idea that businesses can be more effective or efficient than the State in performing what are traditionally considered as public functions.

Discussing the delicate relationship between companies and governments and the role of power on its development falls beyond the scope of this chapter, but it is worth noticing that this aspect may influence the perception of the moral duty to pay tax in order to fund States’ activities and functions.

Future studies could investigate this aspect further. In particular, attention could be paid to how different factors – such as companies’ perception of their role in society; the role, the power, and the efficacy of governments in pursuing the public good; and the power and efficacy that businesses perceive they have in relation to the State – influence how tax avoidance practices are perceived. Relevance could be given to the role of culture, types of legislation, different levels of economic development, or other factors on shaping the perception of the morality of corporate tax strategies.

Furthermore, the growing interest demonstrated by academics, NGOs, media, etc., to tax avoidance shows how companies (in particular multinational companies) face increased scrutiny of their tax practices. The question of the amount of tax to be paid is far from being a merely "technical aspect" to be managed through a cost-reduction approach, but rather it is increasingly becoming an ethical, political, and strategical issue. Not only NGOs, but also investors and standard setters are asking for "greater transparency to evaluate companies' exposure to potential earnings, governance, reputational and broader societal and macroeconomic risks" (UN PRI 2018, p. 5). In fact, the amount of corporate income tax, tax avoidance practices, and where taxes are paid are issues that need to be managed with a specific policy, a governance, and risk-assessment structure and communication system.

As noted in this literature review, many ethical theories lead to the conclusion that managers should have a responsibility to pay a fair share of tax, even if they can legally avoid doing so, because their "principals," that is shareholders, could "aspire to a higher level of justice" (Fischer and Friedman 2019, p. 213) informed by values of righteousness and fairness. Furthermore, firm or brand reputation could be at risk due to the stakeholders' perception (and expectations) of corporate tax duties. A company tax policy, discussed and issued at board (or general meeting) level, is fundamental.

Further studies could investigate the presence of tax policies and how these reflect (or could reflect) the set of corporate values and the business and social responsibility strategy. Also, how and where tax-related issues are discussed and how decisions are taken in companies could be an interesting field of investigation to understand better if tax-related matters are considered to be ethical and political issues or if they are still handled as technical/administrative aspects. Again, the role of different stakeholders and their pressure on companies could be an interesting point of view to investigate how policies and decisions are shaped, defined, and changed over time. Research could explore how the company, through tax policy and governance systems, protects stakeholder trust and enhances the company's license to operate.

Furthermore, as noted above in the literature review, there could be a moral justification for tax avoidance. Further studies could shed light on the links (if any) between tax policies and practices and the company's overall strategy, in particular as far as corporate social responsibility is concerned.

A last point that deserves attention is the need for transparency. The rich literature review and the different positions advanced by authors and practitioners support the idea that companies are called to be accountable for their tax-related decisions. At the moment, income tax-related information published by companies appears to be largely focused on meeting regulatory requirements rather than stakeholders' claims (UN PRI 2018). A first question that scholars can raise concerns the motivations and barriers that companies face in disclosing data on income tax policies and practices. However, an ethical approach to taxation may prompt new and further demands. For example, the link between the place where the economic operations and sales take place or where customers are based – that is, where value is created – and the place where taxes are paid is an emerging and compelling issue on stakeholders' agendas (see, e.g., UN PRI 2018 and GRI 2019). Finally, cross-national transitions, international subsidiaries, and the digital economy open new and challenging avenues for addressing legal but also moral duties to pay a fair share of tax.

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∗ = Articles included in the systematic literature review

Part VII

Law, Reflexive Law, Business Legitimacy, and Corporate Social Responsibility

Law, Business, and Legitimacy

26

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Abstract

The intention of this chapter is to formulate thought-provoking ideas about legitimacy and close neighbor terms. In particular, the chapter considers "legitimacy" to not only be a very relevant term for business ethics in general but also highly relevant in answering the question of how business ethics relates to law. Rather than defining legitimacy right away, the authors use the first part of this chapter to develop a comprehensive understanding of legitimacy by relating it to close neighbor terms, such as power, recognition, trust, justification, and criticism, on the one hand, and to legality in its contrast to and overlap with legitimacy, on the other. In the second part of this chapter, we offer concrete (real-world) examples and ideas of the interaction between legitimacy and law. These examples are drawn from traditional legal disciplines such as tax law and human rights law, as well as more modern legal preoccupations such as intellectual property law, laws relating to artificial intelligence and autonomous cars, the latest organic seed certification laws, etc. We envisage these examples as food-for-thought for future business ethics teaching and research at the interface of legitimacy and legality and business ethics and its legal contexts.

Keywords

Legitimacy · Law · Business ethics

Introduction/Overview

The intention of this chapter is to formulate thought-provoking ideas about legitimacy (and close neighbor terms) as a potentially fruitful term for business ethics in general and for the question of how business ethics relates to law in particular. Rather than defining legitimacy right away (e.g., departing from German authors such as M. Weber, J. Habermas, and N. Luhmann; see Brinkmann 1978), we use the first part of this chapter to develop a comprehensive understanding of legitimacy by relating it to close neighbor terms, such as power (most importantly) but also recognition, trust, justification, and criticism, and to legality in its contrast to and overlap with legitimacy. In the second part of this chapter, we offer concrete (real-world) examples and ideas of the interaction between legitimacy and law. We envisage these examples as food-for-thought for future business ethics teaching and research at the interface of legitimacy and legality and business ethics and its legal contexts.

Understanding Legitimacy

Legitimacy and Power

In a preliminary working definition, one can understand power ". . . as the ability of an actor (or a system) to realize his/her/its own interests and to hinder others from realizing theirs, based on material or immaterial resources such as sanctioning power, legitimacy and ideologies. . .” (Brinkmann 2017). Among several sociological concepts of power or approaches, the most interesting one in the context of this chapter is a “*legitimacy* or power justification-and-acceptance approach [which] focuses on how actors or systems with power *justify* themselves and their power towards weaker or powerless parties in power relationships, and to what extent such justifications are accepted by these. . .” (Brinkmann 2017, mainly inspired by the classical ideal typology of charismatic versus traditional versus legal-rational governance, see Weber 1978). Figure 1 is an attempt to visualize such a power-as-legitimacy approach, alone or combined with two other approaches. The two other approaches (mentioned in Brinkmann 2017) are:

Firstly, the so-called “second or least interest-based power” approach. This approach focuses on the net sum of two (or more) parties’ interdependent and complementary strengths and vulnerabilities. In other words, this approach studies the impact of controlled (i.e., one’s own) versus counterpart (i.e. others’) resources and interests, such as material resources (money, resilience, etc.) in negotiation situations.

Secondly, the so-called third or *model power* approach. This approach focuses on actor power as *influence*, for example, where experts or advisors can “help” more or less helpless non-experts or clients with “their” decision, but often on the model owner’s and advice giver’s terms rather than the client’s.

These three approaches can be translated into one another or combined. Legitimacy, trust, reputation, and information can be “controlled” or “needed”; simplification “models” can count as nonmaterial resources or potential vulnerabilities; or short expertise in demand can serve as a base of power as authority (Brinkmann 2017).

So far, one can say that legitimacy, as legitimate power, is a potential strengthening or reinforcement of power, which in turn makes power less dependent on force or other material or immaterial resources. However, legitimacy connotes also a

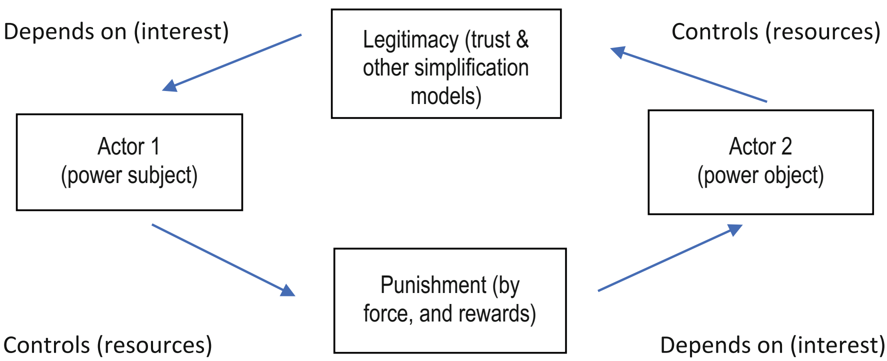

Fig. 1 Power, trying to combine W. Waller’s (least principle) and M. Weber’s concept. (A modification of exhibit #4 in Brinkmann 2017)

potential vulnerability, since the underdogs, the power objects, might also have some reciprocal power to accept, recognize, or reject power. In other words, they have at least some potential counter-power. As a corollary, therefore, claims or critical questioning of legitimacy typically triggers a follow-up question: if and where are there any powerful rulers, public bodies, business arenas, or actors, which claim and/or need legitimacy. From this it seems to follow that introducing and using legitimacy concepts in business ethics open the door for focusing on issues and impact of power in business contexts rather than overlooking them. This facilitates the demanding of similar legitimacy from actors in the business arena as one would from political ones with comparable power or else considering their power illegitimate (cf the key thoughts in Ulrich 2016/2008).

Legitimacy Equals Recognition

While legitimacy often appears as a Siamese twin or shadow of power in the double meaning of a support and a challenge, the best translation of legitimacy is most likely "recognition." If an arena or an authority or a person with authority is legitimate, this means that they are recognized (or respected, or accepted – cf also Boutilier and Thomson 2011 who try to think of recognition as a variable, with a tought-provoking visualization). Nevertheless, as mentioned above, such recognition (or respect/acceptance) is a potential asset or resource which at the same time is more or less controlled by the underdog (or the master's slave in Hegel's terms). Max Weber's concept of legitimate power (in his most important work, *Wirtschaft und Gesellschaft*, transl. Economy and Society) equates legitimacy with recognition. On the one hand, Weber suggests looking bottom-up, e.g., from the perspective of an individual citizen, with legitimacy or recognition as a property of an action-orienting order or frame of reference. On the other hand, he suggests looking top-down, with legitimacy as a claim of justified power or as a "likelihood of obedience to a given order with a given content among specifiable persons..." (1972, pp. 28, 122 ff). In addition, Weber hints at a subtle dialectic of normative aspects (what I ought to do as an individual and what *power* claims subjects ought to do) and empirical ones (since there is a reference to factual validity, understood as a likelihood of obedience, that orientations exist and trigger action or that claims of legitimacy are met by empirical conformity). In other words, expected orientation meets factual action-orientation, ought meets is.

Legitimacy Equals Trust

Legitimacy can also mean the same as a claim of trustworthiness, where rulers or companies suggest to their subjects or customers that they can trust them and where their subjects or customers do so, with or without invitation. Here, subjects or customers trust rather than control the powerful. Expectations as the key indicators in some definitions of trust (and of legitimacy) are at least as interesting as talking about trust in general (cf Luhmann 2014, in particular about the distinction between cognitive and normative expectations, originally developed by the two Norwegian sociologists J. Galtung 1959 and V. Aubert 1967). The question is if legitimacy is expected normatively (with a risk of disappointment and criticism) or cognitively (with a willingness to accept decisions after a proper procedure, within reasonable limits, not really far from resignation and cynicism: ". . . a generalised willingness to accept decisions without a specified content, within certain tolerance limitations"; see Luhmann 1969, p 28, first author's translation). Or in other words, trust or trustworthiness is basically a normative expectation, or a simplification model, where one feels that one does not need to spend time on critical questions or controls but by the same token that runs the risk of disappointment and being betrayed (cf the classical prisoner's dilemma game design, where mutual trust is rewarded but where non-mutual trust risks being exploited by the counterpart). Or, related to marketing and consumer ethics, a strong brand claims legitimacy and trustworthiness, while brand loyalty is basically risky trust. Such consumer behavior examples raise interesting follow-up questions, about the relative depth and grounding (and the again riskiness) of trust – whether trust represents a customer conviction or rather customer laziness.

Legitimacy Equals Justification

A next synonym for legitimacy is justification that power, authorities, or, e.g., corporations are able and willing to justify themselves, by providing reasons that are at least "good enough." When teaching introductory courses in business ethics, this is where references to classical moral philosophy become due – that justifications (i) are as good or as convincing as the intentions and principles guiding an action (such as in Kantianism) or (ii) are as good as the holistic analyses of actions' or rules' likely consequences for affected parties (such as in utilitarianism) or (iii) as good as the goodness of good persons, such as good or even excellent rulers (such as in virtue ethics). At least in a skeptical perspective, the judgment of "good enough" reasons should be left to the target groups or even to critical outside experts rather than to the justifier alone or to any sources referred to by the justifier. As an additional alternative, one can leave legitimacy as justification to democratic participation and to a good and fair dialogue among the addressees and owners of legitimacy (such as is proposed by discourse ethics, see Habermas 1983/1990, or as good secondary literature, see Edgar 2005, 157–164, or when it comes to trying to translate it into practice, see Brinkmann 2015 and Brinkmann et al. 2016, with a presentation of Neo-socratic dialogue design as a way of trying out discourse ethics in practice).

Legitimacy as a Critical Term?

In a business ethics context, legitimacy can help describe and understand the normative basis of, for example, corporate power. But the most interesting, perhaps, is a third possible function – if legitimacy can and should serve as a critical term, that is, for an evaluation of realities (e.g., in relation to a potential) and for any improvement suggestions. Such an evaluation depends on criteria and perhaps on the status of legitimacy as an ideal – which then can be used for critical judgment across the aspects presented above, e.g., of claims made by powerful actors or systems, if claimed recognition or claimed trustworthiness is deserved, if justifications are convincing skeptics (rather than the convinced only) or can be criticized as rationalizations or moral neutralization. A critical theory and/or a critical management studies approach would here recommend a double criticism of factual power in systems or of actors, of claims and justifications, and of (more or less positivist) theories and ideologies explaining and defending them, for example, as positive, given, in the meaning of "alternative-less."

Legitimacy and Legality

Legitimacy and legality have the same roots, in the Latin word *lex*, which means "law." Legitimacy and legality are at the same time overlapping and different. Legitimacy suggests recognition, trustworthiness, and/or justification – often unquestioned but questionable rather than unquestionable. Legality suggests that systems and actions are in accordance with the law, with a similar ambiguity. A preliminary text table draft which compares legality and legitimacy can serve as a point of departure for further reflection and elaboration (see Table 1). In addition, especially in a business ethics context, one could ask how legitimacy and legality can influence one another (reinforce one another or be in one another's way, see Table 2 as another point of departure).

The Dialectics of Business Ethics and Law, Legitimacy, and Legality: Examples and Ideas

Now and then, for example, in textbooks and at conferences, business ethics is presented and perceived as if there were neither law nor legal scholars. Tables 1 and 2 suggest that there are interesting differences and complementarities, tensions and conflicts, clear extremes, and gray zones between these two ways of thinking – which should be addressed rather than neglected. In the second part of this chapter, we offer short presentations of topics where such an interaction and collaboration between law and ethics and between legality and legitimacy could be tried out and investigated further in business ethics research and teaching, concretely rather than merely in abstract terms.

Business and Human Rights

One of the most prominent approaches in ethics and business ethics is the so-called rights and duties approaches (see for, e.g., the Stanford Encyclopedia of Philosophy

Table 1 Comparison of legality and legitimacy

	Legality	Legitimacy
Primary norm system	Positive law (correctly produced and applied, with a primary focus on the letter and a secondary focus on the spirit)	Expectations (normative and/or cognitive ones, met or not) of justice and entitlement, morality, and ethics
Possible negative and positive sanctions	Punishment (fines, imprisonment, invalidity, etc.), legal validation and implementation	Loss of respect and recognition among important stakeholders. Positive reputation, authority, loyalty among stakeholders
Ideal	Rechtsstaatlichkeit and Rechtssicherheit, predictability: outsider interference and legally irrelevant facts and thoughts don't matter. Letter = spirit of the law	Justice and transparency, enlightenment and consistency (with other ethical ideals)
Justification	Immanent/ inherent justification (and immanent-critical questioning)	Legality ("rule of law," Rechtsstaatlichkeit), and/or reference to ruler charisma and/or tradition, and/or ethical theory/principles (which all can be questioned)
Basic units	Legal persons in legal systems	Citizens and rulers, government
Academic experts	Legal scholars	Moral philosophers, psychologists, social scientists
Success	Implementation and loyalty	Reinforced power, deserved recognition and trust, listening to constructive criticism
Change processes	Verrechtlichung, growth of coverage of relationships by law, growth of compliance thinking	Increase and decrease of substantial legitimacy expectations

https://plato.stanford.edu/entries/rights-human/; or Brusseau 2011), where duties define rights and vice versa, with lower and upper boundaries and conflicts as typical issues for further investigation. One of the most prominent examples is basic human rights which are to be respected and not to be compromised even for claimed legitimate purposes, such as economic development, law and order, risk management, etc. Human rights are also among the best examples of the interface between law and ethics and legality and legitimacy, as typical key ingredients in national constitutions and international law (ibid. United Nations: Universal Declaration of Human Rights (UDHR) 1948). Human rights are those fundamental rights and freedoms to which all human beings are entitled and include civil, cultural, economic, political, and social rights (United Nations http://www.un.org/en/sections/issues-depth/human-rights). The most basic among these rights includes the right to life, liberty, and personal security (Article 3, UDHR) as well as the freedom from interference with privacy, family, home, and correspondence (Article 12, UDHR). Over time, not just states and governments but also private individuals and businesses are expected, in their speech and actions, to respect these rights and freedoms (Buhmann 2016), demonstrating the expanding legitimacy of these rights even

Table 2 A typology of how legality and legitimacy can influence (reinforce, weaken) one another

A decision or state of affairs is…	Illegitimate	Possibly	Legitimate
Legal	**Independent legal validity** (that is independently of the ethicalness of its contents). Ethical/moral criticism can potentially weaken or **neutralize** the effect of positive law		**Interdependent implementation** or realization: Just law. Consistency and mutual **reinforcement** of legal *and* ethical/ moral/ empirical **support**
Possibly…		**Gray zones**	
Illegal	**Interdependent critique-worthiness:** Consistency and mutual **reinforcement** of legal *and* ethical/ moral **rejection/ deviance**		**Independent ethical validity:** Ethically/ morally justified **critique** of positive law, **deviance** from it and **opposition** to it, **perhaps civil disobedience**

though they were rather "radical" at the time they were adopted (Hannum 2016). Nonetheless, significant challenges remain in accomplishing/implementing the ideal of human rights in diverse international economic and sociopolitical circumstances (Moore 2001). These challenges illustrate the differences highlighted in Table 1 above between legality and legitimacy on the one hand and the interactive combinations of the two (as described in Table 2) that might exist in real-world circumstances, on the other.

One real-life example could be the recent move by the Chinese government to establish an artificial intelligence-based public behavior monitoring mechanism that aims to "purify" society by rewarding people who are trustworthy and punishing those who are not. Accomplished with the help of an estimated 1.7 million surveillance cameras installed across China, reports state that "By 2020, China plans to give all its 1.4 billion citizens a personal score based on how they behave. Some with low scores are already being punished if they want to travel. Nearly 11 million Chinese are not allowed to fly and 4 million are barred from trains;" see CBS News (2018) and also Kent (1999). While those affected by this system record their unhappiness, several people from among the general population of China consider these laws to be justified and even necessary to ensure good behavior by all, at all times ("legitimacy by justification"; CBS News 2018, http://www.cbsnews.com/news/china-social-credit-system-surveillance-cameras). In democratic setups, it would have been expected that, as described in Table 2, the Chinese law would either be rejected or lead to neutralization of positive law. Notably, China is signatory to the UN Universal Declaration on Human Rights, the International Covenant on Economic, Social and Cultural Rights, as well as the International Covenant on Civil and Political Rights (although it is yet to ratify the latter two). Nevertheless, civil disobedience has been met with low levels of tolerance by the Chinese government, which considers it legitimate also to use force to suppress civil (and also student) uprisings such as the one in Tiananmen Square in 1989. The use of such force may be categorized as legal (within China) but illegitimate (in China and globally, Kent 1999).

Perhaps in large part due to the absence of democracy, all legal and governance schemes in China can be said to enjoy a kind of *de jure* legitimacy. Indeed, the legitimacy as well as the legality of the monitoring and scoring mechanism in China brings up interesting questions about the nature of "legitimacy" and its relationship with "legality." It particularly exemplifies how a legal and governance regime can, even while being illegitimate at its inception, become legitimate within a specific societal context over (long) periods of time. Indeed, China has even witnessed increasing private sector participation and at least an apparent increase in public acceptance of the laws and governance structures, evidencing increasing global legitimacy of the Chinese legal and political regime. Here, therefore, there may be a need to add a new category (vis-a-vis Table 2) of possible interaction between legality and legitimacy: a law that is originally illegitimate may acquire legitimacy over a period of time during which the law remains unchallenged and/or succeeds in changing behavior and mindsets till it (i.e., the law) becomes a given. This "acquired legitimacy" may be the result of a legitimacy based initially on power/force but influencing, over time, public opinion at a very fundamental level, thereby also becoming a legitimacy based on justification.

Intellectual Property (IP) Law

IP has become a global and commercial buzzword since the mid-1990s. The World Intellectual Property Organization (WIPO) defines "intellectual property (IP)" as "creations of the mind: inventions, literary and artistic works, symbols, names and images used in commerce" (WIPO undated, https://www.wipo.int/edocs/pubdocs/en/intproperty/450/wipo_pub_450.pdf), etc. The term includes "industrial property" such as patents, trademarks, industrial designs, trade secrets, and geographical indications, as well as copyrights and the so-called related rights, referring to rights of performers and producers of phonograms (ibid.). Each of these categories confers a specific package of "rights" and "duties" on their owners, and ownership of any IP depends on whether or not you were the first to create a product/process or, in some cases, on whether you were the first to apply for the package of exclusive rights in the proper government office after creating the product/process (in patent law, this is called the "first-to-file" system) (Ladas 1975, p. 323). Once ownership is established, each category of IP right provides a certain number of years of "exclusivity," during which time the owner is permitted to exclude others from using or selling goods or services incorporating the IP right in question (Ghosh and Calboli 2018, p. 25).

From an ethical perspective, in order for any intellectual property law to be considered "legitimate," it must be fair to all stakeholders, not least because the stakeholders have divergent interests. To illustrate, on the one hand, IP laws must be fair to inventors and creators of novel works by ensuring that they are adequately rewarded (compensated) for their efforts. This fair reward is also necessary for the benefit of the society as it is supposed (theoretically speaking, at least) to incentivize further and optimal levels of inventive/creative activity (Leslie 2011, p. 186; Ku 2003, p. 547; Gordon 1984, p. 1611). At the same time, IP laws also must ensure that they are fair to the consumers of products or services deriving from inventive/creative activities. Thus, for example, when a company obtains a patent over a life-saving drug, ethics might require that a legitimate patent law is also well equipped to ensure that the exclusive rights it confers on the company are not exploited to overprice the drug. While IP laws of most countries are extensive and detailed, most do not deal with the issue of price, considering this to be the exclusive decision of the patentee, or an issue to be dealt with by other regulatory agencies and insurances (Posner 2005, p. 58; Dratler 2018, p. 103).

In this context, it is also interesting to note that developing countries, where the system of health insurance might not be so well developed, often work provisions that disincentivize over-pricing, into the patent law itself. For example, compulsory licensing regimes under patent laws might state that if a patent owner fails to provide a patented product to the public at reasonable price (also called "access"), it can be required by law to grant a compulsory license to another company to use and work the patent, thereby creating competition in the market and ensuring a reduction in price (Basheer and Kochupillai 2005, p. 13 ff.). Absence of such provisions, as well as attempts to weaken the impact of such and similar provisions in patent law, shakes the public confidence in IP laws (legitimacy) and has often resulted in popular protests, including by not-for-profit institutions and public-funded hospitals who rely on low-cost drugs to provide their services to the poor (Hoen et al. 2001; Euro News 2013). Nevertheless, the flexibility available to individual countries to design and implement IP laws that are legitimate and accepted in their territories has changed drastically in the last two decades.

Historically, each country decided the scope and term of protection granted by various IP rights within their territory based on their own cultural understanding of the importance of "exclusivity" on one hand and their economic conditions on the other (Kur and Mizaras 2011, p. 121; Bently and Sherman 2014). This freedom was not only accepted but was understood as an integral part of any nation's sovereignty (Kobak 2005). One might also think of this flexibility as being justifiable under a broad theory of cultural relativism (Sell 2003, p. 11). Accordingly, "weak" patent systems (i.e., patent systems that do not grant strong and long periods of protection to creators and inventors) were often found to exist in countries that were in their early stages of development. Such "weak" systems were created by legal instruments and enjoyed popular legitimacy among the common people as well as the local industry. A popular example is the pharmaceutical industry of India, which, under the protection conferred by the weak Indian Patents Act of 1970, became the world's largest generic drug manufacturer, producing high-quality generic copies of drugs patented in originator (often Western) countries (Basheer and Kochupillai 2005, p. 37).

Since the early 1990s, however, concerted international efforts (especially by developed country members) made membership to the Trade-Related Intellectual

Property Rights Agreement (TRIPs) a precondition to joining the World Trade Organization (WTO), which replaced the earlier, more flexible arrangement under the General Agreement on Tariffs and Trade (GATT) (Kennedy 2016, p. 383). The TRIPs Agreement established global common minimum standards for the protection of intellectual property through, inter alia, patents, copyrights, trademarks, geographical indications, and plant variety protection methods (Xiong 2012, p. 4; Cottier and Mavroidis 2000, p. 115). The various preliminary as well as final drafts of the TRIPs agreement faced severe criticism from civil society representatives, doctors, patient groups, farmers associations, and a diverse range of private as well as non-for-profit groups (Straus 2007, p. 48; Shiva 2000, p. 505 ff.). Perhaps one of the most highly criticized provisions of TRIPs is Article 27, which mandates a "product patent regime" (McManis 2003, p. 27 ff.) for pharmaceuticals under which developing country members were required to implement much stronger patent rights for pharmaceuticals. This and other global common minimum standards established by TRIPs, while left open to interpretation by national legislations and courts, were considered an illegitimate encroachment upon national sovereignty and the right of each country to self-determine the standard of IP protection that best suited its current and planned developmental needs (Kennedy 2016, p. 158; Yamane 2011, p. 311).

To the extent that the newly established TRIPs minimum standards could be considered optional (i.e., countries could always choose to not be members of TRIPs and the WTO), its adoption by any country could, theoretically speaking, be based on the degree to which its provisions were accepted as legitimate by the country in question (as well as by its government and people, especially in democratic setups). However, by making membership to TRIPs a precondition to joining the multilateral trade regime created and facilitated by the WTO, developed country members, who held the bulk of resources needed to create and protect intellectual property, arguably exercised their economic power to make legitimate an instrument that, at the time, enjoyed little to no legitimacy, especially among developing country members. Indeed, groups such as "Doctors without Borders" also opposed the "product patent regime" for pharmaceuticals mandated by TRIPs (Heins 2008, p. 98). This regime was particularly disliked and feared (lacked legitimacy) because it radically postponed the development and marketing of cheaper generic versions of patented drugs by generic pharmaceutical companies, many of which operate in developing countries like India, thereby significantly increasing drug prices worldwide (Kiliç 2014, p. 81; Dobhal 2011, p. 241; Malhotra 2010, p. 123; Adelman and Baldia 1996, p. 507).

Therefore, despite the apparent legitimacy enjoyed by intellectual property protection laws and agreements such as TRIPs, international declarations such as the Doha Declaration (WHO 2001) as well as national and international administrative body and court rulings (Supreme Court of India 2013; WTO 2000) suggest that these laws can benefit greatly from an interaction with fundamental principles of ethics (such as fairness) and also from debates on legitimacy. Similarly, discussions within the discipline of business ethics can be greatly enriched by looking at the evolution of international and national legal landscapes of intellectual property law, which can also be considered a law/legal regime that has “acquired legitimacy” by long usage, by justification, and/or by (diplomatic) force.

Agricultural Seed Laws

In addition to intellectual property rights regimes, legally recommended, and in many cases mandatory, seed certification systems in Europe also impose strict conditions/limitations on the production and distribution of specific commodities. In so doing, these legal regimes (potentially) exclude entire segments of the population from engaging in a trade that historically constitutes their domain expertise and even exclusive terrain (Steiger 2017; Hanson 1994). This arguably makes the systems legal but illegitimate from a popular (farmers) standpoint. Starting with voluntary schemes, launched, inter alia, by the OECD as early as in 1958, that aimed to ensure varietal purity of seeds produced and sold by breeders and seed traders, in Europe the system evolved with increasingly stringent requirements for seed testing, certification, labelling, and sale, albeit not uniformly adopted by all EU countries (FAO 2001). Nonetheless, the trend in the years following the mid-1900s has been toward increased regulation of seed sales in many EU countries – these laws, together with intellectual property protection, were often opposed by farmers’ groups and NGOs, who demanded legislative authorities to carve out exceptions for farmers and peasants (Steiger and Patel 2017). In this subsection, we see how (mandatory) seed certification laws are an excellent example of how an illegitimate law can fail, in a democratic setup, to be uniformly adopted and implemented and may, over time, lead to a fundamental rethinking of the law itself.

In the domain of agriculture, laws have evolved drastically over the last few decades and become increasingly complex. Starting with the aim of ensuring “quality” aimed at ensuring “high yields” necessary to feed the growing population, discourse and discussions surrounding laws governing the production, multiplication, and sale of agricultural seeds have evolved to also require ,sustainability (Kurth et al. 2018; Kochupillai 2016). In fact, sustainability has also become an integral part of business ethics discourse, requiring that businesses conduct their daily activity not only with economic sustainability (profits) in mind but also in keeping with social and environmental sustainability (Crane and Matten 2016, p. 33 ff.). As a direct consequence of this shift in discourse, laws as well as companies can no more remain “legitimate” in the eyes of the general public unless they go beyond the bare requirements of legal mandates (such as ensuring their seeds are certified and/or registered) and must also ensure that their business models and products are in line with the triple requirements of economic, social, and environmental sustainability. Companies like Monsanto, for example, that produce weedicides such as the (in) famous Roundup and seeds that embrace “terminator technology” are severely criticized despite compliance with legal requirements (Bain et al. 2017). Further, business models of such companies, which rely heavily on exclusivity regimes established by intellectual property laws and mandatory seed certification systems to ensure high-profit levels, are increasingly losing legitimacy and public trust overall (Lamphere and East 2016, p. 11; Werhane et al. 2008). Like intellectual property and seed laws themselves, companies that rely on these laws can perhaps also be categorized as "legal" but not entirely "legitimate."

It is therefore not surprising that at the broader legislative level, the latest EU Organic Regulation (EU) 2018/848 has also evolved to more closely reflect the latest scientific understanding of sustainability, abandoning strict certification and "uniformity" requirements for the sale of seeds and permitting the use of nonuniform "heterogenous" varieties (the broad definition of which seems to suggest that it includes farmers varieties) for cultivation. This legal evolution results from acknowledging scientific findings that support the use of nonuniform, heterogenous varieties to enhance the health and diversity of seeds and soils – two of the key "ingredients" of agriculture, without which agricultural sustainability is not possible. The following provisions of the new EU Organic Regulation are particularly noteworthy:

> Article 6 of the new EU Organic Regulations (EU 2018/848): "Article 6: Specific principles applicable to agricultural activities and aquaculture - As regards agricultural activities and aquaculture, organic production shall, in particular, be based on the following specific principles:
>
> (g) the use of organic plant reproductive material, such as plant reproductive material of organic heterogeneous material and of organic varieties suitable for organic production.
>
> Article 13: Specific provisions for the marketing of plant reproductive material of organic heterogeneous material
>
> 1. Plant reproductive material of organic heterogeneous material may be marketed without complying with the requirements for registration and without complying with the certification categories of pre-basic, basic and certified material or with the requirements for other categories (. . .)
> 2. Plant reproductive material of organic heterogeneous material as referred to in paragraph 1 may be marketed following a notification of the organic heterogeneous material by the supplier to the responsible official bodies (. . .)"

In the light of the latest scientific understanding which increasingly supports long-standing "popular" views, seed laws that mandate certification/registration of seeds prior to sale can be best categorized as "legal" but not entirely "legitimate." This is so not least because such laws are considered socially and environmentally non-sustainable, increasing the costs of being in the seed business, or increasing the barriers to entry into this business, thereby preventing a large and important segment of society (i.e., small farmers) from participating in the seed sector. The new EU Organic Regulation can therefore be seen as an instance where the lack of legitimacy, when supported by latest scientific knowledge (and perhaps also ancient wisdom), can influence and force a change in law/legal provisions.

Laws Linked to Technological Development

A lot of the emerging high-tech innovations come with the promise of increased safety, comfort, convenience, efficacy, and/or efficiency. Autonomous cars are an important case in point. Although they are aimed at increasing road safety by reducing the chance of human error-based accidents, the decreasing need for human intervention itself raises important legal as well as ethical issues. The legal issues raised include questions of liability, namely, who will take the blame (and therefore pay compensation) in case of an accident. The ethical issues include more critical questions of human dignity, particularly the freedom of choice (e.g., having the right to steer the car in the direction of one's choice, including in dilemma situations) and also privacy (whether or not the autonomous vehicle has a right to transmit personal data, including current location and car usage patterns, to enhance "safety"). The rapid technological development in the field leaves much to be desired from existing and planned legal regulation (Light 2017; Claybrook and Kildare 2018). For example, until recently, when humans were in command of the maintenance and upkeep of the systems operating the car, as well as of the manner in which the car was maneuvered and driven, the primary responsibility/liability in case of accidents was that of the human actors in command (although insurance shifted the responsibility to pay compensation away from human actors and to the insurance company in most instances, BCG 2015). With increasing automation and the reduced control that human beings are expected to have over the maintenance of all/any systems linked to the car (e.g., software, Internet of Things (IoT) devices, etc.) as well as the manner in which the car is driven, the liability might also increasingly shift away from human actors/drivers to device manufacturers or systems managers.

Whether or not this shift in legal and liability regimes, as well as the technological development mandating this shift, is itself deemed "legitimate" by the consuming public is a different and more fundamentally important question. Indeed, empirical research suggests that people are hesitant to delegate tasks that affect third parties, to machines, and observers judge such delegations critically (Gogoll and Uhl 2018). This finding has significant implications for law and policy makers. More significantly, these findings have serious implications on the legitimacy of highly or completely automated vehicles (and laws legalizing their sale and use) that seek to exclude or limit the possibility of human intervention/human autonomy (Lütge 2017). Such exclusions or limitations arguably infringe upon human dignity, by eliminating freedom of choice, human autonomy, and responsibility. In this scenario, the relevance of ethical guidelines increases considerably (Gogoll and Müller 2016). Indeed, academic as well as government initiatives in this direction can also help shape legal rules (Lütge 2017).

Accordingly, before any liability or other rule/law is framed, the presumption is that the technology and the products/services incorporating the technology are themselves de facto legitimate. Absent this de facto legitimacy of the underlying technology, the success (in terms of market demand for products incorporating the technology) of the technology, and therefore its evolution can be stymied. On the other hand, however, when there is a high degree of public trust in a technology (legitimacy) and there is not enough knowledge and experience available to legally validate this legitimacy/public trust, regulations may choose to remain silent or only offer administrative warnings. In the framework of blockchain-based coin sales, for example, several regulatory authorities the world over, chose to refrain from regulating the market, instead issuing wide warnings to the public that in case of financial losses, investors would be without legal remedy (McKenna 2017; Aki 2019). Similarly, social media platforms such as Facebook emerged and took over the imagination of significant segments of the (young) world population, at a time when little to nothing was known about how or even why to regulate the sector (Obar and Wildman 2015; Bertot et al. 2012).

These platforms gained rapid legitimacy and popularity, primarily because of their utility and novelty. Later, when issues such as privacy and data collection emerged, regulatory landscapes were tightened. The EU General Data Protection Regulation is an example of such legislative tightening of ethical standards expected of corporations such as Facebook (see, e.g., Goddard 2017; Mance 2018). The interaction between legality and legitimacy, therefore, takes on yet another flavor in the case of potentially and actually useful evolving technologies and, as discussed above, provides a strong case for continuous interaction between law and ethics, legality, and legitimacy.

Tax Avoidance

Some x-large size global corporations have a reputation of being good at tax avoidance, by moving headquarters/holding company addresses, as well as profits and losses across borders to "best places" when it comes to minimizing their taxes. This is a good and almost standard example of legal but ethically disputable practices (the upper left corner and the gray zones in Table 2), often defended with "moral neutralization" arguments of the type "if it's legal it's ok" or "our competitors do it, too." Such tax avoidance practices are increasingly criticized in the media (Lord 2018; Foster Back 2013) and by organizations such as Tax Justice or Global Tax Justice (see http://taxjustice.no/english or https://www.globaltaxjustice.org/). There are also several academic discussions of these issues (see, e.g., Alm and Torgler 2011, Dowling 2014, Hess and Alexander 2015).

Workplace Ethics

Workplace and organization ethics, with employees as primary stakeholders, and environmental ethics in its interface with business ethics are among the most popular themes on the syllabi of business ethics courses. However, the ethical responsibility (in the different meanings of the word, of praiseworthiness and accountability, cf Brinkmann 2013) of any organizations or decision-maker depends on the legal context, on how heavily regulated HRM and environmental management are, by the HSE legislation that applies (see, e.g., https://www.arbeidstilsynet.no/en/laws-and-regulations/laws/the-working-environment-act in Norway). At first sight, there is often no freedom of choice (as a condition for responsibility) but no other choice than compliance with the relevant HSE rules. For such reasons, one could say that workplace and environment ethics often is a good example of *Verrechtlichung* (see Table 1) and of mandatory, to some extent mutually reinforcing, legal, and legitimate coverage of duties and rights (upper right cell in Table 2). Still, there are HRM ethics issues left, whenever the law is symbolic only and/or isn't implemented in practice – e.g., when it comes to effective whistle-blower protection and issues of formal versus informal organizational ethics, of subtle harassment, or of loophole in ethics (Kvalnes 2015).

Conclusions

Each of the disciplines, business ethics, and law has much to gain from one another through concrete and continuous interaction. This is so within classrooms as well as in actual policy discussions. The apparent lack of interaction between the disciplines is worrisome but can perhaps be explained by the distinct goals and audiences that academic research and writing emerging from the disciplines have thus far addressed. With the rapid evolution of technology and with the need for law and regulation to keep track of what is or is not legitimate vis-à-vis the adoption of this technology, there is a renewed and urgent need for a more in-depth and regular interaction between the disciplines. We hope that scholars, practitioners, and experts from both disciplines rise to the occasion.

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Business, Human Rights, and Reflexive Regulation: Multi-stakeholder Development of Standards for Responsible Business Conduct

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Karin Buhmann

Contents

Abstract

Focusing on the "how" (process) which leads to the "what" (result) this chapter applies the lens of reflexive law as a theory for multi-stakeholder regulation to understand and explain the evolution of normative guidance for businesses in regard to their human rights impacts. With an emphasis on how authorities can stimulate the co-creation with business and civil society and acceptance of norms on responsible business conduct in a context in which conventional regulatory competences or capacities are not well-suited for the objectives at hand, the chapter considers the United Nations (UN) Global Compact, the UN "Protect, Respect and Remedy" Framework, and the UN Guiding Principles on Business and Human Rights. In doing so it also demonstrates how reflexive law can be applied as a regulatory theory to help advance agreed norm-making across diverse interests. The relevance of this exceeds the field of business and human rights.

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Business responsibilities for human rights · CSR norms · Multi-stakeholder collaboration · Multi-stakeholder regulatory process · Reflexive law

Introduction

Recent decades have witnessed a surge in concern with business legitimacy, turning on business impacts on society, business ethics, and the responsibilities of business. This has been accompanied by calls on private organizations to reduce their adverse impacts and enhance positive impacts on society, whether in regard to local communities, supply chains, environment, natural resource exploitation, climate change, or other societal concerns. With the call for change of action comes a need for norms to guide such change. In addition to private codes of conduct and guidance on sustainability, civil society and business organizations rely on national governments and international organizations, especially the United Nations (UN) to deliver normative directives in the form of guidance or law. As illustrated by the long-winded road toward the global Climate Change Accord that was finally agreed in Paris in 2015, a diversity of interests at stake often complicates such a process. Asked to write a chapter on business and human rights with an emphasis on the theory of reflexive law for a handbook on *Business Legitimacy: Responsibility, Ethics and Society*, this author reviews the road to some private sector-oriented norms brokered by the UN through broad multi-stakeholder processes by applying reflexive law as a theoretical lens. By doing so it will also become clear how reflexive law theory can provide insights for designing regulatory processes so as to stimulate reflection and learning within business organizations so that they may understand and accept external pressure for normative adaptation and changed conduct.

Debates on normative directives for responsible business conduct often focus on the substantive directives (content) inherent in the norms, or in other words: what are organizations encouraged or required to do? A norm, however, is a product of a process. Such processes are the topic of this chapter, which draws on the case of the UN’s development of norms on business and human rights (BHR). It is important to note from the outset that the term “reflexive law” as a theory refers to processes for co-creation of norms of conduct, rather than any particular type or form of law as a product of a process. A reflexive law process may lead to many types of norms, ranging from private self-regulation and public-private guidance instruments of a soft-law (non-binding) character to formal rules that are binding and may even be enforceable. (Soft law is not enforceable in front of courts of law. It may, however, be sanctioned through other means, including political, economic, or “naming-and-shaming”.) In other words, “law” in “reflexive law” should be understood as a regulatory process aiming at the development of norms of conduct. It should not be associated with a particular form of such norms, e.g., binding and enforceable or non-binding. The “reflexive” element refers to an interactive process of dialogue or communication that leads to norm-making by inducing "reflection" with the participants, as explained below.

In a context marked by a diversity of interests held by various business organizations and sectors, civil society organizations with different focal issues, and national or local governments with diverging interests, developing norms of conduct may easily become a process in which participants mainly have regard for their own interests. In order to advance the creation of norms of conduct for responsible business conduct, it is therefore expedient to consider how the process can support the creation norms with a relevant substantive content that adequately addresses the broader concerns at hand across sectors and interests. For this purpose, the processes toward the UN Global Compact, the UN "Protect, Respect and Remedy" Framework (UN 2008), as well as the operational guidance provided by the UN Guiding Principles of Business and Human Rights ("UNGP," UN 2011) serve as cases in here. Through insights on how multi-stakeholder processes can help develop normative standards of conduct for sustainability concerns that exceed the regulatory power of a single government or organization, the lessons go far beyond the human rights field.

Reflexive Law: a Framework for Co-Regulation on Responsible Business Conduct

Key Elements of the Normative Regime of Business and Human Rights

Business organizations play important roles in contemporary society. Companies create employment and pay salaries, contribute to governmental income through taxes and other fees, and develop innovative solutions to social needs. Many produce goods and services demanded by individuals, governments, other companies, and civil society organizations. Through these activities and others, such as philanthropy, companies may indirectly or directly benefit human rights. However, companies may harm human rights too. Globalization has led not only to increased flows of goods and services and extension of supply chains to procure goods from low-wage countries to higher-wage countries but also to increased knowledge about what happens in other parts of the world. Consumers, media, investors, politicians, and lawmakers around the world gain insight into human rights abuse or environmental damage caused directly or indirectly by company activities in other corners of the world. This has led to concern with the capacity of transnational as well as other companies, including small- and medium-sized enterprises (SMEs) that, for example, often function as suppliers, to cause adverse impact on society. This has been exacerbated by awareness of the limits of corporate legal accountability, especially in regard to transnational business activity. While a home state of a corporation has the legal power to regulate the corporation extraterritorially, so far international human rights law is not generally seen to entail an obligation for the state to do so. With the globalization of trade, business-related human rights abuse therefore risks escaping the reach of the company's home state. In many cases, human rights abuse occurs in host states with weak regulatory or enforcement institutions.

Although international human rights law recognizes limited international legal personality (the capacity to hold rights and duties) for some non-state actors, especially in terms of rights for individuals, duties for non-state actors remain limited, meaning that corporate entities as well as their individual managers may escape legal accountability. International criminal law as codified in the 1998 Statute of the International Criminal Court recognizes only natural persons as accountable for international crimes. In most cases, international law instruments do not address non-state actors, such as companies, directly. This also applies to the international human rights system. Coupled with the general concern with the capacity of business to harm human rights, this caused the UN to take steps around the year 2000 toward providing companies with adequate guidance for their impacts on human rights. These steps comprised a process launched in 1998 by an expert group under the UN's Commission for Human Rights (the predecessor to the Human Rights Council), a process launched in 1999 to develop what became the UN Global Compact, and a process launched in 2005 to identify and clarify business responsibilities for human rights and develop various complementary elaborations, materials, and methodologies. The first process resulted in the so-called Draft UN Norms (on Business and Human Rights), but the Draft Norms failed to gain support with the Commission for Human Rights, partly due to lobbying by business organizations. The second process resulted in the nine original principles of the UN Global Compact, of which Principles 1 and 2 refer explicitly to human rights, based on the Universal Declaration on Human Rights, while Principles 3–6 refer to core labor rights, which are at the same time human rights (the elimination of slavery and forced labor, protection against child labor, nondiscrimination in the workplace, and trade union freedoms). The formal establishment of the UN Global Compact in 2000 was a major step because the initiative explicitly encourages business organizations to consider and observe international human rights standards in their own business operations and in regard to business relations where they might be complicit in human rights abuse. The Global Compact principles are rather general and do not entail much detailed guidance as to how companies in practice turn international obligations developed for states into parts of their own policies and practices. The process launched in 2005 provided more detailed guidance, first by developing the UN "Protect, Respect and Remedy" Framework and next by developing the UNGP (UN 2011), which provides implementation guidance for companies as well as states. The UN Framework and UNGPs were adopted by the UN Human Rights Council, thereby resulting in unprecedented agreement on detailed elaborations and guidance on the responsibilities that business organizations have with regard to adverse human rights impacts, based on a broad multi-stakeholder process. This is interesting in the current context, because the process can be understood as a reflexive law process. Understanding the process therefore provides insights for other multi-stakeholder processes aiming at norms on responsible business conduct in contexts that may not be well suited to conventional regulation or conventional regulatory processes.

The UN Framework is a 30-page report condensing extensive academic studies, expert input, and consultations with a range of stakeholders around the globe. The Framework does not develop new human rights but clarifies the implications of existing human rights with regard to business impacts. In line with international law theory (see, e.g., Jägers 2002; Knox 2008), the Framework report observes that states have a duty to protect human rights. It clarifies that this duty entails for states to protect individuals or communities against human rights infringements caused by non-state actors, such as companies. This is set out in the so-called Pillar One as the State Duty to Protect human rights against abuse caused by third parties, such as companies. Next, under Pillar Two, the Corporate Responsibility to Respect, it elaborated the responsibilities that businesses have in regard to human rights. This means that they obviously must respect the law in their countries of operation but moreover ensure that they observe international human rights where national law does not offer the same level of protection. This includes for businesses to adopt a human rights policy and conduct human rights due diligence in order to identify and manage their adverse human rights impacts. Finally, under Pillar Three the Framework report sets out what states and business organizations should do to enable access to remedy when business-related human rights abuse is nevertheless perceived to occur. The UNGPs elaborate these points into operational guidance.

Reflexive Law

Context

Companies do not have default access to international lawmaking. Under the conventional international law regime, international lawmakers are states. States are the original and primary holders of legal personality under international law. States may make international rules pertaining to companies. In principle, this means that companies can be subject to international regulation in regard to their transnational conduct. States have made use of these competences in some areas (e.g., in regard to ocean pollution and, through the particular tripartite structure of the ILO, for a range of labor issues) but have been hesitant to do so in regard to business impacts on human rights. This is a political limitation to the regulation of business conduct, because the capacity to regulate exists as a matter of principle in law.

Scholars within legal philosophy and legal sociology have been debating what makes a rule relevant and adequate for the issue at hand and what makes it well received and complied with by those to whom it pertains. Several scholars have suggested that the legitimacy of a rule-making process caters for relevance, adequacy, and compliance (e.g., Franck 1990; Habermas 1996). Legitimacy in this context refers to inclusion in a process by those to whom rules are going to apply (ibid.) (hence, this conception of legitimacy does not relate to the legitimacy of private actors in taking responsibility for what are essentially public sector tasks such as in when they engage in “Political CSR” (e.g., Frynas and Stephens 2015; Scherer and Palazzo 2007) nor does it relate to how organizations such as companies seek to establish congruence between the social values associated with or implied by their activities and the norms of acceptable behavior in the larger social system – key issue of organizational legitimacy theory (Dowling and Pfeffer 1975; Suchman 1995)).

Against this backdrop it is interesting to note that some international scholars favor an enhanced formal integration of companies in international lawmaking on company conduct. They have argued that this would increase the legitimacy of both the process and its outcome through the representation of those subjected to the new rules (e.g., Friedmann 1964; Brunnée and Toope 2010) or otherwise affected by them, e.g., stakeholders at risk of adverse impacts (compare Weiss 2000). Reflexive law theory offers a way to include companies in such processes in a manner that can be framed within the persisting state-centrist structure of international law while also responding to the legitimacy concerns raised by authors concerned with normative relevance and rule compliance.

How Reflexive Law Functions as a Framework for Multi-Stakeholder Regulation

Reflexive law theory builds on the assumption that regulation is more relevant, effective, and more easily accepted if created by those directly affected by it. Reflexive law seeks to ensure a representation of a plurality of views and to stimulate system-internal reflection and responsiveness to societal needs through procedural forums providing for participation (Teubner 1992: 611; Teubner 1993: 68–69; Wilthagen 1994: 348). Reflexive law is a theory for structuring the process of negotiation and ensuring that the process enables exchanges on needs, demands, or expectations, so that involved participants may respond to such external concerns through internalizing them and adapting their own conduct (a form of self-regulation). Reflexive law thereby complements conventional formal and top-down law (Teubner 1983, 1994). Inspired by systems theory as well as discourse ethics, reflexive law theory aims to provide an option to supplement formal substantive legislation with a regulatory technique that allows greater participation of those actors whose actions were necessary in order to handle the societal challenges and demands. Reflexive law theory addresses regulation of societal concerns for which solutions require action by other legal or natural persons (typically companies).

The theory assumes reflection at three levels, or types of reflection (for details and references, see Buhmann 2017a: 79–85). The first level relates to authorities, such as public regulators at national, sub-national, or international level. When reflecting on their own regulatory competences or capacities, they may find that their competence or capacity do not lend themselves to direct regulation of companies with regard to the most effective implementation of the needs and policy objectives at hand. As a result of such reflection, authorities may set up processes (functioning as forums of interaction) to induce a second level of reflection. The second level relates to companies or other social actors in regard to their impact on society. By engaging in interaction and exchange of views with actors, participants can gain access to understanding (“learning”) on the views of other actors in regard to their societal impacts and related expectations, needs, and demands. Participants that succeed in activating the rationality of other stakeholders stand a higher chance of inducing reflection within the target organization(s), such as a company/companies. When participants in the process reflect upon their actions, on their impact on society, and on needs for adopting correctives through a change of their actions, this is reflected into the third level, the normative output. This may take the form of self-regulation within one or more organizations or joint co-regulation that in turn may support or promote self-regulation in a particular normative direction. Reflexive law forums may be physical (like a meeting) or take a virtual form (e.g. stakeholder-oriented nonfinancial reporting).

While reflexive law theory was originally developed for a national regulatory context, in the early twenty-first century, many of the pertinent issues (such as labor concerns, working conditions, environmental impacts, etc.) are also found in the context of transnational activities. This shift has resulted in expectations of international organizations like the UN to regulate business conduct. The regulatory competence of the UN is normally limited to regulating states (sometimes resulting in obligations for states to regulate companies operating in their jurisdictions). The urgency and complexity of the situation challenged the UN to consider alternative ways to regulate business activity, not least with regard to business-related human rights impacts that for national and international governance reasons often escape the formal or actual regulation of nation states. Obviously, the institutional context for use of reflexive regulatory strategies at the intergovernmental level differs from the national context, but the concerns are comparable: societal needs translate into policy objectives and require being addressed through effective regulatory action, the inability or inefficiency of conventional regulatory practices for the issue at hand, and the potential role of the private sector to contribute to solving the problems by changing their conduct.

Reflexive law theory considers the social system as made up by sub-systems. This includes the political system (comprising not just formal and informal policy makers but also executives and other implementing agencies), the economic system (companies), and the legal system. More specifically, the workings of reflexive law are based on the assumption that a social sub-system has the capacity to internally react in a reflection-based manner to demands of external sub-systems. This assumes that each of these may have an impact on other sub-systems through the recipient system's reaction to "irritants" induced from the environment. Interaction with its environment enables a system (or sub-system) to sense signals ("irritants") from outside itself and to respond to them, for example, by adapting its conduct to the needs of others. This is supported through signals made in the code or "logic" of the system with which change is desired. Signals made in such a code activate the rationality of the recipient and thereby help turn the irritant into a response (ideally, a change). Reflexive regulatory forums allow social sub-systems such as the economy (business), law (regulators and judges), and politics (implementing public organizations and civil society) to produce "irritants" with the capacity to induce change or internal adaptation to new norms of conduct. The ensuing learning may also support the co-creation of jointly agreed norms.

Accordingly, the establishment of interactive forums that provide opportunities for learning and exchanges between stakeholders is a key element in the functioning of reflexive law as a theory-based governance modality. Indeed, the terminology applied in reflexive law theory refers to learning and exchange between social sub-systems of their expectations and demands on each other as well as best practice and other modalities to support reflection within and between social sub-systems (for a detailed explanation and references, see Buhmann 2017a). In addition to establishing a virtual or actual forum for exchanges of views, needs, and expectations, authorities may guide the process by providing normative guidance. However, normative outputs are ideally made by those actors who will be subjected to the output and who represent the interests at stake.

Norm-Making on Business and Human Rights as Reflexive Law

The UN Global Compact

The UN Global Compact was created to generate business commitments to respect and promote principles based on instruments of international law. Established in 2000, the Compact is open to membership by companies. In recent years it has also been possible for other non-state actors (like civil society organizations) and public institutions to participate. Participating on a voluntary basis, Compact members commit their support to ten (originally nine) principles on environmental protection, labor rights and human rights, and anti-corruption. The principles are based on and refer directly to four international law instruments: the Universal Declaration, the International Labour Organisation's Declaration on Fundamental Principles and Rights at Work, the Rio Declaration of the United Nations Conference on Environment and Development in 1992, and the United Nations Convention against Corruption.

The UN Global Compact emerged as a spin-off from an address by (then) UN Secretary-General Kofi Annan at the 1999 World Economic Forum. In the speech, the Secretary-General called on business leaders to join the UN in "a global compact of shared values and principle, which will give a human face to the global market" (Annan 1999). That address as well as many of the statements that were made by UN staff during the process to the development of the Global Compact can be understood as parts of a reflexive law process through which a public sector actor (the UN, and more specifically the Secretary-General and his staff, who all belong to the executive arm of the UN organization) established a multi-stakeholder forum for business, civil society, the UN and other public organisations. This forum allowed participants to exchange views, needs, and demands. Enabling corporate actors to learn about external pressures, this helped them appreciate the need for normative foundations on which they can build their social responsibility policies and practices in line with external demands, thereby also feeding into internal organisational change.

The UN Global Compact functions as a response from the UN to concerns on companies' negative impact on UN goals in a regulatory context where the UN's lawmaking capacity is limited. The 1999 Davos address was an effort to engage the private sector in the realization of UN goals, that is, getting business to self-regulate around specific public policy objectives. It turned out that several companies showed such interest in responding that the potential emerged for developing concrete guidance for business action based on the universal values referred to in the Secretary-General's speech. Details of the Compact were developed by staff close to the Secretary-General and specialized UN organizations in cooperation with business and civil society.

Interestingly, the language deployed by the architects of the Global Compact already in the early stages resembled that which had been used by early reflexive law scholars in highlighting processes of learning and exchange of views, needs, and demands (Buhmann 2014). Language emphasizing "learning" and "exchanges" suggests that the Global Compact architects acted along assumptions like those on which reflexive law builds on the potential of organizational change that may follow from diverse organizations exerting pressure on each other through such activities. This is also seen in the way the Compact was set up to work. In addition to the specific and immediate internalization of the ten principles by participating organizations, during the first 10 years, the organization of the Global Compact stressed its functioning through activities intended to promote such internalization of external needs and demands through learning or exchanges with other organizations (e.g., Ruggie 2004; Ruggie 2002; Kell and Levin 2002). The operational modality and the support of the organizational setup have been described as promoting external as well as internal consultation processes and internal reflection intended to be useful for business self-regulation on human rights and other Global Compact issue areas (Leisinger 2004). In practice, many companies cooperate through country-based or regional Global Compact networks to share experience and for mutual learning.

The process toward specifying the Global Compact principles and the normatively guiding website set-up included companies as well as civil society representatives. Considering that the objective was to induce self-regulation among companies with the specific aim of making them internalize the ten UN Global Compact Principles, the Global Compact can be perceived to have been established based on a realization within the UN that there was an urgent need to regulate companies. Several early statements related to the Global Compact, including the address delivered by Kofi Annan at the 1999 World Economic Forum (Annan 1999), indicate an awareness that companies must self-regulate or come to be regulated in order to limit their adverse impacts affecting the implementation of the UN goals. These goals are broadly set out in the UN Charter (roughly, socioeconomic development, peace, and the respect and protection of human rights) and in later UN policies and legal texts. This was combined with an awareness of the difficulties of regulating companies through conventional international law, which requires state support, and of effectively regulating transnational business activities through national law. This effectively functioned as a reflexive law process at the first level, that is, the level of authorities reflecting on their own regulatory capacities. On that background the UN Secretary-General in collaboration with business launched a forum which in practice functioned as reflexive law at the second level, leading to the formulation of the original nine principles, later expanded by one. The Global Compact principles express a normative ideal to which participating companies commit. The principles are somewhat open-ended but through the Compact's website are provided with more detailed normative substance. This is done through reference to the foundational international law instruments (the UDHR, the ILO 1998 Declaration, the Rio Declaration, and the UN Convention against Corruption) as well as explanations of the business relevance of each of the principles. Through participating companies' internalization of the principles, the Global Compact serves as reflexive law at the third level. A requirement that companies must submit an annual Communication of Progress also ideally contributes to inducing reflection on the company's impact on society and, therefore, can stimulate adaptation of its conduct.

In sum, the development and normative features of the Global Compact possess reflexive law features. The Global Compact works in a way that induces reflection in companies about their actions and how to deal with them normatively through self-regulation. In terms of its development, the Global Compact was initiated by an administrative body under the UN on the basis of reflections within this body (or by its head, the UN Secretary General) on limitations of the current system of international law and international lawmaking to regulate corporate behavior with regard to human rights, labor right and the environment, and a perceived need to induce reflection among companies to self-regulate. Its normative substance, the ten principles, was developed in a multi-stakeholder public-private process with co-regulation features, aiming to promote self-regulation within companies that commit to the ten principles. Since its establishment the Global Compact functions as a forum for corporate self-regulation based on substantive normative guidance provided by the ten principles and the international instruments that inform these. Its normative objectives are clear: To make companies act in accordance with the ten principles and the informing instruments of international law. Its network structure engages companies procedurally to share best practice, in other words, to discuss how best to integrate the normative goals of the ten principles into daily business practice.

The UN Framework and Their "Operationalization" into the UNGP

The UN Framework and UNGP resulted from the work undertaken during two 3-year terms by an expert with a small team drawn from several stakeholder groups. The expert ("Special Representative") was appointed by the UN Secretary-General with the task ("mandate") of identifying and clarifying standards of corporate responsibility and accountability for transnational corporations and other business enterprises with regard to human rights, elaborating the role of states and implications for business, and developing guidance materials. The mandate was based on a resolution adopted in April 2005 by the UN's highest body on Human Rights (then the Commission on Human Rights) (UN 2005). This occurred at the backdrop of the Commission's discussions and subsequent rejection of a document referred to as the "Draft UN Norms" that had been drafted by a subsidiary expert body. That rejection was in turn followed by renewed reflection with some governments and the UN on the benefits of a normative clarification and guidance on business responsibilities for human rights (for further details see Buhmann 2017b: 42–55). The resolution recommending that the Secretary-General establish the mandate indicates reflection with the Commission on Human Rights (and/or some of its members) on the regulatory capacity of the UN to regulate companies with regard to human rights and the limitations that a variety of conflicting political priorities caused to that regulatory capacity. On this backdrop, the creating of the mandate can be understood as a reflexive law process at the first level and the process designed in the mandate text as framing a reflexive law process at the second level.

The mandate text instructed the expert to undertake a broad stakeholder-oriented approach and specifically noted that the process was to include companies as well as states, intergovernmental organizations, and civil society. Including companies in such a manner was a novelty for a UN human rights process, which conventionally limits interaction with non-state actors to civil society organizations representing victims of human rights abuse, as well as other UN expert bodies. Subsequently, consultations were undertaken with companies and business organizations and civil society in many parts of the world, governments and intergovernmental organizations, consultation and collaboration with academics, and other experts. The process also involved visits to company operations and meetings with groups from affected communities. Moreover, the Internet was used to share preliminary findings and receive feedback and input.

The inclusion of companies and business organizations, multi-stakeholder consultations, and the use of online communication created opportunities for stakeholders to express their needs and views and expectations of other stakeholders. This enabled the process to function as reflexive law, conditional on the extent to which participants activated recipients' logics so that they might integrate and process the external pressure. In addition to physical stakeholder meetings, the virtual online forum supported the learning and interaction by allowing stakeholders to exchange expectations, concerns, and needs.

Notably, the 2011 UN resolution creating the second part of the mandate by asking the expert to elaborate the Framework into the UNGP with an emphasis on operationalization explicitly instructed the mandate-holder to apply a similar multi-stakeholder process as that which had been deployed during the first 3 years. This, too, indicates that the UN's human rights authorities reflected on what would be a relevant regulatory approach given both the complexity of the subject matter, the UN's conventionally state-centrist approach, and the advantages of the approach already adopted for the Framework.

Provided with a task formulated by a body within the UN system, the mandate-holder functioned as a medium for the UN, rather than a social sub-system in its own right. (This is not to say that with a background in academia, the particular mandate holder could not be – and arguably was – influenced to some extent by his own academic background. However, he did not represent the system of academia, sometimes considered a separate social sub-system.)

The UN Framework itself is sufficiently normative to provide some basis for business self-regulation. For example, it makes clear that all human rights have relevance to companies for the purpose of avoiding abuse; and it sets out basic elements of a human rights due diligence that may be applied by companies. The UNGP developed this into much more detailed guidance, further stimulating business learning and reflection on their impacts and the need to adapt their actions to reduce adverse impacts. In particular, the “risk-based” human rights due diligence concept, introduced with the UN Framework and elaborated with the UNGP, is well suited to stimulate business understanding on its impacts and support reflection on how the company may act to limit adverse impacts caused by itself and its business relations. The risk-based due diligence approach is about identifying, preventing, and mitigating risk caused by the company to society (unlike many other risk management processed applied by companies, which primarily focus on risk to the company itself). This may support reflection at the third level, stimulating self-regulation for companies to act in accordance with the UN Framework and UNGP.

Conclusion

Like climate change negotiations and other fields within sustainability that call for transnational private, public or public-private (hybrid) regulation, the BHR field has seen examples of norm-making processes fail due to conflicting interests. The UN Global Compact was an early successful turn-around in the sense of the UN providing normative guidance on responsible business conduct, based on a process that involved the private sector in a manner unique with regard to the time, context, and topic. The adoption of the UN Framework brought about unprecedented agreement on the topic, and the UNGPs advanced this into more operational guidance. Addressing private as well as public organizations, these instruments target the conduct of economic actors in an effort to reduce adverse societal impact. Jointly, the UN Framework and UNGP provide theoretical foundations and detailed guidance to advance responsible business conduct. The Global Compact leans on this by referring to the UN Framework and UNGP since their adoption. The specificity of the UN Framework and UNGP contrasts, for example, with the 2015 Climate Change Accord, which leaves many significant issues to further detailing for their implementation. The BHR instruments are of interest to scholars, business practitioners, regulators, and civil society with an interest in business and society not only for their own normative substance but as much for the process which brought this about. Understanding the processes that lead to regulatory outcomes can help all types of stakeholders actively engage in other processes toward norms on responsible business conduct and thereby help shaping an outcome that is broadly agreed.

Focusing on the “how” which leads to the “what,” this chapter has applied the lens of reflexive law as a regulatory theory. In doing so it has also demonstrated how reflexive law can be applied as a regulatory theory to help advance agreed norm-making across diverse interests. The analysis showed that creating a process or procedural forum that allows and encourages stakeholders to express their concerns, expectations, and demands on each other is a first step. The theory of reflexive law also serves to draw attention to the importance of an exchange within such a forum to be such that it activates the logic of those with whom change is sought, by speaking to their rationalities. The cases discussed above illustrate that this can provide the foundation for acceptance of change within organizations that might otherwise be opposed to proposed new ideas.

This is a key insight which goes far beyond the fact that the Global Compact, UN Framework, and UNGP themselves provide much-needed normative guidance on business responsibilities for human rights. The cases offer insights on how multi-stakeholder processes can help develop normative standards of conduct for sustainability concerns that exceed the regulatory power of a single government or organization and which connect sometimes conflicting immediate interests by explicating the importance of change having regard to the internal logic of stakeholders.

As a regulatory theory, reflexive law builds on processes of learning and exchange between social sub-systems of their expectations and demands of each other, exchange of best practice, and other modalities to support reflection within and between social sub-systems. Reflexive law considers societal actors not in terms of institutions but the societal function, which determines the rationality and therefore core concerns, e.g., as concerned with whether something is legal or not, whether it brings or reinforces power or not, or whether it means making money or suffering an economic loss. It may appear intuitive that in order to make somebody, such as a business manager or CEO, adopt a particular position, communication should be such as to address the manager in a manner that activates her/his core concerns and thereby the rationality. However, this only becomes obvious through the theoretical lens of reflexive law (which may be unfolded further, as done in other work of this author, esp. Buhmann 2017a, b). If the insight was truly intuitive, the practice of communicating in the logic of the audience would be much more outspoken in professional contexts, including public and public-private norm-creating processes.

While reflexive law has its merits as a theoretical foundation for explaining and designing regulatory processes, the theory should be deployed with care. In particular, application should be done in such a way that consideration is made of power disparities between stakeholders. This applies both to application for analysis of regulatory processes and to design of reflexive law processes. That important but complex topic goes beyond the current chapter (but see Buhmann 2017b).

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Wealth Creation, Human Rights, and Business Legitimacy

28

Georges Enderle

Contents

Abstract

The chapter defines business legitimacy in economic and ethical terms. Transnational corporations and other business enterprises gain legitimacy by creating wealth in a comprehensive sense while respecting human rights and remedying human rights violations. In turn, businesses lose their legitimacy when they disregard the minimal standards of wealth creation and violate the minimal ethical requirements of human rights according to the UN Guiding Principles on Business and Human Rights.

As the purpose of the economy and thus of the business enterprise, creating wealth in a comprehensive sense encompasses seven features: four types of capital (natural, economic, human, and social capital), private and public wealth, the mutual dependence of production and distribution, material and spiritual aspects, sustainability in terms of human capabilities, creating as making something new and better, and the need for self- and other-regarding motivations.

Given the globalizing economy, human rights are identified as minimal ethical standards indispensable for living and working together on Earth. They

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are argued for as "global public goods." Business legitimacy has to meet the following requirements:

1. Transnational corporations and other business enterprises have to "respect" all internationally recognized human rights worldwide. This means, they must not cause directly or be involved as accomplices directly or indirectly in human rights violations.
2. Businesses have to exercise "due diligence" to examine, on a regular basis, their corporate strategies and activities with regard to all potential and actual impacts on human rights and to make sure that all human rights are "respected" and violations are "remedied" (in collaboration with states).
3. However, businesses are not responsible to "protect" human rights (which is the duty of states).

Keywords

Wealth creation · Natural, economic, human and social capital · Private and public wealth · Business and human rights · Corporate legitimacy · Corporate responsibility

Introduction

At first glance, connecting wealth creation, human rights, and business legitimacy seems to be an odd undertaking. Human rights are universal standards meant to be applicable primarily to nation-states, while business is supposed to get its legitimacy from making money. Human rights are aspirational and need to be incorporated into national and international law. In turn, business has to prove its legitimacy in the marketplace.

This chapter argues that business's true task is to prove its legitimacy by creating wealth in a comprehensive sense while respecting human rights in accordance with the UN Guiding Principles on Business and Human Rights. The main line of argument is presented here, while further explications are provided in the book *Corporate Responsibility for Wealth Creation and Human Rights* (Enderle 2020).

Before addressing the topic of this chapter, some relevant literature on legitimacy is recalled, and it is briefly indicated why business legitimacy and human rights have gained so much importance in the last 20 plus years.

In his article "Legitimacy" in the *Encyclopedia of Ethics*, A. John Simmons (1992/2001) writes that "[P]hilosophers have generally identified legitimacy with a certain kind of *moral* authority in the *legal or political* realm. More specifically, legitimacy is the moral property of states, regimes (rulers, governments), or laws which makes them genuine, rightful, or authoritative . . . Most conceptions of legitimacy associate the legitimate with 'the lawful' and/or with 'the accepted' or 'the acceptable' . . . Positive legality is at most a necessary condition for legitimacy . . . Legitimacy requires *moral* legality or positive legality within a *morally* justified constitutional scheme" [emphasis by G.E.].

Marc C. Suchman's groundbreaking article (1995) focuses on *organizational* legitimacy and distinguishes three primary forms: *pragmatic*, based on audience self-interest; *moral*, based on normative approval; and *cognitive*, based on comprehensibility and taken-for-grantedness.

Guido Palazzo and Andreas G. Scherer (2006) criticize the cognitive and pragmatic forms because they are based on compliance to national law and on relatively homogeneous and stable societal expectations, while assuming that all members of society benefit from capitalist production. Therefore, a fundamental shift to moral legitimacy obtained by *deliberation* in a *communicative* framework (inspired by Jürgen Habermas) is proposed. (See also the critique by Willke and Willke 2008.)

In the context of public relations, Jacob D. Rendtorff refers to Suchman's definition of organizational legitimacy and emphasizes that it is "based on values and cultural norms that constitute the right of th[i]s particular organization to exist . . . As a part of public relations, ethics is used as an important instrument to develop and influence this process of legitimation and value-driven management" (2009, 256).

Finally, Patrick Haak (Haak et al. 2012; Haak and Scherer 2014) offers a microfoundation of legitimization of corporations by investigating the psychological and communicative bases for the attribution of social acceptance or legitimacy.

This brief list of publications on legitimacy shows that this concept can take a variety of meanings pertaining to the legal and political realms, concerning (particularly business) organizations in their institutional context, emphasizing their normative-ethical requirements, and describing various micro-foundational aspects. It is noteworthy that the question of business legitimacy has become increasingly important over the last 20 plus years, driven by the compelling forces of globalization and the relative decline of the nation-state.

At the same time, transnational corporations and other business enterprises – the terms chosen by the UN Framework for Business and Human Rights (UN 2008) – have been increasingly scrutinized about their legitimacy for multiple reasons. First, many business enterprises have become enormously powerful, surpassing in economic and political power a great number of nation-states. Second, they are operating globally and affecting numerous emerging economies with weak legal and regulatory frameworks. As the Ruggie Report of 2007 states, "fundamental institutional misalignment . . . creates the permissive environment within which blameworthy acts by corporations may occur without adequate sanctioning or reparation. For the sake of the victims of abuse, and to sustain globalization as a positive force, this must be fixed" (UN 2007, 3). Third, because of the global reach of business, there is a need for global ethical standards. Today we do have such standards, namely, human rights. The UN Guiding Principles on Business and Human Rights (UN 2011) provide clear guidance for business enterprises to "respect" human rights and "remedy" human rights violations. Therefore, I propose that business legitimacy includes two dimensions: to create wealth in a comprehensive sense and to respect human rights in accordance with the UN Guiding Principles on Business and Human Rights. Both dimensions – the economic and the ethical – are now explained in the following sections (citing in large parts from Enderle 2020).

Business Legitimacy by Creating Wealth in a Comprehensive Sense

Because business enterprises are primarily economic organizations, business legitimacy involves an economic dimension. It would be an improper shortcut to ignore that business is part of the economy and skip from "business" directly to "society" (as many advocates of "corporate social responsibility" do). If the economic dimension of business is taken seriously, the purpose of the economy greatly matters in defining the purpose and legitimacy of the business enterprise.

The chapter proposes to define the purpose of the economy and thus of the business enterprise as creating wealth in a comprehensive sense. It implies an "ethics-related approach" to economics – in the sense proposed by Amartya Sen (1987). It is broader than a "value-free" logistical (or "engineering") approach, by including human motivations and the judgment of social achievements. And it goes beyond the "creation of wealth" – in line with and beyond Adam Smith – by offering a broad and comprehensive definition of wealth that includes seven features.

This conception of wealth stands in stark contrast to the dysfunctional aspects of national and international economies. Anglo-American capitalism with its far-reaching impact on the global economy focuses heavily, if not exclusively, on the accumulation of financial wealth. As well articulated in the Encyclical *On Care for Our Common Home* by Pope Francis (2015), the dictates of maximizing shareholder value recklessly destroy the natural environment. Widespread corruption and bribery impair the economies of many countries. People still suffer from extensive illiteracy and the lack of appropriate training. They get sick and die from unhealthy working conditions, air and water pollution and other deleterious conditions, and the lack of decent health care. Trust in the financial services industry and in consumer relations with banks has been seriously undermined and hampered. All these problems indicate the loss of natural capital, economic capital, human capital, and social capital. Therefore, the comprehensive conception of wealth creation includes, as a first feature, all four types of capital which form the substantive contents of wealth.

A second feature of wealth proposes different forms of capital, meaning formal as distinct from substantive aspects of capital. It can be best understood when we look at the wealth of a nation. National wealth is not just an accumulation of private wealth, but also consists, in large part, of public wealth. Thus the wealth of a nation is a combination of private and public wealth. While private wealth is easily perceived and understood, public wealth is harder to discern and is often ignored, although it is essential for producing private wealth. For instance, we may remember how in the Great Recession of 2008–2009 the instability of the financial system seriously hurt the global economy and societies around the world. Or we recall the positive impact of a country's fair and effective rule of law on foreigners' ability to invest in this country. Using the economic distinction of private and public goods, public wealth differs from private wealth by the characteristics of non-rivalry and non-excludability. It is noteworthy that this is a formal definition which applies to "good" and "bad" public goods and to wealth and the lack thereof and therefore needs ethical evaluation (as, e.g., climate change does). Wealth in a comprehensive sense includes both private and public wealth, which has far-reaching implications. Markets are powerful for producing private wealth, but fail to generate public wealth, and motivations for public wealth need to be other-regarding, not only self-regarding.

Wealth creation is often conceived as a productive process that is separate from subsequent distribution, as illustrated in the saying that one has to bake the cake first before it can be shared. The third feature of wealth creation rejects this separation of production and distribution, claiming that the productive and the distributive dimensions of wealth creation are intrinsically interrelated. In fact, the distributive dimension permeates all stages of production from the preconditions to the generation process, the outcome, and the use for and allocation within consumption and investment. For too long, the separation between "producing the pie" and "sharing the pie" has marked the ideological struggle between "the right" and "the left," despite its flawed economic underpinning. Therefore, wealth creation is about wealth distribution as much as about wealth production.

The fourth feature of wealth creation rejects a materialistic understanding of wealth that is excessively concerned with material possessions and making money, driven by consumerism, acquisitiveness, and greed. Such a materialistic view is too narrow, if wealth consists not only of economic capital but also of human, social, and natural capital. It also cannot consider and account for other features of wealth creation to be introduced below: human capital conceived in terms of human capabilities of being healthy and educated persons; creating wealth understood as making something new and better; and other-regarding motivations for creating public wealth. While this proposed concept of wealth undoubtedly has a material aspect, it also includes a spiritual aspect by relating to the human spirit or soul (regardless religious beliefs) and/or to religion and religious belief.

Creating sustainable wealth accounts for the long-term time horizon conceptualized in terms of human capabilities or "expanding real freedoms that people enjoy" (Sen 1999) – the fifth feature of wealth creation. Given the multitude of definitions of sustainability, it is proposed to stick to the "old" proposition from the World Commission on Environment and Development which requires an intergenerational perspective, namely "to meet the needs of the present without compromising the ability of future generations to meet their own needs" (WCED 1987, 7). This perspective is further specified by using the OECD definition of sustainability of well-being over time in terms of natural, economic, human, and social capital (OECD 2013), which is congruous with the contents of wealth as defined in this chapter. This concept of human capability not only substantiates the meaning of human capital; it also helps to measure the impact of natural, economic, and social capital on human beings. Thus, creating sustainable wealth becomes a rich and concise purpose of economic life which transcends the growth of (material) resources by focusing on people and sustaining nature.

The sixth feature specifies what we mean by the "creation" of wealth. Obviously, wealth creation is more than possessing wealth and differs from acquiring wealth. Possessing adds no value and acquiring only means a change of ownership, which may occur by legal or illegal and ethical or unethical means. In the course of history, colonial powers acquired a great deal of wealth, usually with no regard for legal and ethical concerns, which, by and large, amounted to a redistribution rather than a creation of wealth. In the capitalistic system, the "acquisitive spirit," "the accumulation of capital," and the "acquisition of companies" do not entail necessarily the creation of wealth, properly speaking. In a genuine sense, to create is to make something new and better. All three characteristics are essential: (a) It is about making, not only imagining, which is feasible and successful in economic and financial terms. (b) It has to be new, be it a gradual change or an innovation (i.e., a radical change in technology, social organization, or any other field). And (c) it must be ethical which improves the well-being of people and sustains nature.

Finally, concerning the motivations for creating wealth, self-regarding motivations can be powerful for creating private wealth. But they fail in creating public wealth, as sound economic theory tells us. Exclusively self-interested behaviors make collective action (for public wealth) impossible, generate free-rider problems, and cannot be coordinated by an "invisible hand." Rather, when economic activities clearly focus on the creation of wealth as a combination of private and public wealth, other-regarding motivations are equally necessary (though not sufficient). They may take a huge variety of forms such as selfless engagement for entrepreneurial success, love for the mother country, solidarity with the poor, and the fight for any cause. In each case the other-regarding motivation transcends self-interest, be it for a good or for a bad cause. Still, like public goods or wealth, other-regarding motivations require ethical evaluation. To sum up the seventh feature, wealth creation needs not only self-regarding but also other-regarding motivations.

These seven features of wealth creation for the economy have far-reaching implications for the business enterprise and its legitimacy. Regarding the contents of wealth (i.e., natural, economic, human, and social capital), each enterprise has its special focus and must meet at least a minimal level of each capital. For example, increases of economic capital cannot be compensated for by losses of natural capital beneath the minimum. In other words, trade-offs between changes of capital are acceptable only above these minimums. As for the forms of wealth, enterprises are supposed to create private wealth. However, benefiting from public wealth in many ways, they also should "give back" and contribute to the creation of public wealth, which can occur in multiple fashions and to various extents. As the generation of wealth is assumed to be an interrelated productive and distributive process, enterprises are accountable not only for their production but also for their interrelated distribution – for example, for income inequality in their organizations. Because wealth creation includes not only material but also spiritual aspects, the culture of enterprises should not be dominated by money making and greed. Rather, through creating natural, economic, human, and social capital, wealth creation aims at a noble goal that addresses both the material and spiritual needs of employees, customers, and other stakeholders. Sustainable enterprises adopt a long-term perspective by focusing on strengthening human capabilities – not merely material resources – and sustaining the natural environment. As creating means "making new and better," enterprises strive for both gradual changes and groundbreaking innovations while considering the ethical implications and respecting the ethical demands, being well aware that innovation by itself can be either ethically praiseworthy or repugnant. Finally, the driving motivation of enterprises cannot be exclusively self-regarding because they have to help create public wealth. Other-regarding motivations are required for public wealth and for human rights.

Business Legitimacy by Respecting Human Rights and Remedying Human Rights Violations

After explaining the relevance of wealth creation for business legitimacy (i.e., from the economic, descriptive-analytical perspective), human rights are explained as public goods in wealth creation (i.e., from the normative-ethical perspective).

In order to relate human rights to wealth creation in a comprehensive sense, to begin with, four important components of the underlying human rights conception are clarified: (1) the scope, (2) the binding nature, (3) the function, and (4) the qualification of human rights as public goods.

First, in common talks about human rights, the scope is often limited to civil and political rights (such as the right to freedom of thought, conscience and religion and the right to freedom of association) or to economic, social, and cultural rights (such as the right to health and the right to an adequate standard of living) and, furthermore, often excludes certain groups of people.

Easily overlooked is the powerful idea that people have a right to be treated with dignity in all spheres of life and regardless of their nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status. It matters therefore to emphasize that the International Bill of Rights and the International Labor Organization's core conventions contain all these 30 rights without discrimination. They apply globally and define the underlying conception of human rights in this chapter.

Second, given the wide range of human rights, one might think this term "human rights" would encompass all ethical norms and values relevant for economies and businesses. However, it commonly constitutes only minimal ethical requirements, distinct from social obligations beyond the minimum and aspirations for ethical ideals (De George 1993, 184–193). In pluralistic societies, nationally and internationally, human rights constitute the necessary common ethical ground for living and working together and are "the minimum reference point for what the Guiding Principles [on Business and Human Rights] describe as internationally recognized rights" (UN 2012, 10). As minimal requirements, however, they can open and guarantee a wide space for an immense diversity of cultural and ethical values and norms. Grounded in human dignity and specifying its basic contents, they are all interrelated, interdependent, and indivisible and thus do not allow for trade-offs between particular rights. This stipulated conception of human rights draws on philosophical reflections and supports – but is not identical with – the legal conception incorporated in the International Bill of Rights and the International Labor Organization's core conventions. It goes without saying that to date this universal ethical conception is not legally enforceable internationally; however, it provides guidance for voluntary action and soft law agreements, which may become legal requirements later on.

Third, from an economic perspective, the fulfillment of human rights (e.g., the rights to health and to an adequate standard of living) has often been considered a cost that might be too expensive to bear. On the other hand, the violation of human rights can also be very damaging. Undoubtedly, it is legitimate to ask what costs human rights fulfillments and violations may incur. But a serious cost analysis has to account for all costs, in financial and nonfinancial terms, imposed on all affected people and entities. Moreover, not only costs but also benefits should be accounted for, again in their entirety and in their distributional impact. Though not easy to conduct, one may argue that such comprehensive cost-benefit analyses of human rights would likely show beneficial results. Beyond cost-benefit analysis, human rights may be recognized as external constraints or boundaries which should not be crossed. While such recognition is commendable from the human rights perspective, it still can be interpreted as an engineering approach to economics that stipulates a value-free economic calculus of ends and means within these constraints. In contrast, the ethics-related approach, advocated here, proposes the fulfillment of human rights as ends to be achieved by public policies and corporate strategies, whereas violations signify failing policies and strategies. Moreover, human rights are also understood as means to pursue these and other ends. For example, the implemented right to education is instrumental and a strong way for creating an innovative and more productive work force.

Fourth, in order to link human rights to wealth creation, we define these rights as ethically demanded public goods or public wealth. As public goods, they are characterized by non-excludability and non-rivalry, needing ethical qualification, that is, to be ethically demanded. Applied to human rights, non-excludability means that no human being *should* be excluded from the enjoyment of any human right (i.e., no discrimination). Non-rivalry implies that the enjoyment of any human right by any person *should not* diminish the enjoyment of any other human right by oneself or any other person. In other words, no trade-offs between human rights for anybody are acceptable. For example, the right to participate in public life should not impair the right to freedom of thought, conscience and religion, nor vice versa; or the freedom of association should not negatively affect the right to nondiscrimination, nor vice versa. Beyond the exclusion of any negative impact, one can argue that the enjoyment of one right *may even reinforce* the enjoyment of another right. For instance, the implemented right to an adequate standard of living (including food, clothing, and housing) can strengthen the fulfillment of the rights to work and to education, and vice versa.

The definition of human rights as ethically demanded public goods, obviously, has far-reaching implications. Their establishment and fulfillment cannot be achieved by market institutions; rather, they need collective actions at multiple levels of society beyond the price mechanism of supply and demand. Moreover, the motivations must be other-regarding because self-regarding motivations would fail to fulfill human rights as public goods.

What are the implications for the business enterprise and its legitimacy? I propose to draw on the widely accepted universal ethical framework of human rights and apply, with an ethical underpinning, the UN Framework and the UN Guiding

Principles on Business and Human Rights. In line with Henry Shue (1996, 35–64), the UN Framework distinguishes three types of obligations to secure human rights: "To protect, to respect and to remedy." To protect human rights – the duty of States – means to demand recognition of the obligation to avoid violations of human rights and to establish "institutional" provisions that prevent, as much as possible, the violation of this obligation through appropriate incentive and punishment systems. To respect human rights – the responsibility of business enterprises – indicates the obligation to avoid violations of human rights. And to remedy – the obligation of both States and enterprises – refers to the obligation to provide the victims of human rights violations access to the remedy of their rights. In other words, business legitimacy in terms of human rights requires "respect" and "remedy" without including the States' duty to "protect."

In order to determine business legitimacy further, the notion of the "responsibility" of business enterprises or "corporate responsibility," for human rights provides a solid foundation. It draws largely on the UN Framework and Guiding Principles on Business and Human Rights and, in addition, articulates key ethical implications.

First, the subject of corporate responsibility for human rights are business enterprises, which are in need of legitimacy. They are understood as "moral actors" – to the extent that they are "corporate actors" – operating as collective entities capable of intending actions, carrying them out under their control and reflecting on their commitment. They can be held morally responsible for their acts, which do not hold for value-free organizations and mechanisms. Because business enterprises are not ends in themselves, they are not moral persons who can claim the rights of human beings. Obviously, this concept of the moral actor indicates only the moral status of business organizations without assessing their moral quality. It is, by no means, a substitute for the responsibilities which individuals and groups carry in and for their organizations. But this concept of the moral actor is necessary in order to speak of "corporate responsibility" in a meaningful way. Business legitimacy relates to the business enterprise, be it a corporate and moral actor or an entity without this status.

Second, the bipolar concept of responsibility proposed by Walter Schulz (1972) is applied to the business enterprise as a moral actor. "Self-commitment originating from freedom" signifies a moral commitment of the business enterprise that transcends its sociological role and its legal definition. This moral "anchoring" is particularly important when, in the process of globalization, the sociological and legal environment of business is changing drastically. To fix the worldwide institutional misalignment mentioned above, not only laws and regulations but also the ethical commitment of business is necessary. At the same time, self-commitment "in worldly relationships" means "to respect human rights" and to contribute to "remedying human rights violations." It is important to emphasize the independence of the responsibility of business enterprises from the duty of States. The Commentary of the Guiding Principle 11 makes clear that "[T]he responsibility to respect human rights . . . exists independently of States' ability and/or willingness to fulfill their own human rights obligations, and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights" (UN 2011, 13).

Third, in line with the UN Framework, this approach comprehends *all* businesses. “The responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure. Nevertheless, the scale and complexity of the means through which enterprises meet that responsibility may vary according to these factors and with the severity of the enterprise’s adverse human rights impacts” (Principle 14: UN 2011, 15, and UN 2012, 18–22).

Fourth, of far-reaching importance is the *human rights due diligence* to be exercised by business enterprises (Principles 17–21: UN 2011, 17–24, and UN 2012, 31–63). It concerns corporate management in its entirety, taking seriously all actual and potential impacts on human rights. Therefore, due diligence demands: (1) to understand the human rights context of the countries in which the corporation does or intends to do business; (2) to assess the corporation’s own activities; and (3) to analyze the corporation’s relationships with business and other entities. The manner of exercising due diligence becomes an important benchmark for assessing the corporation’s commitment, credibility, and legitimacy.

Fifth, with regard to the content of corporate responsibility, we may ask whether it should be limited to a subset of internationally recognized human rights – as the UN Draft Norms (UN 2003) do – or extended, in principle, to all human rights. The UN Guiding Principles include all – not only economic and social – human rights expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labor Organization’s Declaration on Fundamental Principles and Rights at Work (Principle 12: UN 2011, 13–14, and UN 2012, 9–15). Accordingly, corporate responsibility and legitimacy include *all human rights* and, if appropriate, subject them to the due diligence exercise. If only a subset of internationally recognized human rights (say, economic, social, and cultural rights) were relevant for corporate responsibility and legitimacy, business organizations would not be accountable for their adverse impact on the other internationally recognized human rights (say, civil and political rights).

While all human rights are considered relevant in principle, the types of obligations vary and can demand to protect, respect, remedy, or promote human rights. Based on which criteria, do business enterprises have the responsibility to “respect” human rights (see Fig. 1)?

Criteria of Attributing Obligations

1. The roles of actors are strictly separated according to private and public interests: the State is responsible for public interests, the other actors for private interests.
2. *Impact of the actor on the victims of human rights violations: intentional, unintentional.*
3. *Complicity: direct, indirect*, beneficial, silent, and structural.
4. Sphere of influence of the actor on the victims and perpetrators of human rights violations: actual and potential influence.
5. Capability of the actor to respect, protect, remedy, and promote human rights, although the actor did not cause human rights violations directly or indirectly (relevant for UN framework emphasized in italics).

	Respect		Protect	Remedy	Promote
	Direct:	Indirect (no complicity):			
States					
Transnational corporations and other business enterprises					
Other organs of society					
Individuals					

Fig. 1 UN framework for business and human rights (2008): All human rights

Many criteria are discussed in the literature, a short list of which is indicated in Fig. 1. As for the UN Guiding Principles, Principle 13 requires three criteria: causation, contribution, and direct linkages without contribution, namely, *the criteria of direct and indirect impact* and *of complicity* (see point 2 and 3). While the first two criteria are relatively undisputed, the third criterion can take on multiple forms, which are sometimes very difficult to assess. Nevertheless, these criteria apply to all business enterprises. “Such attributes as companies’ size, influence, and profit margins may be relevant factors in determining the scope of their promotional CSR-activities, but they do not define the scope of the corporate responsibility to respect human rights” (UN 2010, § 58). Also, companies’ capacity, whether absolute or relative to States, should not, as a general rule, determine corporate responsibilities for human rights (UN 2010, § 64).

As for *the criterion of sphere of influence* (see point 4), it is very ambiguous and thus cannot be applied in a satisfactory manner. It encompasses two very different meanings of “influence”: the impact of the actor on the victim and the leverage of the actor on the perpetrator of human rights violations. Moreover, it includes several notions that should be distinguished: proximity (to the victim), causation, control, benefice, and political influence. Even if a powerful corporation is able to exercise the protection of human rights similarly to a governmental organ, its sphere of influence does not necessarily legitimize the exercise of its power. Due to these difficulties, the 2010 Report by John Ruggie correctly pleads for a systematic strengthening of the State duty to protect (UN 2010, §§ 16–53). Business legitimacy does not depend on this criterion.

Much more difficult is it to assess the relevance of *the criterion of the actor's capability* (see point 5) that goes beyond avoiding the causation of human rights violation. On the one hand, the capability is a necessary condition to protect against violations by third parties. On the other hand, it is not a sufficient condition because other capable actors (for instance, fairly well-functioning States) that are legitimized to exercise this protection can act as well. Admittedly, the situation is more complicated when the State actor only possesses this capability to a diminished degree or not at all. Business legitimacy does not depend on this criterion either.

Notwithstanding these difficulties, the UN Framework makes a groundbreaking and very helpful contribution to the clarification of corporate responsibility and legitimacy with regard to human rights. Business legitimacy has to meet the following requirements:

1. Transnational corporations and other business enterprises have to "respect" all internationally recognized human rights worldwide. This means, they must not cause directly or be involved as accomplices directly or indirectly in human rights violations.
2. In order to perceive and fulfill these responsibilities, companies have to exercise "due diligence" (i.e., to be committed) to examine, on a regular basis, their corporate strategies and activities with regard to all potential and actual impacts on human rights and to make sure that all human rights are "respected."
3. However, companies are not responsible for all types of human rights violations, but "only" insofar as they have to "respect" human rights and remedy their violations.

Conclusion

Connecting wealth creation, human rights, and business legitimacy hopefully turned out to be a possible and important undertaking. Transnational corporations and other business enterprises operate in a globalizing world that is characterized by a "fundamental institutional misalignment . . . between the scope and impact of economic forces and actors, on the one hand, and the capacities of societies to manage their adverse consequences, on the other" (UN 2007, 3). Given these developments of globalization, the question of legitimacy has expanded beyond the legal and political realm, having arisen in the economic realm as well. Moreover, beyond nation-states and law and regulations, it has affected and unsettled business and other organizations in multiple ways.

In this chapter business legitimacy has been defined in economic and ethical terms. More specifically, transnational corporations and other business enterprises gain legitimacy by creating wealth in the comprehensive sense while respecting human rights and remedying human rights violations. Businesses lose their legitimacy when they disregard the minimal standards of wealth creation and violate the minimal ethical requirements of human rights according to the UN Guiding Principles on Business and Human Rights (UN 2011).

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The French PACTE Law or Two-Speed Corporate Social Responsibility (CSR)

29

Catherine Malecki

Contents

Abstract

The French PACTE (Action Plan for Corporate Growth and Transformation) Law of 22 May 2019 (Loi PACTE Plan d'action pour la croissance et la transformation des entreprises. Law no. 2019-486 of 22 May 2019 on Corporate Growth and Transformation, JORF no. 0119 of 23 May 2019) is the kind of far-reaching law commonly adopted in France(Loi TEPA (Law on Labour, Employment and Purchasing Power) of 17 August 2009) with major ambitions to revive corporate growth. Among its many provisions, the amendment of an emblematic article of the French Civil Code is a strong sign in favor of the generalization of CSR, but it seems to establish at two speeds: a cruising speed for the companies already concerned and a crawling speed or "snail's pace" for the companies that are newly concerned. For the first time, one article, the article 1883 al. 2 Civil Code stipulates that "The company shall be managed according to its corporate interest, taking into consideration the social and environmental issues related to its activity." Many questions arise

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as how to implement this article, which kind of sanctions, what about Conventional sanctions: the unknown elements, or the possible role of the judge.

Keywords

CSR · Nonfinancial reporting · PACTE LAW · French Law

Introduction

We are in Chap. III, Sect.2 of the PACTE bill: **"Rethinking the place of enterprises 'in society'"**: this place is not insignificant, asit is consistent with the European Commission's definition, recognized by France, that CSR concerns "*the responsibility of enterprises for the effects they have on society"*(Malecki 2018). This is of considerable symbolic importance: it is a question of affirming the social and environmental role of the enterprise and of associating the employees more closely with the results and with the body of shareholders in their enterprise, which appears in Chap. III of the "Fairer companies" bill. Quite an undertaking! The idea is to introduce CSR smoothly, flexibly (flexible law), in a nonbinding (?) manner, into a text to show that France is ahead of the game, and that it is extending the generous ideas of CSR (social and environmental benefits for all) to all companies. Nevertheless, this is a novel approach and even stronger than the amendment of Article 1832 of the Civil Code, permitting the creation of one-person companies. Indeed, CSR is protean and takes on many different forms. Casting it in stone, albeit implicitly, in such a fine article as Article 1833 of the Civil Code gives food for thought and raises questions.

The amendment of Article 1833 of the Civil Code is indeed important, with its second paragraph expected to stipulate that "The company shall be managed according to its corporate interest, taking into consideration the social and environmental issues related to its activity." The time for posing questions about wording is therefore over (Should Articles 1832 and 1833 of the Civil Code be rewritten?, Couret A., Dalloz 2017.222). It is now time to consider the practical questions to come. This brief article invites us to put these different terms and these different perspectives "under the microscope."

Observation: It is difficult to DISSOCIATE the environmental aspects from the social dimensions because these notions are very closely linked (e.g., in labor law, health and environment, environmental alerts, European sources, etc.). Combining these two types of issues could create needless complexity. But no one can naturally turn a deaf ear to the environmental concerns that are innervating society in the sociological sense (climate change, Youth Climate March, etc.). For some years now, companies (referred to here as "enterprises") have had to embrace a long-term, social, global, and inclusive approach, and cannot therefore simply ignore the environmental dimension. The EU sends out strong and consistent signals (cf. the latest Notat-Sénart report, in line with Mr Bruno Le Maire's ambitions ("There is no profit if companies do not take social and environmental issues into account").

Let's go back to the terms:

"is" (and no longer "must" as the Notat-Sénart Report advocated) "managed" according to its "corporate interest"
the "social and environmental 'issues'" relating to its "activity"
"by taking" rather than "must take" into consideration"

This is a dynamic and flexible approach.

The Scope of Article: 1883 C. CIV.: A General Scope

Before considering the many questions that are sure to arise, let us give a brief (and painless) reminder – tinged with patriotism – that France has been a European leader in CSR for 18 years (cf. Molinié and Drago's Report), we could mention the following laws: NRE (New Economic Regulations), Grenelle 1 (3 August 2009 – 10 years ago already – and Grenelle 2 of 12 July 2010, Order of 19 July 2017, etc.). Adopting an almost militant approach, the intention of the Notat-Sénart Report (8 March 2018) – to broaden the scope of CSR via this new article 1883 of the Civil Code – is a political intention to show that France is going further in these issues.

Which Companies Are Concerned? All of Them, or Almost All

Let's start with this question because this article has a general focus; certain companies are ahead of the game in this area and are already concerned.Within companies, the directors will be responsible for ensuring the concrete management of their enterprise because it is a question of "managing" the thinking "about the company's strategic orientations."

So, there will be a two-speed CSR:

- A *cruising speed* for public limited companies (*sociétés anonymes*– SA) and limited partnerships with share capital (*sociétés en commandite par actions* – SCA)because the landscape is already familiar: we have the financial performance declaration derived from the Order of 19 July 2017. Question: Regarding this declaration, what is the scope of the statement "taking these issues into consideration..."? This text is added to the nonfinancial reporting mechanism. Does this confuse the issue? No, it rather implies a greater openness towards stakeholders with opportunities for them to act.
- In a listed or unlisted public limited company, the members of the Board of Directors (BoD) can no longer ignore these issues (cf. the revision of the AFEP/MEDEF Code of November 2018, which finally specified, in the principle or recommandation 1.4. that: "if (the BoD) shall be informed of market developments, the competitive environment and the main challenges facing the company, including in the field of social and environmental responsibility.")

- Possible creation of stakeholder committees for public limited companies, but what effects? Is this really necessary and how can they be constituted when "diversity" may be present (compliance) within Boards of Directors?

The scope of Article 1833 para. 2 of the Civil Code is not insignificant because the text breaks new ground, followed by a "tidying up" of numerous articles of other Codes that are concerned.

Article L. 225-35 para. 1 of the Commercial Code will therefore be "tidied up" as follows: "…. in accordance with its corporate interest, taking into consideration the social and environmental issues related to its activity." The same applies to Article L. 225-64 of the Commercial Code. "it (the BoD) shall determine the orientations of the company's activity and ensure their implementation, in accordance with its corporate interest, while taking the social and environmental issues related to its activity into consideration…"

MutualCompanies Are Also Tidied Up

- cf. Article L. 111-1-I para. 1 of the French Mutual Code: "Their management shall take into consideration the social and environmental issues related to their activity." The same applies to the BoD, cf. Article L. 114-17 para. 1.
- cf.Article L. 931-2 para. 1 of the French Social Security Code concerning provident institutions and unions of provident institutions: "their management shall take into consideration the social and environmental issues related to their activity."
  - What about other companies? Is it a case of CSR at a "snail's pace"?
  - Simplified joint stock companies (*sociétés par actions simplifiées*– SAS): The directors will also be concerned if there is an exact copy of the structure of a public limited company (satisfaction, also see the Notat-Sénart proposal on the governance of these companies which brings them closer to public limited companies, cf. current debate: simplified joint stock companies *can be considered as they stand* as being technically outside the scope of the Duty of Reasonable Due Diligence Plan (social and environmental aspects, or indeed nonfinancial reporting) (possible Q. from the floor).

However, Article 1833 para. 2 means that simplified joint stock companies can no longer remain outside the scope of the social and environmental issues related to their activities, especially since they may also occasionally employ more than 10,000 employees (i.e., above the thresholds of the Order of 19 July 2017, Decree of 9 August 2017), but they are still not always covered by the financial performance declaration.

Therefore, there will be a substantial difference in implementation in relation to other companies such as limited companies (*sociétés à responsabilité limitée*– SARL), nonstock corporations (*sociétés civiles*), and one-person companies (*sociétés unipersonnelles,* which are numerous in France).

However, the directors will not be completely alone: employees (BoD, shareholders, whistleblowers, trade unions – co-authors of the due diligence plan, the new Economic Social Committee) will also be able to act.

The Implementation of Article 1833 Para. 2 of the Civil Code or the Spirit of This Article: Behaving, Acting, and "Managing" in CSR Terms

"The social and environmental" (precise terms, see the existing situation for public limited companies according to criteria of Art L. 225-102- 1 of the Commercial Code.) "issues" (a vaguer expression) "related to its 'activity'"

The text does not define the social and environmental "issues," which is logical, because the term "issues" is flexible and ever-changing, and we have texts derived from CSR (remember that we are not starting from scratch).

Article L.225-102-1 of the Commercial Code thus mentions the "social and environmental consequences" of the enterprise's activity, particularly respect for human rights, combating corruption, the consequences for climate change, sustainable development, the circular economy, combating food waste, collective agreements concluded within the company, employees' working conditions and actions to combat discrimination and promote diversity.

Regarding environmental issues, inspiration can be drawn from Art. L. 225-102-1 III para. 2 of the Commercial Code.

"The consequences of the company's activities, and of the use that made of the goods and services that it produces, with regard to climate change" (cf. Decree of 9 August 2017, which sets out this information).

Climate change, GHG reduction, circular economy, waste management, water, etc. are covered in the nonfinancial management report, in addition to renewable energy sources, tackling food waste (LTECV Law of 17 August, 2015) in public limited companies, and even in the report on the BoD's activities (which, it should be remembered, was supposed to disappear...); which naturally fall within the company's (enterprise's) "strategic orientations." What guidelines will there be for this scheme? Nonfinancial reporting and especially the Decree of 9 August 2017.

However, the wording is "taking into consideration" (a broad expression), which paradoxically takes us back to the early days of CSR that were so strongly criticized (cf. European recommendation of 18 July 2001, at a time when CSR was only a voluntary incentive). However, this is 18 years later when CSR has become a "major" issue. Therefore, allowing directors some flexibility is welcome, but once again, it will depend on the corporate form concerned.

It will therefore be necessary to consider the "spirit" of the PACTE law, which considers CSR to be a corporate policy in its own right – a global performance tool that is not necessarily out of step with the economic and financial interests of the enterprise. The companies concerned will be able to create a CSR policy by taking account of extra-financial parameters in the company's economic results: directly, with the improved productivity of employees working in an environment that shows greater respect for society, or indirectly, with the consideration of (or even collaboration with) all stakeholders improving the identification and prevention of the risks to which the enterprise is exposed (ethical alerts, feedback on subsidiaries' practices, etc.).

- The organization of the company to take account of environmental issues and, where appropriate, the environmental assessment or certification procedures
- The resources devoted to preventing risks and environmental pollution
- The amount of provisions and guarantees for environmental risks, provided that this information is not available

The general approach to the practical implementation of this text is to devise it and "orchestrate" it in terms of CSR, i.e., to potentially open it up to stakeholders (the enterprise must play a role in society). This means considering all potential stakeholders (NGOs, employees, environmental associations, subcontractors, consumers, etc.). This article provides flexibility and opportunities to be seized, but also poses risks.

How can we take these issues into consideration? Of course, this will not consist in producing nonfinancial reports or declarations of financial performance, but inspiration can be taken from these processes. This "taking into consideration" will indeed imply an active version either throughout the management process and most often in advance: these issues can therefore be listed according to the company's activity (environmental risk management if the company has an industrial activity, or social issues if it has a tertiary activity). Flexibility is essential, as is the choice of approach: it will be a question of determining the social *and* environmental dimensions of an enterprise's activity (environmental impact if it carries out an industrial production activity, sustainable water and waste management, etc.). The LTEC Law (Energy Transition and Green Growth) of 17 August 2015 included "the consequences of their activity and of the use of the goods and services they produce with regard to climate change"in the nonfinancial reporting of public limited companies.

Example: The sixth paragraph of Article L. 225-37 of the French Commercial Code is rounded off with a sentence worded as follows:

> It shall also report on the financial risks associated with the effects of climate change and the measures the company is taking to reduce them by implementing a low-carbon strategy in all aspects of its business.

This flexible definition is intended to encourage companies that are not subject to the nonfinancial reporting requirement to reflect on the social and environmental issues related to their activity. To some extent, a "**positive**"**compliance** could justify the failure to take a particular "issue" into consideration but also, on the contrary, why another issue (e.g., waste management) *is* taken into consideration in a concrete program, at each stage in the development of this field. This would make it an example of *positive soft law.* These issues could be considered on the fringes of nonfinancial reporting, which already provides for ethical compliance (see text here).

However, in concrete terms, it will be necessary to think in terms of the company's stakeholders: employees (health, environment, etc.), consumers (use of goods and services, circular economy), directors (remuneration based on

CSR criteria; in this case, traditional sustainable and corporate governance), subcontractors, NGOs, etc.

With regard to risk management, an example can be seen in the Law of 27 March 2017 on the "duty of reasonable due diligence."This law introduced Articles L. 225-102-4 and L. 225-102-5 into the Commercial Code, with the aim of making international enterprises more accountable for the activities of their subsidiaries and subcontractors located abroad, particularly in developing countries (existence of almost "inextricable" PIL problems).

Its main provision relates to the obligation for certain companies to establish and effectively implement a due diligence plan, including "reasonable due diligence measures to identify risks and prevent serious violations of human rights and fundamental freedoms, and grave harm to human health, safety and the environment, resulting from the company's activities and those of the companies it controls, directly or indirectly, as well as from the activities of subcontractors or suppliers with which it has an established business relationship, where these activities are related to that relationship."

The plan includes:

- Risk mapping for identifying, analyzing, and prioritizing risks
- Procedures for the regular assessment of the situations of subsidiaries, subcontractors, or suppliers with which an established commercial relationship is maintained, with regard to the risk mapping
- Appropriate actions to mitigate risks or prevent serious harm
- A mechanism for issuing alerts and collecting notifications relating to the existence or occurrence of risks, established in consultation with the representative trade union organizations in that company
- A system for monitoring the measures implemented and evaluating their effectiveness

This will include, for example:

- Identification of social and environmental risks because "issues" is a forward-looking term (currently addressed by the Law on the Duty of Reasonable Due Diligence (*Devoir de vigilance raisonnable*)).
- *Transparency*: The nonfinancial performance declaration (See Order no. 2017-1180 of 19 July 2017 on the publication of nonfinancial information by certain large enterprises and groups of enterprises, amending Article L. 225-102-1 of the Commercial Code pursuant to the new European standards. The Implementing Decree no. 2017-1265 of 9 August 2017 specified the content of this amended article. CSRreporting obligations are now covered by an "extra-financial performance declaration") which is always included in the management report that is presented annually to shareholdersmust be published on the company's website for a period of 5 years. A strong sign of openness to a broad audience.

A listed public limited company with more than 5,000 employees in France or 10,000 in France and abroad will, in any event, be required to provide a Reasonable Due Diligence Report. Admittedly, there is little consistency in the thresholds (sometimes, this is the number of employees and turnover or the balance sheet excluding tax, at other times, only the employee criterion applies).

For the Nonfinancial Report:Version with a Financial Performance Declaration

The application thresholds have changed: small and medium-sized listed companies are no longer subject to this reporting requirement. In addition, the new system exempts subsidiaries from producing such a performance statement, provided that the information concerning them is presented by the group's parent company on a consolidated basis.

- Listed public limited companies with 500 employees and €40 million in revenue or €20 on their balance sheet; therefore, major public limited companies (listed companies with more than 5,000 employees in France or 10,000 in France and abroad will, in any event, be required to provide a Reasonable Due Diligence Report).
- Unlisted public limited companies with 500 employees and €100 million in revenue or on their balance sheet.

(N.B. We have added a complication in the transposition of the CSR Directive which only retained the thresholds of the average number of employees).

For the Reasonable Due Diligence Plan

Public limited companies and limited partnerships with share capital that employ at least 5,000 employees in the company itself and in their direct or indirect subsidiaries, or at least 10,000 employees in the company itself and in their direct or indirect subsidiaries, at the close of two consecutive fiscal years, whose registered office is located in France or abroad.

Large listed and unlisted public limited companies are therefore concerned.

What about simplified joint stock companies?Is there a text covering corporate interest? Remember, however, that they will be *naturally* concerned.

The Need for a General Practice of Article 1833. C. civ.

What Indicators?

Nothing new under the sun of CSR, cf. the NRE (New Economic Regulations) Law of 15 May 2001 ("taking into consideration the social and environmental consequences of its activity"). The company's activity will therefore be the new "indicator" of any hierarchy that might exist between the different and potentially conflicting issues (the social and the environmental sectors do not always go hand-in-hand, except in a peaceable and virtuous world). Activity will therefore be the key indicator – a new business model. This is a sensitive issue, of course, as conflicts between social and environmental issues must be avoided.

Does this add needless complexity? Not exactly, because we already have a system that developed from our lead in CSR thanks to the stakeholders, because behind this sweeping term (Cf. National Assembly debates, Notat Sénart Report, which should not be taken as "gospel"), there are many stakeholders: employees, shareholders, etc., who possess the means to act (e.g., via the Reasonable Due Diligence Plan, Law of 27 March 2017). Any regrets? The Notat-Sénart report (cf. recommendation 4) proposed a "stakeholders' committee" that would be independent of the Board of Directors. It is the corporate interest that is the "repository" for these issues.

- Let us first mention the "must-haves" for CSR: international conventions (the UN's *Global Impact* initiative, OECD guidelines, ISO 26000, etc.) and European Union law.
- The "carbon" balance of greenhouse gas emissions for certain companies (Decree no. 2001-829 of 11 July 2011). This decreeadded a new section to the Environment Code (Book II, Title II, Chap. IX, Sect.4), entitled: "Greenhouse Gas Emissions Balance and Territorial Climate and Energy Plan," which introduces a Greenhouse Gas Emissions Balance (BEGES).
- This applies to: enterprises with more than 500 employees in mainland France (250 employees in French overseas departments and territories), public institutions with more than 250 employees, local authorities with more than 50,000 inhabitants, and the French State.
- This balance must be published every 4 years for the entities mentioned in (a) and every 3 years for those mentioned in (b), (c), and (d). It is accompanied by a summary of the actions planned over the next 3 years, with the expected reductions. Failure to publish this balance by those "bound" by this obligation can lead to a fine of up to €1,500 **(very poor deterrent**. . .).
- **The growing role of official labels** (reminder of existing **labels**, Eco Label, European project, TEEC (Energy and Ecological Transition for the Climate)) and the proposal to promote sectoral and territorial CSR benchmarks for SMEs (very useful for the latter because most fall "outside the scope" of nonfinancial reporting), and in line with Article 53 of Programme Law no. 2009-967 of 3 August 2009 for implementation of the "Grenelle" environmental legislation), *Article 61* quater *(new) of the PACTE bill provides for the establishment of a "structure"*to *review and evaluate corporate social responsibility labels that enhance the value of products, behaviours or strategies. This structure brings together experts and Members of Parliament, among others, and proposes ways of rationalising and harmonising the conditions for the validity, reliability and accessibility of these labels for small companies."*

- What type of "structure" could oversee and steer this implementation? A future Independent Administrative Authority (Autorité administrative indépendante – AAI)? A CSR agency dedicated to SMEs? As things stand, we have the CSR Platform. This could be a mechanism for accrediting independent third party bodies responsible for awarding these labels.
- The three focuses are specific: products, behaviors, and strategy.
- This could involve sectoral and territorial CSR benchmarks for SMEs.
- *To come*: The EU is drawing up a proposal for a regulation on the implementation of nonfinancial reporting (materiality principle) resulting from the transposition of the CSR Directive of 22 October 2014.

What Sanctions?

"Tools" Specific to CSR: Known Elements

Critics of a binding form of CSR that would be a source of potential sanctions consider that there are no specific sanctions. The fact is that, to date, there have been no sanctions based on erroneous or incomplete reporting, in other words, no known litigation. However, the scope of the new Article 1833-12 of the Civil Code should not be underestimated, because its generality leaves the opportunity for strict interpretations by judges on the basis of breaches of the duty of due vigilance, failures to take account of an "activity" that clearly violates circular economy-related issues, or failures to take the increasingly serious problem of climate change into consideration, for example. It should be added that the Law on the Duty of Reasonable Due Diligence is backed by a powerful arsenal. For example, the AMF could be given a role (naming and shaming) for the nonfinancial reports published by listed public limited companies.

The means of action open to (external) stakeholders should not be underestimated.

- *Upstream*: Different alerts (environmental, def. of whistleblower unified by Article 6 of the Sapin II Law of 9 December 2016).
- *Downstream*: Liability claims against the Board of Directors (BoD) (a collegial body, and possibly directors who are "passive" with regard to these issues, and who are accused of failing to request information). See Order no. 2017-1180 of 19 July 2017 on the publication of nonfinancial information by certain large enterprises and groups of enterprises, amending Article L. 225-102-1 of the Commercial Code pursuant to the new European standards. The Implementing Decree no. 2017-1265 of 9 August 2017 specified the content of this amended article. CSRreporting obligations are now covered by an "extra-financial performance declaration," which is always included in the management report that is presented annually to shareholders.

The definition of "interest in bringing proceedings," and the notion of "interested third party" (already widely embraced by case law) would still need to be defined.

Conventional Sanctions: The Unknown Elements or the Possible Role of the Judge

What if it were not a question of violating the corporate interest per se but of violating the corporate interest on grounds that "it fails to take these issues into consideration"? The spirit of the text is as follows: since the social and environmental issues related to the company's activity are subject to a "*very general obligation of consideration,*" they should not be grounds for the application of Article L. 242-6 of the Commercial Code (criminal law sanction for the violation of the corporate interest by directors), other than for "*disregard for the constitutional obligation for clarity and precision of the repressive provisions.*" But nothing would prevent the judge from adopting a broad interpretation of a "failure to consider" social and environmental issues. A third party could have an interest in bringing proceedings against such "disregard" if it managed to demonstrate the existence of awrongful act, harm and a causal link between the two.

Another possible indicator: The (virtuous) intent of this Article 1833 al. 2 of the Civil Code: i.e., a better society for all, an open collective vision of society (traditional mantras of CSR. . .). If a stakeholder can prove that it has suffered harm due to a failure to consider these issues or an absence of consideration thereof, then. . ..

This is the question: Is this article merely rhetorical, of purely symbolic value? Perhaps, and this article might simply be window-dressing, but nothing would prevent a judge from using this terse wording as an opportunity to create a concrete role for it. Indeed, what if this article were, in reality, "dynamite"? We are aware of a number of articles in the Civil Code whose succinct wording has given rise to landmark decisions (force majeure and custody of things in civil law; a number of decisions linked to the principle of relevance and proportionality for the application of clauses in labor law – on mobility, noncompetition, combating discrimination in recruitment, etc. In company law, there have been rulings on the voting rights of the usufructuary, and many more). Therefore, what if the new Article 1833 para. 2 of the Civil Code met with the same fate? What if this article gave the judge an opportunity – via well-informed stakeholders capable of justifying a legitimate interest, for example – to demonstrate that the failure to consider a given social or environmental issue related to the company's activity had caused harm, and propose a criterion that could prioritize the stakeholders' interests, or a definition of a responsible enterprise, etc.? A classic dismissal grounds of an insufficient legal basis could follow. For even if Article 1832 has not been amended, (Cf. Couret, D. 2017, p. 122) even if this article is now "just a token," its spirit lives on and will continue to influence the interpretation and scope that might be attributed to Art. 1833 para. 2 of the Civil Code, which has considerable symbolic weight, with the implication of opening up the company to stakeholders, even if the latter are not expressly mentioned (while the articles of the Commercial Code do mention them). There is a good chance that between General Company Law under the Civil Code, Special Company Law, and Labour Law, there will be fertile ground to nurture many principles (shared value, interest in a healthy environment, etc.).

If this article has the potential to be "dynamite," what safeguards should be considered to avoid collateral damage?

What Safeguards to Prevent This Article 1833 Para. 2 of the Civil Code from Becoming a Bugbear?

Answer: Involve high-potential stakeholders, such as employees, and encourage directors to develop means of taking environmental issues into consideration. Ultimately, on this aspect: Article 1133 para. 2. of the Civil Code is in its infancy. It is the proper implementation of this article that will make it a relative bugbear (cf. Art. 1844-10 of the Civil Code), an effective incentive for CSR, or mere window-dressing.

What does the future hold for Article 1833 para. 2?

What About Social Perspectives?

First point: in connection with Article 1833 para. 2 of the Civil Code. First and foremost, the social perspectives are related to "social issues." Corporate information can be used as a basis for the "consideration of social and environmental issues," although information should not be confused with issues.

France is ahead of the game in social matters: this includes the quality of the social dialogue and the fight against sexist behavior (Decree of 8 January 2019, for example; Order of 22 September 2017 on social dialogue). Moreover, the "family" of corporate information is the oldest and most abundant: nonfinancial reporting may be useful for listing it and retaining only those items that are relevant to the corporate interest:

- Health and safety conditions at work
- Occupational accidents, in particular their frequency and gravity, and occupational diseases
- The impact of the company's activity on employment and local development
- The impact of the company's activity on local or resident populations
- Relations with stakeholders in society and procedures for dialogue with them
- Partnership or sponsoring actions

Information relevant to combating corruption: actions undertaken to prevent corruption; Information relating to actions in favor of human rights:

> (a) Promotion and observance of the provisions of the fundamental conventions of the International Labour Organization relating to:
>
> an overview of possible social issues, cf. text with the list of corporate information.

Question: Where is the societal dimension? The societal dimension does not seem to be mentioned BUT we will see that it has its place, firstly because the text of Art. 1833 para. 2 is vague, and secondly because the second point mentions "improve the sharing of value" and above all "a fairer enterprise." This disappointment is soon overcome; it should be noted that the societal dimension does not feature in the wording of the new paragraph 2 of Article 2 1833 of the Civil Code, while it is an intrinsic part of financial reporting. Overcome? Because corporate social governance is the major focus of this reform.

Examples:

"The collective agreements reached within the company and their impact on both its economic performance and on the employees' working conditions."

"Actions that aim to fight discrimination and promote diversity."

The societal dimension exists: *Article 61* ter *(new)*: Label for enterprises adopting a policy of accessibility and inclusion for people with disabilities.

Second point: The aim of the PACTE bill is to "redefine the enterprise's place in society in order to improve the involvement of employees" and "improve the sharing of value."

This is what it all boils down to; this is the essence of the project and even of the text. To quote B. Le Maire: "There is no profit if there is no social governance." This text is consistent with the Order of 22 September 2017 on social dialogue. Like nested Russian dolls, social law is increasingly "embedded" in CSR.

The government bill breaks down into three parts: "liberated enterprises, more innovative enterprises, and fairer enterprises."Here we are in the "fairer" part; the "fair and social" dimension" needs to be defined. Even if the stakeholders are not expressly included in this Article 1833 para. 2 of the Civil Code (this was provided for in the Notat-Sénart Report's proposal, which sought to qualify employees as "constituent parties"), they are implicitly present. One of the high-potential or even super-privileged stakeholders is, of course, the employee.Nothing prevents the inclusion of employees; it is only right, and "if you can move mountains you can move molehills." In this respect, the PACTE Lawbreathes logic into the general implementation of Article 1833 para. 2 of the Civil Code because it is based on a clear desire to create a genuine form of corporate social governance with the new system promoting employee share ownership. (Bruno Le Maire, as far back as 22 October 2017, had insisted on the SOCIAL COMPONENT: "the aim is also for employees to be more involved in the running of companies.")

Employee shareholding could play an important role in this system, as it is considered virtuous for all parties: for employees (general benefits as part of their employee savings strategy), and for companies which see it as a way to associate employees with the company's performance. This concerns listed and unlisted public limited companies. Moreover, the PACTE law includes a mechanism in favor of employee share ownership.

Which companies are concerned? Simplified joint stock companies. Why? Because, as things stand, certain constraints complicate employee shareholding policies for simplified joint stock companies, firstly because the minimum threshold of €100,000 for employee share offers is too high, and secondly because the maximum threshold of 150 people is too low. Today, employee share offers are only possible for a maximum of 149 employees in simplified joint stock companies, or if a minimum ticket of €100,000 is required. This restriction will be lifted in order to develop shareholdings in these companies.

As labor law currently stands, Article L. 3332-11 of the French Labour Code provides for two types of corporate contributions to payments made by their employees and to the beneficiaries of employee savings plans (PEE, PEI, and PERCO schemes). Employee savings are not the only way to encourage employee share ownership. Enterprises can also grant free share issues (*attributions gratuites d'actions*– AGA) and issue "business creator stock subscription warrants" (*bons de souscription de parts de créateur d'entreprise*– BSPCE). The PACTE Law will enable simplified joint stock companies (SAS) to propose share offers to all employees. There will no longer be a minimum ticket of €100,000. It should be noted that in committee, the Senate added several measures, including the harmonization of the corporate contribution (*forfait social*) at 10% for payments from incentive and profit-sharing schemes or employer contributions to pension savings plans. It has also created a new early release case for pension savings: to finance work on adapting one's main residence in the event of loss of autonomy.

Public corporations are also concerned – an extension of the scope of transactions subject to the obligation to propose share offers reserved for employees (*obligation d'offres réservées aux salariés*– ORS). Share offers reserved for employees will now be mandatory for disposals of holdings by the State in unlisted companies, and disposals of holdings by the State in listed companies, on a mutually agreed basis.

Ultimately, CSR seems to be coming into effect at two speeds and the ideal situation would enable all the companies concerned to reach their cruising speeds.

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Part VIII

Public Relations, Marketing, the Public Sphere, and Business Legitimacy

Dialogue and Business Legitimacy

30

Kirsten Mogensen

Contents

Abstract

This chapter presents two mental models for justification of business legitimacy. One is the public arena, and the other is the corporate public diamond. As presented in this chapter, the imagination of a *public arena* with an agenda for societal debates is linked to developments in the modern era, including the idea of individual freedom, the acknowledgment of reason as important for building knowledge, steam-powered printing presses, and national autonomous mass media. The model makes most sense in societies, where fundamental norms and values are shared and business practices can be tested in relation to them. Mass media reports on fraud, unsanitary, and inhumane working conditions in the meat-packing industry in the twentieth century are mentioned as an example of how the public arena best works. *The corporate legitimacy diamond* reflects contemporary thinking. Using the public arena as a point of departure, it adds a corporate public diplomacy level. The model takes into consideration the post-millennium quest for human dignity and localized trust. When transnational corporations invest in many parts of the world, they are faced with many different perspectives on what constitute legitimate business behavior. They need

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to balance local norms and values around the globe, because social media allow a transnational audience to discuss their legitimacy. Using diplomatic practices, corporations can build long-term relationships, share information, and make compromises with local civic society representatives. Human resource management and plans for constructions are mentioned as examples of topics to be negotiated between corporations and civic society.

Keywords

Corporate legitmacy diamond · Corporate public diplomacy · Disputes · Public arena · Transnational corporations

Introduction

People generally consider transnational corporations legitimate if they act the way they are expected to. If they behave differently from what people expect, then their legitimacy is disputed (Baumann-Pauly et al. 2016: 33, referring to Deephouse and Suchman 2008; DiMaggio and Powell 1983). The concept of business legitimacy, therefore, can be studied from three main angles: (1) people's expectations regarding corporate practices, (2) corporate reactions to charges of behaving illegitimate, and (3) institutions for dispute. This chapter will concentrate on the disputes, i.e., how corporate legitimacy is traditionally being tested in democracies and what is expected in the 2020s. For corporations working internationally, the chapter suggests building diplomatic relations with community representatives, partly to improve chances of being perceived as legitimate.

While it should be straightforward for corporations to act in ways that "correspond with the social expectations of their environment" (Baumann-Pauly et al. 2016: 33), practice shows that it is far from easy, partly because norms and values are constantly being debated and regulations are questioned. The foundation for evaluation of legitimacy is fluid and constantly changing in the international society where corporations work and interact with citizens. For transnational corporations dealing with different cultures and traditions, recognizing the norms and values shared by a global public becomes a hypercomplex process. "Satisfying one demand may require violating others, thus potentially jeopardizing organizational legitimacy" (Baumann-Pauly et al. 2016: 33, referring to Pache and Santos 2010).

Scherer and Palazzo (2011: 906) write: "the question remains of how the legitimacy of corporate activities can be normatively accessed when no universal criteria of ethical behavior are available in a post-modern and post-national world." They also write that the conditions for corporate legitimacy are changing from "cognitive and pragmatic legitimacy to moral legitimacy" and that it is no longer enough for transnational corporations to "follow the nationally defined rules of the game":

> In the changing institutional context of global governance, this stable framework of law and moral custom is eroding, and corporations have to find new ways of keeping their licenses to operate. (Scherer and Palazzo 2011: 907, reference to Palazzo and Scherer 2006; Suchman 1995)

Cognitive legitimacy is based on comprehensibility, pragmatic legitimacy is based on self-interest, and moral legitimacy is based on normative approval (Suchman 1995: 571).

Scholars have analyzed how corporations are involved in relations with many different stakeholders, how socializing among these stakeholders involves ongoing sense-making, and how this sense-making serves as background for development of corporate standards that aim at correspondence with citizens' expectations. Business scholars have studied corporate efforts to handle legitimacy issues, and – in search for tools – several researchers suggest that corporations can play a political role (e.g., Ordeix-Rigo and Duarte 2009). While large international corporations have had political influence for centuries (Pigman 2015), their economic power in negotiations with nation-states has increased since the 1990s (for discussions about this issue, see, e.g., Dicken 2015), partly due to increase in foreign direct investment (World Bank 2016; Kragelund 2019).

Corporate diplomacy is a concept being used to describe the phenomenon where "multinational companies engage in societal and political issues that are directed at the key stakeholders in the company's host country aiming at gaining legitimacy" (Marschlich and Ingenhoff 2019: 172; see also Ingenhoff and Marschlich 2019). Corporate diplomacy is an umbrella concept that draws on thinking from scholars in many fields, e.g., international relations and diplomacy, CSR, peace through commerce, business management, business ethics, and corporate communication (Westermann-behaylo et al. 2015; Mogensen 2019; Ingenhoff and Marschlich 2019).

Transnational corporations are often involved in diplomatic relations with many different stakeholder groups. Their diplomatic relation with civic society representatives in their host communities is referred to as corporate public diplomacy (Mogensen 2017; ► Chap. 68, "Legitimacy Issues in Corporate Public Diplomacy"). One approach to tackle the complexity is to engage in dialogues with the local publics in host communities. Such dialogues also create an opportunity for corporations to explain and discuss their moral norms and values, to develop trust at a local level, and to show respect for the human dignity of local citizens.

This chapter presents two different mental models for how business legitimacy is publicly tested. The first is called the public arena and the second the corporate legitimacy diamond. The imagination of a *public arena* with an agenda (McCombs and Shaw 1993) for societal debates is linked to developments in the modern era, including the idea of individual freedom, the acknowledgment of reason as important for building knowledge, steam-powered printing presses, and national autonomous mass media. The model makes most sense in societies, where fundamental norms and values are shared and business practices can be tested in relation to them. The second model, the *corporate legitimacy diamond*, reflects contemporary thinking. Using the public arena as a point of departure, it adds a corporate public diplomacy level. The model takes into consideration the post-millennium quest for human dignity and localized trust. Transnational corporations are faced with many different perspectives on what constitute legitimate business behavior. They need to balance local norms and values around the globe, because social media allow a transnational audience to discuss their legitimacy. Using diplomatic practices, corporations can build long-term relationships, share information, and make compromises with local civic society representatives.

It is obvious from media reports that many corporations try to create images of being legitimate where they work, but behind the surface, some corporations behave in ways that are considered inappropriate. When double standards are uncovered, corporations lose public trust and their businesses are damaged. Norms, values, legitimacy, and trust are therefore interrelated concepts, and they are all essential for discussions about business legitimacy in the 2020s.

Norms, Values, Legitimacy, and Trust

Norms are foundations for trust, because norms guide us in determining what to expect from other people (Mogensen 2014), and – together with values – norms form the basis for perceived legitimacy. Professional trust builds partly on the perception of legitimacy, so norms, values, legitimacy, and trust are linked in a hierarchical order, with norms at the bottom and trust as the more comprehensive concept at the top. A brief introduction to these four concepts follows, starting from the bottom (Fig. 1).

According to Parsons (1937/1991), action is structured by the social and cultural systems as well as by the personality of a given actor. The cultural systems have norms for how people ought to behave in various situations depending on their

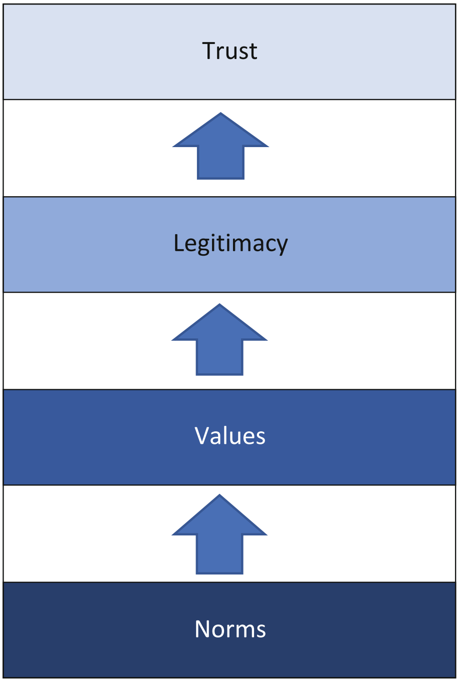

Fig. 1 Perceived legitimacy in the context of norms, values, and trust

positions in the social system. These norms are important, because they allow other citizens to have expectations to people in different roles, for example, what to expect from CEOs of transnational corporations in various situations. Norms are binding in the sense that it has social consequences to break them and they are internalized so that a person will feel a prompting to follow them even if it is not in his or her personal interest (Ross 1968: 85). Norms are said to exist if members of the society can say that people in a given situation ought to behave in this way and people generally do follow the norms (Ross 1968: 99). However, norms for different situations may conflict, and some are more important than others from the perspective of the actor, Parsons (1991: 184):

> In any at all well integrated institutional system the major decisions of precedence will be made for the individual actor through the institutionalization of norms and hence lie beyond his control [. . .] But this major settlement of the order of precedence of normative patterns, which is essential to social stability, does not go all the way. There are still areas of genuine doubt open to the decision of the individual actor, within which his own need-disposition structure may swing the balance between alternatives.

In the model, norms are placed at the bottom, because they are internalized in the process of being socialized and, in daily life, they are mostly tacit. They are followed by values which are often explicit and discussed among society members. Discussions about values are, however, usually framed by a community's belief system or ideology because this forms the basis for the value system. Parsons writes that the community's ideology is the primary basis for "the cognitive legitimation of patterns of value orientation." Legitimate ideologies aim at "the welfare of the collectivity" (Parsons 1991: 236–237). Parsons (1991: 239, emphasis in original) states:

> [I]deology is an empirical belief system held in common by the members of *any* collectivity. The focal type of case of course is the ideology which serves to legitimize the value-orientation patterns central to a stable society. These are, in the most fully institutionalized sense, the established beliefs of the social system. In any complex social system there will of course, be differentiation on the ideological level between various sub-collectives of the larger society. There is room for a considerable amount of this differentiation without any sub-ideologies being treated as explicitly deviant.

Boltanski and Thévenot (2006: 332) have in selected "manuals intended for business use" found examples of how scholars and business practitioners argue for legitimacy within different orders of worth. In their book *On Justification*, they discuss what constitute legitimate argumentation within each of the following orders of worth: inspired, domestic, fame, civic, market, and industrial. These "orders of worth" represent perspectives known to most people in the business world, and often managers will instinctively combine perspectives from different orders of worth when dealing with other people. For example, a CEO will strive to make her corporation effective (industrial), but she will also strive to build good relations with her employees (domestic) and seek public influence (fame).

Diplomatic practices can be used to create a fundamental understanding between community and firm about what constitutes legitimate corporate behavior. Derian (1987: 6, 45) consider diplomacy "a mediation between estranged individuals, groups or entities"; it is necessitated by destructive forces and connotates hope. Derian (1987: 117): "Power is, above all else, a relationship," and mutual recognition is fundamental because "people will be estranged from what and whom they fear and cannot control, from what and whom they desire and cannot acquire."

Ongoing dialogues with the host communities allow corporations to adopt their plans and practices before these create legitimacy problems. Such dialogues with publics are also referred to as corporate public diplomacy. It is defined as "collaboration with the general public in a host country through negotiations directly with civic society" (Mogensen 2017). Diplomacy requires that all parties are motivated to find nonviolent solutions to conflicts and are willing to engage in building diplomatic practices with cultural norms and rituals (Derian 1987: 112, 144). Practiced in good faith, corporate public diplomacy can give a local community increased understanding of what happens inside a corporation and thereby limit rumors and strengthen the basis for trust. It can also provide a corporation with invaluable knowledge about community affairs which will make daily life easier and give the corporation a chance to reach proactively to any hostile developments in the community.

A community may perceive a corporation as legitimate if it acts in accordance with community norms and values or if the community understands and accepts that the corporate norms contribute to "the welfare of the collectivity." The collectivity can here be understood broader than the specific community, for example, to the welfare of humanity in general. Suchman (1995: 574) defines legitimacy as:

> a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions.

From a corporate perspective, legitimacy can be perceived as an asset, so corporations generally find it important to create and protect a good image, but they need to balance their responsiveness to norms and values in local communities with international norms and values to appear authentic.

Community members will usually not think of corporate legitimacy in terms of assets, but they will evaluate the corporation's conduct. Bitektine and Haack (2015) suggest that the evaluation of an organization's legitimacy is "rendered by individuals at the micro level and by collective actors at the macro level." In their model, the first level (propriety) consists of individuals' approval or disapproval of a given organization's actions and/or practices, while the second level (validity) is a collective consensus regarding the legitimacy of the corporations.

Because it is a perception, the evaluation of legitimacy is based on a projected image that may or may not reflect reality, for example, a corporation may project an image of social responsibility to the general public while – unnoticed – engage in corruption and other activities that are not accepted according to social norms.

Legitimacy is one of several factors that people evaluate when trusting others, and for corporations, public trust in them is considered an asset, because trust allows many transactions to happen smoothly. It is always, however, risky to trust others, because there is no guarantee that the trusted person will behave as expected (Luhmann 1979). In daily life, we need to trust people in many different situations, and we draw on different forms of trust (for examples of trust forms in conflicts, see Mogensen 2016). Mayer, Davis, and Schoorman (1995: 715) propose that in contexts where people interact professionally – such as transnational corporations interacting with community representatives – trust is based on the person's perception of the other person's abilities, benevolence, and integrity. Corporations cannot control community members' perception, but they can consciously demonstrate their abilities, benevolence, and integrity in ongoing diplomatic relations. Openness and transparency are some of the signs of integrity and benevolence (Mayer et al. 1995: 722). Whether the community representatives in specific situations chose to trust the corporation depends not only on corporate behavior but also on their own propensity to trust and the risk involved in trusting (Mayer et al. 1995).

Kjærbeck (2013) perceives corporate legitimacy as a socially constructed phenomenon that is constantly being negotiated and therefore changing. Corporate claim on legitimacy is challenged in the *public arena*, and transnational corporations can create a better foundation for such public tests if they engage in ongoing corporate public diplomacy with civic societies in their host communities. This perspective is integrated in the second model called the *corporate legitimacy diamond*, and it will be discussed further below.

The Public Arena

In the public arena, business legitimacy is negotiated and tested. The concept of public arena is used to describe different forums where the publics discuss, e.g., traditional journalistic media, social media, town hall meetings, and public places (e.g., Hutchins 1947; Whelan et al. 2013; Ingenhoff and Marschlich 2019). This space may also be called the court of public opinion (Stoker and Rawlins 2005; Vos 2011) or the public sphere (e.g., Habermas 1991; Toepfl and Piwoni 2015). Different concepts may be used to emphasize special perspectives on the activities taking place in the public space, and the multitude of perspectives contribute to the construction of corporate legitimacy, including the abovementioned concepts.

Back in history, print and broadcast media were important for corporate images of legitimacy, and professional journalists were proud to serve the public. Early liberal press theory was based on the idea that educated people were rational beings, and with free exchange of information and ideas in the public arena, then truth would win over falsehood (for references see Siebert et al. 1956). However, in the light of how people had been manipulated by Nazi and communist propaganda in the first part of the twentieth century, the Commission on Freedom of the Press (Hutchins 1947: 118–119) questioned this assumption about people responding rationally. The committee also wrote that while freedom of expression is a necessary condition for democracy, “the co-presence of a variety of opinions is not equivalent to debate.”

Today’s social media forums provide platforms where it is possible to nearly unhindered share opinions – also about corporations. These opinions may not be based on facts and they contribute to the public images of corporations – truth or false – but they will usually not satisfy critics because they do not constitute the public scrutiny that earlier liberal thinkers imagined. As an example of such early thinking, in the late nineteenth and early twentieth centuries, “a mix of businessmen, social reformers, and educators sought to (. . .) make business and politics more accountable to the people by using publicity to expose abuses” (Stoker and Rawlins 2005). Journalists would uncover “abuse of people,” and corporations under attacks would feel a need to “defend themselves in the court of public opinion as well as the court of law” (Vos 2011: 122, quoting Cutlip 1994).

The above brief sketch contains some of the basic ideas behind the public testing of corporate legitimacy in the public arena. Stereotypically, journalists, NGOs, politicians, and scientists are playing the roles of self-appointed prosecutors on behalf of the society, while public relations staff explain and defend the special interests of the corporations (e.g., Patriotta et al. 2011). The “testing” is coved by traditional media, researched, written, and edited by professional journalists with ethical standards (e.g., SPJ 2014).

In this old-style court of public opinion, the agenda usually focus on important issues such as criminal activities and serious misconduct, treats against public health and security, misleading statements and conduct, serious incompetence in public administration, slave-like working conditions, helplessness of people in care, and religious coercion (e.g., Protess et al. 1991; Kroeger 2012). On such issues, the public generally have an overall belief that determine what is considered legitimate in their society, but globally there are differences in perception of what is legitimate. In democracies with rule of law, people tend to be outraged, when they learn about serious misconduct. They seek solutions and may require increased regulations. If they ever had any trust in the corporations involved, they will probably lose that trust (Mogensen 2014).

Large corporations will often try to avoid the “reality of tests of worth that threaten their power” (Gond et al. 2016), and critical journalists find them little willing to create the transparency needed for a legitimacy test (Mogensen and Nordfors 2010; Vercic and Colic 2016). Public relations staff do not trust that critical journalists will help them in their effort to create perceptions of legitimacy (Schönhagen and Meißner 2016) and may, e.g., use their own media outlets to frame issues so that the corporations appear legitimate while keeping critical journalists away. On the other hand, corporations can gain legitimacy if they are scrutinized in the public arena and found to be without major fault.

An example of how the public arena in practice has been used to test legitimacy is the scandals surrounding the meat-packing industry in Chicago and its practices in the beginning of the 1900s. Writer Upton Sinclair worked undercover in the one of the factories and described his observations in articles as well as in a best-selling novel *The Jungle* (1906). The public was outraged, and his work resulted in stricter regulations of the meat-packing industry. Unfortunately, fraud in the food industry is still a problem, and more recently journalists have, e.g., written about scandals such as melamine added to milk powder, horsemeat sold as beef, and old green rice made to look fresh. The Institute for Global Food Security at Queen's University Belfast writes on its website that "Deliberate food fraud is a growing crime," and its Professor Christopher Elliott says to the Danish newspaper *Weekendavisen* that there is more money in food fraud than in drugs. It is an organized, international crime (Lottrup 2019). The legitimate food industry, obviously, has an interest in distinguishing itself from these criminals. They will want to show that their operation is legitimate and, in the public arena, the only way to do that is to join forces with trusted journalists, NGOs, politicians, and university researchers.

In the democratic part of the world, in the nineteenth and twentieth centuries, professional journalists sometimes considered themselves independent "watchdogs" for democracy, and they were proud of their struggles with public relations practitioners. Also, today some journalists are engaged in investigative reporting (e.g., ICIJ 2019), but their resources are limited compared to the resources of corporations. In the 2020s, many more people are working to protect the image of corporations than there are professional journalists to uncover, document, and question corporate practices.

The fact that corporations spend large sums on public relations is an indication that they find value in being perceived as legitimate. Boltanski and Thévenot (2006: 320–321) provide examples on the tools that they use to communicate the impression that civil society approve of them even if they have not obtained such approval.

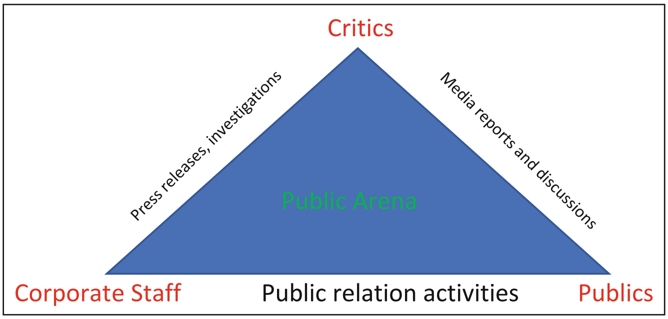

Fig. 2 The court of public opinion, where legitimacy of corporate/industry behavior is discussed and evaluated. The main actors are indicated in the angles, while some of their activities are mentioned on the sites of the triangles. In the public arena, the publics' main role is to evaluate the legitimacy of a given corporation/industry based on input from, on one hand, critical journalists, university researchers, politicians, and NGOs and, on the other hand, public relations staff serving the special interests of the corporation/industry

Boltanski and Thévenot (2006: 320, emphasis in original) writes: “In the world of fame, *appearance* and *reality* are conflated”(Fig. 2).

The public arena model is outdated as a trustworthy tool to test legitimacy for several reasons, including the following:

Firstly, it is a short-term solution to critique and therefore not able to sustain trust. Boltanski and Thévenot (2006: 155) writes that “the goal of public relations is to build a measure of worth based on fame” and that:

> [T]he world of public opinion places little value on memory. Unlike the market world, it does not even recognize the form of memory of past tests that is constituted by the durability of money beyond the moment of the test during which it was transferred. (2006: 178)

This short-term perspective distinguishes the public arena model from the long-term trust building perspective of corporate public diplomacy and the corporate diamond model discussed below.

Secondly, independent journalists and scholars can only serve this legitimacy testing system if they have the autonomy and resources needed to do a professional job, and generally speaking they have neither in the 2020s. Previously independent media have lost much of their integrity, partly because they have been bought by business conglomerates with special interests or are controlled by authoritarian governments (for types of ownership, see e.g. Mogensen 2002). Furthermore, the job as investigative reporter is dangerous. Around the world, independent journalists are being killed for trying to uncover the truth (CPJ 2019), which is an indication that powerful people – usually with business engagement – do not find their interests served by such transparency. The comparatively few independent, professional media usually suffer from lack of resources, partly due to lack of enough paying subscribers and loss of advertisement income. Similarly, much university research now depends on co-funding from big businesses/industries, and these do not support research which undermine their legitimacy. In other words, with relative few exceptions, neither journalists nor scholars have the means and autonomy to test the legitimacy of corporate behavior in a trustworthy way.

Corporations might at first have felt a relief when the watchdogs became lapdogs (for explanation of the concepts, see Franklin et al. 2005: 130). However, many top leaders have now realized that the lack of accountability has its backsides. Surveys have measured lack of trust in media, politicians, and businesses (Edelman 2019). According to Edelman, while the general public in 2019 had less “faith in traditional authority figures and institutions” than a decade earlier, people instead shifted “their trust to the relationships within their control, most notably their employers.” Edelman talks about a “shift to localized trust” (Edelman 2019).

What the surveys imply is that the legitimacy checking system which served democratic nations during the previous two centuries cannot alone manage the job in the twenty-first century. A new way of thinking is needed if corporations want citizens to trust that they behave legitimate. And such a new system must preferably be linked to peoples’ local environment.

Corporate Legitimacy Diamond

Such a localized foundation is provided by the corporate legitimacy diamond. It adds a diplomatic process to the testing of legitimacy in the public arena, so that the conduct to be tested in the public arena is grounded in values already discussed by the transnational corporation and its home community. Corporate public diplomacy creates a social room where information is shared, different interests mediated, values justified, and policies negotiated. Community and corporate representatives get to know each other as humans in a long-term relation and trust building process. Corporate public diplomacy can negotiate legitimacy problems of a different kind than the court of public opinion, e.g., norms and values to be considered, when transnational corporations plan to invest and expect to spend years in the community.

One way that corporations can build legitimacy in local communities is through its human resource strategy. When transnational corporations invest, they often bring the employees from their home countries rather than educate and hire local workers, and this practice create both hostility and suspicion.

For example, in Aceh, Indonesia, a transnational corporation was working with Indonesian state-owned companies to extract and refine natural gas in the Andaman Sea outside the town Lhokseumawe in the decades around the millennium (the case is also analyzed in Mogensen 2016, 2019). The corporation brought in trained workers because they considered the local population uneducated and unable to do the work, while the locals – despite their lack of western-style education – felt that they ought to manage production facilities in their home area (Schulze 2007: 190). The lack of appreciation that the corporation showed the local people created anger.

The core of this conflict is not unique for Aceh – in fact it has its parallel in conflicts between communities and transnational corporations many places in the world (e.g., Gruber 2014; Kragelund 2019), so corporate leaders have shared interests in possible solutions to it.

A different strategy is to engage the local community in finding a solution. Such a solution can, for example, be that for each position and at all levels, the corporation employs two people, one local citizen and one foreigner, to work together. It might be counterintuitive from the perspective of industrial leaders that value efficiency (Boltanski and Thévenot 2006), but it might be cheaper to pay double salary than to pay for security and other expenses linked to a challenging production environment and lack of legitimacy. If done respectfully, such a different strategy can also contribute to mutual cultural understanding, transparency, local development, support for the corporations, and lesser support for rebels.

To negotiate solutions that embrace different peoples' values requires empathy, a pragmatic approach, common interests in finding a working solution (Derian 1987), and diplomatic skills. In Europe, compromises between values from the industrial world and the civic world are not unusual, e.g., there are ongoing consultations between representatives for businesses and labor organizations. Boltanski and Thévenot (2006: 325 ff) write that such cooperation may lead to increased productivity, partly as a result of implied respect for the dignity of people.

When corporations negotiate with local community representatives, there are, however, legitimacy issues to consider (▶ Chap. 68, “Legitimacy Issues in Corporate Public Diplomacy”).

Another example is from Kachin State in the Northern Myanmar, where a transnational corporation wanted to build a hydropower dam. The local community was outraged partly because the dam was to be built at a place considered holy, many people was forced to leave their homes and fields, they did not trust the corporation, and they were not included in the decision process. Community actors published an invitation to negotiate the plans. A solution could, e.g., be to build more smaller dams at other places. However, their invitation was not answered, and hostility grew. An informer told Kirchherr et al. (2017: 115) that the corporation had misunderstood who was the main stakeholders. The corporation thought that it was the national governments: “they did not understand that those folks in Naypyidaw have no legitimacy whatsoever in Kachin State.” The project has been suspended since 2011 – partly due to public protests. This is a complicated case which is analyzed in more details in other publications (e.g., Mogensen 2017, 2019; ▶ Chap. 68, “Legitimacy Issues in Corporate Public Diplomacy”), but the point of this brief description is the potential in dialogues. It might have been more efficient for the corporation to build diplomatic relations with the local community and negotiate the location of the dams.

A third practice to consider is how to deal in a legitimate way with community hostility to the corporate activities. Such hostility can be dangerous. In Aceh, local frustration with corporate behavior contributed to three decades of civil war in the province (Schulze 2007: 184). The corporation chose a traditional approach in its effort to tame protesters: it hired military to provide security. Both soldiers and rebels have since been accused of an outrages large number of serious human rights abuses. The victims included both corporate workers and local villagers (Mogensen 2016, 2019). The insecure production environment was expensive for the corporation, and its choice of hard power in confrontations with the local rebels did not contribute to business legitimacy in the eyes of community members. The strategy that the corporation used in Aceh and the local reactions resembles many other cases in world. It is tempting to think that a different strategy – one that respects the “human dignity” (Fukuyama 2018: 40) of people living in the local communities where transnational corporations invest – will be both economically sound and increate business legitimacy.

Essentially, transnational corporations have three different options when it comes to dealing with the local communities where they work: (1) they can draw on hard power such as national police and company security to protect unpopular production facilities, (2) they can bribe the community leaders by investing in infrastructure and other social goods, and (3) they can solve problems in dialogue and collaboration with the community representatives. The last of these options is expected to be the preferred if corporations are seeking solutions that are perceived as legitimate by the local publics, but the impression is that corporations tend to rely on a combination of the first two (Fig. 3).

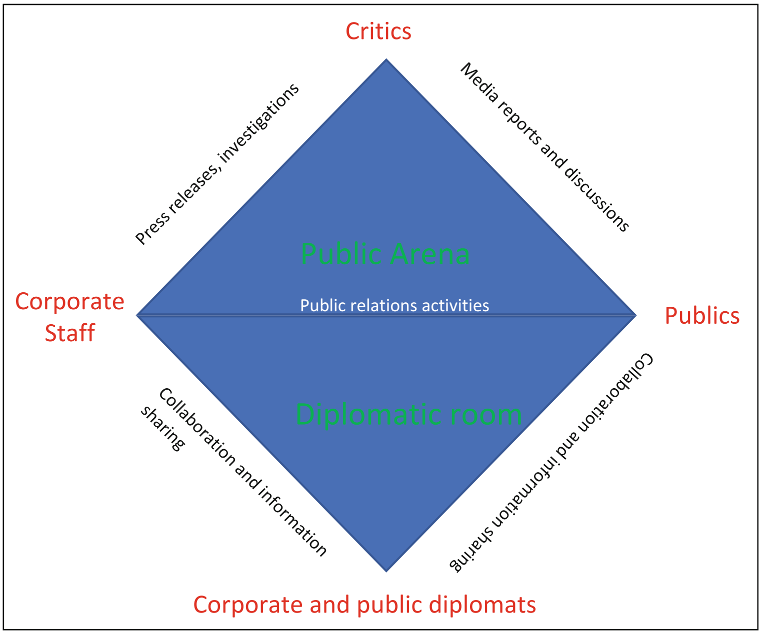

Fig. 3 The corporate public diamond. According to this model, corporations will still be confronted with critics in the public arena, but they will have a much more solid base for the scrutinizing when they collaborate with local community representatives and have their support

Conclusion

The public arena is a mental model of how business legitimacy is traditionally questioned by critics and justified by corporate staff in public. It is also called the court of public opinion, because in the imagination it seems like a judicial court with prosecutors and defenders. The public discussions about legitimacy also function as dialogue about values among citizens. People from many different social spheres present documentation, opinions, and ideas in meetings, public spaces, and public media. In countries with freedom of speech, everyone can join these exchanges of insights and views, but there is no guarantee for an audience. Some voices, such as those of famous people, have more listeners and followers than others, and in the social media age, there is hardly a shared public agenda.

Corporations use large sums on public relations activities to create images of legitimacy, but it is a hypercomplex process to learn what the publics around the globe expect and what business conduct will be accepted across borders. Print and broadcast news media have historically contributed to the development of shared norms and values in nation-states (Carey 2002: 78); however, transnational corporations work in societies with different cultures and are evaluated by people using both national and transnational media (Athique 2016). In the 2020s the public arena is not efficient as a model to structure the debate about business legitimacy across cultures, unless it is supplemented with approaches that encourage corporations to interact directly with stakeholders, including local community representatives.

As a supplement to the public arena, it is suggested in this chapter to create a localized foundation for compromises. The extended model is called the corporate legitimacy diamond. If practiced with good intentions, it may not only contribute to corporate legitimacy but also to long-term trust, and it signals that corporate employees and people living in host communities are equally humans with a right to dignity.

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Legitimacy-Related Research in Organization Studies, Stakeholder Theory, and Marketing Studies

31

Michaela Haase

Contents

Abstract

Legitimacy, trust, and democracy are concepts developed in sociology and politics literatures. This chapter reviews understandings and conceptualizations of legitimacy in organization studies, stakeholder theory, and marketing studies. It gives particular attention to the intersections of legitimacy-related research in these fields of study. From this list, the supreme discipline in legitimacy-related social-scientific research is probably organization studies. The stakeholder approach emerged as a strategic management approach, and stakeholder relationships and stakeholder legitimacy constitute important intersections between organization studies, stakeholder theory, and marketing studies. Compared with

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organization studies, legitimacy is not a major topic in marketing studies where works explicitly addressing legitimacy or referring to it are still quite rare. That notwithstanding, in marketing studies, there are literatures that deal with related topics, partly making use of, partly not making use of, the term “legitimacy” (or related terms such as “legitimate” or “legitimation”).

The chapter briefly addresses how the scholarly interest in order and power has spawned legitimacy as a research subject. Then, it discusses landmark conceptualizations of legitimacy and legitimacy-related research programs in organization studies. An analysis of normative and descriptive approaches to legitimacy in stakeholder theory follows, expanded by an overview of legitimacy-related topics concerning markets and marketing practices. The chapter concludes – inter alia – that legitimacy-related research in organization studies has cut off the normative, political, and ethical dimensions of the concept. Stakeholder theory’s normative dimensions are contested; however, it is probably right to not make legitimacy its single, normative core. From a contemporary perspective, marketing studies, especially critical marketing studies and macromarketing, seem to be equipped with the presuppositions to address legitimacy as a valued characteristic of institutions and other marketing affairs.

Keywords

Advertising · Authority · Corporation · Democracy · Freedom · Friedman · Justice · Neoinstitutionalism · Order · Parsons · Power · Resources · Stakeholder fairness · Trust · Von Hayek · Von Mises · Wealth · Weber · Critical marketing studies · Contingency theory · Macromarketing · Marketing concept · Relationship marketing · Resource-dependence theory · Service marketing · Service-dominant logic · Social exchange theory

Introduction

Legitimacy, trust, and democracy are concepts developed in sociology and politics literatures (Epstein and Votaw 1978; Friedman and Miles 2006). Legitimacy has been tied to other concepts such as the two before mentioned ones, or rationality and responsibility (Epstein and Votaw 1978), or power, authority, and order (Weber 1978 [1921]). It is for this reason, perhaps, that “legitimacy is the toughest concept in political science, one of the great unanalyzed concepts” (Epstein and Votaw 1978, p. 71; the before-mentioned quote recites Mayer Zald’s comments made in the discussion of a workshop paper). In their handbook article, Suddaby et al. (2016) quote only the second part of this statement, connecting it to organization studies. This brings us to sociological understandings of legitimacy, furthered by Epstein and Votaw (1978) as well. Drawing on Parsons, they declare, “organizations are legitimate to the extent that their activities are congruent with the goals and values of the social system” (Epstein and Votaw 1978, p. 72). This understanding is running like a golden thread through this article; it might be named the Parsonian legacy in legitimacy-related research (as there is no uncontested, discipline-overarching concept of legitimacy, the article prefers using the expression "legitimacy-related research" over "legitimacy research"). In comparison, the Weberian legacy can be seen in the emphasis put on "the intimate relation between legitimacy, on the one hand, and power and authority, on the other, and particularly in the symbolic and convoluted landscape that lies between the wielder and the wieldee of power and between the grantor and grantee of legitimacy" (Epstein and Votaw 1978, p. 71; Epstein and Votaw refer to Zald's comments).

This article reviews understandings and conceptualizations of legitimacy in organization studies, stakeholder theory, and marketing studies. It gives particular attention to the intersections of legitimacy-related research in these fields of study. From this list, the supreme discipline in legitimacy-related social-scientific research is probably organization studies. Even within single disciplines, the subject of legitimacy-related research differs a lot. Epstein and Votaw (1978, p. 71, their emphasis) ask "What *is* the subject of legitimacy about?" and answer "It is really about all social institutions (from family to corporations to governments) and their relationships" (Epstein and Votaw use the term "institution" to designate groups and organizations. For an overview of the meaning of the concept of institution in sociological, economic, and marketing theories, see Kleinaltenkamp 2018). Adapted to organization studies, then, legitimacy-related research is about interorganizational relationships in "market and nonmarket environments" (Epstein and Votaw 1978, p. 69). One would expect that it includes inter alia identifying theoretical concepts, making references to actual or desired characteristics of political or social orders, or studying perceptions, beliefs, or judgments of life-world actors.

The stakeholder approach emerged as a strategic management approach (Freeman 2010 [1984]; Freeman et al. 2018), and stakeholder relationships and stakeholder legitimacy constitute important intersections between organization studies, stakeholder theory, and marketing studies. Macromarketing and marketing ethics are the source of an extensive literature on topics connected to legitimacy-related studies including stakeholder relationships (Lusch and Webster 2011), justice (Laczniak and Murphy 2008; Laczniak and Santos 2011), vulnerability (The VOICE Group 2010), or deception (Deighton and Kent 1995).

The domain of marketing studies is, in Epstein's and Votaw's words, the "market environments." Compared with organization studies, legitimacy is not a major topic in marketing studies; works explicitly addressing legitimacy or referring to it are still quite rare. One reason for this is the – compared with organization studies – minor relevance of sociological neoinstitutionalism in marketing studies. A minor interest in some of the concepts (e.g., power or ideology) considered being important for legitimacy-related research in sociology or political philosophy has also been bemoaned (Fougère and Skålén 2012). That notwithstanding, there are literatures in marketing studies that deal with related topics, partly making use of, partly not making use of the term "legitimacy" (or related terms such as "legitimate" or "legitimation") – for example, the literatures on advertising and deception (for references, see Deighton and Kent 1995).

Markets and marketing systems, however, are more than “environments” for individual and organizational action. Selecting concepts and perspectives constitutive for both domains, this article emphasizes actual and potential links between organization and marketing studies. For Max Weber (1978 [1921]), legitimacy was a social-scientific core concept connecting meaning and order in the social world. Order is a common topoi in sociology, political science, and economics, and the micro-level theories in the before-mentioned disciplines assume actors, being able to conduct meaningful social action. Some research strands stemming from sociology and marketing studies share the use of concepts such as “action field” (Fligstein and McAdam 2012; Layton 2016) to analyze “environments.” As discipline-overarching theories, systems theories and institutional theories interconnect the disciplines as well. The systems-theorist Talcott Parsons (1960) interpreted the congruence of values, deployed to appraise actions, with values incorporated in the social environment in terms of legitimacy. Parsons’s systems theory influenced marketing-systems approaches in macromarketing (Dixon 1984) and, with it, prepared the ground for the study of the social environment of the social embeddedness of markets or marketing systems (Layton 2007, 2011) or the formal, informal, or philosophic antecedents to the heterogeneity of marketing systems (Mittelstaedt et al. 2006).

A number of reasons for the scholarly interest in intersections between organization studies and marketing studies exist. For instance, Scott’s (1995) institutional analysis and the institutional analysis of markets and marketing systems in marketing studies (Mittelstaedt et al. 2006; Haase and Kleinaltenkamp 2011; Kleinaltenkamp 2018) are translatable into each other to a great extent. Furthermore, looking from the perspective of Scott’s (1998 [1981]) system-theoretical analysis at marketing practices, one could argue that marketing-related activities presuppose the openness of the social system or the organization, respectively. Marketing studies’ units of analysis are, at least to some degree, consequences of human action and human will (Harrison and Kjellberg 2016). The same idea applies to organizations. Coase (1937) explained their existence with reference to transaction costs. While market relationships and markets are organized entities, organizations accrue from “an alternative mode of socio-economic organization” (Spender 2018, p. 101). As Spender (2018, p. 101) has put it, Coase “suggested firms were ‘able to do things markets failed to do’ – connecting firms with markets.”

Scholars advocating what Vargo and Lusch (2004) have called a *goods-dominant perspective* (Haase and Kleinaltenkamp 2013) on marketing affairs that harks back to microeconomic theory (Jones and Monieson 1990) or marketing-management approaches in line with the Four Ps (McCarthy 1960) might not be that interested in the intersections between organization studies and marketing studies. They might be convinced that economic value is a market phenomenon or results from resource transformation processes exclusively conducted or governed by the firm (Spender 2018). However, critical marketing studies, relationship marketing, services marketing, macromarketing, or the service-dominant logic all have criticized the narrow focus and scope of such approaches, which tend to neglect, inter alia, macro-level or societal phenomena, the variety of organizational entities, or value co-creation

(Hunt 1976; Brownlie and Saren 1991; Grönroos 2000; Kleinaltenkamp and Jacob 2002; Vargo and Lusch 2004; Vargo and Morgan 2005). Firm-consumer interactions, conducted – according to the marketing concept (Kotler 1967) – because firms want to fulfill consumer needs or serve customers, account only for a small portion of the number of potential research objects of marketing studies. Terms such as "resource transfer," "exchange," "resource integration," or "value creation" stand for activities conducted within networks, service-ecosystems, or marketing systems or what sociologists or organization theorists have called action fields or organizational fields (DiMaggio and Powell 1983; Meyer 2017), respectively. Consequently, it comes as no surprise that neoinstitutional legitimacy-oriented research programs have found their way into marketing studies (Humphreys 2010; Coskuner-Balli and Ertimur 2017). This strand of legitimacy-related research marketing studies echoes that of organization studies.

In the next section, the article briefly addresses how the scholarly interest in order and power has spawned legitimacy as a research subject. Then, the article discusses landmark conceptualizations of legitimacy and legitimacy-related research programs in organization studies. The development of neoinstitutional theory and the move from rational (closed) systems to open-systems approaches (Scott 1998 [1981]) have pushed legitimacy-related research in organization studies (Suchman 1995). After that, an analysis of normative and descriptive approaches to legitimacy in stakeholder theory follows, expanded by an overview of legitimacy-related topics concerning markets and marketing practices. Marketing studies is the discipline that presupposes an open-systems view with regard to customers and other stakeholders. Research on basic units of analysis in marketing studies such as exchange, markets, or marketing systems but also on certain offerings (weapons, marihuana, ivory, etc.) have been linked to legitimacy but also to freedom, wealth, and other values.

The article ends with a discussion of legitimacy-related research in organization studies, stakeholder theory, and marketing studies. It concludes – inter alia – that legitimacy-related research in organization studies has cut off the normative, political, and ethical dimensions of the concept. Stakeholder theory's normative dimensions are contested; however, it is probably right to not make legitimacy its single, normative core. From a contemporary perspective, marketing studies, especially critical marketing studies and macromarketing, seem to be equipped with the presuppositions to address legitimacy "as a virtue of political institutions" (Peter 2017, n.p.) as well as a normative principle for the appraisal of transaction arrangements and other marketing affairs.

Order, Power, and Legitimacy

Max Weber (1978 [1921]) made a distinction between three types of legitimacy: traditional, charismatic, and rational-legal legitimacy. He established a descriptive concept of legitimacy suitable to address what he considered a main problem in his research domain, namely, the need to obey authority and the acceptance of command. Parsons and Smelser (1956) connected Weber's theory of bureaucracy with Parsons's systems theory. In their view, organizations, that is, collectivities, are social systems characterized by:

> their capacity for 'action in concert.' This implies the mobilization of the collectivity's resources to attain specific and usually explicit goals; it also implies the formalization of decision-making processes on behalf of the collectivity as a whole. This explicitness applies both to the legitimization of the rights of specific units to make such decisions and the obligations of other units to accept and act upon the implications of such decisions. The formal organization . . . is the prototype of such a system. (Parsons and Smelser 1956, p. 15)

The classical sociological topoi social order has inspired the scholarly interest in gaining knowledge about the factors maintaining, destructing, or bringing order about (Scott 1995; Lawrence and Suddaby 2006; Hampel et al. 2017). Explaining or understanding these factors is a scientific objective still dominant in this discipline – a "presetting" that has influenced the conceptualizations of legitimacy and the respective research programs in organization studies and beyond. From a Weberian perspective, legitimacy is a main source of the *stability* of political and social orders "because faith in a particular social order produces social regularities that are more stable than those that result from the pursuit of self-interest or from habitual rule-following" (Peter 2017). Suddaby (2010) differentiates his sociological and neoinstitutional perspective from strategic approaches in legitimacy-related research (Suchman 1995) in that it does not draw on self-interest and rational action.

"Legitimacy" is employed to analyze the relationship between organizations and their environment on one hand and organizational access to resources on the other hand (Lounsbury and Glynn 2001). Dowling and Pfeffer (1975, p. 122), drawing on Parsons's legacy in organization studies and alluding to what Scott (1995) has discussed in terms of the normative pillar of institutions 20 years later, claim that "organizations seek to establish congruence between the social values associated with or implied by their activities and the norms of acceptable behavior in the larger social system of which they are a part." Dowling and Pfeffer (1975) equate "organizational legitimacy" with the congruence of these two value systems. Note that this stipulation leaves open who assesses the prevalence or absence of such congruencies – the scholar or the life-world actor. In any case, the presence or absence of congruence has consequences for organizations. With reference to Parsons, Suchman (1995, p. 574) claims: "Legitimacy leads to persistence because audiences are most likely to supply resources to organizations that appear desirable, proper, or appropriate." Thus, the "possession" of legitimacy is considered instrumental for the access to or the possession of resources.

Past Weber, social-scientific scholars have continued on developing descriptive conceptualizations of legitimacy, but the political dimension traceable in Weber's and Parsons's work is hard to find. Political sociology, "a broad subfield [of sociology] that straddles political science and sociology, with 'macro' and 'micro' components" (Manza 2011, n.p.), interested in, inter alia, the sources of social and political change, has faced criticism for this reason. Grafstein (1981) describes the conceptualization of legitimacy in political sociology as a combination of a stable political order and the values internalized by the public. Observable conforming behavior is assumed to express the legitimacy of this order. Grafstein criticizes this view in that a given order always influences behavior – conforming behavior cannot be conceived of as expression of the legitimacy of this order. This would amount to equating "there is an order O and people's behavior conforms with O because they consider it legitimate" with "there is order O that influences the behavior of people or people behave in a way in line with O, respectively." In other words, the conformity of behaviors with a given social order does not necessarily express that the order is legitimate – neither with regard to those conforming with it nor as a result of scholarly analysis.

Compared with the descriptive nature of legitimacy-related research prevailing in contemporary organization studies, in political philosophy, scholars have focused on the justification of orders or on the general conditions for the ascription of legitimacy to certain entities, states of affairs, or processes, respectively. The normative concept of political legitimacy helps answering questions asking for justifications of political power, or authority, or obligation. What justifies the power executed by authorities or provides them with legitimacy in this regard? What can give rise to potential complementary obligations of those ruled by the authorities? In Van der Vossen's (2012, p. 567) view, "legitimacy . . . [is] a property of institutions, in particular states. As such, I understand a state's legitimacy as denoting its status as the holder of a right to rule." According to Van der Vossen (2012, p. 565; italics in the original), "a state's internal legitimacy denotes its domestic right to rule, held *vis-à-vis* its subjects." However, the fact that states are legitimate or have the right to rule (see Van der Vossen 2012, p. 567, note 1) does not imply that they exert their power in a legitimate way. As Stanfield and Caroll (2004, p. 366) remark, the new institutional economics has ascertained that "socially imperfect rules and regulations may come into being by the exercise of power."

Philosophers, which advocate a procedural view on legitimacy (Peter 2017), might consent with this statement. Only if the procedures based on which the rules are established are legitimate as well, complementary obligations and actions (e.g., to obey the law) of the subjects can result from the legitimacy of the state to exert power (e.g., to issue and enforce laws).

Justice does not change power relationships into legitimate ones. Pettit (2012) objects tendencies equating legitimacy and justice. "According to Pettit, a state is just if it imposes a social order that promotes freedom as non-dominance of all its citizens. It is legitimate if it imposes a social order in an appropriate way" (Peter 2017, n.p.). Justice is a characteristic of an order that could have been imposed in a way appropriate (legitimate) or inappropriate (illegitimate). In pure logical terms, a state may be legitimate and just, legitimate and unjust, illegitimate and just, and illegitimate and unjust. Logic says nothing about the presence or absence of legitimacy in social reality.

Political philosophers have tended to focus on abstract conditions of justification and to neglect the empirical (historical, sociological, and political) processes related to the achievement or maintenance of legitimate orders (Peter 2017). In some sense, this amounts to Alfred Schütz's distinction between first-order theories of life-world actors and scholarly second-order theories (Schutz 1962). However, as Peter (2017, n.p., quoting Beetham), points out, people's beliefs or perceptions cannot serve as justification of legitimacy claims. Beetham (1991, p. 11; italics in the original), in the same way, has argued that a "power relationship is not legitimate because people believe in its legitimacy, but because it can *be justified in terms of* their beliefs."

This hint turns attention to a topic especially important for the social sciences: *Who* makes the legitimacy judgments or evaluates social and private orders? Is it the philosopher or social scientist entering the scenario (for the use of the term "scenario," see Deephouse et al. 2017) as an outsider or observer? Or is it an individual, organization, or governmental representative immediately involved in a state of affairs? What criteria are used for the assessments? As social actors are involved in the social construction of reality, one cannot imagine that their first-order theories don't play an essential part in the establishment, maintenance, or destruction of social orders. This is the starting point for approaches addressing the cognitive pillar of legitimacy-related research in organization studies (Scott 1995; Suddaby et al. 2016), and Meyer (2017) observed a growing impact of cognitive approaches in neoinstitutionalism.

Organization Studies

Deephouse et al. (2017, p. 27) declare, "Legitimacy is a fundamental concept of organizational institutionalism." Two scholars have built the scaffold for contemporary legitimacy-related research in management, organization studies, or sociology: Max Weber and Talcott Parsons. Parsons addressed the legitimacy of actions and organizations: actions are appraised "in terms of shared and common values in the context of the involvement of the action in the social system" (Parsons 1960, p. 175). And two things are worth keeping in mind to order to grasp Weber's impact in these disciplines: First, for Weber, as mentioned above, legitimacy is a social-scientific core concept – because of its theoretical potential to contribute to an answer to the question why bureaucratic authoritarian structures persist. Second, legitimacy-related research in organization studies preserves the Weberian view of legitimacy as a descriptive concept.

On the Legacy of Legitimacy-Related Research and Contemporary Differences

Suddaby et al. (2016, p. 451) emphasize that "legitimacy has been the subject of extensive research in organization studies." Due to the influence of Weber and Parsons (Dowling and Pfeffer 1975; Suchman 1995; Suddaby et al. 2016), organization studies are perhaps the discipline from which the majority of legitimacy-related research in the social sciences emerged. As Suddaby et al. (2016, p. 468), quoting Zald (in Epstein and Votaw 1978, p. 71), conclude, "despite, or perhaps because, of its widespread use, legitimacy remains 'one of the great unanalyzed concepts' of organization theory" (Suddaby, Bitektine, and Haack refer to Epstein and Votaw 1978, p. 71, who document a workshop/conference discussion). Forty years after Zald's comment, this assessment could still apply.

The dawn of legitimacy-related research began with the change of perspective on organizations from rational-systems theories to open-systems theories (Scott 1998 [1981]). Scott's (1995) institutional analysis including his distinction between three pillars of institutions or legitimacy, respectively, pervades legitimacy-related research until today. Distancing institutional analysis from resource-dependence and social-exchange theory, Scott (1995, p. 45) emphasizes that "legitimacy is not a commodity to be possessed or exchanged but a condition reflecting cultural alignment, normative support, or consonance with relevant rules or laws." Thus, legitimacy is interpreted as *conformity* of an entity with another entity – legal rules (associated with the regulative pillar), norms and values (associated with the normative pillar), or frameworks of reference (associated with the cognitive pillar); the respective bases of compliance are expedience (regulative pillar), social obligation (normative pillar), and "taken for granted" schemata (cognitive pillar). Note that elements subsumed under all three pillars can be in play in legitimacy-related research. Humphreys (2010, p. 492), whose study of casino gambling builds on Scott's (1995) framework of analysis, points out that "all three types of legitimacy [regulative, normative, and cognitive legitimacy] draw from the same semantic repertoires."

Differences between two research strands have coined the study of legitimacy in organization studies (Suchman 1995): management-oriented and institutional approaches. Dowling and Pfeffer (1975, p. 123), who advocate the former approach, turned legitimacy into a management objective, claiming that "organizations will take steps to ensure their legitimacy." From the perspective of scholars stemming from the social constructivist camp, the management-oriented approaches have gained too much influence while "'meaning' disappeared" from institutional analysis (Suddaby 2010, p. 15). Suddaby (2010, p. 15) promotes a research program on legitimacy in organization studies that takes into consideration:

- "why organizations are engaged in activities that are legitimate in the symbolic realm rather than in the material one"
- "why organizations adopt behaviors that conform to normative demands but conflict with the rational attainment of economic goals or how purely technical or productive objects becomes infused with meaning and significance far beyond their utility value"
- "the core concept of institutional theory: the tendency of social structures and processes to acquire meaning and stability in their own right rather than as instrumental tools for the achievement of specialized ends"

Suddaby (2010), interested in processes bringing legitimacy about, objects management-oriented perspectives and differentiates economic from sociological perspectives.

The next subsection refers to Suchman's (1995) analysis and landmark definition of "legitimacy" and two handbook articles, which both focus on the conceptualization of legitimacy, i.e., "seek to bring greater clarity and order to the somewhat confusing literature" (Deephouse et al. 2017, p. 27) or seek "to bring some construct clarity . . . and theoretical discipline to an important but misunderstood concept" (Suddaby et al. 2016, p. 451).

On the Conceptualization of Legitimacy in Organization Studies

The three articles addressed in this subsection draw not on explications of a concept or provide not themselves such explications; rather, they include comprehensive analyses of research programs and definitions. While Suddaby et al. (2016) start with Suchman's definition, Deephouse et al. (2017) modify it, taking into consideration the research conducted in the field during the last two decades. Both handbook articles try to narrow the range of legitimacy-related research down: Deephouse et al. (2017) plea for dropping the "rationalist" management-oriented or "pragmatist" strand; Suddaby et al. (2016) blow into the same horn, rejecting what they call the legitimacy-as-property perspective that they see exemplified in contingency theory, theory-guided research programs, and "essentialist" and "universalist" epistemologies and methodologies. Suddaby (2010, p. 15) had already bemoaned that "contingency theory is represented in institutional theory with the implicit understanding that the symbolic or institutional world is simply another variant of the environment to which the organization must adapt."

The Integration of Managerial and Institutional Perspectives

Suchman's (1995) landmark article is still the starting point of many articles on legitimacy (Suddaby et al. 2016). He provides a catchy definition of the concept of legitimacy:

> D1: "*Legitimacy* is a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman 1995, p. 574; italics in the original).

As remarked by Deephouse et al. (2017, p. 28), Deephouse and Suchman (2008) removed the term "desirable" from D1 "to avoid potential confusion with status or reputation." Suddaby et al. (2016, p. 469) analyze three perspectives in legitimacy-related research (see section "Three Perspectives in Organization Studies' Legitimacy-Related Research") that address "the same phenomenon of social approval [but] focus on different actors: the object whose legitimacy is being evaluated, the social change agent who seeks to change legitimacy of the object, and evaluators who render their judgements about the legitimacy object." These three actors are the main constituents in the *reconstructions* of definitions of "legitimacy" conducted to shed light on their main structure.

D1': The actions $a_1, \ldots, a_n$ of X are legitimate if and only if
(i) X has conducted $a_1, \ldots, a_n$.
(ii) $a_1, \ldots, a_n$ is desired, proper, or appropriate because of S.
(iii) S is a system of norms, values, beliefs, and definitions.

D1 does not mention an assessing entity. For this reason, D1' is extended by variable Y, getting D2 from this procedure.

D2: The actions $a_1, \ldots, a_n$ of X are legitimate if and only if
(i) X has conducted $a_1, \ldots, a_n$.
(ii) $a_1, \ldots, a_n$ is desired, proper, or appropriate because of S.
(iii) S is a system of norms, values, beliefs, and definitions.
(iv) Y assesses $a_1, \ldots, a_n$ in the light of S.

It is not determined if Y is an individual, a group, or an organization. Both D1 and D2 harmonize with Parsons's views. Parsons emphasized the congruence of an organization's actions with elements subsumed by Scott (1995) under the normative pillar of legitimacy. D2 includes a variable Y that stands for someone who makes the assessment that a_1 or . . . or a_n is legitimate. From the perspective of Suddaby et al. (2016), the addition of Y is acceptable in case of the legitimacy-as-property approach and with qualifications in case of the legitimacy-as-perception approach (see section "Three Perspectives in Organization Studies' Legitimacy-Related Research"). Regarding the latter, as a socio-cognitive phenomenon, legitimacy results from the interplay of individual perception and social structure. Thus, Y would have to be substituted for an expression designating a number of individuals.

D2 seems to be also in accord with what Suddaby et al. (2016, p. 451) have called the legitimacy-as-property perspective or with "studies [that] focus somewhat narrowly on legitimacy as a product of two primary actors – the organization and its external environment." Note that the origin of the bemoaned narrowness of this approach resides in only two interacting actors and perhaps in one of these "actors" being the environment, a system-theoretic category.

It is not the legitimacy of X itself that is determined by D2. D1 and D2 are about action-legitimacy, not about entity-legitimacy. Regarding D1 or D2, "action-legitimacy" signifies those actions of an entity, which are considered as conforming to a system of norms, values, beliefs, and definitions. If the actions $a_1, \ldots, a_n$ of X are perceived as desirable, proper, or appropriate, then the assessment might be extended from the category of actions to that of actors. Beschorner et al. (2015, p. 273), tying together corporate responsibility and self-reflection, point to the possibility that X might also reflect on its own objectives, actions, and action consequences.

Suchman (1995) emphasizes the subjective nature of the "perception" or the "generalized perception"; it is thus Y's perception of X's performance that matters, but not principles or formal procedures. This runs counter to explications of "legitimacy" in political philosophy. The objective of legitimacy-related research is not the generation of objective knowledge employable by scholars or life-world actors to assess the legitimacy of actions or entities but the identification of perceptions or assessments of single entities somehow "generalized" in the face of a given social order.

Suchman (1995) distinguishes two perspectives in legitimacy-related research: the *strategic perspective*, expressing a managerial viewpoint, and the *institutional perspective*, addressing how a "sector-wide structuration dynamics generates cultural pressures that transcend any single organization's purposive control" (Suchman 1995, p. 572). The first perspective is teleological, the second "sociological-structuralist." The strategic perspective considers legitimacy as a resource required for organizational value-creation processes; access to or propriety of this resource can be gained through management action, for example, by means of stakeholder management. With reference to the existing literature, Suchman (1995) further distinguishes three types of organizational legitimacy, that is, pragmatic, moral, and cognitive legitimacy. The first one can be considered as an outflow from the strategic perspective; the second and third ones are connected to the institutional perspective:

- The category *pragmatic legitimacy* includes types of activities which benefit the assessor (Y): *exchange legitimacy* draws on the value expected by Y because of X's policies; *influence legitimacy* means that X is responsive to Y's "larger interests"; and *dispositional legitimacy* is the belief in an organization's good character (this amounts to the abovementioned extension of legitimacy-related assessments from actions to entities).
- *Moral legitimacy* bases on Y's judgment that a given activity "is the right thing to do" (Suchman 1995, p. 579). As Suchman (1995, p. 578) further explains, in line with Scott (1995) and Suddaby (2010), "moral legitimacy reflects a prosocial logic that differs fundamentally from self-interest." Two remarks apply. First, regarding Scott (1995), "moral legitimacy" is not assessed in terms of ethical principles or norms; morality is treated as a sociological category (Birnbacher 2013). Second, putting emphasis on the category "moral legitimacy" conforms to Suddaby's (2010, p. 15) response to a "core question of institutional theory." As Suddaby (2010, p. 15) has remarked, the "empirical reality is that organizations often behave in ways that defy economic logic or norms of rational behavior." Suchman (1995) analyzes moral legitimacy through the distinction of four subcategories, on which this article only briefly sheds light: *consequential legitimacy* (focus on outcomes, but not on negative externalities), *procedural legitimacy* (socially embraced techniques and procedures), structural legitimacy (socially constructed capacities), and *personal legitimacy* (individual charisma and entrepreneurship).
- *Cognitive legitimacy* is conceived of as "comprehensibility" that is (under the condition of a "chaotic cognitive environment") the ability of individuals "to arrange their experiences into coherent, understandable accounts" (Suchman 1995, p. 582) leading to scenarios that become taken-for-granted or "alternatives [that] become unthinkable" (Suchman 1995, p. 583).

The attempt to conciliate managerial and institutional perspectives characterizes Suchman's (1995) approach. Yet, his analysis is biased toward the management side, as expressed in the pragmatic dimension. If organizations take advantage of legitimacy ascriptions, then the management is well advised to take action in order to achieve such valuations. With reference to Parsons, Suchman (1995, p. 574) points out that “audiences are most likely to supply resources to organizations that appear desirable, proper, or appropriate.” Rasche and Gilbert (2015, p. 295), taking the same line, argue that “As emphasized by the resource-dependence theory (Pfeffer and Salancik 1978), organizations with high levels of prestige also face higher legitimacy expectations.”

However, the dominance of the strategic perspective in organizational legitimacy-related research remained not unchallenged. Suddaby et al. (2016) deny that legitimacy is something that can be gained by management action. They integrated Suchman’s (1995) analytical categories with their framework but excluded what Suchman has called “pragmatic legitimacy.” So did Deephouse et al. (2017) in their analysis.

About 20 years after the publication of Suchman (1995), the cognitive dimension of institutions has become one of the “‘trademarks’ of neoinstitutional theory” (Meyer 2017, p. 520) – a development that should have had a bearing on legitimacy-related research as well. Notice that Suchman’s (1995) “chaotic cognitive environment” and the social constructivist approach unfolded by Meyer (2017) do not resonate in all aspects.

Stakeholder Assessments of Organizational Legitimacy

Reflecting on two decades of legitimacy-related research in organization studies, Deephouse et al. (2017), reviewing a number of definitions of “legitimacy,” extend and modify Suchman’s (1995) definition. Interested in *organizational* legitimacy, not legitimacy per se or in the legitimacy of a broad range of other subjects, they equate organizational legitimacy with the perceptions of an organization by its stakeholders. Deephouse et al. (2017, p. 32) define “organizational legitimacy” as “the perceived appropriateness of an organization to a social system in terms of rules, values, norms, and definitions.” X, therefore, is an organization in D3.

Expanding on the (re-)constructions of definitions from the previous subsection, D3 mirrors the changes in legitimacy-related research that took place after 1995:

> D3: X or X’s actions or attributes are legitimate according to the evaluation of Y_1 or . . .or Y_m if and only if Y_1 or . . . or Y_m refers to Z_1 or . . . or Z_f, employs C in the assessment, and generalizes the assessment into a broader view of the overall appropriateness of the organization in its social system.

> $Y_1, \ldots, Y_m$: Assessing instances
> X: Assessed instance
> $Z_1, \ldots Z_f$: Entities or attributes
> C: Set of criteria

If one compares D3 with the previous reconstructions, one of the most important changes is that “the environment” has got a face – namely, that of the assessing instances. Deephouse et al. (2017) propose diverse interpretations of the variable Y including "source" and "evaluator." $Y_i \in \{Y_1, \ldots, Y_m\}$ is an individual, a social movement, an interest group, an investor, or, generally speaking, a stakeholder. D3 draws on the view that "evaluators are either individuals or comprised of individuals" (Deephouse et al. 2017 with reference to Tost 2011). Public opinion can result from the "reflection of social values" (Deephouse et al. 2017, p. 36), but is no evaluator from according to D3. Sources are assumed to assess information; they can interact with other sources and exchange information: "that legitimacy evaluations come from multiple sources highlights the possibility that legitimacy criteria may emerge interactively, in the interplay between the various sources evaluating a given organization and the organization itself" (Deephouse et al. 2017, p. 29).

D3 requires that the stakeholders' assessment has to have a specific characteristic to count as ascription of legitimacy to X: "the assessment must generalize into a broader view of the overall appropriateness of the organization in its social system" (Deephouse et al. 2017, p. 36) – a stipulation conforming with Suchman's (1995) "generalized perception" (see D1).

The assessed instance X is an organization. What exactly is addressed by the source(s) in the course of an assessment process? Deephouse et al. (2017, p. 30) provide a negative list, a number of subjects that do *not* fall under the category of legitimacy-related research: "organizational forms, structures, routines, practices, governance mechanisms, categories, company founders, top management teams, etc." The referenced entities or attributes $Z_1, \ldots Z_f$ are not of interest per se but only because of their relationship to the assessed instance X. Not addressed in the definition is if, in case of the determination of the legitimacy of an entity, all attributes represented by $Z_1, \ldots Z_f$ have to be present and to what degree (see Suddaby et al. 2016, p. 454).

Criteria (the elements in the set C) are not pre-given but can emerge through the interaction of sources in the course of the assessment process. This brings a dynamic perspective into play with room for debate, contest, or negotiation and, therefore, changing criteria and judgments – a view shared by Deephouse et al.'s interpretation of "legitimacy as a continually unfolding process" and the legitimization-as-process perspective advocated by Suddaby et al. (2016). The last-mentioned authors argued that "legitimation is a multi-actor and often multilevel process, legitimacy is not the outcome of a single actor, but rather a socially constructed outcome that emerges as part of the contestation and co-creation of the general social order" (Suddaby et al. 2016, p. 462).

Drawing on Scott (1995) and Suchman (1995), Deephouse et al. (2017) change what has been called the regulatory, pragmatic, moral, and cultural-cognitive *dimensions of legitimacy* into *criteria for the assessment of legitimacy* by the sources. They justify this step with the implicit and explicit standards they believe to find in there: "Sources use four basic types of criteria for evaluating organizational legitimacy: regulative, pragmatic, moral and cultural-cognitive" (Deephouse et al. 2017, p. 39). On one hand, the authors want to keep conceptual and empirical issues apart; on the other, they want to "remain consistent with past research by recognizing that different types of legitimacy (e.g., moral legitimacy) result when certain criteria (moral values) are generally agreed upon within the social system" (Deephouse et al. 2017, p. 39). The point here is that not the sources but the scholars determine the categories into which the criteria can be sorted – a second-order assessment of first-order criteria. This in clearly expressed in Deephouse et al.'s (2017, p. 40) statement "that such categories are analytic concepts, not fully separable empirical phenomena." Such a procedure cannot substitute the empirical investigation of the criteria the sources use, that is, the life-world actors or groups of life-world actors. This is in accord with Deephouse et al.'s (2017, p. 39) decision to "have positioned the types of criteria outside the box defining legitimacy."

Three Perspectives in Organization Studies' Legitimacy-Related Research

Suddaby et al. (2016) distinguish three perspectives in organization studies' legitimacy-related research (for representatives of each perspective, see Suddaby et al. (2016, p. 453, Table 1): *legitimacy as property*, *legitimacy as process*, and *legitimacy as perception*. In their overview article, they give answers to the questions *What is legitimacy? Where does legitimacy occur?* and *How does legitimacy occur?* with regard to the three distinct configurations. The authors hark the legitimacy-as-property perspective back to structural functionalism and contingency theory. From the legitimacy-as-property perspective, legitimacy is "a capacity, property, or trait possessed in some measureable quantity by an organization" (Suddaby et al. 2016, p. 458). Legitimacy is the fit between the "largely material manifestations of legitimacy in an organization (...) and the normative expectations of the environment."

The authors' objective is not to conciliate the three configurations. They criticize the legitimacy-as-property view for several reasons that apply to contingency theory as well including conceptualizing legitimacy as abstract theoretical variable and the appropriateness of empirical measurement of the construct. The main reasons for the rejection of this perspective seem to be of epistemological and methodological kind: Suddaby et al. (2016) criticize what they call the essentialist view and the universalism underlying this research. Compared to the legitimacy-as-property perspective, the legitimacy-as-process perspective is "not essentialist. That is, the characteristics or elements of legitimacy are not assumed to be fixed and universal" (Suddaby et al. 2016, p. 459).

Epstein and Votaw (1978, p. 73) make a distinction between legitimacy – a condition – and legitimation – a "process or a dynamic." According to the legitimacy-as-a-process perspective, legitimation is the product of interactions of multiple actors (typically organizations) in organizational or social fields. Quoting Berger et al. (1998, p. 380), Suddaby et al. (2016, p. 459) define "legitimation" as the "process by which cultural accounts from a larger social framework in which a social entity is nested are construed to explain and support the existence of that social entity, whether that entity be a group, a structure of inequality, a position of authority or a social practice."

This process is characterized by the communications of (individual and collective) actors, and self-interest and agency play prominent roles in the "co-creation of social order" (Suddaby et al. 2016, p. 462). Rhetoric and framing influence the social construction of meaning; constructivist/interpretive approaches prevail in this research field. Compared to the legitimacy-as-property perspective, legitimacy is nothing that is in the world and has to be explained by means of explanatory arguments; rather, it is a communicative process of meaning co-creation resulting from contested interactions between social actors. Shortcomings of the legitimacy-as-process perspective are a tendency to underexplore contextual factors and, with it, the "relatively stable and exogenous aspects of legitimacy," the appearance of "hyper muscular" entrepreneurs (see Suddaby 2010) and a "the marginalization of collective actors" (Suddaby et al. 2016, p. 462).

The legitimacy-as-perception approach distinguishes an individual level of analysis from a collective one and highlights individual or collective actors' judgments based on social evaluations. Two legitimacies result from this distinction: individual-level legitimacy and collective-level legitimacy. As Suddaby et al. (2016, p. 463) argue, this approach "retains the notion of legitimacy as property, but . . . uses the metaphor of property as taste, assessment, or judgment of the appropriateness of an organizational product, practice or characteristic." The authors distance the legitimacy-as-perception perspective from legitimacy-as-property perspective as the latter refers to "physical attributes" or manifestations of legitimacy and the former to cognitive or emotive aspects of perception and judgment. The legitimacy-as-perception perspective conceives legitimacy as a socio-cognitive phenomenon, that is, sheds light on individual perception and assessment. It conforms to D2 or D3 insofar as the assessing instances are individuals and investigates the collective level or the collective or generalized perception (Suchman 1995) as well.

The result is a multilevel conception of legitimacy. Scholars working in this stream of research investigate the formation of legitimacy judgments from perceptions of a legitimacy object (X), the actions based on the judgments, and their macro-level consequences for X. Core constructs in this analysis "are perceptions of the legitimacy object, individual's propriety judgment, collective validity judgment, and individual's validity beliefs about what the collective validity judgment is" (Suddaby et al. 2016, p. 468). For the authors, this stream of research is acceptable as long as it recognizes the "cross-level nature of legitimacy and the interactions between the macro and the micro" (Suddaby et al. 2016, p. 468).

One could imagine that at least two of the three perspectives are interconnectable, for example, in the way that an entity (Y) arrives at the judgment, after running through a multilevel legitimization process in which cognitive processes play a prominent part. As Suddaby et al. (2016) point out, the perspectives stand for different worldviews, theories, or epistemologies in legitimacy-related research – a situation that complicates things but does not make a connection impossible (at least in case of the process-and-perception perspectives).

Legitimacy and Stakeholder Theory

In contemporary organization studies, legitimacy-related research to has not much in common with the topics addressed in political sociology (Manza 2011). Beetham (1991, p. xiv), interested in the development of a social-scientific concept of legitimacy, argued that "legitimacy should be understood as a multi-dimensional concept, comprising rules, normative beliefs and appropriate actions." Power and the political order seem to have disappeared as topics from the agenda in the study of legitimacy in organization studies. The political aspect however has a bearing on corporate law – an aspect addressed by stakeholder theory in its early days – and on the design of private orders in form of transaction arrangements. Stakeholder theory is interpretable as an approach that studies aspects of both the social and the private order.

Epstein and Votaw (1978, p. 70) provide reasons for the crisis of legitimacy in America, as observed by Levitt (1973):

> Equally familiar are the common explanations for the crisis. Size and concentration of power in the large corporation play important roles, as do the separation of ownership and control ..., the meaninglessness of "ownership" in the corporate sector, the perceived absence of easily recognized and accepted forms of responsibility and accountability of managers (and the resulting inconsistency with the democratic values of society), the belief that the personal virtues of frugality and hard work are no longer correlated with the way in which power, privilege, and property are distributed in society at large and, increasingly of late, the belief that corporate promises of performance have failed.

Phillips (1997) fairness principle is the source of *mutual* moral obligations resulting from private orders and contracts. Corporate law and other regulations establish or maintain the pivotal influence of shareholders on corporations and constitute the contemporary social order which, according to Stanfield and Caroll (2004, p. 365), still has some shortcomings. After a brief appreciation of the stakeholder idea and social responsibility in their discussion of the power of corporate America, they conclude "The problem of accountability and legitimacy in a democratic market capitalist society remains unresolved."

The Stakeholder Corporation and the Normative Core of Stakeholder Theory

Stakeholder theory was initially developed as a strategic management approach (Freeman 2010 [1984]; Freeman et al. 2018) that has been extended to a business-ethics approach; however, some scholars gave voice to the view that "stakeholder theory lacks the philosophical sophistication of other models in business ethics" (Philipps 1997, p. 52). Stakeholder theory has asked general questions such as "What is the purpose of the firm?" (Freeman et al. 2010, p. 213), touching upon problems common to several disciplines including economics (Coase 1937), sociology (Weber 1978 [1921]), and business ethics (Evan and Freeman 1988). The second question, "to whom does management have an obligation?" (Freeman et al. 2010, p. 213), addresses obligations resulting from regulations being part either of the general socioeconomic order or of private orders, which, e.g., firms and their customers establish for the time period a transaction takes.

With reference to Berle and Means (1932), Evan and Freeman (1988) present stakeholder theory as approach to the modern corporation, thereby dissociating it from the shareholder view of the firm (cp. Freeman et al. 2018). The stakeholder theory of the corporation amounts to a change of the economic system resulting from a devaluation of shareholder resources if compared with stakeholder resources and a change of allocations of rights and privileges based on this devaluation or upvaluation, respectively.

Evan and Freeman (1988, p. 103) propose two stakeholder management principles, the first one being named *principle of corporate legitimacy* (P1): "The corporation should be managed for the benefit of its stakeholders ... The rights of stakeholders must be ensured, and, further, the groups must participate, in some sense, in decisions that substantially affect they welfare." Evan and Freeman doubt the legitimacy of an economic order devoted to protecting shareholder rights and resources. P1 however presupposes and does not explicate the concept of legitimacy. It implies the legitimacy of stakeholder claims toward the firm: "Any social contract that justifies the existence of the corporate form includes the notion that stakeholders are party to that contract" (Evan and Freeman 1988, p. 103). Regarding the purpose of the firm, these thoughts could mean that shareholder interests should not gain major influence on managerial decisions. If the conception of the firm changes, then its governance structure has to change as well including actual regulations that may stand in the way of the stakeholder corporation.

The majority of the stakeholder literature published after Freeman (2010 [1984]) sidestepped the legitimacy issue (Freeman et al. 2010). While the question "what is the purpose of the firm" touches upon the social or institutional order, more than 30 years after Freeman's (2010 [1984]) seminal book, the range of the "idea of legitimacy" seems to have been pared to moral aspects of corporative management decisions. According to Freeman et al. (2010, p. 209), the "idea of legitimacy" is that "certain stakeholders – or stakeholder interests – deserve consideration, regardless of whether doing so would clearly benefit the corporation." The distinction between descriptive, instrumental, and normative stakeholder theory (Donaldson and Preston 1995; Freeman et al. 2010, 2018) gained influence in stakeholder theory.

"Some interests, and some groups, may deserve to shape what firms do based on the fact that their claims are, for example, right, meritorious, or just" (Freeman et al. 2010, p. 209). While Freeman (2010 [1984]) and Freeman et al. (2010) tend to sustain the variety of ethics approaches that can substantiate the normative dimension of stakeholder theory, and downplay that a clear-cut distinction the normative and the nonnormative can be drawn at all, other authors have attempted to provide a unique basis for the normative dimension (Philipps 1997; Donaldson and Dunfee 1999). However, there is no need to narrow normative aspects of stakeholder theory down to legitimacy. In addition, Friedman and Miles (2006, p. 136) doubt that "normative theory is the core of stakeholder theory" and argue for a "descriptive/analytical stakeholder theory that is sensitive to values and norms, through explicit consideration of ideas, belief systems, and identities." Thus, these authors cast doubts on a predominance of second-order theories and principles for the analysis, emphasize the importance of first-order theories in this regard, and argue that "theories and evidence from the one sphere can inform the other" (Friedman and Miles 2006, p. 137; both quotes).

Notwithstanding, today, there seems to be no majority available among stakeholder scholars for the substitution of descriptive analysis for normative analysis. What is observed are strategic debates about the further development of stakeholder theory. A critical point is the resources spent for the development of descriptive/analytical approaches compared with the resources spent for normative analyses. There seems to a broad agreement that normative stakeholder theory is important; however, there is no agreement on the need of one normative core and that legitimacy is the main constituent of this core. Interestingly, Freeman et al. (2010) did not close their discussion of stakeholder legitimacy with a call for more conceptual preciseness but for "pragmatism" in the sense of employing different definitions for different purposes.

Normative and Derivative Legitimacy

Phillips (1997) addresses a list of three problems in stakeholder theory: first, the lack of a coherent justificatory framework; second, adjudicating between stakeholders; and third, stakeholder identification. Phillips (1997) proposes a principle of stakeholder fairness of which he believes that it is able to fill all three gaps.

Freeman (2010 [1984]) held the view that the management has to pay attention to groups that can affect the firm, independently of the appropriateness of these groups' demands. As Phillips (2003a, p. 27) remarks, Freeman (2010 [1984]) has "put aside" concern with legitimacy, which has "created ambiguity within stakeholder theory." Freeman (2010 [1984]) employed "legitimacy" in connection with management issues: he asked if it is "'legitimate to spend time and resources' on stakeholders" and if "all stakeholders have an equally 'legitimate' claim on the resources of the corporation" (Freeman 2010 [1984], p. 45). These questions are important; however, they are, as argued above, secondary to the primary question about the purpose of the firm and the socioeconomic orders in accord with the answer to this question.

While Freeman (2010 [1984]) did not elaborate on legitimacy, Phillips (2003a, p. 28; italics in the original) put a stakeholder lens on legitimacy, arguing that "moral legitimacy is the *sine qua non* of stakeholder status." If this holds true, then not all "influencers" (see Donaldson and Preston 1995) can be stakeholders; thus, stakeholder theory is not applicable to classes of relationships, which, for rational grounds, could and should be addressed by management.

In line with his view that stakeholder theory is not a theory of the "basic structure of society" (Phillips 2003a, p. 27) and drawing on, inter alia, Rawls, Phillips (1997) employed the principle of stakeholder fairness to identify the normative core of stakeholder theory. This second-order principle addresses the "obligations that are created among persons and organizations within the sphere of 'private associations'" (Phillips 2003a, p. 27); thus, Phillips changed the focus from social orders to private orders. Stakeholder obligations "arise when individuals and groups of individuals interact for mutual benefit" (Philipps 1997, p. 52). Distinct from obligations resulting from this principle are "*additional* moral obligations over and above that due simply by virtue of being human" (Philipps 1997, p. 53; italics in the original). Thus, in this narrow stakeholder concept, power did not play any role in the creation of stakeholder relationships. Stakeholders are those entities, and only those entities toward which an individual or an organization has moral obligations resulting from the fairness principle.

A half decade later, Phillips (2003a, b) extended his narrow stakeholder concept to include power-based relationships. He employed the stakeholder idea to mark those entities, which deserve managerial or organizational attention or consideration but were not subsumed under his narrow concept of stakeholder, because the constitutive core of the relationship is power but not moral obligation. Terrorist or radical activist groups can do harm to an organization, and it would be beyond managerial prudence to not pay attention to them. Phillips includes the competitors of a firm in this group. This procedure seems to neglect the welfare effects of competition. It is questionable to conceive of competitors as "harm doers"; quite the contrary, engaging in fair competition could be understood as moral obligation of business organizations (for a more balanced view, see Philipps 1997). In order to turn these entities into stakeholders, it is necessary to extend the concept of legitimacy beyond moral legitimacy. Tapping into the "the general ambiguity of the term," Phillips (2003a, b) stretched the narrow stakeholder approach beyond its moral foundation by distinguishing between normative and derivative stakeholder legitimacy. The reason for this however was not to encounter the concept's ambiguity but to account for "the pragmatic, power-based conception of legitimacy prominent in organization theory and sociology" (Phillips 2003a, p. 29). Notice that this does justice only to what Suchman (1995) called the pragmatist strand of legitimacy-related research in organization studies.

Phillips (2003a, p. 29) is convinced that stakeholder theory "can be rendered more precise and consistent – both internally and with overlapping literatures – if the central idea of legitimacy is understood in terms of normative legitimacy *and* derivative legitimacy." Normative legitimacy is maintained as the "core concept" of stakeholder theory; yet, it is questionable if Phillips has provided reasons for the alleged legitimacy of derivative stakeholders, which go beyond prudence and foresight. Phillips (2003a, p. 31) simply states, "managerial attention to these groups is legitimate, but this legitimacy is derived from their ability to affect the organization and its normative stakeholders." On the other hand, Phillips refers to a concept of legitimacy whose meaning is presupposed. In this sentence, the word "legitimate" has no other function than to extend the scope of stakeholder theory; it is not explained what, for example, is the difference between a sentence beginning with "managerial attention to these groups is legitimate" and a sentence beginning with "managerial attention to these groups is advised." Phillips (2003a, p. 31) does not block from his readers view that he thinks that taking "coercive power" for "derivative legitimacy may add value to stakeholder theory." Taking a political-philosophy lens, the idea that legitimacy flows from power is strange.

Note that this article does not aim to devaluate Philipp's contributions to the understanding of moral obligations of stakeholders. Phillips is right in stating that the content of the fairness principle is to be spelled out in the analysis of concrete stakeholder interactions. Private governance structures or the governance of the value-creation processes they are established for, respectively, have to be assessed from both economic and ethical perspectives. As Freeman et al. (2018, p. 9) have put it, "Even with partially complete contracts in place, relationships remain defined by mutually shared (or not) values and expectations." Marketing studies have highlighted the role of value propositions, mutual faith, and cooperation for the assessment of relationships (e.g., Ravald and Christian 1996; Grönroos 1997; Frow and Payne 2011). On the other hand, Philipp's (Philipps 1997, 2003a, b) analyses show that the use of the legitimacy concept in stakeholder theory is on shaky grounds. In addition, the extension of the narrow concept of stakeholder legitimacy is, at least partly, motivated by the interest in a fit of the stakeholder approach with the use of the concept in some strands in management and organization studies. Given the appropriateness of the fairness principle, one could also ask what the attribute "legitimate" adds to the relationships constituted by the fairness principle.

On the Legitimacy of Markets and Marketing Practice

Value creation, resource integration, exchange, or resource transfers are research objects of marketing studies as are markets and marketing systems as well as private orders and social orders. Boulding (1978) remarked "The legitimacy or otherwise of exchange and of the market as a social institution is a problem which has been much neglected by economists but which nevertheless is extremely important." The problem analysis requires applying a lens being much wider than those often used in marketing studies, e.g., in consumer behavior. The *Journal of Macromarketing's* cover page, showing the slogan "Examining the Interactions among Markets, Marketing, and Society," expresses such a wide lens. Does legitimacy matter because it has effects on markets, marketing systems, or marketing practice, to paraphrase Deephouse et al.'s saying quoted above? Various respondents, including economists and marketing scholars, have given answers to this question.

Marketing studies share research objects such as markets or marketing systems with other disciplines including economics and economic sociology. The legitimacy of markets and the legitimacy of the state have been compared in economics. As Chang (2003, p. 41) points out, "Defining the appropriate roles of the market and the state has been a central concern for policy-makers since the beginning of capitalism." Neoclassical and Austrian economics are recognized for their incisive positions in this debate. They consider the market as being the kingdom of freedom and wealth creation and view governmental activities with distrust. The next subsection briefly addresses some of the positions advocated by Milton Friedman, Friedrich August von Hayek, and Ludwig von Mises who connected legitimacy to freedom and wealth.

The Legitimacy of Markets and Governmental Coercion

From the perspective of Austrian economics, governmental interventionism can hamper the system of economic freedom, that is, the market system. The government interferes with the operation of business by means of orders and prohibitions" (von Mises 1998 [1949], p. 714). Adverse effects follow from a government that "does not limit its activities to the preservation of private ownership of the means of production and its protection against violent encroachments. From the perspective of Austrian economics, governmental activities are in need of legitimization, both with regard to content and amount, because of their derogative potential regarding the unfolding of market activities. Compared with this view, individuals' economic market activities are not in need of legitimization. Why? In his answer to this question, von Mises (1998 [1949]) juxtaposes government power and market power in opposition. While the government is constituted of persons, that is, identifiable entities, the market is conceived of as an impersonal mechanism, as von Mises (1998 [1949], p. 714 f.) puts it, and entrepreneurs or capitalists have to obey the "dictates of the market." Von Mises fights emphatically against governmental coercion. After the removal of this kind of coercion, the market forces can unfold. Nevertheless, von Mises's capitalists or entrepreneurs are kept in leading-strings by the market forces; they are marionettes rather than directors in the economic system. How is this approach associated with the ideas of human will and purpose-guided action? Von Mises did not provide an answer but his student von Hayek did.

As Friedman (1982 [1962], p. 16) remarks, "Because we live in a largely free society, we tend to forget how limited is the span of time and the part of the globe for which there has ever been anything like political freedom: the typical state of mankind is tyranny, servitude, and misery." Three attributes characterize wishful states of human civilization: freedom, justice, and prosperity (von Hayek 2001 [1944]). According to von Hayek, there are forces working systematically toward or against the improvement of the humanly devised states of affairs: impersonal and anonymous market forces and "collective and 'conscious' direction of all social forces to deliberately chosen goals" (von Hayek 2001 [1944], p. 21). For the understanding of the liberal perspective advocated by von Hayek, two aspects are worth mentioning: first, the lowest possible level of coercion is strived for; second, the highest possible level of individual initiative ought to be attained: "The fundamental principle [of liberalism] that in the ordering of our affairs we should make as much use as possible of the spontaneous forces of society, and resort as little as possible to coercion, is capable of an infinite variety of applications" (von Hayek 2001 [1944], p. 17).

Von Hayek, thus, did not promote a dichotomist view of the state and the market. Planning and organizing take place both in market relationships and governments. If, as von Hayek believes, restricting individual initiative is detrimental to the achievement of the wished-for attributes of human civilization, then social orders, so far they can be created at all, should find the right balance between necessary, justified coercion and individual freedom in economic affairs:

> It is a dispute about the best way of so doing. The question is whether for this purpose it is better that the holder of coercive power should confine himself in general to creating conditions under which the knowledge and the initiative of individuals is given the best scope, so that *they* can plan most successfully; or whether a rational utilization of our resources requires *central* direction and organization of all our activities according to some consciously constructed blueprint (von Hayek 2001 [1944], p. 37; italics in the original).

Von Hayek (2001 [1944], p. 37; italics in the original) adds at this point that “It is important not to confuse this kind of planning with a dogmatic *laissez-faire* attitude.”

Note that even an avowed liberal like Milton Friedman did not reject any need for governmental activity in a market economy: “The existence of a free market does not of course eliminate the need for government. On the contrary, government is essential both as a forum for determining the ‘rules of the game’ and as an umpire to interpret and enforce the rules decided on. What the market does is to reduce greatly the range of issues that must be decided through political means, and thereby to minimize the extent to which government need participate directly in the game” (Friedman 1982 [1962], p. 21). The point here is the degree to which governmental activity is allowed to unfold and the view that market activity is not substantiated or supported by it. For this reason, governmental activity has to be reduced to the lowest level possible.

According to the dichotomist view on the relationship of the state and the market, there are no legitimacy-related issues in markets, as private decisions rule the markets. Market metaphysics says that if both parties to a transaction cannot improve their condition, there were no exchanges. Friedman (1982 [1962], p. 19) puts it this way: “The possibility of co-ordination through voluntary co-operation rests on the elementary yet frequently denied proposition that both parties to an economic transaction benefit from it, provided the transaction is bi-laterally voluntary and informed.” Dixon (1990, p. 339, quoting George 1898, p. 331) addresses this topic in terms of the value created by the transaction: “In itself exchange brings about a perceptible increase in the sum of wealth. . . . Each of the two parties to an exchange aims to get, and as a rule does get, something that is more valuable to him than what he gives. . . . Thus there is in the transaction an actual increase in the sum of wealth, an actual production of wealth.” As they do not delimit individual freedom and increase the sum of wealth, all market transactions are legitimate per se. However, this does not mean that they are just or fair as well. In contrast, government decisions are not legitimate per se; the government executes control, power, or authority over individuals and restrictions to individual freedom that are in need of legitimization in any case (Dowling and Pfeffer 1975).

In the next subsections, the article illustrates that the understanding of legitimacy differs in the diverse and competing marketing approaches and their underlying philosophies. With regard to marketing studies, particular marketing practices and marketing per se have been questioned as well as marketing organizations (the advertising industry). The article begins with the former case, the questioning of marketing practice per se. This discussion is about wealth, not freedom. And it assumes that the market is not characterized by the working of impersonal mechanisms.

Questioning the Legitimacy of Marketing Practice Per se

This part of marketing history is related to the understanding of services in economic theory. Marketing practices such as the distribution of goods or retailing have been conceived of as “unproductive” services that add no value to the good once manufactured. If, as the things are seen from the perspective of objective value theory (Stavenhagen 1969), production is the source of value, and if this value is embedded in goods, then all activities which change place, assortment, or accessibility of – material – goods are unproductive or do not contribute to economic wealth, respectively. If marketing practices fall under this category, they are unproductive as well. Marketing practices, when, do not add to economic wealth but take from it. It is for this reason that Bartels (1962, p. 16) notes “In 1900 there was no clear concept of marketing as a productive activity or as a contribution to economic production.”

Dixon (1990) explains in detail how taking a different perspective solved the issue with the productivity of services and marketing practices, respectively. The combination of this insight with a wider concept of production and ideas originating from subjective value theory has spawned this perspective. On the one hand, economists beginning with Aristotle have pointed to the importance of use value accruing from the use of resources and the utility that can result from use processes. John Stewart Mill (1848, p. 24; quoted by Dixon 1990, p. 341) pointed out that human beings cannot “produce” matter but only “cause it to assume properties.” Dixon (1990, p. 341), referring to Francis A. Walker (1888), notes that “the creation of value does not imply any change in form.” From Dixon’s (1990) analysis, it can be concluded that matter can be changed but not created and that manufacturers *and* marketers conduct such changes. In light of this wide concept of production, marketing is as productive as any “change in form.” For the correctness of this conclusion, it does not matter, whether or not marketing activities or services are subsumed under a wide concept of production or under a complete different concept such as value creation (Vargo and Lusch 2004).

Dixon (1990) also presents a division-of-labor-based argumentation to substantiate the positive role marketing practice plays in a market economy: first, specialization increases efficiency, and this holds true for both the workman and the marketer. Marketing contributes to division of labor, as the workman does not need to engage in marketing activities. Second, marketing increases market size, because, ceteris paribus, more work can be done. In Shaw’s (2011, p. 104) words: “The marketing system came into existence, survives and grows because it is the most effective and efficient means of directing scarce resources to alternative uses.”

That marketing practices are not unproductive, or not wasting resources, does not imply that every kind of marketing practice is justifiable. Marketing practices have various facets including the physical distribution of resources; the exchange of information; or doing institutional work to change society’s legal order, normative orders, or taken-for-granted frameworks (Scott 1995). For von Hayek, the flow of knowledge within the market and the ability of actors to make fruitful use of information have highest priority, and the task of information transfer is assigned to the advertising industry. Yet, as Schwarzkopf (2011, p. 10) points out, since the formation of the advertising industry in the late nineteenth century, “advertising was constantly under pressure to justify its existence.” The reasons for this judgment are diverse, and one of them is that “the role of advertising in the larger societal order" is less understood (Hawkins 2009, p. 172). More concrete, the assessment of advertising practices, even of those related to ads, which are not telling the truth, was and is not thoroughly negative.

Questioning the Legitimacy of Advertising

On the on hand, the *market legitimacy claim* is transferable from markets to marketing practices that are considered as both "productive" and adding to the consumer's wealth. The advertising industry informs the consumer about his or her options; the choice remains by the sovereigns. If the consumers make the wrong choices, if they, e.g., consume the wrong things, then it is not their fault but that of the advertising industry. Countering the advertisers' strategies can partly restore the sovereignty of the consumer who shake their fists at consumer boycotts (Hutter and Hoffmann 2013) and engage in degrowth strategies (Lloveras and Quinn 2017) or anti-consumption (Lee et al. 2013).

On the other hand, the legitimacy of advertising has been questioned for three reasons at least: first, advertising does not inform but seduces or belies the customer (Deighton and Kent 1995; Godin 2009); second, advertising "supports" questionable or disputed ideologies and social orders (e.g., male breadwinner ideology and gender relations in society); and third, it plays a pivotal role in the creation or co-creation of questionable or disputed offerings (Deighton and Kent 1995). Deighton and Kent (1995) admit that consumer sovereignty and seduction are incompatible. An advertising industry that belies or coaxes consumers into purchases does not conform to the idea of consumer sovereignty. Seduction runs counter to the idea that transactions are voluntarily bilateral and well-informed and thwart the function of advertising in markets to inform customers about their options.

According to Schwarzkopf (2011, p. 8), the "scientification of market research tools through consumer interviews, panel surveys, consumer juries, program analyzer techniques, and product testing panels ... helped legitimize marketing practices." These tools promised to rebalance the power disparity between producers and consumers (Schwarzkopf 2011). Market research appeared as a channel for the democratic control of society. It nourished the illusion that a democratic control of producers based on the implementation of scientific tools is possible. Although the means the producer has voluntarily implemented are usable for controlling him or her, they would not do so if this runs counter to their objectives. Proponents of the marketing concept, that is, of "the cornerstone of the [marketing] discipline" (Brownlie and Saren 1991, p. 34), left no doubt that the marketing research techniques are a means of enhancing a firm's profitability via the information gained from the customers or the market through the application of these techniques (see Weeks and Marx 1968).

Market research tools are designed in order to improve the firm's capacity to learn about what is called *consumer needs*. At this point, the story of economists "who give utility its primary position in economic analysis, arguing that the origin of economic value lies in the needs of customers" (Dixon 1990, p. 338), meets the philosophy of the marketing concept (Kotler 1967). As “at the core of this concept is the dependence of any enterprise on the goodwill and satisfactions of its customers” (Kimery and Rinehart 1998, p. 118), the firm’s major marketing objective or task is the satisfaction of consumer needs. As Weeks and Marx (1968, p. 39) have put it, “this marketing concept can be defined as the unifying approach marshalling and directing the total resources of a business firm toward the determination and satisfaction of consumer and middleman wants and needs in a way planned to enhance the firm’s over-all profit position.”

Austrian economists and advocates of the German ordoliberal school “brought marketing-related phenomena, such as advertising and consumer behavior, and normative theories much closer together than they had been before” (Schwarzkopf 2011, p. 12). Von Mises was not against the use of market research tools, and he addressed the relationship between a firm and its customers in terms of necessity rather than information provision:

> In his capacity as a businessman a man is a servant to the consumers, bound to comply with their wishes. He cannot indulge his own whims and fancies. But his consumers’ whims and fancies are for him ultimate law, provided these consumers are ready to pay for them. He is under necessity of adjusting his conduct to the demand of the consumers. If the consumers, without taste for the beautiful, prefer things only ugly and vulgar, he must, contrary to his own convictions, supply them with such things (von Mises 1998 [1949], p. 241).

On one hand, this is coercion, but not the coercion executed by “a fellow man” but by the market forces; it is thus in accord with the liberal interpretation of political freedom: “Political freedom means the absence of coercion of a man by his fellow men” (Friedman 1982 [1962], p. 21). On the other hand, this points to the dilemma that a need-based social control might increase the wealth of the customer, but does not take into consideration those action consequences spelled out in terms of negative externalities, environmental degradation, loss of biodiversity, etc. From a legitimacy-oriented lens, neither the customers’ wants nor the firms’ activities are justified by social control through the execution of marketing practices.

Legitimacy-Related Research in the Marketing Discipline

The managerial approach to marketing is interested in stakeholder legitimacy (Santana 2012), the legitimacy of strategies and offerings (Bonsu and Polsa 2011) or of new ventures (Rao et al. 2008; Homburg et al. 2014), or the legitimacy of the advertising industry (Schwarzkopf 2011), or in organizational acceptance (Yang et al. 2012). Research in consumer behavior has addressed the legitimacy of brands (Holt 2004; Kates 2004; O’Reilly 2006; Hakala et al. 2017), hybrid cultural products (Coskuner-Balli and Ertimur 2017), or fashion (Phillips and McQuarrie 2011). Intersections of marketing studies with law and ethics become visible, if the legitimacy and the legality of a social object are addressed (Humphreys 2010; Coskuner-Balli and Ertimur 2017; Geiger-Oneto and Simkins 2018).

Marketing scholars, especially those drawing on approaches and methodologies originating from organization studies, have tended to hark back to the descriptive-analytical strand of legitimacy-related research. Building on Scott's institutional framework, Humphreys (2010, p. 492) advocates the legitimacy-as-process perspective: the regulative, normative, and cognitive pillars of institutional analysis notwithstanding, the concept of legitimacy "remains bounded to its application describing the process by which a practice or an idea becomes incorporated into the dominant, mainstream institutions of society."

The understanding and use of the concept of legitimacy in marketing studies depend on the marketing approach in question. Deighton and Kent (1995) discuss legitimacy and deception in advertising from a social-constructivist perspective that brings them close to an idea advocated in relationship marketing, services marketing, or the service-dominant logic, namely, that value is co-created by provider or customer or by dyads embedded in networks, respectively (Lusch and Vargo 2014). They conducted a case study about the "operation of a business known as the Land of Chonda-Za and the College of Love" (Deighton and Kent 1995, p. 663), a direct mail program in operation for 20 years. The mail program nurtured intense relationships between Chonda-Za and its customers; for this reason, the authors conclude that the customers were involved in creation of the offering. They argue, insofar and to the degree seduction is co-created, it is not completely illegitimate. What is of interest here is the "agreements as social consensus" (Deighton and Kent 1995, p. 661) governing the interactions of provider and customer – the private order – and the active part the "consumer" plays in their analysis (note that according to the marketing concept, the consumer is not a co-creator of value but a receiver of the value the firm has created). As Humphreys (2010, p. 492) has pointed out, the meaning of consumption is negotiated by the interactions of all stakeholders or "members of a shared social world."

Hakala et al. (2017) investigate legitimization discourses in online brand communities. These approaches oppose narrow firm- or management-centered versions of stakeholder theory (for an example, see Santana 2012). Taking a process and historical perspective, changes in the meanings of consumption practices come in sight, which can legitimize or delegitimize the practices (Humphreys 2010). Bonsu and Polsa (2011) criticize the base-of-the-pyramid (BoP) corporate strategy promoted as market-based solution to global poverty as an exercise in "governmentality" (see Fougère's and Skålén's 2012 discussion of power and managerialism). From the perspective of these authors, a "BoP-strategy mimics neocolonial incursion into heretofore inaccessible markets" (Bonsu and Polsa 2011, p. 236); the poor are constituted as "free, self-governing individuals"; and the function of BoP partnerships is to "legitimate a regime of self-regulation" (Bonsu and Polsa 2011, p. 242).

Ideas, beliefs, and shared understandings are movers in process-oriented legitimacy studies. Ideas and beliefs hark back to, e.g., political or economic philosophy, substantiating, e.g., the political legitimacy of marketing practices (Shaw 2011). As Epstein and Votaw (1978, p. 79) remark, "Congruence with prevailing ideology would seem to be as important as any other element in creating legitimacy." Critical marketing studies have linked ideology with legitimation processes. They addressed the role of marketing philosophy (or ideology) both on consumer and marketer beliefs (Marion 2006; O'Reilly 2006; Fougère and Skålén 2012) or how advertising both reflects and influences ideological shifts (Belk and Pollay 1985; Zhao and Belk 2008) in markets. Belk and Pollay (1985, p. 887), conducting an analysis of advertisements in US journals between 1900 and 1980, found "evidence that recent advertising has increasingly portrayed consumption as an end in itself rather than as a means to consumer well-being." Critical marketing scholars interpret ideology in terms of *false ideas* which help to legitimate a dominant political power, e.g., managerialism relying on sovereign power (Fougère and Skålén 2012). The point here is that legitimation processes – seen from a critical perspective – can go wrong as "ideology . . . produces legitimation to those who are in a dominant position" (Marion 2006, p. 246).

Obviously, the creation of a marketing system that allows the participation of the poor in the market process is not sufficient to legitimize both single transactions and the system in general. Compared with descriptive legitimacy according to stakeholder theory, power is not something exerted by someone (stakeholder) on the firm (corporation) but something exerted by the firm (corporation) on the customer (stakeholder) – and exerted in way detrimental to its customers.

Discussion and Conclusions

Differences in theoretical perspectives, epistemologies, or worldviews have coined legitimacy-related research in organization studies. These differences have led to two main research strands, a strategic, management-oriented strand and an institutional strand. While this article did not aim at providing a full-fledged analysis of the use of the concept of legitimacy in organization studies, the conclusions seem to be acceptable that first, a theoretical concept of legitimacy has not arisen from organization studies; second, that the political and normative dimensions of the concept of legitimacy are under-researched; and third, that conceptualizations of legitimacy in organization studies may suffer from an insufficient distinction between conceptual and empirical issues.

The question arises, why, from a theoretical perspective, legitimacy is relevant or should be made the subject of analysis. For Deephouse et al. (2017, p. 34), "Legitimacy matters because it has consequences for organizations" or because of "its many benefits to organizations" (Deephouse et al. 2017, p. 28). Survival is a major topic in legitimacy-related studies (Epstein and Votaw 1978). Deephouse et al. (2017, p. 35) confirm "institutionalists have argued that legitimacy enhances organizational survival." Is organizational survival a value per se? Epstein and Votaw (1978, p. 72) touch upon this topic, quoting Maurer (1971): "Legitimation is the process whereby an organization justifies to its peer or superordinate system its right to exist." The political, ethical, or normative question what the "right to exist" presupposes or contains seems to have disappeared from many contemporary analyses in organization studies. Epstein and Votaw (1978, p. 70) discussed legitimacy against the backdrop of a "crisis of legitimacy in America and, especially, in the corporate system." They conducted their discussion of legitimacy within a framework constituted by responsibility, rationality, and legitimacy.

From the perspective of social-constructivist approaches in organization studies, legitimacy is a phenomenon of the social world or brought into the world in the form of practices and the perceptions of life-world actors, respectively. As Deephouse et al. (2017, p. 32) have put it, "organizational legitimacy is a perception of organizations by stakeholders." Organization studies investigate processes in which the actors and their perceptions, beliefs, and understandings are involved. Scholars describe these processes and perceptions or understandings in terms of legitimacy. In this use, legitimacy is part of descriptive language, no theoretical term.

A major point in this regard is how issues related to the concept's meaning or semantics relate to its determination or "measurement" in empirical studies. What does the "extension" of theoretical categories into empirical categories mean in this context? Deephouse et al. (2017, p. 41) discuss proposals of scholars according to that the three *purposes of legitimacy* are "*Extending, Maintaining and Defending Legitimacy*" or the three *challenges of legitimacy* management are "*Gaining, Maintaining and Defining Legitimacy*." Do the languages and semantics used by scholars and those of first-order actors fall into one?

In what circumstances can the legitimacy-related semantics lead to additional insights? Consider, for instance, Deephouse et al.'s (2017, p. 34) belief that "most stakeholders will only engage with legitimate organizations." Does this mean that the majority of market transactions ("most stakeholders") has been conducted by parties, who, prior to the transaction, have perceived or assessed each other (prior to the transaction) as "legitimate"? Is this a statement thought to be subjected to empirical assessment or a variant of "market metaphysics"?

Legitimacy-related research faces a double fuzziness not sufficiently addressed yet. Both first- and second-order theories are sources of this vagueness. The discussion of advertising in subsection "Legitimacy-Related Research in the Marketing Discipline" is an example for both sources. From a pure information-economic perspective, Chonda-Za's practices were not desirable, proper, or appropriate and, therefore, illegitimate. From a services-marketing or service-dominant logic perspective, however, the customers have co-created the offering. As Deighton and Kent (1995) report, from the perspective of many customers, the co-created offerings and the value-creation process were appropriate, desired, or proper. Many of Chonda-Za's customers might not felt being betrayed but enjoyed the value gained from co-creating value with Chonda-Za. The interaction process increased their subjective wealth. As this discussion shows, valuations and judgments can vary. What can be learned from this example is that perceptions and assessments can differ, first, between life-world actors and scholars and, second, between life-world actors and law (Chonda-Za was sentenced). This example ought not to substantiate the view that the law can provide superior criteria for the assessment of legitimacy. As Epstein and Votaw (1978, p. 76) admit, "Legitimacy is not coextensive with, nor is it defined by, legality." Yet, as Epstein and Votaw (1978, p. 76) continue: "In a democracy the law is likely to be more or less consistent with social values, goals, and norms, but not perfectly so." Peter's (2017) remark applies that second-order judgments are required informed by second-order theories.

Legitimacy is a concept employed in social-scientific disciplines such as sociology, organization studies, or marketing studies on the one hand, and stakeholder theory – whose status between social-scientific and philosophic theory is under debate – on the other. Against this backdrop, one could expect that legitimacy is a concept bridging different disciplines. It is difficult to assess if this objective, if it were an objective, was achieved. At this point of time, it seems that both marketing studies and organization studies have more in common with regard to what they disregard (normative dimensions or power) than what they regard in legitimacy-related research. Legitimacy is often no exclusive topic in marketing studies but rather considered an epiphenomenon of other research objects (brands, industries, products, etc.). One reason for this is the narrow scope of marketing studies, if assessed in the light of distinctions such as for-profit/nonprofit, micro/macro, and positive/normative (Hunt 1976). Hunt characterizes the managerial approach to marketing as micro, for-profit, and normative (devoted to the objectives of firms) and, because of its normativity, as unscientific. Macromarketing does not share Hunt's strong view on the positive-normative distinction and the avoidance of value judgments in science; it is also constitutive for macromarketing that it avoids the pitfalls of managerialism (Fougère and Skålén 2012). Ethics and value orientations played an important role in macromarketing research from the beginning (Laczniak et al. 1981; Monieson 1981, 1988; Laczniak 2018). For this reason,there are points of reference for the preparation of a substantial framework for legitimacy-related studies in marketing doing justice to its various dimensions including normative or ethical ones. More concrete, the fruitfulness of legitimacy-related research seems to be limited if not connected to a value-based framework of analysis.

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Public Relations and Business Legitimacy

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Abstract

The vast field of public relations contains multiple theoretical, methodical, and conceptual approaches, with research spanning such disciplines as sociology, ethics, linguistics, communication studies, behavioral psychology, management theory, and many more. Upon giving an introductory overview of main developments in the field with a specific focus on the concept of business legitimacy, this chapter proposes to follow a specific path promising fruitful insights for the student, practitioner, or researcher with an interest in business legitimacy. It is argued that the two-way symmetry model of excellence benefits from being theoretically informed by a Habermasian perspective on publicity and communication when dealing specifically with issues of pragmatic, moral, and cognitive forms of legitimacy. Taking such theoretical bearings, the chapter ultimately presents a contemporary case study exemplary of a prototypical business legitimacy issue.

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Introduction

As Ihlen and van Ruler (2007) point out in a programmatic paper on current and future perspectives on public relations, the field of public relations is diverse, multifaceted, and interdisciplinary. Since no approach can take account of all the various perspectives, it is imperative to be highly aware of what deontological background and disciplinary roots are underlying the approach and that "…methodological roots heavily influence one's perspective on what public relations is, how it works and how it should be researched. That is why it is important to make these roots explicit" (Ihlen and van Ruler 2007: 244). Giving a coherent presentation of how business legitimacy can be managed in a public relations context thus requires making some choices of which paths to follow through the vast and diverse field of public relations.

Starting out from a general overview of the field in relation to business legitimacy, the current presentation will specifically follow a *normative* path arguing that such an approach to public relations provides fruitful perspectives on business legitimacy. The so-called excellence tradition (Grunig and IABC Research Foundation 1992) is based on the idealized norm of social symmetry in communicative relations and represents the most widely accepted, normative approach.

As argued by Ihlen and van Ruler (2007), research in the field of public relations needs to add to the field's traditions of *managerial* and *behavioral* approaches by applying *social* perspectives, exemplified by such thinkers as Bourdieu, Foucault, Weber, and Habermas, in order to enable an understanding of public relations as a societal phenomenon. Specifically, this presentation focuses on an idealized model of symmetrical communication drawing mainly on theoretical implications of Jürgen Habermas' account of the transformation of the public sphere (Habermas and Burger 2008) as they are transformed into a full theory of communication in his seminal *The Theory of Communicative Action* (Habermas 1991). Thus, the disciplinary roots of the current approach draw on a model of public relations excellence understood in terms of a critical theory of publicity and communication. The approach is aimed at bringing about an understanding of how legitimacy is maintained communicatively in public relations practices, where public relations is seen as a cocreational form of activity performed by various interactants in a social space where two-way symmetrical communication is latently possible.

Starting out by positioning such an approach in the broader field of public relations, the paper goes on to discuss legitimacy seen through a balanced understanding of how communication practices are shaped between the everyday, rhetorical and strategical action and the idealized, yet counterfactual, presuppositions that ultimately shape them. In order to exemplify, the paper will eventually present a real-life case in which the implications of this approach can be seen to be a viable way of understanding business legitimacy in public relations.

Legitimacy Through the Lens of Public Relations

Legitimacy Defined

In this paper, the central term *legitimacy* is used in the sense given in Suchman's (1995) widely held definition that combines and synthesizes evaluative (i.e., an entity's justifiability) and cognitive (i.e., an entity's understandability) approaches into a broad, comprehensible definition: "Legitimacy is a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman 1995: 574).

Citing Weber (Weber and Roth 2013) and Parsons (1960) as the foundational works for a contemporary understanding of legitimacy, Suchman points out that a comprehensive definition needs to encompass both strategic and institutional perspectives. Whereas the strategic perspective will tend to look at the management of legitimacy as willful instrumental agency embedded in the organization, the institutionalist view will focus on symbolic dynamics and cultural contexts ultimately shaping the organization's register of possible action. The "perceptions" and "assumptions" mentioned in the definition may thus be embodied both as optics from within an organization and as the outside view looking into the organization. With this double perspective, Suchman goes on to point out that legitimacy, as defined above, may take the forms of pragmatic, moral, or cognitive legitimacy (Suchman 1995: 577ff). Pragmatic legitimacy basically rests on self-interest: An organization may achieve pragmatic legitimacy with a social audience in so far as the members generally view the organization's actions as beneficial to their interests. By contrast, moral legitimacy is achieved when the organization's actions are seen to be right on a socially accepted scale of right and wrong in a more general context. Finally, cognitive legitimacy refers to the audience's perception of being able to comprehend or make sense of the organization's actions. In a prominent understanding of the cognitive type, legitimacy is achieved when an audience perceives of the organization's actions as coherent and meaningful in an otherwise chaotic, social reality (Suchman 1995: 577–587).

In the following account, an effort is made to show how pragmatic, moral and cognitive forms of legitimacy come into play in the context of a normative public relations model and how the distinction turns out to be productive in an empirical public relations case study.

The Field of Public Relations

At first glance, the name of the discipline *public relations* seems to aptly suggest what it is about, the practice of creating or maintaining "relations" in the "public." However, as we shall see, this first superficial approximation begs the question, since what is meant by "public" is just as ambiguous as what is meant by "relations." As we shall see, the meanings of the words turn out to be dependent on both historical and theoretical contexts.

Based on a discussion of past reviews of the field of public relations, Botan and Taylor (2004: 651ff) point out that public relations research has shifted from a functional perspective to a cocreational one in the last three or four decades. Whereas the functional paradigm would tend to focus on a process where public relations is seen as instrumental in the organization's attempt to accomplish specific goals, the cocreational paradigm emerges with a shift from *goal* to *relation*. In the cocreational perspective, focus is on how meaning is negotiated in relational networks, rather than on organizational self-preservation, thus pointing to the fusion of the objectives of ethics and efficiency which is embedded in James Grunig's symmetrical/excellence model (Grunig and IABC Research Foundation 1992). Among a multitude of interpretations of the development, Botan and Taylor's point of view has become a quite influential and consensual take on the development of the field. Otherwise, the history of public relations is contested. While Grunig and Hunt's seminal *Managing Public Relations* (Grunig and Hunt 1984) recounts the field's emergence as coinciding with the advent of American commercial press agencies in the 1800s and the resulting need for entrepreneurs and business people to break through gatekeepers and become publicly heard, Cutlip, Center, and Broom (Broom and Sha 2013) argue that essential aspects of the field can in fact be traced back to antiquity, and several scholars have indeed made the point that the field's challenges and perspectives are modern reflections of similar challenges and perspectives dealt with by the field of rhetoric since antiquity (see an account of these positions in Ihlen 2010).

Without taking sides in that dispute, it can be argued that Grunig and Hunt's four models sketching out an understanding of the recent history of the field are useful for understanding the field not just diachronically but in synchronicity as well, since communicative self-understandings in organizations relating to all four models can be seen to prevail as competing views and practices when relating to the public (Grunig 2001: 11; Leichty and Springston 1993).

Consequently, we shall regard Grunig and Hunt's proposition that the emergence of public relations can be seen through four consecutive models, not just as history but as competing paradigms of communication in the contemporary market place of communicating organizations:

The Press Agentry/Publicity Model

Managing public relations under the view of the press agentry model is basically equivalent to the staging of a propaganda effort. It is a one-way form of communication where any means that are instrumental in persuading the audience of the legitimacy of some action are to be applied. Parameters such as truth or moral acceptability are of little importance in this approach. Historically, Grunig and Hunt point to the mid-1800s as the time of emergence for the press agentry/publicity model, but it can still be seen as active today, though it may be more readily observed in contexts with no clear boundaries between public relations and commercial marketing practices.

The Public Information Model

In contrast to the press agentry model, the public information model is not indifferent to communicative virtues such as truth, sincerity, or moral accountability. In fact, since public relations under this view is equivalent to the dissemination of information to the public, such communicative virtues are standards by which the effort is eventually evaluated. Yet, like the press agentry model, the public information model assumes a one-way model of communication – it is linear, and there is no formalized feedback from an audience, whose ideas, notions, and interests are largely irrelevant to the effort. Grunig and Hunt place the public information model at the early 1900s, but it is arguably not hard to find contemporary examples of this, especially when public relations activities are undertaken by the non-professional, or not too reflective, practitioner of the field.

The Two-Way Asymmetrical Model

The two-way asymmetrical model represents an important development in that a feedback function is now understood to reciprocally mediate the communicative effort. In this model, the audience is seen as an active participant in the process, yet the model's "scientific persuasion" genre of communication implies that the sender is still seen as superior in terms of both knowledge and power. That means that the message to be conveyed reflects the persuasive goals of the sender only, though the message is now tailored to match the needs and preferences of the audience by way of a channel for feedback. Most importantly, the self-interest of the organization remains a nonnegotiable parameter. This model is historically dominant in the industrial and postindustrial eras of the late twentieth century and in practice reaching into the present.

The Two-Way Symmetrical Model

By the time of the publication of *Managing Public Relations* (Grunig and Hunt 1984), the two-way symmetrical model was largely seen as a hypothetical or even utopian vision, though several scholars have since been arguing for its realism (Grunig 2001; Pearson 1989a), and Botan and Taylor go further to state that by way of the cocreational turn, new approaches are even more relational and focused on the dialogical construction of meaning than was the original excellence model (Botan and Taylor 2004: 652ff). The two-way symmetrical model departs from the two-way asymmetrical model in its crucial departure from the idea of the superior power and knowledge of the sender. In this model, the sender is seen as an equal participant on par with the receiver. The communicative goal is to reach reciprocal understanding, and the organization may only legitimately act on the basis of such understanding. The radical consequence is that the organization is at risk of abandoning parameters vital to its self-preservation yet has a chance of gaining maximal legitimacy at the same time. We shall discuss further how that process works in the exploration of legitimacy in a theoretical context of communicative action below.

The above representation of the field in terms of the four models has been contested by scholars of public relations pointing out that the models represent one outline of a historical development but that the parameters of one-way/two-way relationships and asymmetrical/symmetrical balance of intended effects are not necessarily the only or even most obvious defining criteria (Hutton 1999) and that the discrete representation of models overshadows the continuous and multifaceted development of the field (Cancel et al. 1997, 1999). Elaborating these discussions further falls outside of the scope of the present account which will be limited to noting that Grunig and Hunt's models have evolved into a normative excellence understanding of public relations (Grunig and IABC Research Foundation 1992), the normativity of which has been opposed by a descriptive approached based on a contingency model of public relations (Cancel et al. 1997) proposing a set of contingency variables relating to the organization and its context which serves to decide at which point on a continuum between advocacy and accommodation the organization should aim its actions. Also, an emerging systems theoretic paradigm (Holmström 2010) takes on a less idealistic approach.

Another distinction which we shall have to largely ignore is the often proposed distinction between American and European public relations traditions (van Ruler B, Verčič D 2004; Verčič et al. 2001; Merkelsen and Højbjerg Christensen 2014: 17), the American version allegedly being largely meta-theoretically dependent on Dewey (1991) and the European tradition depending on neo-Kantian thinkers such as Jürgen Habermas (1984a, b; 1991). Instead a distinction between normative and descriptive approaches is found to be generally more adequate in the current study, since normativity of course is by no means a European trend in public relations (cf. Pearson 1989a, b; Grunig and IABC Research Foundation 1992), and both a Dewean account of a multitude of *publics* and a Habermasean focus on the *public sphere* are theoretically useful conceptions in a normative approach to legitimacy in public relations. As it will be argued in the following, business legitimacy can be fruitfully studied in the light of a normative model of communicative action regardless of these proposed geographically founded positions.

The preferred position here, a normative excellence approach, is well suited to deal with legitimacy since the mentioned aspects of legitimacy, i.e., pragmatic, moral, and cognitive, have a normative import; while pragmatic and moral legitimacy is clearly related to perceptions of teleological and deontological normativity, respectively, even the sensemaking requirement of cognitive legitimacy is arguable most likely mediated in a symmetrical setting of normatively based dialogue. In order to expand on this insight, we shall now look more critically at the communicative conditions for maintaining business legitimacy in a normative public relations setting.

Business Legitimacy as Rhetorical Public Relations in a Destabilized Public Sphere

In a comment to Grunig's model of excellence, Ron Pearson (1989a) indicates how Habermas' thoughts on communicative action and discourse ethics are directly applicable as a meta-theoretical framework for the symmetrical model of public relations excellence. Several scholars have since taken up the task especially with regard to Habermas' generic work on communication and ethics (Leeper 1996; Burkart 2004; Meisenbach 2006; Burkart 2007), whereas the earlier work on the transformation of the public sphere (Habermas and Burger 2008) has been somewhat kept in the background. However, with its historical approach to the ideals of the public sphere, and hence dependent on a range of cultural self-understandings prevailing in communicative practices, Habermas' early theory of the public sphere can be argued to play a central role in a normative approach to public relations. As Ihlen and van Ruler point out (Ihlen and van Ruler 2007), the *Öffentlichkeit*, a word that is not readily translated into English, refers more to a context for the organization's communication than to the communication itself. However, the pre-occupation with the transformed or destabilized public sphere of the twenty-first century, i.e., the space in society for public communication, however fragmented and multi-contextual it may be, is of central concern for understanding the conditions for private organizations' efforts to achieve corporate legitimacy.

In a normative approach to business legitimacy in public relations, Jürgen Habermas' account of the transformation of the public sphere (Habermas and Burger 2008) is thus an important background work. Written in the mid-twentieth century as a contribution to neo-Marxist critical theory, the author's approach to the field of public relations in Chap. 6 is one of dismissal – PR is seen as a form of activity which runs directly against the ideals of the bourgeois public sphere. However, as Leeper notes (Leeper 1996: 145), Habermas' very critical approach toward public relations was clearly directed toward a form of public relations modeled on Grunig and Hunt's press agentry model, that is, a model that is highly strategical and instrumental in its form. By contrast, the two-way symmetrical model conforms quite closely to Habermas' general idea of communicative action as it was later laid out in the comprehensive theory of communicate action:

> Habermas's approach is dialogical, two-way symmetrical, and cooriented. The terminology used by Habermas in explaining his approach is very similar to the terminology used by Grunig and Hunt. (Leeper 1996: 134)

Whereas Habermas' universal pragmatics (Habermas 1984b) and theoretical distinctions between strategic and communicative action (Habermas 1991) were published after the theory of the transformation of the public sphere (Habermas and Burger 2008) (the treatise was originally published in 1962), these former distinctions can be seen as laying the theoretical groundwork for the public sphere model. The presupposed, yet very real, dialectical rules for arriving at the common good by way of rational argument in the public sphere can be seen as general rules of communicative action reinvoked as a public sphere ideal: Communication is oriented toward consensus as transcendental ideal; the ideal is "counterfactual" as Habermas points out, which means that it is hardly attainable in practical reality, but it explains why the strategic action of everyday communication does not degrade completely into instrumental anarchy; strategic action has a "parasitic" relationship to communicative action, according to Habermas; organizations' everyday rhetorical practices, impeded as they may be by structures of power, money, and noise, rely on the ideal of communicative virtues of being truthful, morally right, sincere, and comprehensible. As a central example, it is logically impossible to be *untruthful* without tacitly referring to an expection of truth, and consequently, the successful strategic action of being untruthful paradoxically relies on the truth-condition for the speech act in question. This interplay between counterfactual norms and factual practices is what renders an excellence-oriented model such as Burkart's *consensus-oriented public relations* model (Burkart 2007: 251f) a realistic and viable approach.

The distinction between public and private is the catalyst of public relations complexity when seen in the light of Habermas' theory of the transformation of the public sphere. Based on antiquity's ideal of the *agora* as the forum where citizens would meet in rational discussion to arrive at solutions to common (i.e., public as opposed to private) problems, the development of the bourgeois public included a similar ideal of rationality and common good. This ideal separates the public sphere from the private sphere where citizens would not need to comply with rationality in the same way. In an idealized account of this binary structure, public relations needs to undertake a challenging complexity. Insofar that the organization in question is a private corporation, it is subject to the rationale of the private sphere, being the freedom of ownership, self-preservation, restricted only by the state's demand for complying with the law. In other words, in the private sphere, the organization needs merely to be *legal*. However, in terms of the organization's *public* relations, which have less to do with its economic interests than with the emerging need to also be *legitimate*, the organization needs to be able to act and communicate in accordance with the rationality governing the public sphere, where virtues such as the common good, ethics, social responsibility, ecology, etc. become the tenets of the discourse.

Central to Habermas' presentation of the distinction between private and public, however, is that a range of historical and social changes structurally transform the public sphere causing it to lose its ideal function, a process which is arguably going on today. Habermas saw the structural change as the consequence of immediate changes in society in the industrial era, the most prominent and consequential change being the emergence of a large working class claiming its right to participate in the political process, rendering obsolete the ideal of a homogenous bourgeois set of common interests and values at the core of democracy. In the postindustrial era, structural changes commence in a further fragmented and compartmentalized public sphere with new media rapidly changing communicative conditions. The twenty-first-century public sphere is a destabilized political communication system, posing a challenging context for public relations (Dahlgren 2005; Blumler and Gurevitch 2001; Karatzogianni 2016; Pfetsch 2018).

Dahlgren (2005) condenses and updates Blumler and Gurevitch's diagnosis (Blumler and Gurevitch 2001, see also Blumler 2018) of the main themes of the destabilized public sphere as follows:

- Increased sociocultural heterogeneity and the impact that this has on the audiences/actors within political communication

- The massive growth in media outlets and channels, along with changes in the formats of media output, the blurring and hybridization of genres, and the erosion of the distinction between journalism and nonjournalism
- Today's increased number of political advocates and "political mediators," including the massive growth in the professionalization of political communication, with experts, consultants, spin doctors, and so forth sometimes playing a more decisive role than journalists
- The changing geography of political communication as the significance of traditional national borders becomes weakened
- The cacophony that emerges with this media abundance and so many political actors and mediators
- The growing cynicism and disengagement among citizens. (Dahlgren 2005: 150)

Adding to the complexity is the latent, simultaneous existence of both idealistic and realistic self-understandings for various stakeholders in the public processes; the press institution may at once harbor a classic self-understanding as an independent watchdog for democracy and as an agent in an essentially undemocratic orbit of strategic and economic power; the organization may at once see itself as a classically private organization whose only goal is economic self-preservation and mere legality, while paradoxically acknowledging the external demand for being socially and ethically responsible in a public sphere with complex conditions. The consumer markets may be heterogenous on a scale from passive objects of marketing strategies to politically conscious and activistic (Nielsen 2013). Together with Dahlgren's list above designating the themes of the destabilized public sphere, such complex self-understandings can be seen as the current instantiation of Suchman's "socially constructed system of norms, values, beliefs, and definitions" forming the context for maintaining legitimacy (Suchman 1995).

In the light of the complexity of the destabilized public sphere, it appears that the conditions for the organization's maintenance of legitimacy are ever changing, and a methodological approach to analyzing communicative activity needs to be sensitive to how symbolic representations of publicity are mediated in stakeholders' persuasive strategies to influence any given perception of legitimacy. Several scholars have emphasized rhetorical methodology as being essential for that purpose (see Kjaerbeck and Nielsen (Forthcoming) where early texts such as Toth and Heath 1992 and Elwood 1995 are discussed as well as later contributions to the rhetorical tradition in public relations such as Heath 2001, 2010), since the recipient of the communicative act must be persuaded, not by deceptive instrumentalization such as propaganda (since propagandistic communication makes the organization's legitimacy potentially vulnerable to public critique) but by exploring the potentially persuasive aspects of a case, thus invoking Aristotle's classic definition of rhetoric (see also Ihlen 2010 which explores the Aristotelian definition as a model for rhetorical public relations).

The rhetorical approach is coherent with a normative approach to public relations, insofar as it is seen as a strategic action practice suspended in a balance between the normatively inacceptable propagandistic practice (cf. Grunig and Hunt's press agentry model) and the idealized, yet counterfactual, communicative action (cf. Grunig and Hunt's two-way symmetrical model). Strategic action is not unethical per se but should be seen as the realistic, communicative practices in the "market place," drawing on, and referring to, communicative ideals as the bearings and measurements of legitimacy.

In order to make this point, we shall now proceed to look at a case study demonstrating how a normative approach can yield fruitful results, establishing the symmetry model as a more or less counterfactual theory behind the analysis of business organizations' conditions for achieving legitimacy in complex environments.

A Case Study: Coolest Monkey in the Jungle

In early January 2018, a Swedish retail clothes corporation ran an ad in several international media featuring a young black boy wearing a hoodie with the text "Coolest Monkey in the Jungle" running across the front. Critical voices soon spread on social media and eventually reached mainstream media, creating an actual legitimacy crisis for the corporation. An accusation of racism was leveled against the organization from many sides; the word "monkey" in connection with the depiction of a black child conjures up visions of past racially charged advertising and turned out to be an explosive mix. In the ensuing furor, human rights activist groups went viral with condemnation, celebrities and artists announced that they would terminate their cooperation with the organization, while the controversy was widely reported on and commented by political commentators and newspaper columnists further accelerating media diffusion. Anger went global in only a few days, and in South Africa one of the organization's retail stores was even violently raided and thrashed by activists (for further information, see under Internet Resources below).

Whereas the ad itself is part of a marketing strategy (in this case albeit a failed one), the organization's response to the widespread controversy and backlash is an instance of public relations since it addresses not the customer as such with arguments pertaining to the product itself but the public, addressing issues relating to the standard of social responsibility and moral legitimacy. The response, phrased as apologies, was widely publicized on the organization's website, on social media, and in news outlets, including the following text:

1. *We understand that many people are upset about the image. We, who work at [the organization], can only agree. We are deeply sorry that the picture was taken, and we also regret the actual print. Therefore, we have not only removed the image from our channels, but also the garment from our product offering globally. It is obvious that our routines have not been followed properly. This is without any doubt. We will thoroughly investigate why this happened to prevent this type of mistake from happening again.*

In addition, in the attempt to invoke an impression of an organization ready to engage in a dialogue with the critical voices, the organization published a brief note on its social media account stating:

2. *We are listening.*

Texts 1 and 2 are good representations of how a public relations strategy designed to repair a damaged legitimacy profile is typically expressed in the early twenty-first century. To return to our definition of legitimacy, it seems obvious that the incident has seriously compromised the publicly available, *generalized perception* of the organization's propriety within the given *socially constructed system of norms*, *values*, *beliefs*, *and definitions* (cf. Suchman 1995). The texts are designed to speak into the "cacophony" of the destabilized public sphere, with value systems and norms subject to the globalized, sociocultural heterogeneity and the complexity of the media landscape mentioned by Dahlgren (2005). Rhetorically, the two texts clearly serve different purposes within the general purpose of repairing legitimacy. Text 1 is primarily an apology in terms of its overall speech act type – which means that its main condition for being communicatively successful is that it needs to instill in the receiver a trust in its *sincerity*. It attempts to do so by:

1. Accepting responsibility ("we are deeply sorry")
2. Projecting an image of taking appropriate immediate action ("we have removed the image," etc.)
3. Maintaining that the ethical flaw is superficial ("It is obvious that our routines have not been followed properly")
4. Projecting an image of looking ahead and taking appropriate measures ("we will thoroughly investigate," etc.)

The four acts involve being apologetic (1), reactive (2), reflective (3), and proactive (4), which seems to be intended to repair the organization's damaged image; the apologetic aspect plays the main role, yet it could be argued that the apology is only viable insofar as it is counterbalanced by the assertion in (3) that the "mistake" has only happened on a superficial level by someone's *not* following the organization's *routines*, which means, by implication, that the organization itself is still ethically sound at a fundamental level. This balance between the concession of guilt and the maintenance of a general organizational ethos is an archetype of the public relations schism; being a private organization, and thus being primarily responsible to private agents such as shareholders, the organization at the same time has to demonstrate ethical virtues such as the fundamental social responsibility that would, e.g., be apparent in an unequivocal stance against any form of racism in advertising. On the organization's private face, it needs to project corporate soundness, while its public face needs to radiate social virtue. As instances of strategic action, the goals of the speech acts are to persuade the receiver that the organization is morally sound by invoking communicative speech act criteria such as:

- Sincerity (acts 1 and 4): as mentioned above, any apology's success depends on the ability to convey an image of the sender being sincere. The proactive promise of taking future action is arguable also central to reviving legitimacy in this case; it hinges on the audience accepting that the promise is meant in earnest.
- Truthfulness (acts 2 and 3): these acts are primarily statements of fact, and they will be effective only on the assumption that the audience believe them. The rhetorical task is to frame them in a way so as to achieve this goal – should, for example, evidence show up that the ad had in fact not been removed from the public space, consequences could be devastating.

This highly complex position can possibly be seen as paramount to the articulation of the disarming quality of text 2. In contrast to text 1, text 2 does not reflect the complexity of the ethical situation at hand but merely positions the organization in a receiver position: we are listening. The text conveys the image of the organization engaging in a symmetrical network with its stakeholders, opening the organization's perception to potential politically, ethically, socially, or culturally based criticisms, demands, or needs, presumably doing so in order to be able to act according to whichever systems of norms or values that might emerge as pertinent to the organization's current circumstances and options for action. Clearly, evoking a symmetry model so directly to the public is a rhetorical act; it emphatically does not mean that the organization is suspending its self-interest. What it does seem to mean is that the organization finds that this quite symmetrical codification of the organization is the right move at the present moment in order to repair legitimacy.

In terms of Suchman's categories of pragmatic, moral, and cognitive legitimacy, it appears that this particular instance is mainly focused on the *moral* variant of legitimacy. The apologetic approach encodes a focus on a socially accepted scale between right and wrong, where the aim of the textual representation is to (1) admit that the specific action of publishing the ad is at the "wrong" pole of the scale while trying to persuade the audience to accept that (2) the organization as a whole remains at the "right" end of the scale. The admission of (1) together with the assumption that publishing the ad was really in opposition to the normative register of the organization serves as premises in argumentative support of (2). However, Suchman's category of *cognitive* legitimacy also plays a role, especially in the "we are listening" approach, which encodes a focus on having the audience comprehend the organization's position as meaningful in a reality so complex that the only meaningful stance is that of the attentive listener in a symmetric relationship.

Conclusion

This chapter has proposed that a normative approach to public relations yields useful insights into the organization's conditions for maintaining business legitimacy in a complex, destabilized public sphere. Central propositions are:

- Suchman's (1995) definition of legitimacy plays well into a normative model of public relations with its heavy dependence on a socially constructed context and its distinction between pragmatic, moral, and cognitive legitimacy.
- The two-way symmetrical model is qualified by being explained in terms of Habermas' theory of communicative action when a realistic approach to strategic, rhetorical action is balanced with the theory's counterfactual presuppositions.
- Understanding the conditions for maintaining business legitimacy in a public relations context requires a nuanced view of the complexity of the twenty-first-century public sphere transformation and destabilization.
- The chapter exemplifies these findings in a contemporary case study of an organization's communicative attempts at reviving a damaged public perception of legitimacy.

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Human Rights Violations at the Workplace: Uncovering and Documenting – Günter Wallraff's Activist Whistleblowing Method

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Abstract

The aim of this chapter is to provide a theory of activist whistleblowing for justice and dignity as the framework for detecting injustice and human rights abuses in business and organizations. This is important for trust and business legitimacy. We suggest that whistleblowing is an important field of human rights in business and essential for creating public awareness of human rights abuses and democratic engagement in promoting human rights in business. In order to develop such a theory, we use the activist work and controversial life of the German journalist and writer Günter Wallraff based on a confrontation with the dominant concepts of whistleblowing in relation to business and human rights.

Keywords

Business and human rights · Whistleblowing · Journalism · Business ethics · Günter Wallraff · Undercover investigation · Freedom of expression · Employee rights · Human rights abuses · Organizational wrongdoing

Introduction

An important topic of business ethics is the concern for human rights and democracy in organizations. Businesses have responsibility for the welfare and well-being of their employees. At the heart of corporate social responsibility and values-driven management, we find issues of internal responsibility in business organizations such as employee motivation and routines to avoid corruption (Midttun 2013). At the one hand, businesses should ensure employee loyalty towards the management and trust in the workplace. On the other hand, there is also an obligation to ensure basic human rights, specifically such as employees' freedom of expression and whistleblowing, but also rights that protect the welfare of employees. However, such human rights are a real constraint for many companies and businesses, first because such rights often contradict their historically strong commercial rationale. Human rights challenge them to use financial resources to protect and strengthen the well-being and welfare of their employees. This is often considered as problematic expenses in a post-socialist and post-social-democratic era where pure commercial interests, values, and theories are influencing their strategies more profoundly and aggressively than before. The persons as Günter Wallraff, who promote human rights in general, and the rights supporting whistleblowing more specifically, will consequently risk to be confronted with skepticism and aggression from large parts of the business community.

Legitimacy and Human Rights in Business Organizations

This obligation of business to promote human rights in general and the rights supporting whistleblowing more specifically, even if it is expensive for business, is indeed influenced by one of its most important contexts, particular laws of many democracies throughout the world. This is an obligation internal and external to business. If we investigate the legal issue of whistleblowing, linked to constitutional rights, laws, and conventions in countries such as the UK, France, Germany, and the USA, we can see that the issue is very complex (Fasterling and Lewis 2014). Different factors of laws are interwoven into a large and bewildering structure, factors that to a different degree contribute to "an effectively promoting of public-interest whistleblowing."

Do we speak about a simple leak of information or can we define the revealing of secret organizational issues as an act of whistleblowing? What is the role of whistleblowing in relation to business legitimacy? Are we talking about how the constitution protects whistleblowers through a general right of freedom of speech or about how more limited parts of the legal system protect them? In Germany and the UK, mere leaking information is not protected by constitutional rights, while in contrast whistleblowing is subject to the right of freedom of expression. However, in the USA, whistleblowing in the private sector is not very strongly protected by the constitution (Hoffman and McNulty 2011), but participants in organizations are supported by incentives to report certain violations (Hoffman and McNulty 2011), "yet only within the limited scope of existing statutory provisions." In contrast to this, we may emphasize that the principle of freedom of speech in the German constitution is applicable in both private and public sector and therefore includes protection of whistleblowers in both parts of society. In France and Germany, the "scarcity" of whistleblower laws are compensated "by a general high level of employment protection" (Fasterling and Lewis 2014).

Even if laws in those western democracies differ when it comes to how strong they protect whistleblowing, most constitutions in Europe and the USA can be said to protect the rights of whistleblower since they protect the freedom of expression. However, some of those laws could be improved, as Fasterling and Lewis correctly argue, because they only say general things about freedom of expression, and do not address particular issues of people's right to freedom of expression as employees in private or public organizations. In particular, there is legally not a sufficient clear understanding of under which condition we only deal with illegal leak of sensitive information that justifies certain precautions from management or reprisals towards a whistleblowing that is legally and ethically justified.

Consequently, employees in such democracies often have, not only their right, but also the possibility and duty to inform management or the public about negative issues in the company that are threatening the welfare and well-being of the organization by violating basic human rights at the workplace. This obligation is often registered in national labor laws and in European standards or directives. However, despite the different types of international and national legal protection (Hoffman and McNulty 2011), employee's freedom of expression is often censored by strong internal commercial and ideological forces to the degree that it is more or less impossible to inform or blow the whistle from the inside of the organization, as is focused in recent research (Trygstad and Ødegård 2016). As a necessary consequence, there is a risk that not only national laws of different democracies but also fundamental human rights violations at the workplace will expand because they stay unknown both to the internal and external audience. The picture of the types of violations that are left to silence might be complex.

The basic rights of the Universal Declaration of Human Rights adopted by the United Nations General Assembly in 1948, partly in response to the barbarism of the Second World War, that might be violated extensively are the following: offending the security of the person (Article 3), being held in servitude (Article 4), inhuman or degrading treatment (Article 5), attacks upon honor and reputation (Article 12), radical limitation of freedom of conscience (Article 18) and freedom of expression (Article 19), and offending the right to just and favorable conditions of work (Article 23). Therefore the point in question is: What is the relationship between the universal level of human right and the national level of labor laws? But this is an extremely complicated question to answer. We can consider in line with recent debate (Trygstad and Ødegård 2016) employees' freedom of speech as a fundamental right, because the success of this right is often necessary to reveal, document, and inform about the violation at the workplace of the other basic rights mentioned.

In this article however, we concentrate on whistleblowing in business ethics, in relation to the Universal Declaration of Human Rights as we consider whistleblowing a fundamental human right, following from the rights of freedom of expression in the Universal Declaration of Human Rights – meaning a right for all human beings of all nations, according to this universal vision about freedom of speech. In this context, it is important to focus on the ethical dimensions of human rights, as founded on the basic ethical principles of autonomy, dignity, integrity, and vulnerability (Rendtorff 1998, 2002; Rendtorff and Kemp 2009). The ethical principles are the basic for human freedom and moral autonomy, which justify the fundamental human rights in the framework of cosmopolitan business ethics (Rendtorff 2017). We consider whistleblowing as a concrete expression of this fundamental right.

Our research topic is this: We will explore how the German journalist and writer Günter Wallraff's work proposes a visionary contribution to whistleblowing in organizations in a post-Second World War context contributing to the development of a controversial methodology for uncovering and documenting the truth about basic human rights violations at the workplace. The method presupposes a distinction between legitimate allegations telling the truth about certain dimensions of a reality and illegitimate allegations that do not tell the truth. In contrast to most whistleblowers who are employees and face terrible unethical and unjust situations in their organizations, Wallraff's radical method of whistleblowing presents an attempt to an active effort of whistleblowing coming from the outside of the organization penetrating internally with a hidden identity in order to reveal a complex set of truths about violations of human rights at the workplace (Alm and Rendtorff 2016). In this perspective, Wallraff's approach to whistleblowing aims at uncovering of organizational evil and degrading treatment of human beings in business (Rendtorff 2014). Accordingly, this method can also be used by NGOs and human rights activists to uncover human rights violations in organizations.

Workplace Activism and the Search for Business Legitimacy

In the following, we present examples of Wallraff's radical method of uncovering and documenting a complexity of human rights violations at the workplace in order to understand challenges to business legitimacy. Our methods of analysis are based on theoretical and practical approaches to business ethics (Rendtorff and Mattsson 2006; Rendtorff 2009a, b). We also use insights from philosophy of management as focus of interpretation (Rendtorff 2010, 2013a, b, c, d). And our analysis can be considered as a critical theory and case study of Wallraff's activist method (Rendtorff 2015, 2016). We consider the activist method as inspired by undercover journalism, role-playing, and postwar experiences from his own life and as a challenge to the traditional academic concepts of whistleblowing. The concept of whistleblowing in the academic literature is according to Vandekerckhove characterized by a deactivation (2006, p. 11). Vandekerckhove concludes his book by saying that "From an exponent of the protest against labour discipline it seems to have turned into a disciplinary apparatus itself" (p. 5). The current trend in whistleblowing policies in nations as the USA, Australia, New Zealand, the UK, South Africa, Japan, and Belgium entails the risk of organizational domination over the individual and hence an institutionalizing of the individual (p. 5). "In that sense, the advocacy of whistleblowing has experienced a backlash" (p. 5).

With the presentation of Wallraff's method, and its origins in the ideological climate of the 1970s, so to speak before post-socialist and post-social-democratic era, we want to argue for a more activist and open-ended understanding of whistleblowing as having the potential to uncovering and documenting a complexity of human rights violations at the workplace in particular with regard to misery and exploitation of the work environment in different workplaces. Seen in the historical context of the 1970s, our interpretation of Wallraff's activist method could be interpreted as a reconstruction of the origins of the concept of whistleblowing, in line with Vandekerckhove's historical perspective on the 1970s: "whistleblowing in an organizational context originated as an activist and hence politico-ethical concept" (p. 11).

Whistleblowers can be more activist and authentic coming from the outside than those employees we normally encounter inside organizations that often are caught in the conformity of spirals of silence (Noelle-Neumann 1974). This common silence can be understood as a historical heritage of the main force that for decades has been in conflict with the need to blow the whistle, the claim to absolute loyalty towards the organization (Vandekerckhove 2006, pp. 1, 7–8, 11).

Wallraff's approach can thus be seen as a contribution to the institutionalization of undercover journalism as an activist method of whistleblowing in a society with severe social problems, power, and domination (Kroeger 2012). Kroeger is converging to such an understanding of whistleblowing in her analysis of the American tradition of undercover reporting when she writes: "… under-cover reporting has a built-in ability to expose wrongs and wrongdoers …It can illuminate the unknown, it can capture and sustain attention, it can shock or amaze" (Kroeger 2012, p. 15).

Wallraff's method represents a concept that combines whistleblowing with strong criticism of power on behalf of the powerlessness, in order to change their situation. Detection of the complexity of human rights violations at the workplace that offend *powerless* persons is in the center of his concept of whistleblowing. Wallraff emphasizes consequently that whistleblowing through undercover journalism contributes to give public voice to the voiceless. Accordingly, whistleblowing can be considered as a reformulation of the moral challenges to journalism and whistleblowing as potential ways of giving speech to the voiceless. However, this kind of whistleblowing is also an offer to NGOs and human rights activists to actively engage in undercover activities to reveal human rights violations in organizations. Wallraff considers undercover journalists as gatekeepers of democracy and spokespeople for a large number of powerless that have experienced a violation of their basic human rights at the workplace. The combination between whistleblowing and undercover journalism reformulates employee's freedom of expression as publically uncovering and documenting a complexity of violations of human rights at the workplace (Seyerstedt 1999).

As we will show later, Wallraff's radical method of whistleblowing had a tremendous influence in the public life of Germany in the 1980s. The general public interest for his project might have contributed to significant changes in the German laws on freedom of speech. This is not least the fact when it comes to Lex Wallraff, as we will comment on. According to recent interpretation of German labor law, there is in general a large space for freedom of expression in corporations. Rieble and Wiebauer (2010) link this fact to a discussion of a complex presentation of the German legal situation in relation to whistleblowing, exchange of opinions, discussions, and leak of information in companies. Today, the companies cannot expect that employees and citizens at any case should expect order and peace in the company. Both employer and employees have in German labor law freedom of expression. Nevertheless, we also see limitations of the freedom of expression in German labor law, for example, when the minority of the board is restricted in its freedom of expression with regard to critical judgments of the corporation (Rieble and Wiebauer 2010). However, criticism is also allowed within the board, for example, between representatives of the employee's unions and the employers, but it is an open question when such an exchange of opinions becomes unacceptable.

It is difficult to assign a limit of what is legally permitted according to the law, for example, when critical employees compare companies to concentration camps (Rieble and Wiebauer 2010). Accordingly, there is a large space of freedom for critical opinions, even though this space cannot be considered as absolute.

W. Vandekerckhove argues in his book *Whistleblowing and Organizational Social Responsibility*, that whistleblowing should be legitimized as a fundamental human right (Vandekerckhove 2006). He underscores first of all Article 19 of the

United Nations Universal Declaration of Human Rights on freedom of opinion and expression. Vandekerckhove argues that the declaration was originally a response to the atrocities of the Second World War and was addressed to national governments that by writing the declaration into their constitution accepted it as their duty to respect, protect, and even realize human rights as inalienable rights individuals can "claim on their governments." The historic development of globalization has implied a new understanding of human rights as a similar duty for international corporations, having governments as their historical predecessors. The old social contract between the state having responsibility for the law of the nation and the private sector working for profit maximization, together creating economic wealth for the citizens, is outdated. Incidences of scandals involving private sector employees and senior management acting strictly for profit maximization "within a judicial vacuum or abroad in a state of ethical confusion," the mobility of multinational companies using their unrestricted freedom to choose the legal system they prefer, and their enormous power, imply that private sector has been challenged to take seriously the duty to respect and promote human rights. This duty has symptomatically become an important issue high up on the agenda of many multinationals the last couple of decades. Vandekerckhove argues that the whistleblowing policy of international corporations has to be understood as part of this historic picture of a new social contract where private sector is sharing the responsibility with national governments to respect, promote, and realize human rights.

Wallraff challenges this picture of the macro- and meso-level of society having an exclusive responsibility of promoting whistleblowing as a fundamental human right, by introducing the importance of the activist approach at the micro-level. Wallraff's activist project implies that he considers it *also* as the duty of an individual – namely, himself and others – to respect, promote, and realize freedom of expression, by uncovering and documenting a complex set of human rights violations in public as well as private organizations, when collective entities fail to do so. Even if he is weak compared to governments and organizations, he places this duty upon his shoulders in order to promote a fundamental human right. By this activist approach, he challenges not only the public and private sector of his time for lack of whistleblowing as a human right project. He also challenges influential parts of the discourse of the whistleblowing of research today for their lack of understanding whistleblowing as an individual duty to respect, promote, and realize human rights.

Whistleblowing as a Contemporary Field of Business Ethics and Human Rights

Accordingly, whistleblowing as individuals strategically using freedom of speech to uncover and document human rights violations in public and private organizations is still a hot topic. Moreover, many NGOs and human rights activist can highly benefit of whistleblowing as a method of revealing fundamental human rights violations – based on individuals using the national implementation of the human rights declaration as their legitimizing basis. In contemporary society, the phenomenon is perhaps higher at the international agenda compared to Wallraff's project in the 1970s and 1980s. Contemporary international icons working post Wallraff are quite a few. We can just mention WikiLeaks and the leak of confidential information from governments, undertaken by Julien Assange and his WikiLeaks team. Alternatively, the infamous scandal of Edward Snowden who made classified information about the US government surveillance of private citizens public and had to flee his country and went to Russia. Alternatively, we can mention Bradley (Now Chelsea) Manning who also made public classified government information and was put to prison in the USA with a severe sentence by the courts. These activists have been important for turning the human rights movements towards whistleblowing as essential to detecting human rights violations at the workplace, based on the universal right of freedom of speech.

In private business, whistleblowing is also important for justice and the compliance for human rights in organizations. Often such cases refer to situations where individuals feel moral responsibility to "blow the whistle" in the public about cases of wrongdoing and fraud in their organizations (Rendtorff 2009b). Whistleblowers often need close links to NGOs and human rights activists to succeed. Indeed, from that perspective, whistleblowing emerges as a individually created weapon against corruption, mismanagement, and general non-compliance with legal obligations by a broader public (Thüsing and Forst 2016). In the USA, famous cases where whistleblowing was important include the Enron and WorldCom scandals with the breakdown of Arthur Andersen accounting firm, which lead to the Sarbanes-Oxley legislation. Brinkmann (2008) underscores that the disclosure of Enron based on the whistleblowing of Sherron Watkins was a shock for the US public life. Enron was among the best in class when it comes to the integrating of business ethics procedures.

As *Time*'s person of the year together with the whistleblowers Coleen Rowley of the FBI and Cynthia Cooper of WorldCom, Watkins revealed that Enron as the advisor of the US Government, backed by the world's biggest banks, rated by top analysts, and a paragon of CSR and ethics with all the business ethics tools in place, was a company completely different from the perfect icon citizens of the USA had entrusted. We suggest that NGOs and human rights activist turn towards whistleblowing as a method for making human rights violations public in order to provoke debates about human rights and fostering social change.

Whistleblowing in the Theory and Practice of Law and Ethics

The problem of whistleblowing occurs partly from the conflict between employees' loyalty to the company and their obligations to society or others outside the company (Rendtorff and Pedersen 2004; Rendtorff 2009b). It is in the interest of society to protect employees who by virtue of their affiliation with the company have obtained information on the company's violation of basic human rights. The employee believes the public has a right to know about these violations because of their unethical or abusive nature and because the company is part of society. The employee has an obligation to come out with the information since the public has a legitimate interest in the information.

Therefore, whistleblowers are often in a difficult situation. They can be bound by all forms of contractual ties to the company, which means that they can be prosecuted if they break their confidentiality. It is true that the employee's contract with the company includes a certain loyalty and commitment, but not as something unlimited, and the company has no right to put strong political and social constraints on their staff, not least because freedom of speech is guaranteed as a universal human right for citizens in many modern democracies, but to a different degree, as we have underscored with Fasterling and Lewis (2014). Their study focus on the challenge that different legal systems of nations and the international society protect whistleblowers as insiders in an organization to a different degree and should therefore be improved, specifically when it comes to the problem of retaliation. In business ethics, as a parallel, the discussion of whistleblowing is mostly about how to protect the employee and how to do justice to employees in the process of whistleblowing. We find a normative literature about the necessary protection of whistleblowers, and we encounter proposals for ensuring good regulation of the right to be a whistleblower in different countries (Thüsing and Forst 2016). However, this literature is mostly based on the assumption that whistleblowing is taken care of by people inside organizations who observe human rights violations and cannot do anything else than blow the whistle or keep silent, due to the fear of different forms of retaliation.

Theoretical Basis for Activist Whistleblowing: Beyond Restrictive Criteria

The debate about whistleblowing among business ethicists has focused on defining criteria for ethically acceptable whistleblowing. Different business ethicists have tried to define when it is acceptable or a duty to blow the whistle (Hoffman and McNulty 2011, p. 45). This is because whistleblowers often have been criticized as being disloyal serving their own interests in contrast to the interests of their organization. Therefore, it is necessary to define the justification of whistleblowing with the framework of how business ethics – directly or indirectly – relates the question of whistleblowing to the problem of violating of basic human rights.

As Hoffman and McNulty remind us, whistleblowing originally refers to blowing the whistle on the sports playground in order to stop or judge something or when a police officer detects criminal behavior (Hoffman and McNulty 2011, p. 46). The metaphor signifies either a judgment or a legal action. Here, Hoffman and McNulty refer to the definition of whistleblowing by Marcia Miceli and Janet Near "the disclosure by organization members (former or current) of illegal, immoral, or illegitimate practices under the control of their employees, to persons or organizations that may be able to effect action" (Hoffman and McNulty 2011, p. 46). This definition combines elements of the legal and ethical aspects of whistleblowing. However, it does not say much under which conditions whistleblowing is permitted or whether we should have an activist or passive, internal or external, or descriptive or prescriptive definition of whistleblowing as uncovering and documenting violations of basic human rights. Moreover, it does not underline whistleblowing as a fundamental type of human right – freedom of speech – and as such its legitimacy as a powerful means to uncover and document violations of human rights.

The US-business ethics Richard De George proposed rather restrictive criteria for whistleblowing. These criteria have, to no surprise, been subject to debate. They help to shape the development of criteria for whistleblowing in the business ethics literature. The starting point is that the whistleblower is somebody who has no power and therefore needs to go to the public to reveal problems in the organization. George has proposed some fundamental justification for whistleblowing with his criteria that say when whistleblowing is prohibited, permitted, or required (De George 1986; Hoffman and McNulty 2011, p. 47). These criteria that argue for a theory of morally permissible whistleblowing are the following:

1. The firm, through its products or policy, will do serious and considerable harm to the public, whether in person or of the user of its product, an innocent bystander, or the general public.
2. Once an employee identifies a serious threat to the user of a product or to the general public, he or she should report it to his immediate supervisor and make his or her moral concern known. Unless he or she does so, the act of whistleblowing is not clearly justifiable.
3. If one's immediate supervisor does not effective about the concern or complaint, the employee should exhaust the internal procedures and possibilities within the firm. This usually will involve taking the matter up the managerial ladder and, if necessary – and possible – to the board of directors.
4. The whistleblower must have or have accessible documented evidence that would convince a reasonable, impartial observer that one's view of the situation is correct and that the company's product or practice poses a serious and likely danger to the public or to the user of the products.
5. The employee must have good reasons to believe that by going public, the necessary changes will be brought about. The chance of being successful must be worth the risk one takes and the danger to which one is exposed (De George 1986; Hoffman and McNulty 2011, p. 47).

As a critique of these principles, Hoffman and McNulty argue that this definition of whistleblowing is too restrictive since many of the recent cases, where whistleblowing was appropriate cannot be captured by De George's definition. We can mention Enron (violating Article 3 and 5) and WorldCom (violating Article 19), Bernie Madoff (violating Article 3 and 5), and other cases where it was difficult to get good evidence and good reasons from the organization and where the violations of human rights could not immediately be identified. Moreover, it is not clear when it is morally required to blow the whistle following De George's theory. In addition, it seems like it is difficult for De George to justify that the employee should blow the whistle when it represents a strong personal danger and has serious personal costs for the employee.

Therefore, Hoffman and McNulty propose an alternative theory of whistleblowing arguing for a more activist concept of whistleblowing, important for the consideration of whistleblowing as an activist methodology of uncovering and documenting violations of basic human rights. They argue for a prescriptive theory of whistleblowing defining ethical criteria for whistleblowing within business ethics. These conditions for whistleblowing rely on a theory of respect for the uniqueness of human dignity as the foundation of the right to whistleblowing in an organization. Hoffman and McNulty call it the universal dignity theory of whistleblowing, based on the philosophy of human dignity saying that all human beings have intrinsic worth or value, apparently in line with the articulation of such a universal dignity in the human rights. This theory is based on the following criteria:

1. Compelling evidence of nontrivial illegal or unethical actions done by an organization or its employees that are deemed to violate the dignity of one or more of its stakeholders.
2. A lack of knowledge within the organization of the wrongdoing or failure by the organization that take corrective measures.
3. One is conditionally exempted from the duty to blow the whistle if one has credible grounds for believing that by doing so one would be putting oneself or others at risk of serious retaliation (Hoffman and McNulty 2011, p. 51).

This activist concept of whistleblowing is more open since it takes into account the dignity of all stakeholders and is also somewhat more precise than the theory proposed by De George. The activist method is a very good possibility for NGOs and human rights activists to use to get deeply into the human rights violations of organizations. It addresses the concern for the individual human dignity of the whistleblower in cases of risk of serious retaliation. In an article with Mark S. Schwartz, Hoffman continues this effort to develop a more activist concept of whistleblowing (Hoffman and Schwartz 2015). The aim of the commentary is to argue that the concept of harm as suggested by De George in his theory of whistleblowing is limited. The concept of harm that motivates whistleblowing should be defined much more broadly within the perspective of violating what basic human rights are intended to protect: the intrinsic value of the human being.

Therefore, Hoffman and Schwartz continue the definition of the concept whistleblowing as based on the principle of respect for human dignity. The revised principles as defined by Hoffman and Schwartz revised criterion:

1. Misconduct has taken place or is expected to take place that violates the law or involve serious physical harm, serious psychological harm, serious financial harm, serious infringement of basic moral rights, or a serious injustice (HS1).
2. Reasonable evidence or belief of misconduct based on firsthand knowledge will be provided (HS2).
3. Misconduct must first be reported internally whenever feasible to one's direct supervisor and, if no action is taken, all the way up to the board of directors or

through the designed reporting channel if one exists (e.g., compliance or ethics officer) (HS3).
4. Unless one is a professional, an effective written anti-retaliation policy must exist at the firm (HS4).
5. Unless one is a professional, effective legal protection for employees must exist (HS5) (Hoffman and Schwartz 2015).

In our approach to whistleblowing, we follow this theoretical concept of whistleblowing as a key to understand Günter Wallraff's activist method of whistleblowing as a methodology for uncovering violations of basic human rights at the workplace as linked to uncover and document the underlying offending of human dignity. With Hoffman and Schwartz, we move beyond the restrictive criteria of De George, and we consider the concept of protecting human dignity as the foundation of why radical activist whistleblowing is so consequently at the agenda of Wallraff through decades. At the same time, we move beyond Hoffman and Schwartz in relation to several important dimensions of the concept of whistleblowing in business ethics.

With Wallraff's approach, we allow the external investigative journalist to penetrate the organization from the outside and become at the same time an external and internal whistleblower in the service not only for uncovering and documenting the truth about single violations of human rights at the workplace but first *the continuously offending of human dignity in each situation*. To which degree do we find this fundamental foundation of Wallraff as legitimate? Obviously it links to the pivotal concern for dignity as proposed by Hoffman and McNulty and formulated in the human rights of 1948. The foundation of radical activist whistleblowing is the concern for the human dignity (Criterion 1). Indeed, this approach aims at detecting lack of knowledge and action in relation to the wrongdoing in the organization (Criterion 2). However, radical activist whistleblowing may be critical to the idea of exemption of duty when there is risk of serious retaliation (Criterion 3). The moral duty of whistleblowing is central to the radical activist concept of whistleblowing, as proposed by Wallraff.

With regard to the problem of harm, the radical activist whistleblowing approach follows the criticism of Hoffman and Schwartz (HS1), and it agrees that the misconduct and violations of basic rights must be detected by firsthand reports (HS2). As such the method strengthens the possibilities for practicing whistleblowing as a way of telling the truth. To be in direct contact with the situation that represents the problem does increase the possibility to collect true information, compared to collecting information from a secondary source. However, the radical activist concept of whistleblowing moves very soon from internal reporting to external reporting (HS3), and the activist approach considers external reporting and anti-retaliation policies as essential to the duty of whistleblowing (HS4 and HS5). Also the external reporting to the public sphere strengthens the possibilities for practicing WB as a way of telling the truth, because the different points of views embedded into the rationality of the citizen's increases the possibility to correct misconceptions and arrive closer to the truth. However, the radical activist concept goes beyond Hoffmann, Schwartz, and De George by considering fictitious identities in social roles as necessary presuppositions for collecting information for external reporting. In fact, this too increases the possibility to find the truth, because people are trusting the role you fictitiously play and consequently give you information they otherwise wouldn't have given.

Therefore, the activist radical whistleblowing approach as suggested by Wallraff goes beyond the dominating concepts of whistleblowing, even though it also adopts elements of the theories of whistleblowing as proposed by De George and Hoffman and others. Now, we will go to the presentation of Wallraff's radical method as a new concept of whistleblowing that moves beyond the dominant concepts of whistleblowing in business ethics by consequently using a fictitious identity to uncovering and documenting human rights violations at the workplace. Indeed, this new method of whistleblowing is offered as an important opportunity to NGOs and human rights activists to work actively to uncover human rights violations to the public.

Whistleblowing as Uncovering and Documenting Human Rights Violations at the Workplace: Examples, Background, and Motivation

We have so far interpreted Wallraff's radical concept of whistleblowing as a reply to the contemporary debate on the definitions of the concept of whistleblowing in the context of developing a framework for how to uncover and document the truth about violations of basic human rights at the workplace. Indeed, recent radical whistleblowers like Snowden and Manning show us the limitation of De George's and Hoffman's approach to whistleblowing. In order to understand the different dimensions of the radical, activist concept of whistleblowing as an individual duty, we need to go deeper into Wallraff's life and work. In Wallraff's life and lived existence, whistleblowing for human rights in business becomes a mode of authentic existence and search for the meaning of life. A short definition of Wallraff's radical whistleblower activist method can be reformulated based on Hoffman and McNulty's use of Marcia Miceli and Janet Near's definition:

> The activist whistleblower method for uncovering and documenting basic human rights violations at the work place means that the whistleblower engages fully with his or her personal life by going undercover as a member of the organization. Whistleblowing is based on role-playing and an undercover activity where the whistleblower takes over the identity of organization members (former or current) and penetrates into the organization in order not only to detect complex violations of human rights at the work place, i.e. illegal, immoral, or illegitimate practices under the control of employees, persons or organizations that may violate human rights, but also the underlying offending of the dignity of all the persons involved.

As we see the radical change of the concept of whistleblowing as suggested by Wallraff is that we face an external intruder who "takes over" the identity of an employee of the organization in order to detect violation of human rights in the organization and present it to the public. NGOs and human rights activists have good opportunities to work as backups for such intruders and help to identify businesses where there is suspicion of violations of human rights in the workplace.

Participating

According to Wallraff, his method of undercover journalism has three elements. He defines his method as "participating, acting, and provocative observation" of how systems of society functions (Dialogue at BI Business School Oslo October 2016). He *participated* on a broad basis in systems of oppression *playing fictitious roles* at the bottom of the system showing how underprivileged persons experienced that representatives of the establishment violated their basic human rights. The broad participation intended to give him the best possible lookout to be able to *observe* how the system of powerful institutions of society violated the basic human rights of the weakest. This experiencing of oppression and thereby observing was apparent when playning fictotious roles in the coal industry, the psychiatric institution, the newspaper industry, the Catholic Church, the police, and representatives of the government and political parties, as we will show by interpreting some significant examples.

Acting

He acted strategically in these roles, in order to observe how this institutional system responded. He placed himself through strategic actions in many dangerous situations that informed him in detail about how human rights violations took place in detail at the workplace. Two different dimensions in this acting were typical for Wallraff.

As a whistleblower Wallraff acted as an undercover journalist in order to identify and show solidarity with the suppressed. The roles he chose was never part of the upper strata of society, but always part of the bottom of the organizations. He wanted to participate as an oppressed in different organizational contexts in order to experience how such people themselves experienced such a life. This led him into dangerous situations for his physical and mental health, such as the role as a Turkish guest worker in the coal industry and to the "prisoned" life as a psychiatric patient in psychiatric hospitals. The key to knowledge seems to be the self-understanding of experiencing danger and risk yourself by interating with the systems.

Wallraff has several times underscored that he *played* when he was active with the method and thus had fun. This has been called "Situationskomik" (Linder 1975, p. 105). Böll interprets Wallraff accordingly as an author who penetrates into a situation and submits to it, often by using a language of dark humor in order to tell about the tragedy going on (Linder 1975, pp. 9–10).

Wallraff considered it as funny to fool persons in power positions, to experience that they believed he was another person as the journalist he actually was. He used the distinction in Latin between the concept of *homo ludens* and *homo faber* in order to explain what he did. He told us that:

> I do enjoy to play. Knowledge is often something we receive through playing. We have the Latin concept homo ludens and homo faber, the person who works, the person who is unable to laugh. That is dangerous. We know this from the pedagogy, children learn by playing. Moreover, we know from pedagogy that you remember much better things you were playing than what was harped. So my method is actually a childish, naïve method. (Interview Oslo October 2016)

Wallraff also explicitly talked about being a mockery and the fun he had in all the roles as a way of experiencing joy and pleasure, which made it possible for him to endure the burdens he met when he used the method to identify with the suppressed.

Provocation

The provocative element has to do with abusing trust as a pure means to achieve his goal: to collect and publish controversial information revealing misery and guilt in order to initiate debates in public life and thereby promote progress in society. Wallraff misused the trust management showed him believing he was the person he said he was and therefore giving him controversial information unknown for public life. As trust-givers management expected him to keep the information internally in the organization (Alm and Brown 2016), but he went public with the information by blowing the whistle externally when he published his books.

The resistance against this provocative way of misusing management's trust was strong and continued for a long time. His opponents dragged him to court several times, accusing him for breaking the laws of the society when going public with "private" information. Nevertheless, the public attitude changed gradually through the decades in favor of Wallraff. Lex Wallraff, the law legitimizing undercover journalism, was probably his greatest victory for uncovering and documenting human rights violations at the workplace. It was also the most important defeat of his opponents saying that it was legal to lie about your identity in order to collect information if the publishing of it was in the general interest of the citizens of society (Alm and Rendtorff 2016).

Ganz Unten

Wallraff's most famous, controversial, and debated uncovering and documenting of human rights violations at the workplace was the book *Ganz Unten* (1985). As the basis for this work, he planned in detail and worked out a fictitious identity as a Turkish guest worker, Ali Levent, penetrating Germany's illegal labor market (Pilger 2004). Most horrible is probably his uncovering of the hazardous working conditions in a Thyssen steel factory where guest workers worked for months in clouds of cancer inducing coal dust with long-term consequences for their physical health. He also uncovered that the workers in the industry were forced to work without any type of protection, that their working days lasted up to 12–14 hours a day and 7 days a week, and that the wages were at a very low level. Based on detailed notes, he revealed situations characterized of racism when the manager sympathizing with Nazism treated the workers more like animals than human beings. In the book, Wallraff also uncovered and documented how he was treated in a brutal and dehumanizing way as a human guinea pig in the pharmaceutical industry.

It does not seem correct to argue that Wallraff in this context uncovered and documented violations of one specific human right. On the contrary, he uncovered and documented rather that several basic rights were severely and repeatedly violated in a process were such violations appeared as routine; of relevance are Article 3, offending the security of the person; Article 5, inhuman and degrading treatment; and Article 23, offending favorable and just conditions of work. As such, he showed that the human dignity of a high number of Turkish guest workers was offended in the illegal German labor market.

Wallraff's uncovering and documenting of such a severe situation in the illegal German labor market unknown to public life may contribute to explain why the whistleblowing of the book was his most successful. He sold more than 2 million copies in less than 5 months. "On publication day in 1985, people queued outside bookshops, and the ensuing national debate about working conditions and racism, specifically German attitudes to 'guest workers', was unprecedented" (Pilger 2004).

Wallraff's uncovering and documenting resulted in a raid. The establishment was provoked to react. German prosecutors and tax officials penetrated into the offices of Thyssen. They were searching for evidence that the company was breaking the law regulating and protecting contract workers. "In the state of North Rhine Westphalia the setting of Wallraff's expos the Social Democratic government moved to stamp out 'lease' labour, a kind of bond silavery. Throughout Germany more than 13,000 criminal investigations were instigated, and penalties were increased tenfold" (Pilger 2004).

Bild-Zeitung [Picture Journal]

A few years earlier, Wallraff had prepared the ground for the strong public interest in his authorship by publishing the so-called Bild-triologie, three books where he uncovered and documented the human rights violations in the journalistic methods of the most selling German boulevard newspaper *Bild-Zeitung*, owned by the Axel Springer company and often compared to the English newspaper *The Sun*. He published *Der Aufmacher* (1977), *Zeugen der Anklage - Die Bild-Beschreibung wird fortgesetzt* (1979), and *Bild-Störung* (1981).

He worked in *Bild-Zeitung* under the cover name Hans Esser and used his own experiences of contributing to the unethical journalistic methods as empirical basis for publishing these books drawing the attention to three topics. A. The competition among the male journalists to produce the most spectacular and sensational lies about ordinary German citizens and harassing their interview objects, often in the form of sexual harassment of women. This was the most effective way of pleasing the company's commercial needs of selling large volumes of newspapers. B. Wallraff wrote in detail how he was lying in order to be in front among his male peers as the most popular journalist internally and how this influenced his integrity, apparently referring to this "deconstruction of integrity" as what was going on among all the editors and journalists. After a short time, he got used to lie and harass and participated wholeheartedly in the competition. C. Wallraff also uncovered the consequences for ordinary citizens of experiencing the destructive public power of the newspaper as a pillory; people ended sometimes in despair when lied and harassed.

The deconstruction of the journalist's professional integrity by contributing to lie and harassment could be linked to Articles 5 and 23 as objects of violations. However, Wallraff seems first to uncover and document that Article 12 is violated, and in a systematic way; the institutionalized way of lying and harassing ordinary citizen's life, not least women, could be interpreted as attacks upon the honor and reputation of ordinary citizens and as such on their dignity as human beings. Nevertheless, there is apparently a close connection between the two types. Wallraff's uncovering and documenting seems to show the violation of Articles 5 and 23; the deconstruction of the professional integrity of the journalists is a presupposition for their attack on the honor and reputation of ordinary citizens, or, to put it even more basic, the first offending of human dignity is a cause for the second.

13 Unerwünschte Reportagen [13 Unwanted Reports]

Wallraff's way of blowing the whistle by the use of undercover journalism to uncover and document basic human rights violations at the workplace is characterized by a development when it comes to how much time and effort he invests in the project. There is a line coming from the first period of his authorship when he used limited time in his fictitious roles into the second and third period we have analyzed so far, the 1970s and 1980s. While he was playing the role as Ali Levent for 2 years from 1983, he worked in *Bild-Zeitung* for 3.5 months as Hans Esser in 1977. The most famous book from the first period, *13 Unerwünschete Reportagen* (1969), portrays a more fragmentized picture. He uses hours, days, or some weeks in each role. In this period, the element of humor when almost teasing the persons he fools is more in the foreground compared to the second and third period.

He penetrates into a psychiatric clinic behaving as an alcoholic trying to uncover that the patients are treated in a dehumanizing way. In this way he challenged treatment models for patients in psychiatric hospitals (Jørgensen and Rendtorff 2018). He lies about his identity as a member of the government asking the management of different German companies how far they have come in the recruitment and training of paramilitary groups that should be used against striking workers that might have communistic sympathies. He contacts the security police, presents himself as a member of the neo-Nazi party NPD, and wants to be an agent that could spy on communistic sympathizers with potential contacts to East Germany. He pretends to be a regretting sinner asking for forgiveness meeting priests in the Catholic Church. He told them that he was an owner of a company producing the most important material of napalm bombs and that he had managed to sell a large order to the American army.

These more fragmentized pictures of violations of human rights at the workplace have for the three first examples to do with inhuman and degrading treatment (Article 5).

Our interpretation of the examples gives us the possibility to formulate a working hypothesis:

> Wallraff develops his method of blowing the whistle about human rights violations at the work place and about the underlying offending of the human dignity of powerless people by using more and more time on each project. This gives him the possibility to uncover and document more and more in detail how the violations more concretely are taken place at the workplace and correspondingly how detailed and concrete human dignity is offended.

Revitalization

However, Wallraff did not invent the method of undercover journalism as blowing the whistle about human rights violations; he vitalized it as a method that had existed for a long time. Broeke Krueger argues in her book *Undercover Reporting* that "much of the valuable journalism in the past century and a half has emerged from undercover investigations that employed subterfuge or deception to expose wrong" (Kroeger 2012).

Examples are according to Krueger persons as James Redpath who mingled as casual traveler and walked 700 miles in the southern states on foot in order to interviewing slaves and collecting relevant material. The stories were published in 1859 as *The Roving Editor: Or, Talks with Slaves in the Southern States*. The book's production costs were covered by prominent antislavery philanthropist Gerrit Smith (Mogensen 2000). Nelly Bly, a female journalist who acted as a mentally sick and was admitted to hospital in 1987, is another example. She exposed unacceptable conditions there and published her material in *Ten Days in a Mad-House*. Moreover, Upton Sinclair who dressed like a worker and mingled into a meat factory for 1 week in 1904 (Kroeger 2012) is also another case. Undercover journalism was not only rooted in an American tradition but also a European. Haas (1999, p. 307) refers to an interesting analogy between the French author Eugene Sue and Wallraff. Sue published his *Secrets in Paris* in 1842–1843 as a novel in *Journal des Débats* in Paris. The protagonist, a dandy, enters the underworld of Paris disguised, in the world of the poor and criminals. Sue criticizes the circumstances and suggests improvement. Some of them were realized.

Wallraff's undercover journalism occurred in continuity with this old American and European tradition of detecting violations of human rights and injustice – vitalized it and institutionalized it into the infrastructure of media, by the introduction of Lex Wallraff, a law important for the activist journalism of the radical student movement.

Wallraff and the Radical Youth-Movement

However, Wallraff's method ought to be understood also in line with more recent sources of inspiration that existed closer in time and space in connection with the concern for the citizen's rights movements of the 1960s. Wallraff based his radical method of whistleblowing on his undercover journalism and as such on an activist method of accurate preparation, planning, ideological reflections, and cooperative writing (Haas 1999, pp. 306–307).

As such, his activist journalism was part of the radical student movement's public criticism of western democracies as a capitalistic system that exploited industrial workers and other employees at the bottom of society to the benefit of the ruling class (Gottschlich 2010, p. 62).

Wallraff being at the age 26 in the pivotal year of 1968 when the demonstrations occurred in Paris, influenced this student movement with his activist journalism throughout the 1970s and 1980s. Moreover, the movement influenced his synthesis through the same period.

On the one hand, Wallraff's use of the journalistic method was a great inspiration for the radical student movement, not least when it comes to the part of his authorship categorized as "Arbeiterliteratur." He published reportages from a large number of German industrial companies: Ford in Köln, Blohm+Voss in Hamburg, Siemens in Müchen, Benteler in Paderborn, and Sinteranlage and Thyssen-Hütte in Duisburg (Ludwig 1976, pp. 86–87). The books were sold in large editions. The student movement used his authorship as a documentation of the suppressive function of the system.

On the other hand, significant front men of that movement, among them Heinrich Böll and the French working priests, were an inspiration for him as well, precisely when it comes to the use of the activist method of informing the public. *The Lost Honor of Katharina Blum* inspired Wallraff to write in the same way as Böll did, trying to document how ordinary people suffered injustice and experienced lack of meaning almost as in Franz Kafka's stories, because of the irrational exploitation of the system, not because of individual evilness. His explanation was structural, as was the Marxist inspired explanation of the movement (Interview and dialogue at BI Business School Oslo October 2016). In addition, the Nobel Prize winner Heinrich Böll, as one of the front men of the movement, supported Wallraff when his enemies dragged him to court and tried to criminalize his undercover method. Talking directly to the judge, Böll with his eminent metaphorical skills gave the judge the opportunity to identify with Wallraff's project:

> If Wallraff's method is criminalized . . . one deprives . . . the current literature in BRD a large possibility. The possibility to fulfill the function that neither unions nor employers' associations are able to fulfill: to control if the companies comply with the law. That's what I mean Wallraff does: Almost acting as a lawyer in public life. (Gottschlich, p. 75)

Existential Motivation

Wallraff has underscored that his father's dead was important for the development of his method (Interview Oslo 2016). His father died after being a worker in the private industrial sector for his whole life. According to Ludwig (1976), Wallraff's father ended his working life in the "Lackhölle bei Ford." He had lost all his illusions about the working life of Germany. The working conditions were hazardous and seemed to have caused his death. Consequently, the causes behind his father's death seem to be an initial and significant experience of injustice for Wallraff.

Another analogue experience was the anxiety of losing his identity as a child. Jürgen Gottschlich writes in his biography that his father was in hospital for several months when Günter was a child. His mother had to work in order to save the economy of the family. She sent the boy to an orphanage administered by nuns. Wallraff was suddenly thrown into a world where he was a stranger experiencing a deep loss of identity. He has underscored that the feeling of losing his identity lead him as an adult to try to find new identities by entering different kinds of roles. As an artist of identity transformation, Wallraff is playing a fool game of assuming different identities in different life contexts.

Wallraff writes a poem, using pseudonym, in the lyric journal "Flugschrift," where Heinrich Böll was editor. His main point of view is that he is without identity because masks occur on the surface of his existence as a reflection of his inner life. Ludwig (1976) underscores that Wallraff's decision to be a military evader influenced his attitudes significantly. Wallraff was applying much too late to evade the military service (Walraff 2000). Consequently, in 1963, he was forced to participate. He refused during 10 months to use a weapon and wrote down in his diary what happened. Supported by Heinrich Böll, he challenged the system by saying he would go public with the diary. He was offered to leave the service but refused. The military doctor used an accident where Wallraff got concussion as a pretext to force him to be a patient at the psychiatric clinic in the military hospital in Koblenz, where he was observed and stigmatized with a psychiatric diagnosis. Ludwig (1976, p. 86) argues that Wallraff understood the challenging experiences he was confronted with by the military service as an example of how individual burdens are caused by repressive dynamics of a system.

The Relevance: What Can We Learn from Wallraff's Method?

We have demonstrated that compared with the contemporary understanding and approaches to whistleblowing, Wallraff's method converges or moves towards the dignity-based concept of whistleblowing in relation to uncover and document the truth about violations of basic human business rights at the workplace. What is at stake in Wallraff's concept of whistleblowing is not only to detect some single violations of human rights or some wrongdoing or harm, but it is a more principle-based defense of human dignity in relation to some specific, fundamental human rights. In line with Hoffman's and McNulty's Universal Dignity Theory of Whistleblowing, we can say that Wallraff's concept of whistleblowing is concerned with the fundamental defense of human dignity of the relevant stakeholders of the organization in relation to the concern for human rights at the workplace. With Hoffman and McNulty, we can mention Kant's principles of human dignity as essential: "All human beings have intrinsic worth or dignity by virtue of their humanity and no individual has the moral authority to deny others their inherent dignity" (Hoffman and McNulty 2011, p. 50; Kant 1983). Such a visionary principle can also be said to be the driving force of Wallraff's radical activist method of whistleblowing. The concern for human dignity of the oppressed and the protection of the human rights of employees based on a public discussion of the information given by his whistleblowing is an important motivation for Wallraff's concept of human dignity. In this context, the method for detecting human rights violations can be offered as an important method to be used by NGOs and human rights activist groups.

However, there are also important elements in Wallraff's approach that moves his methodology beyond a purely visionary/Kantian concept of human dignity. Wallraff's existentialist focus on the right to lie in going undercover to detect human rights violations breaks with the Kantian principles of the duty always to say the truth. Moreover, Wallraff has a strong Marxist and phenomenological account of human dignity as conditioned by the employee's social and bodily existence rather than abstract morality. It is true that Wallraff adopts the concern for human social and bodily dignity as pivotal, but this concern also moves beyond Kant's concept of autonomy and the free will. Wallraff agrees with Kant that human beings should not be reduced to objects and instruments for other people, but he also moves beyond Kant with his Marxist interpretation of human dignity that focuses on the concern for the dignity and human rights of the bodily and social existence of the workers or employees in the factory or business firm. This combination of phenomenological existentialism and Marxism in Wallraff's approach is important as a foundation for protection of human dignity in order to foster human rights at the workplace.

We can emphasize the following dimensions of this dignity-based concept of whistleblowing.

Whistleblower Activism as a Mirror of Organizational Wrongdoing

The general relevance of Wallraff's method for conceptions of whistleblowing in organizations is that his books function as a detailed mirror of the problems of how injustice in organization are hurting or threatening the dignity of human beings as a phenomenon of spirit/free will and bodily existence. The role-playing contributes to the formulation of a general theory of problems of justice in organizations and protection of human rights in business. With his activist undercover approach, he shows the violations of basic human rights in different parts of the working life and how human dignity is basically threatened.

From Silent Victim to Active Victim

Here we see that the victim of harm is not conceived as a passive, silent subject unable to give voice to the experience of spiritual and bodily harm or offending of dignity. On the contrary, the victim in the role of experiencing the violations of basic human rights is conceived as the whistleblower with firsthand knowledge to what has happened. The whistleblower is by the use of undercover journalism method actively seeking situations of injustice as an eyewitness in order to report about them to the public. Here, Wallraff's radical method challenges us not to remain silent victims passively ignoring our possibility to use freedom of speech as a fundamental human right to support other basic human rights. On the contrary, he challenges us to be active victims and seekers of the situations of injustice and to use the human right of freedom of speech when we work in all kinds of organizations in order to create justice and to protect human dignity.

Whistleblowing as Existential Commitment

Wallraff's method provides us with a language for understanding whistleblowing as an existential commitment of employees towards a basic human right in their organizations – freedom of speech – as a commitment to a dangerous weapon. With the activist method, the employee understands the need and obligation to fight for social justice in organizations, by using this weapon, which is protected by national law and by the human rights declaration of 1948. Since whistleblowing is protected to a different degree by national laws and constitutions on freedom of speech, as we discussed with the support of Fasterling and Lewis (2014), the commitment is easier to see in the relation to the Universal Declaration of Human Rights from 1948 than in relation to particular national laws. Employees can no longer be morally, blind, mute or deaf to injustice in their organizations confronted with this universal vision. They have an existential obligation to blow the whistle as an effective vehicle to protect human dignity in the double sense we have focused upon.

Whistleblower Activism as Employee Engagement

Wallraff's method makes us aware of the need to be actively involved for organizational justice, as a contribution to a democratic society as a structural protection of human dignity. The problem of whistleblowing is not only about individual justice or about institutional justice in an atomistic sense but indeed an issue of employee engagement for justice and democracy in society based on justice in organizations. Wallraff's method contributes to move the problem of organizational justice from the individual to be a general concern of what type of society we need to take care of human dignity. Lex Wallraff legitimizing undercover journalism and securing justice in the society is one important consequence of this method.

Organizational Justice

Wallraff's method demonstrates that there is a close link between organizational openness and democratic justice in society and its laws on the one hand and between organizational lack of openness and injustice on the other. The public criticism of organizational injustice is problematic for the image and brand of organizations when they act as closed and secret entities. Businesses need to take the challenge from this activist whistleblowing seriously, in order to restore their image and create more transparent structures. Employees can use Wallraff's method as a driver of change for openness and justice in their organizations.

The Will to Suffer

Wallraff was an inspiration when it comes to showing a deep will to suffer in order to experience and identify what type of human rights violations one ought to blow the whistle about. Wallraff entered a lot of different institutions and situations showing an extraordinary strong will to suffer for the sake of protecting other person's human dignity against human rights violations. It is an inspiration for us in our organizations to be influenced by such an unselfish will and to enter situations that could turn out to be a physical and psychic burden, aiming to protect our fellow colleagues and their interests against the same type of human rights violations and as such protect their human dignity towards harm and injustice.

Trusting Public Opinion

Wallraff's activist method of whistleblowing can be interpreted as a radical expression of trusting the public opinion as a guarantee for the protection of basic human rights. According to Wallraff, public opinion, discussion, and criticism, informed by whistleblowing, is the main force able to move institution's from violating basic human rights to be transparent, just and protecting human dignity. As such, Wallraff's position converges towards Jürgen Habermas evaluation of the transformational power of public opinion. We can say that the communicative power of public opinion contributes to the development of a framework for protecting basic human rights in business.

Preliminary Conclusion on Dignity and Human Rights

With this approach to a radical activist method of whistleblowing as an essential method for detecting human rights violations in business firms, we can conclude with a highlight of the concept of human dignity and human rights in business that is the basis for detection of wrongdoing and injustice in organization. Essential in this conception is the Marxist and existentialist correction of the Kantian concept of human dignity based on the phenomenological approach to the social and bodily dimensions of oppressed and alienated human work life in organizations. Protection of human dignity and revelation of violation of human dignity is here the most important task for the whistleblowing method in organizations.

Arguments for Institutionalization of Wallraff's Method

Therefore, what are the arguments for institutionalization of undercover journalism as a method of whistleblowing in contemporary society? We can emphasize that there is a need to make human rights violations public in democratic society. NGOs and human rights groups can with great success contribute to this by using methods of activist whistleblowing based on the institutionalization of undercover activities. More transparent organizations created by whistleblowing are necessary in order to protect and respect human dignity in a more profound way. However, there is not only a freedom of expression but also a responsibility of expression. The focus on the concept undercover journalism in whistleblowing contributes to make the need for public democratic discussion of injustice present in society.

Wallraff's method can be seen in the perspective of Jürgen Habermas' idea of the central importance of the rationality of public space for protection of basic human rights and civil rights in society (Habermas 1989). However, Wallraff's method combines the actions of playing fictitious roles with observation and going public with the verbal information, while Habermas' idea concerns the verbal discussion on the societal level. Through Wallraff's is combination of undercover journalism and whistleblowing, it is possible to detect injustice in society and this contributes to define ethical and social legitimacy in the public space with regard to the concern for protection of human rights in society. Legitimacy of organizations is defined through social acceptance in society. Undercover journalism and whistleblowing contribute to the evaluation of legitimacy as an important feature of the social existence of organizations, businesses, and institutions in society. We can say that Wallraff contributes to the institutionalization of undercover journalism as a method of whistleblowing in contemporary society.

A potential criticism of this institutionalization of undercover journalism is that there may be severe ethical problems linked to Wallraff's method because one basis of the method is a lie. This is the Marxist criticism of the Kantian approach to dignity, as we described earlier. For Wallraff in opposition to Kant, we need to accept that in extreme situations where you have a moral duty to detect wrongdoing and violations of human rights, ends justify means, and you are allowed to hide your identity in order to detect injustice in organizations. You have to go undercover in order to detect injustice and reveal the destruction of human dignity in bodily and social terms. However, Wallraff moves from a position close to Kant to a position close to Marx when he argues that the evil of lying is a smaller problem than a persistent injustice. Wallraff argues consequently that this unethical behavior is justified by the fact that injustice is revealed. Therefore ends justify means in the fight for protection of basic human rights in business.

A more practical criticism is that Wallraff's method does not really function in practice and continues to be some kind of scandal journalism. This criticism is based on an unethical and not very argumentative approach to journalism and whistleblowing. This is connected to a populistic criticism that argues that this method is based on populism where the product of the whistleblowing activity is based on scandalizing the authorities of society. Accordingly, the argument goes, we cannot really justify that whistleblowing is based on undercover journalism because it can never live up to the ideal of Habermas' rational argumentative discussion in public debates. Here, we would like to emphasize that to promote human rights in business through radical whistleblowing is based on sincerity and seriousness by those using this method of undercover journalism. Only in this way the method can be effective.

However, the institutionalization of Wallraff's method for uncovering violations of human rights in business also leaves us with some more practical problems. How should we practice whistleblowing undercover journalism in order to develop good proposals for ethics of business and business and human rights? What kind of whistleblowing activity is also ethical and how does whistleblowing contribute to democratic processes between freedom of expression and responsibility of expression for human rights in business? What is the responsibility of expression by those, including NGOs and human rights activists, who engage in this kind of undercover journalism in order to promote human rights in business?

Discussion: What Are the Limits and Possibilities of Wallraff's Method of Whistleblowing for Democratic Justice?

So we have presented Wallraff's method as a new form of approach to whistleblowing that generalizes the right to whistleblowing as a universal human right based on the respect for fundamental human dignity of people in organizations and organizational stakeholders, but what are the limits and possibilities for this new concept of whistleblowing in organizations?

The Decay and Revival of the Public Sphere

Traditionally, public discourse is considered as a necessary precondition for democratic justice, because a broad and thorough public discussion is necessary in order both to lay the most informed fundament for significant decisions on the different sectors of society and to promote the most thorough criticism fostering the largest potential for improvement at the same sectors.

However, theorists as Habermas underscore the problem of decay in the public life of democracy. One of the most important elements of Habermas' iconic dissertation *The Structural Transformation of the Public Sphere* (Habermas 1962) is the concept of public decay. According to this analysis, the public sphere returns to an earlier stage of development, less rational, through modernity. Persons discussing in the public sphere becomes less interested in listening to the argument of his/her partner. It became more important to be eloquent, nice, sympathetic, and reasonable. When discussions from Bundestag were communicated on the television, the discussions changed considerably. It was more important to be understood as a trustworthy person than to convince your discussion partners in the hall. The rational and valuable discussion was challenged.

It is reasonable to consider Wallraff's synthesis of whistleblowing and undercover journalism as foundation for detecting human rights violations in business as presupposing something likewise radical as Habermas' theory. Wallraff indicates that the public does not know that institutions in the public and private sector are breaking the laws of working life and thus being responsible for a waste array of human rights violations. Wallraff's main concept here is what Böll in a testimony in court has called "institutions as secrets." It is because workplaces as the government, church, police, companies, and hospitals are secret entities that the public does not know what is going on there. An institution is a phenomenon in time and space hiding what is going on inside.

Consequently, the public sphere is a phenomenon without sufficient knowledge about the offending of human dignity in the institutions in society. Wallraff's radical synthesis of whistleblowing and undercover journalism as a means to promote democratic justice has this critical understanding of a decay in the public sphere as an important point of departure for the need to use the radical method for uncovering and documenting a complex set of human rights violations in business.

Wallraff's ability to fight the problem of decay and to contribute to a structural transformation of the public sphere is linked to a strategy of radical transparency. His large number of books function as detailed mirrors or complex proofs of the problems of the secrecy of human rights violations in organizations in the hand of what Böll called "a lawyer accusing concrete persons and institutions." According to Böll, Wallraff acted as a lawyer in the public sphere trying to fill the function that neither unions nor employers association were able to fulfill: "To control if the companies were acting according to the law." By mentioning the concrete names of the management in specific parts of the church, police, industrial companies, and healthcare sector responsible for human rights violations, he contributes to a more enlightened public sphere.

Several debates about the dangerous conditions in the working life of the West German society were raised because of his provocative way of combining whistleblowing and undercover journalism (Gottschlich, pp. 54–58, 75, 86–88, 99–100, 107–108, 113, 128–151, 179–192). As a way of fighting the decay of the public sphere and contribute to a more enlightened one, his synthetic method was an enormous success. His project did not only change the restrictive legislation on undercover journalism in West Germany to allow it. Books were sold in millions of exemplars, *Ganz Unten* in five million. This book about the Turkish guest worker was the most sold nonfiction book in West Germany after Second World War when published.

On the one hand, it would be naïve to imagine that it is possible to use Wallraff's method and have the same success when it comes to contribute to a more enlightened pubic sphere by blowing the whistle. Wallraff's success of bearing the burdens of whistleblowing and undercover journalism was closely linked to historically unique presuppositions at that time: to extreme presuppositions in his own life and to the extraordinary receptivity of the society he operated in. He was physically and mentally an exceptionally strong person. He was a marathon runner during large parts of his life, and ran 10 kilometers each day until the age of 65. His biograph Jürgen Gottschlich begins his book by stating "The energy of the man seems to be inexhaustible." His courage was tremendous. He dared to place himself repeatedly in situations that were not only a risk for his mental and physical health but was deadly as well. When it comes to the receptivity of his society, Wallraff was suddenly the right man at the right time. His first book, *Wir brauchen Dich. Als Arbeiter in deutchen Industriebetrieben* (1966), appeared in the center of a discussion about the future of the bourgeois literature. Hans Magnus Enzensberger predicted at that time a much better outcome for the documentary literature than for the bourgeois novel. He challenged German authors to raise the mind of German citizens politically. He underscored Wallraff's industrial reportages as a positive example. The student movement in West Germany that begun as a protest towards the "professor university," the big coalition in the Bundestag between the two large political parties and towards USA's war in Vietnam, was searching for a theoretical basis for their vision of fundamental changes of the society. Their problem was that Marx, Lenin, and Engels idealized the working class as the power behind the revolution, not the student movement. Among them, almost none came from the working class. For most of them, Marx's description of the proletariat referred to another planet. Wallraff's industrial reportages came in the very right moment. The whole movement was searching for what they found in him and his books. Consequently, Wallraff became one of their most influential moral heroes (Gottschlich, p. 62).

On the other hand, some elements in Wallraff's successful synthesis is possible to implement in the historical situation of our time even if the person that should blow the whistle through undercover journalism does not have the extreme physical and mental strength of Wallraff and does not meet the same high receptivity in society. It is apparently possible to use the method based on normal personal presuppositions and a normal receptivity in society, as history shows us. Many undercover journalists have blown the whistle about basic human rights violations during the last decade, more or less in the same way Wallraff did. This was, for example, the case in connection with the business scandals of the financial crises or other cases of corruption and wrongdoing in organizations. However, in a postmodern area, one could argue that the visionary goals of society have vanished. "The horizons have disappeared," to quote Friedrich Nietzsche.

Undercover journalism was a means in the hands of political activists in order to achieve a visionary goal, a more just society. In a postmodern area, a more just society becomes something new, entertainment, reality TV, something to consume, to argue along the line of Colin Campbell (2005). Symptomatically, Wallraff himself is today the editor of a reality program at the most commercial TV channel in Germany, RTL. Undercover journalism has become reality TV, entertainment. The spectators are not inspired to go undercover, but they are entertained. Neil Postman criticizes this trend in modern media and show business with the well-known ironic words: "We are amusing ourselves to death" (1985). Here, maybe NGOs and human rights activist groups may contribute to a more serious use of activist whistleblowing in organizations.

In this neo-Nietzschean perspective, what Wallraff is doing is to contribute to the play between visibility and invisibility in the transparent organization making itself transparent as a part of the logic of neoliberal society. This transformation is indeed the case in the digital concept of disclosure in the digital age (Heemskergen 2016). Wallraff's construction of narratives of transparency is supposed to contribute to visions of democracy and emancipation in the public sphere, but in reality it is just a new dimension of the neoliberal domination logic of capitalist business organization, because his undercover journalism contributes to hide power structures as the entertaining media at the same time as it makes other structures visible. In this Foucault perspective on transparency and whistleblowing, social visibility cannot contribute to emancipation, but rather it is a part of a neoliberal visibility regime where Wallraff as author and emancipatory activist is becoming himself a part of biopolitical panopticon in sociotechnical control society (Brighenti 2010). Wallraff's status as icon and showperson in the German public illustrates this neoliberal and postmodern function of his work, where his public exposure contributes to hide other biopolitical domination structures in society. His narrative of emancipation may not be a real radical narrative, but rather a narrative in the tension between the visible and the invisible (Birchall 2014). This postmodern critique of Wallraff's project is a very serious critique not only of his project of whistleblowing for revealing injustice but indeed also of the whole concept of subjectivation of individuals with human rights in business. In the constructivist perspective, in contrast to our phenomenological and hermeneutic point of view, the oppressed worker, revealed by Wallraff, is indeed also constructed as a subject which is objectified and stigmatized as "the other" and as the person who is "Ganz Unten" with the process of whistleblowing of his work conditions in the public. In this sense Wallraff's work can be interpreted in a field of establishing subject positions between seeing and being seen. This is a strategic field of visibility/invisibility, transparency/intransparency that is also characterized by indeterminacy, because it is manipulated by the subjects themselves as part of the biotechnological field of social control (Brighenti 2010). As success writer, who sold a lot of best seller books on constructing the oppressed other and himself as a hero of whistleblowing, Wallraff is himself a part of this logic of visibility/invisibility who plays in a space of biopolitical subjectivation.

Another type of criticism comes from Wallraff himself. He has criticized his own method sharply (Interview 2016). He underlined that he should not have limited himself to use the method to reveal human rights violations and injustice in the West. The reason for this limitation was the fear to give ammunition to "the envy." He should also have used the method in order to show human rights violations east of the iron curtain. The implication of this criticism is that the method has a universal potential of protecting human dignity, independent of what type of political system is in power.

However, our interest goes in the direction of one specific element: the virtue-ethical basis of Wallraff's synthesis of whistleblowing and undercover journalism. We consider this basis as a bridge to a more general use of his method.

Authenticity and Whistleblowing

Charles Taylor's concept of authenticity could be a useful theory to identify this virtue-ethical basis when identifying the possibilities of his method. Taylor developed his theory in two books, *Sources of the Self* (1989) and *The Ethics of Authenticity* (1992). In the first book, he argued that the moral sources of early western tradition were de-cosmologized and internalized the closer we come to modernity. Taylor was inspired by Weber's theory about secularization as the "Entzauberung der Welt." Three periods are significant in this development away from the concept of cosmos as the source of moral life: the affirmation of ordinary life in the reformation, the ideal of nature in romanticism, and the ratio of the enlightenment. Representatives of the French and German strand of romanticism, Jean-Jacques Rousseau (1712–1778), Johann Gottfried Herder (1744–1803), William Blake (1757–1804), and William Wordsworth (1770–1850), develop a new understanding of ethics. In opposition to the reformation's understanding of the inner world of humans as sinful, they understood the inner nature as something we ought to meet and be in dialogue with. This inner nature contained depths impossible to control by our articulations but at the same time only possible to grip by our inadequate articulations, words, and art.

In the second book, Taylor argues that romanticism articulated a modern, individualistic, ethical, ideal authenticity, the quest for being sincere and honest towards your originality, in order for this originality to flourish, in opposition to copy other persons and be lost in conformity and traditionalism.

Wallraff's successful synthesis of whistleblowing and undercover journalism, could be interpreted as *a radical and complex type of authenticity*. Wallraff's way of being authentic was to publish books as a detailed mirror of the complex set of human rights violations at several workplaces, based on participating in these institutions through playful role-playing. As such, he showed honesty and sincerity towards his originality as a human being, his father's death and suffering in the chemical industry, his anxiety as a child for losing his identity, his quest as a young man for bearing masks in order to create new identities, and his search for homo ludens as the way of creating true knowledge. This was included in his will to expand the right to freedom of speech to include lies about your identity in order to fight for basic human rights in the capitalist economic system.

Consequently, the concept of radical and complex authenticity opens the door to use Wallraff's synthesis of whistleblowing and undercover journalism as an inspiration to fight injustice, foster human rights in business, and contribute to an enlightened public sphere where human dignity is offended. Human beings are able to be sincere and honest towards the experience of death, suffering, anxiety, masking, homo ludens, and freedom of speech, as Wallraff was so consequently in his life, in order to protect human dignity. Such an existential authenticity towards archetypical human experiences opens the door to participate actively in institutions, but on a more fragmentary basis than Wallraff, in roles where you are hiding your identity inside systems of oppression. There you can act strategically in these roles, in order to observe how the system responds, and last but not the least misuse trust in order to collect information of public interest and go public with this information, even if it hurts. However, this radical authenticity is legitimate, only if it is linked to being honest and sincere towards such original experiences in the lives of the persons involved. Only then would it be legitimate to blow the whistle, in a

Wallraffian perspective, based on accurate preparation, planning, and ideological reflections (Haas 1999, pp. 306–307).

Conclusion

In this chapter, we have investigated Günter Wallraff's method of radical activist whistleblowing as a proposal for a method for uncovering and documenting violations of basic human rights in the workplaces. We have demonstrated how whistleblowing can be a contribution to institutionalization of CSR, ethics programs, and integrity in organizations (Rendtorff 2011a, b). Therefore, whistleblowing is essential to cosmopolitan business ethics (Rendtorff 2017). This is a good case that shows the complexities of business legitimacy and whistleblowing. With the use of this method, it is in particular possible to detect the underlying offending of the human dignity of the powerless employees in organization. This method detecting violations of human rights in business represents a radicalization of the dominant concepts of whistleblowing in the literature on business ethics. Wallraff's concept radicalizes the justification of whistleblowing by Richard De George and Michael W. Hoffman by adding the activist element to whistleblowing as undercover reporting. Now, whistleblowing has become an activity where the whistleblower actively goes undercover by penetrating into the organization in order to uncover and document violations of basic human rights in organizations, trusting the public sphere as a force able to create progress on the basis of an informed discussion. NGOs and human rights activist can learn a lot from this and use this method to work systematically to detect hidden human rights violations in organizations. Wallraff's approach is in line with the Kantian urge to protect human dignity, but it also breaks with the Kantian tradition from a Marxist, existentialist, and body phenomenological perspective. Whistleblowing in order to detect violations of human rights in organizations can therefore be considered in the perspective of the universal dignity approach to human dignity, but it also goes beyond that concept by focusing on engaged whistleblowing as existential commitment based on human authenticity. Whistleblowing as role-playing is also an art of taking over identities in organizations in order to have better access to the effort to detect injustice and wrongdoing in organizations with the focus on protecting human rights in the workplace. Radical activist whistleblowing makes whistleblowing a way of life searching for authentic human existence in the fight against injustice to promote human rights in business.

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Part IX

Communication and Public Constructions of Business Legitimacy

Business Legitimacy and Communication Ethics: Discussing Greenwashing and Credibility Beyond Habermasian Idealism

34

Mario D. Schultz and Peter Seele

Contents

Abstract

In the chapter, we present and discuss the concept of legitimacy as established in business literature from an ethical perspective. After a brief outline of different ethical lenses such as virtue ethics, deontology, and utilitarianism, we identify Habermasian discourse ethics as communication driven approach already established in the literature. The core of the article consists of two parts: "Legitimacy lost" and "Legitimacy gained." Legitimacy lost addresses the various situations where companies struggle with a legitimacy deficit: We make use of the greenwashing concept to illustrate the loss of legitimacy in a communication ethics perspective. In this way, we first introduce the standard definitions of greenwashing going back to the invention of the term from "towel-reuse" in the hospitality industry, which focusses on

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the misleading communication of corporations. Subsequently, we present the latest research on greenwashing, redefining greenwashing from a co-constructivist perspective that incorporates not only the sender but also the receiver of a greenwashing message. The second part "Legitimacy gained" deals with the concept of credibility. The context of application chosen here is CSR reporting as an example for (potentially) participating at, and contributing to deliberative democracy – and corporate political activity aka lobbying and here more specifically astroturf lobbying as an example to proactively undermining the (idealized) political role of corporations. We, therefore, discuss in conclusion the limitations of communication driven, Habermasian Political CSR as idealized normative thinking. As a final outlook, we present future questions and possible answers to the limitations of the Habermasian approach depicting the implications of digitalization, which can lead to "data deliberation" a form of corporate legitimacy creation through bottom-up transparency, standardization, and accountability in the digital democracy of tomorrow.

Keywords

Business legitimacy · Habermas' discourse ethics · Moral legitimacy · Greenwashing · Credibility · CSR reporting · Corporate political activity · Digital democracy · Data deliberation

Introduction: Ethical Lenses and the Suitability of Habermas' Discourse Ethics

Business legitimacy has evolved into a central concept in Communication Ethics. It is defined as "generalized perception or assumption that the actions of an entity are desirable, proper or appropriate within some socially constructed system of norms, values, beliefs and definitions" (Suchman 1995). The legitimate behavior of an organization can be viewed from three distinct perspectives: cognitive, pragmatic, and moral legitimacy (Suchman 1995; Long and Driscoll 2008). Whereas cognitive legitimacy refers to taken-for-granted norms and values of an organizations' presence in society (Wagner and Seele 2017), pragmatic legitimacy stems from the benefits that an organization's existence and actions can yield for society (Scherer et al. 2013). Both cognitive and pragmatic legitimacy mainly rest on the corporate compliance with national regulations and the assumption of stable societal expectations (Palazzo and Scherer 2006). In contrast, moral legitimacy is permitted to a corporation based on its conformity with (dynamic) social values and responsibilities and thus, relates to the moral judgments of the corporate conduct and behavior (Long and Driscoll 2008). What is deemed "appropriate" or legitimate also depends on the ethical principles in a given societal context. In this regard, three major streams of ethical thinking (Virtue ethics; Deontology; Utilitarianism) have served as the analytical basis for moral legitimacy issues. In addition, this chapter focuses on Habermas' notion of discourse ethics, which recently gained novel traction in its extension as political CSR (Scherer and Palazzo 2007). Political CSR allows for a deliberative legitimation process in which corporations can actively engage in as political actors. Thus, the discourse ethical stream of moral legitimacy in its contemporary form has high practical relevance for practitioners (Scherer and Palazzo 2011).

Virtue Ethics

Virtue ethics describes individual and organizational virtues and vices by building on Aristotelian virtue ethics (Fernando and Moore 2014). Aristotle can be seen as "the first business ethicist," advocating the idea that the individual is embedded in a broader community and should promote the well-being of society by striving for individual virtues, such as integrity (Solomon 2004). In turn, the larger community determines the positive character traits of the individual. Corporate legitimacy builds on customs and social recognition highlighting the possibility of those with a legitimate interest (stakeholder) to intervene in corporate actions of their concern (Sison 2011). Thus, legitimacy from a Virtue Ethics perspective is dominated by the role of the individual that is embedded in the organization. Hence, the limitations of this ethical stream arise in the form of the bounded rationality of individuals, who may have self-serving biases that are not favorable to the broader society (Solomon 2003). Boddy (2011), recently discussed the role of "Corporate Psychopaths" in this regard, and their role as a cause for the Global Financial Crisis. Moreover, Virtue Ethics – as a character-based approach – is often criticized for its aspirational nature, emphasizing what a person should do rather than focusing on what actions or behavior is permitted.

Deontology/Kant

In contrast, deontological ethics follows a rule-based approach, considering the duties of an individual and the rights of others. According to Kant's categorical imperative, individuals should act only in such a way they want it to become a universal law. Therefore, some actions are seen as intrinsically good or bad. From a deontological perspective, upholding the rules is fundamental, and people should act according to them – regardless of the consequences. Consequently, a rule-based approach to legitimacy faces the challenge that certain groups or individuals are entitled to be treated in a given manner, yet, when the rights of individuals or groups conflict, Deontology provides limited guidance on how to balance them (Gao 2008). Transferred to the business context, this raises the question, which rules to follow and whose rights are prioritized; id est will the shareholder's demand for higher dividends be prioritized over employees demands of a salary increase or the other way round?

Utilitarianism

Rather than focusing on the intrinsic value of actions, Utilitarianism is concerned with the outcome or consequences of actions. A behavior is deemed appropriate in a moral sense, if it maximizes the utility, meaning the maximization of happiness for the highest number of people while reducing adverse externalities (Gustafson

2013). This traditional formulation of Utilitarianism has evolved and presents itself as a cost-benefit analysis of business behavior in today's societies (Gao 2008). Gao (2008) points out that the cost and benefits may take the form of economic, social, and human value, measured in monetary, societal, and emotional value. Thus, the calculation of legitimate business behavior is given, when the benefits outweigh the costs. In turn, corporate conduct is likely to be unethical once overall cost for society is higher than the benefits. The practical limitations of Utilitarianism lie in the limited possibility to foresee the outcome of future actions, and thus, the potential consequences for society. Further, minority voices are overruled by the net benefit for the greater society. Ultimately, moral legitimacy that follows a Utilitarian approach might solely focus on the result, overlooking the means taken to reach it.

Discourse Ethics/Habermas

Ethical discussions often center on the three previously mentioned streams overlooking the discourse ethical approach. Particularly representative in this stream is Habermas' conception of discourse ethics (Harbermas 1984, 1987), which extends to the concept of deliberative democracy (Habermas 1996) and is also the point of reference for discussions about business legitimacy as Political Corporate Social Responsibility (Scherer and Palazzo 2007, 2011; Scherer et al. 2016; Scherer 2017). Discourse ethics prescribes rules for governance participation that rest on the criteria of non-persuasiveness, non-coercion, and expertise (Moon et al. 2005). Further, it is a process-focused approach that evades moral judgments of norms as opposed to the other ethical streams. The moral legitimacy underlying the Habermasian discourse ethics rests on communicative validity. Thus, individual validity claims are brought forth in a deliberative communication process, in which others can challenge the initial claim to arrive at a joint validity that goes beyond negotiation (Sabadoz and Singer 2017). Essentially, the deliberative process leads to legitimate decisions, actions and thus societal legitimacy.

Legitimacy Lost: Greenwashing

What is Greenwashing: The Standard Definitions

Complex ecological problems are increasing worldwide, bringing the planet to its limits. As a result, 'Planetary Boundaries' have been or are about to be reached – particularly concerning climate change, the global nitrogen cycle, and the loss of biodiversity (Whiteman et al. 2013). Business firms are criticized and depicted as one of the causes for the worldwide ecological problems. As a consequence, environmental and social management has become a critical aspect of their business conduct to assure the social legitimacy of the firm (Walker and Wan 2012). However, corporate scandals and catastrophes – such as the sinking BP's Deepwater Horizon – remind the public that corporate commitment to address environmental problems often remains a mere symbolic communication gesture, also known as greenwashing

(Matejek and Gössling 2014). Marciniak (2010) describes greenwashing as a negative form of ecological marketing and “the unjustified appropriation of environmental virtue by a company to create a pro-environmental image.” The term “greenwashing” was established over 30 years ago in 1986, when the biologist and environmentalist Jay Westerveld used the word to stress environmental hypocrisy in the hotel industry (Pearson 2010). Westerveld criticized hotels for promoting a green image by putting up signs that are encouraging the reuse of towels to save water, whereas the real intention aimed at profit maximization by cutting laundry costs. While greenwashing emphasizes the link to the natural environment, the closely related term “bluewashing” is used to indicate the connection to the blue color of the United Nations and its Global Compact (UNGC) initiative. The UNGC encourages socially and environmentally responsible business conduct with several thousand-participant companies worldwide. The symbolic adherence to ten UNGC principles and the exploitation of its lack of mechanisms to monitor compliance has been portrayed as bluewashing (Stamoulakis and Bridwell 2009). The term greenwashing is more commonly used than bluewashing, which is also reflected by its entry in the Oxford English Dictionary: “The creation or propagation of an unfounded or misleading environmentalist image” (Oxford English Dictionary 1990).

Motives for Greenwashing

An environmentalist image can be advantageous for a firm because it is associated with an enhanced reputation (Baum 2012), consumer purchase intention (Spack et al. 2012), and willingness to pay (Laroche et al. 2001). Most importantly, greenwashing is seen as a corporate activity to attain legitimacy, which in turn is critical for a wide range of corporate activities, such as resource access, the attraction of workforce, and business relations (DiMaggio and Powell 1983; Walker and Wan 2012). Legitimacy leads ultimately to increased financial performance (Deephouse 1999). Thus, corporations have strong incentives to engage in greenwashing. However, when a company is accused of greenwashing, the consequences can be detrimental.

A Co-constructionist View on Greenwashing: Accusation-Based Definition

Due to its disguised nature, greenwashing is not always obvious and is often interpreted differently. The tourism industry shows that a green standing does not always go along with responsible business conduct. In a study about ecotourism on the Galapagos Islands, Self et al. (2010) distinguish between “ecotours” and “greenwashed tours,” which both claim to protect the fragile biodiversity, yet differ substantially in their actual commitment. Seele and Gatti (2015) therefore argue that greenwashing lies in the eye of the beholder, meaning that the external accusation determines whether the corporate behavior is deemed to be greenwashing. The authors suggest an accusation-based definition of greenwashing consisting of: **greenwashing** (misleading green message of a firm and a greenwashing accusation), **false greenwashing** (consistent green message of a firm and a greenwashing accusation), **no greenwashing** (consistent green message of a firm without accusation), and **potential greenwashing** (misleading green message without accusation) (Seele and Gatti 2017). Consequently, greenwashing can remain covered, fostering a firm's legitimacy. However, when the watchful eye of the public raises a greenwashing accusation – regardless of its justification – a firm can easily slide into a legitimacy crisis.

A legitimacy crisis can be viewed as a process-element that emerges from the interplay between legitimacy and greenwashing. The process can be divided into three phases: building, losing and/or restoring legitimacy. Legitimacy can be built on different pillars: (1) strategic manipulation (pragmatic legitimacy), (2) isomorphic adaptation (cognitive legitimacy), and (3) moral reasoning (moral legitimacy) (Seele and Gatti 2017). In an attempt to gain pragmatic legitimacy, companies strategically and "instrumentally manipulate symbols to attain social support," often resulting in greenwashing accusation (Seele and Gatti 2017). As a result, instrumental legitimacy may last only for a short amount of time. *Cognitive legitimacy* is usually achieved when corporations mimic common/institutionalized business practices in response to uncertainty (DiMaggio and Powell 1983). However, "doing what everyone else does" can also lead to disparities between corporate claims and societal expectations, limiting the chances of gaining durable social acceptance. Thus, from a long-term perspective, building on pragmatic and cognitive legitimacy is not ideal. In contrast, *moral legitimacy* is gained when corporations engage in deliberative discourse to meet societal expectations. Although, this moral legitimacy building process can fail if no consensus is achieved, an infinite number novel attempts can be made. Moreover, moral legitimacy-building provides an avenue, when overcoming a legitimacy loss (phase 2), resulting for example from a greenwashing accusation, and when restoring legitimacy (phase 3). Ford Motor Company can serve as an example in this regard. The corporation managed to overcome a greenwashing accusation and turned into a celebrated "green" car manufacturer through a moral legitimacy building process (Mitchell and Harrison 2012). The next paragraphs will center on how businesses can gain moral legitimacy.

Legitimacy Gained: Credibility

Application Context 1: CSR Reporting

Corporations can engage in voluntary Corporate Social Responsibility (CSR) activities, such as CSR reporting to express their environmental and social commitment. CSR reporting is also known as non-financial reporting and is usually carried out by following a reporting guideline such as outlined by the Global Reporting Initiative (GRI), or ISO 26000 (Knebel and Seele 2015). CSR reporting is becoming widespread and even mandatory in some countries like India and for certain company types such as recently in the European Union (Gatti et al. 2018). Firms can signal their compliance with environmental and social standards to external stakeholders via CSR reports. This is a crucial step when it comes to establishing legitimacy or regaining legitimacy. However, CSR reports are often used as a tool for instrumental communication, and thus, tend to focus on mere pragmatic legitimacy. The reports' lack of comprehensiveness, accessibility, and comparability and the amount of flexibility in the disclosure of non-financial data have been criticized in this regard (Knebel and Seele 2015). Thus, CSR reporting practices do not always go along with an increase in public trust or confidence in the business performance. This lack of trustworthiness is known as "credibility gap," challenging the legitimacy of a firm (Dando and Swift 2003). Seele and Lock (2014) argue that credibility gaps arise when CSR reports are used as one-way communication tools that inform, rather than interact or engage stakeholders.

CSR Reporting in a "Deliberative Democracy"

CSR reporting in a Habermasian sense avoids the credibility gap that stems from pragmatic and cognitive legitimacy-building processes (Wagner and Seele 2017). Gaining moral legitimacy is at the center of political CSR and its deliberative underpinnings (Scherer and Palazzo 2011). In this sense, a firm's (moral) legitimacy rises from credibility, which is attained through ethical discourse leading do discourse ethics contributing finally to deliberative democracy. The ethical discourse follows the four Habermasian validity claims of communicative action (truth, sincerity, understandability, and appropriateness) and political CSR's demands of open discourse, participation, transparency, and accountability (Lock and Seele 2016b). Transferred into practice, this means that political CSR reporting goes beyond one-way communication and involves inter alia weblogs, social media and Wikis, but also unpublished communication means, such as stakeholder roundtables, and dialogues with employees, NGOs, and advocacy groups (Seele and Lock 2014). To raise reporting credibility and thus legitimacy, Lock and Seele (2016b) advice firms to focus on comprehensiveness, truth, sincerity, and stakeholder specificity of their CSR reports and regulators to provide a level playing field regarding CSR reporting regulations. In sum, corporate communication practices that are embedded in political CSR focus on a broad foundation of discourse and deliberation that is essential to establish sustained (moral) legitimacy. The described form of political corporate action should, however, not be confused with corporate political activities, which are more generally known as lobbying.

Application Context 2: Lobbying and Astroturf: Credibility Crisis in CPA

Corporate political activity (CPA) is defined as "corporate attempts to shape government policy in ways favorable to the firm" (Hillman et al. 2004). CPA functions as an umbrella term to subsume corporate activities that include inter alia campaign contributions, (direct) lobbying, government membership on company boards, voluntary agreements, PACs (political action committees), constituency building (forming grassroots and Astroturf groups) and sometimes even illicit practices such as bribery (Hillman et al. 2004; Lawton et al. 2013). The question has been raised whether firms should be allowed to influence public policy or even have a legitimate right to do so – in other words – is CPA "part of a healthy democracy or a source of perversion" that should be regulated (Dahan et al. 2013)? (Dahan et al. 2013). Since CPA is understood, practiced and perceived differently across countries, there is no unanimous answer to this question. Whereas some actions, such as bribery are widely denounced and prosecuted as an illegal practice, other CPAs are subject to context-specific interpretation, which leads to varying classifications of their legitimacy. Particularly noteworthy in this regard, are corporate constituency building processes that tap into legal grey zones. They go along with ethical challenges and frequently have detrimental legitimacy effects on the firm if they are discovered.

Lobbying: From Grassroots to Astroturf

In recent years, traditional forms of lobbying have been received as increasingly ineffective. In contrast, the so-called grassroots lobbying has become a rising star. In grassroots lobbying, a lobbyist indirectly influences policymakers and the governmental agenda by involving civil society through citizens' movements that have a stake in an issue of concern (Lock and Seele 2017). Grassroots lobbying is a two-stage process in which lobbyists contact citizens, which in turn reach out to politicians via phone or email. The effectiveness of this lobbying strategy stems from the authenticity, trustworthiness, and credibility of the citizen group, which can exert power through their vote during an upcoming election (McGrath 2005). Grassroots lobbying can thus be seen as a legitimate democratic process that gives voters a (more) substantive collective voice.

Hitherto, on some soil grass does not grow, which led to the invention of Astroturf. Astroturf is a form of artificial grass, symbolizing the instrumental inversion of authentic grassroots activism (Lock et al. 2016). Astroturf lobbying is pseudo-grassroots lobbying meaning that "apparently grassroots-based citizen groups or coalitions that are primarily conceived, created and/or funded by corporations, industry trade associations, political interests or public relations firms" strive to exert political influence (Sourcewatch 2018). The lobbying strategy stretches the boundaries of legality, as the sponsoring and orchestrating company remains in the dark (Lyon and Maxwell 2004). The covert sponsorship is thereby the decisive element that marks the line between unintentional and intentional mislead. Regardless of legal sanctions that such a strategy might have and which are usually country-specific, if Astroturfing is uncovered, it can result in a significant legitimacy set-back, similar to the consequences of a greenwashing accusation. In fact, it is no coincidence that CSR and CPA – and likewise their instrumental inversions such as greenwashing and astroturfing – often share specific overlaps and should therefore not be treated in isolation.

As outlined by den Hond et al. (2014), the relation between CSR and CPA can take three states: misalignment, non-alignment, and alignment. In the case of misalignment, the company strives to accomplish diverging effects concerning a policy matter. An exemplary "worst case" of misalignment is, therefore, greenwashing combined with Astroturf lobbying. In such a scenario, the company follows a two-pronged approach of presenting a misleading environmental image to the public while at the same time covertly lobbying regulatory entities for lower environmental standards (den Hond et al. 2014). A non-alignment of CSR and CPA may evolve but can also be a deliberate firm choice. As a result, a non-alignment, as well as a misalignment of CSR and CPA, can substantially affect corporate reputation and compromise the ongoing legitimacy of a firm (Anastasiadis 2014). To avoid reputational and legitimacy losses firms can strive for CSR and CPA alignment.

Alignment of CSR and CPA: "Deliberative Lobbying"

Deliberative lobbying bridges CSR and CPA by setting out a minimal standard for CPA to coincide with proclaimed CSR strategies. It is defined as "a corporate political activity aligned with CSR that, based on discourse, transparency, and accountability, aims to resolve public issues" (Lock and Seele 2016a). Similar to political CSR reporting outlined above, the discursive pillar builds on Habermasian discourse ethics and the four validity claims of ideal speech. The exchange of arguments – on an equal level – is central, which is giving minority voices the possibility to participate in a dialogue that reaches consensus through the quality of the argument and not the power or position of an actor (Harbermas 1984). The second pillar of deliberative lobbying refers to transparency and thus, moral legitimacy creation. It means that the discourse process needs to be transparent to all stakeholders, giving them the possibility to gain relevant insights into the aspects of their concern. The third pillar of deliberative lobbying rests on the accountability of the actors. Not only should the discourse participants know each other, but also bear the responsibility for their statements and actions. In turn, the other discourse participants can hold them accountable. Corporate accountability is, therefore, an essential element of moral legitimacy that ensures societal control over corporate conduct (Seele and Lock 2014).

In sum, deliberative lobbying takes account of a dynamically evolving world, rather than looking at a static system. Thus, the corporate license to operate is gained through iterative discourse processes establishing moral legitimacy that can be redefined in future deliberations. Deliberative lobbying is, therefore, an "argument to maintain self-regulation against critics claiming that corporations should be excluded from all political processes." (Lock and Seele 2016b). Conversely, the theoretical core of deliberative lobbying – political corporate social responsibility and thus Habermas' discourse ethical approach – does not remain unchallenged. Consequently, the following paragraphs will focus on limitations of Habermas' theory, political CSR, and possible future pathways of moral legitimacy creation, which go beyond the dominant schools of ethics depicted above.

Conclusion: Habermas' Limitations as Idealized Philosophy/Normative Thinking

Habermas' notions of deliberative democracy and ethical discourse represent an idealized philosophy. The theory was developed following World War II encouraging critical thinking and normative reasoning (Wagner and Seele

2017). Thus, the conceptual advancements of it, such as political CSR, remain also normative ideals with aspirational or desirable character (Schultz et al. 2013). Their realization and implementation in real-world settings are challenging and require substantial efforts. The practical limitations – still to overcome – are particularly visible when looking at the political CSR construct and the legitimacy of corporate political action conjointly. Political CSR theory depicts corporations as actors with a political mandate to participate in global governance especially in situations where national governments failed or are unable to uphold their regulatory duties (Scherer and Palazzo 2007, 2011). Still, this corporate political activity – especially in the form of taking over governmental tasks – is marked by a legitimacy deficit that derives from a missing democratic foundation (Wagner and Seele 2017). Corporate governance models worldwide are characterized by leadership that is selected, and not democratically elected. Hence, corporations have no operating license in the sense of political actors (Scherer and Palazzo 2007). *Political CSR* strives to overcome the absence of democratic legitimacy by proactive moral legitimacy creation. As outlined above, this can be accomplished through public dialogue and participatory processes that rest on the democratic mechanisms of discourse, transparency, and accountability. From a practical perspective, democratic stakeholder engagement is realized via CSR reporting in a deliberative sense and multistakeholder meetings, which both serve as tools for moral legitimacy creation. However, the "fuzziness" and nonbinding character of current CSR reporting standards (see, e.g., GRI G4.0) leaves room for reporting that appears to be political in a Habermasian sense (Wagner and Seele 2017). Closer examination reveals that corporations can provide too much information and even report on aspects that have no ground for comparison. Such Information overload and incomparability leave stakeholders uninformed and thus unprepared for an ideal discourse (Wagner and Seele 2017). Consequently, the outlined concepts of "political CSR reporting" and "deliberative lobbying" are exposed to the risk of misuse in the absence of a global governance framework that assures a level playing field in the global political economy (Bobby Banerjee 2014). Thus, the limitations but also the frontiers of Habermasian theory building lie inter alia in the transformation into practice relevant constructs, which can uphold their aspirational normative demands in a day-to-day business setting. In this sense, firm-level but also global governance structures that are based on the foundations of "committed" deliberation are promising future pathways – also for a sustained moral legitimacy of the corporation (Bobby Banerjee 2014; Wagner and Seele 2017).

Outlook: New Approaches Beyond Utilitarianism, Deontology and Virtue Ethics: Digital Democracy and Data Deliberation

In an increasingly inter-connected world dominated by information and communication technologies, corporations can use novel forms of moral legitimacy creation. In this new digital context, it is worthwhile to consider approaches that go beyond the dominant schools of ethical thinking. Progressive digitalization of corporate data and technological advancements are playing a pivotal role, particularly when it comes to CSR reporting (Seele 2016). Whereas early forms of digitalization in the reporting context referred to digitizing written reports into online publications, the more recent digitalization processes indicate a fundamental shift toward digitally enabled transparency and accountability. Thanks to substantial advancements in digital reporting standards that are already in use for financial reporting, CSR reporting can increase its credibility – and in turn firm legitimacy – by building on a unified digital standard, such as XBRL, namely, eXtensible Business Reporting Language (Seele 2016). The XBRL reporting standard is already used by the US Securities and Exchange Commission for digital financial data exchange and has recently moved into the focus of the GRI to advance its CSR reporting standard (Seele 2016). Applied on a global scale, a unified reporting language can offset the previously mentioned lack of comparability of firm data, giving stakeholders the ability to enter an informed discourse (Wagner and Seele 2017). Further, the precision of coding standards that follows from the referencing of CSR indicators to single data points in the XBRL repository signifies a shift toward standardization and rule-based regulation (compare to 1.2 Deontology/Kant). Consequently, the creation and propagation of misleading environmental performance data, as well as the exploitation of legal grey zones through unclear and fuzzy information will be complicated.

The key contribution of a digital reporting standard lies, however, in a 24/7/365 transparency of corporate behavior, which stands in sharp contrast to the current practice of reporting about passed business conduct (Seele 2016). The consequence of this time-ontological shift is twofold. On the one hand, digital transparency stands at the borderline of ubiquitous digital surveillance that can create new challenges for moral legitimacy. On the other hand, real-time sustainability data gives corporations the ability to contribute to the resolution of global public challenges in an entirely new manner of pro-social surveillance (Seele 2016). Corporations are key elements in global societies that are increasingly interconnected, not only by the Internet but also by the "Internet of Things" (Gershenfeld et al. 2004). The "Internet of Things" fosters data generation in an unprecedented manner, such that data volumes "double every 12 h rather than every 12 months, as is the case now" (Helbing and Pournaras 2015). Thus, corporations will gradually contribute to what is commonly known as "big data."

In an ideal scenario, big data can empower citizens and foster the well-being of society at large. In its current form, however, the potential of big data often remains in closed, and or opaque corporate databases, rather than adding value to the broader society. Hence, Helbing and Pournaras (2015) call for the open sharing of data in a digital democracy, outlining that big data can help to solve the world's challenges when governed in a pluralistic and bottom-up manner. The digital democracy framework that the authors depict represents a deliberative approach in a Habermasian sense. Thus, moral legitimacy creation of businesses embedded in a digital democracy can occur through the open sharing of corporate data, building a collective "data commons." The data sharing can contribute to (1) societal debates and support governmental efforts that use data analytics to anticipate and resolve local (Seele and Schultz 2017), and global challenges (Helbing 2013) of the networked society, (2) a responsible governance of colossal transnational projects such as the Chinese Belt and Road Initiative, also known as the New Silk Road (Seele and Helbing 2018), (3) fostering and safeguarding peace (Helbing and Seele 2017). Consequently, for a new form of moral legitimacy creation in the digital democracy of tomorrow, this form of open data sharing can be labeled as "*data deliberation*."

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Legitimacy, Political Organization, and Communication

35

Peter Aagaard

Contents

Abstract

This chapter will address the question of public legitimacy in connection to the communication of political governed organizations (PGOs). My point of departure is that legitimacy in the public sphere is a central purpose in the communicative effort of any political governed organization. Overall, the paper takes an institutional approach to the subject and aims to clarify the institutional modes and forms PGOs are embedded in connection to the public sphere, as well as how these forms and modes transform in the public sphere. I will not only address the institutional form and modes but also the agency and strategic ability to influence the challenge of public legitimacy.

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Political communication · Political organizations · Strategy · Phronesis · Public affairs

Introduction

PGOs, in general, have become more engaged in the fight for positive public attention to legitimize their production of public value (Schillemans 2012: 11). Simultaneously, they also increasingly run the risk of being caught up in public scandals (Allern and Pollack 2012), especially in social media campaigns. Negative public awareness can be devastating for any PGO in the attempt to act and fulfill its role as producer of public value.

Though the risk of negative publicity is growing in the light of media attention and growth of digital media, PGOs are not victims of the increased mediatization, though they may occasionally experience media attention as a witch-hunt. PGOs also use the media and mediatization to manage public attention and awareness. Today, PGOs are expected to be able to justify and clarify or at least explain or excuse their behavior publicly. Ideally, they must be able to influence the public agenda setting, before others set or influence the public agenda for them. Some are better at doing this than others (ibid.: 147).

The paper will be divided into six subsections. After the introduction, the following section will clarify and define the key concepts: political governed organizations (PGOs), communication, and legitimacy are defined and clarified. The next section will consider the external environment for PGOs, especially how environment has transformed, historically, as well as in recent years. The next, and fourth, section changes angle and considers the internal environment of PGOs, especially how the space for strategic efforts and processes can be framed and understood. The fifth section will discuss and relate legitimacy to the question of ethics and political communication. A final section summarizes the chapter and concludes.

Key Concepts

This subsection will clarify the three key concepts: legitimacy, political governed organization, and communication.

Legitimacy

In this chapter, the approach to legitimacy is based on the work of Suchman (1995). Overall, Suchman's perspective can be seen as a synthesis of two different approaches: an agency-oriented approach moving from the inside-out of the organizations and institutional-oriented approach moving from the outside-side of the organization. Both approaches will be considered in this chapter.

Suchman sees legitimacy as “a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions” (1995: 574). This approach to legitimacy links back to the concept of logic of appropriateness (March 1991). Logic of appropriateness guides decision-making based on duty, obligations, identity, and social expectations. In their book *A Behavioral Theory of the Firm* (originally 1963), Cyert and March (1992) argued that actors are not only guided by a logic of consequentiality as mainstream organizational theory claimed at that time but also by a logic of appropriateness, where actors do what is considered appropriate or is expected of them in any given situation they are in. Instead of fixed rules and preferences (as in logic of consequentiality), rules and preferences are much more dynamic and shifting, guided by the given situation and context. This means that legitimacy is not a cohesive, one-dimensional phenomenon. Instead, it is social constructed in relation with other actors and dependent of the given context. This also means that there is not just one type of legitimacy but continuously many different forms of legitimacy for actors to consider. Shifts in context or institutional spheres, from state to market, for example (Friedland and Alford 1992; Thornton et al. 2012), will therefore change the social rules and expectations of how to gain legitimacy or to behave legitimate.

As mentioned, Suchman also emphasizes the role of agency (and strategy) in the creation of legitimacy. Here the belief is that organizations can “manipulate and deploy” (1995: 572) symbols in the pursuit for legitimacy. Newer institutional approaches (Thornton et al. 2012) also have an increased focus on agency. In the institutional logics approach, the agent is seen as an institutional entrepreneur in the pursuit of legitimacy, where the overlap of different societal spheres or logics makes knowledgeable agents capable of mixing different institutional logics.

Political Governed Organizations (PGOs)

Political governed organizations (PGOs) are related to the notion of public organizations but yet a broader phenomenon: PGOs are not only municipalities, hospitals, and schools but also include civil society organizations, foundations, political parties, social movements, etc.

Though it is a broad category, the PGO label gains meaning, since political governance today goes beyond the borders of formal state government. Today, a range of private or self-owned organizations becomes subject of increased politicization and/or is linked to polycentric forms of governance. Governance is not only taking place through the formal chain of command in public administration but also through a range of networked relations (Osborne 2006, 2010; Peters and Pierre 1998) and public, semipublic, or informal arenas (Binderkrantz et al. 2015).

PGOs often have an ideological purpose. Their purpose is often value-based instead of profit-driven. If they are not a direct part of the state budget (Aagaard and Agger 2017), they are often financed indirectly by public subsidies, but fundraising and membership payments may also play a role as well.

It may seem that PGOs, which are already publicly funded, have an easy task earning their legitimacy in the eyes of the public, but that is not the case. An overwhelming part of PGOs output/outcome can be described as public value (Alford and O'Flynn 2009; Moore and Bennington 2011; Moore 1995; Vigar et al. 2014). According to Moore (1995), public value can be social, cultural, political, environmental, and economic (see also Bennington 2011: 45). In other words, public value can be rather different things. Consequently, PGOs become subjects for public and political scrutiny of their worth and purpose.

So, proven their worth is a diligent strategic task for PGOs. This became evident after the introduction of New Public Management (Hood 1995) in the 1980s and 1990s, where governments began to treat public organizations as economic responsible entities in themselves, instead of just parts of the larger public bureaucracy (Schillemans 2012: 14). The same can be said, when it comes to PGOs. PGOs though do not only serve politicians and their parliamentary committees. PGOs continuously also need to behave responsible to gain legitimacy in relation to an additional range of stakeholders: that is, the political elected board, citizens who benefit directly from the public value the organization produces, taxpayers, as well as – and not least – the media.

Such a diverse set of stakeholders change the nature of PGOs. They do not contain fixed and formal entities that only need to be economically responsible to gain legitimacy. Instead, PGOs tend to adopt more fluid or flexible entities that shift, depending on relations and context. One example can be a municipality. An NPM-focused national government will evaluate a municipality as a social service provider, but organized local interests will primarily evaluate the municipality as a political community. In other words, when context and stakeholder relations change, the criteria for legitimacy changes.

Communication

Managing legitimacy "rests heavily on communication" (Suchman 1995:586). In this chapter, communication is associated with public and political communication. This means that the communication of PGOs is mediated through the public sphere. The purpose of this communication is to gain or sustain legitimacy in the eyes of the public in general or a specific target group (or stakeholders) that inhabits parts of the public sphere. A long range of different subfields and theories are dealing with different forms of contemporary political communication: mediatization (Strömbäck 2008), public affairs (McGrath et al. 2010), (media) lobbyism (Binderkrantz and Pedersen 2017), and agenda-setting (Baumgartner and Joones 1993; Dearing and Rogers 1996).

Mediatization focuses behavior on drama, simplification, personalization, polarization, and concretization in the fight for public attention (Strömbäck 2008). Scholars like Strömbäck (2008) and Mazzoleni and Schulz (1999) both describe how political actors are increasingly influenced by or dependent on the logic of media. Research in mediatization has grown considerably in recent years. The research has had a tendency to focus narrowly on the behavior of politicians and political parties, but more recent contributions though also look at the mediatized behavior of public administrators and civil society organizations (Korthagen and Klijn 2014; Schillemans 2012).

While PGOs become more engaged in the fight for positive public attention to legitimize their production of public value (Schillemans 2012: 11), they also increasingly run the risk of being caught up in public scandals (Allern and Pollack 2012) or so-called shitstorms in social media campaigns. Negative public awareness can be devastating for any PGO in the attempt to act and fulfill its role as producer of public value.

Outside-In: Institutional Changes Affecting the Legitimacy of PGOs

This subsection will reflect on the outside communicative environment of PGOs and discuss how this environment influences PGOs. In that sense, the section reflects on the "outside-in" institutionalization of PGOs' external legitimacy creation. The environment of PGOs is conceptualized as the public sphere, but even the institutional structures of the public sphere are transforming. So, the focus will be on the changes of the public sphere and the shifting norms and demands that PGOs need to address to maintain and built legitimacy through public and political communication.

In general, the communicative environment of PGOs has transformed in four historical phases (Blumler 2013; Blumler and Kavanagh 1999), that are closey related to the raise and development of the public sphere and liberal democracy.

The first phase started at the emergence of Rechtsstaat-principles and bourgeois political societies in the early eighteenth century (Fraser 1990). Suddenly, very old forms of PGOs, like religious institutions, found that their dogmatic foundations could increasingly be subject for free, public debate among citizens that valued the freedom of speech. Later on, the bourgeois political societies transformed into editorial press and very early forms of PGOs, such as political parties and civil society movements.

The second phase emerged in the dawn of welfare state and electronic mass media, first the radio and later on, in the post WW II era, the television. Along with the welfare state also came the notion of state-driven public communication. Now, the state became an active player in the creation of new norms of citizenships. The welfare state constructed new roles of citizenship, such as being a public school student or an elder care patient. To maintain legitimacy a long range of PGOs needed to influence the construction of these new roles of citizenship. Consequently, public communication becomes a professional task that PGOs were expected to solve. Increasingly, the professional public communicator needed to be able to manage public campaigns and measure mass media effects on target groups through focus groups and surveys.

The third phase began in the aftermath of Western welfare state crisis in the 1970s, where governments introduced new austerity politics. Governments installed the institutional framework of managerialism (New Public Management) into public organizations and later into a long range of civil society organizations (Mazzoleni and Schulz 1999; Schillemans 2012). Now, every PGO was an economic responsible entity in itself that could be subject of public scrutiny and debate. In addition, the public sphere was marked by austerity and marketization among the independent editorial media organizations. Newspapers saw their readers immigrate to electronic media, and public service television saw their audiences immigrate to private broadcasters. Meanwhile, politics was also commodified, as political actors started to become involved in political marketing (Sparrow and Turner 2001). Public attention among PGOs also needed to be gained the right way and by the right target group, so now priming (agenda-setting) and framing (McCombs 2005; Scheufele 2000) was no longer just a task for the media but for any strategic, political actor. The overall increased fight for attention among political actors and media outlets leads to early forms of mediatization (Mazzoleni and Schulz 1999; Strömbäck 2008). Consequently, during the 1990s and 2000s, mediatization as a new institutional logic began to influence the legitimacy creation of PGOs.

The fourth phase emerged in the aftermath of the financial crises in 2008. Priming and framing is still important, but more is expected of PGOs. Audiences immigrate once again, from traditional mass media to new digital media platforms. Due to digitization the structure of the public sphere has become a hybrid of editorial media and social media (Bennett and Segerberg 2012; Chadwick 2011). The hybrid public sphere is combined with continued demands for mediatization and increased demands for strategic professional communication across different media platforms and spheres of influence. Today, PGOs must learn to micromanage their entire stakeholder relations professional and to use the hybrid public sphere to do so. The needs and demands of every individual citizen can in principle be traced and stored through the tools of digitization (Bennett and Iyengar 2008: 707), and the production of public legitimacy can then become a much more flexible task where individual citizens may be approached as target groups. Digital technology is able to do this already, but legislation like the GDPR may circumvent the full range of the technology, since citizen surveillance is often a precondition for its use.

As implied, each new phase has meant new norms for communicating and new forms for proper PGO conduct in the public sphere. In addition, the structure of the public sphere has shifted dramatically. Today, it no longer makes sense to see the public sphere as one, united sphere as in the eighteenth century. Neither is the public sphere a place, where political actors are able to raise above their own strategic interests to found the most rational solution to the problems of the common good. Instead, the public sphere is fragmented or consists of different niches (Mazzoleni and Schulz 1999), where each niche can be seen as a habitat for one or more PGOs. These habitats and their discursive processes need to be nursed by professional communicators to maintain an inhabitable environment for PGOs. Seen this way, the

Table 1 PGOs and the four phases of communication

Phase of political communication	Public sphere characteristics	New logic of appropriateness for PGOs
1. *Rechtsstaat regime emerge*	Meeting place for free citizens, mediated by newspapers	PGO as subject for free, public debate
2. *Welfare state regime emerge*	Electronic mass media emerge	PGO must be professional, public communicator
3. *Marketization regime emerge*	Public sphere as market of attention	PGO must engage in mediatization to gain attention
4. *Digitization regime emerge*	Public sphere as a hybrid of edited media and social media	PGO must be a strategic communicator across several media platforms

public sphere today is more like an ecosystem, where niches are constantly framed and edited by outsiders. This development urges PGOs to take responsibility for their own niche. Table 1 summarizes the four phases.

It is important to emphasize that the phases do not mean that public and state regimes are replacing each other historically. Instead, a new phase represents a new archeological layer of institutions. New forms, modes, and types of praxis emerge on top of older ones and transform how the public is perceived and how key actors organize.

Furthermore, it is important to emphasize the importance of the niche in the fourth phase of political communication. Though the environment poses many similar demands and expectations across the broad spectra of PGOs, it is important to remember that there still is a huge difference in the occupying the niche of, for example, a public school compared to the niche of a social economic firm.

Inside-Out: Managing PGO Legitimacy

A long range of different questions arise for PGOs in the fourth phase that all affect legitimacy. Especially questions of transparency and whistle-blowing become increasingly relevant in a hybrid media system, where information can easily be moved, copied, or hacked. PGO strategists must ask themselves questions like: What information is important for us to obtain through digital and social media? How much should we surveil users and citizens through digital media? What information is important for us to communicate and to whom? How open and transparent should we be? What information should be free for users and for citizens? How should we deal with whistle-blowers? How much should we cooperate with external media? How should we deal with public citizens' initiatives in our field? How much should we and how do we influence political decision-making through the public?

While the fourth phase of political communication pushes PGOs toward professionalization, mediatization, and digitization, PGOs can also make organizational responses to the fourth phase development. Most theories on political communication focus on the external communication, through priming and framing, public relations, etc. Therefore, the subject of *internal organizing of external* *political communication* is rather underdeveloped. The division between external and internal can be rather artificial, though, when even employees can be stakeholders, the PGO leadership may best reach through the public sphere.

The increased need for PGOs to nurse their niche, agenda set, and opinion shape elevates the importance of strategic political communication (Moss et al. 2012: 58). Therefore, strategic organization of political communication has become an unavoidable task for the leadership of PGOs. While the strategic responsibility for public legitimacy creation previously was in the hands of the communication consultant or the spin doctors of political parties, this responsibility has now been elevated to the administrative front office or the political secretariats of the leadership of PGOs and is connected to a broader set of competences and more complex strategic endeavors.

To increase their success in the digital age of communication, there is range of different task PGOs can obtain:

- They can produce and communicate their own data on emerging political issues.
- They can produce and communicate their own data on their production of public value.
- They can use digital platforms to publish themselves.
- They can hire public affairs consultants.
- They can conduct media lobbyism (Binderkrantz & Pedersen) and issue management (Mcgrath et al. 2010) with the aim of nursing the niche of the public sphere that they inhabit.

To adopt strategic modes and targets as these PGOs still depend on financial resources, they also need access to information and people with the right capabilities and skills.

Two interconnected bodies of literature, which I label public affairs and policy professionals, describe the new roles and forms of praxis that shape PGOs in the fourth phase:

Public affairs is the external noncommercial activities of the organization. It is about the wining and creation of legitimacy through good stakeholder relations, but the literature also describes the emerging profession of public affairs consultants and their capabilities. The public affairs consultant conducts issue management. That is the ability to timely introduce new issues or to influence how new issues and trends are perceived by selected audiences (McGrath et al. 2010: 343). As a profession public affairs has spread across political communication, marketing, and management (Moss et al. 2012). Sometimes the public affairs concept is used interchangeably with lobbyism (McGrath et al. 2010: 336), though lobbyism as a profession often has a more narrow focus on influencing the formal political decision-making through direct contact. Others (Binderkrantz and Pedersen 2017) make a distinction between inside lobbyism (classical backstage lobbyism) and outside lobbyism (through the media). Public affairs contains both stakeholder relations and inside and outside lobbyism.

Policy professionals were originally described by Hugh Heclo (1978). He saw them as a new political elite that was central to the issue interest networks he argued exists across national politics. Recently, scholars have used the notion of policy professionals to describe a similar phenomenon in Scandinavian, primarily in Swedish, politics (Garsten 2014; Svallfors 2016a, b). Policy professionals are not traditional lobbyists or typical public affairs consultants but have a broader set of capabilities. They often have a university degree as well as experience from state administration or communication consultancy in political parties (Blach-Ørsten and Willig 2016). They have a deep understanding of national political processes (Garsten 2014: 20; Svallfors 2016a: 59), both frontstage and backstage processes, and they are often well connected to both journalists and editors in the media, as well as to top bureaucrats in the state administration. That gives them access to information and relations they can use to launch and frame both policy problems and solutions. While they are driven for the quest for power, media is their most important arena for influence, and knowledge about policy problems and solutions is their most important resource (Garsten 2014: 21). Policy professionals can also be described as a kind of professional political activist, but despite their political idealism, PGOs should not count on their loyalty for too long. According to a Swedish study, policy professionals in average shift jobs after 2 years (Svallfors 2016a: 59).

So what do these public affairs consultants and policy professionals do, when they become employees of PGOs? How can they help make adequate strategic decisions that sustain and build the public legitimacy of the PGO? The ability to make strategic responses is rooted in organizational capabilities and processes. Strategy is not just the result of deliberate choices of management and leaders but is often also the result of practical experience and organizational history. There are different strategic responses PGOs can make, because PGOs are all different. There is no one-size-fits-all procedure to strategy, but different responses to reflect and act on, and different dilemmas to handle. To describe this field of responses and dilemmas, I will combine two classic descriptions of the interior of organizations: (1) the input, throughput, and output and (2) vertical versus horizontal coordination.

Input, Throughput, and Output

All organizations have processes of input, throughput, and output. Reflections on how to handle the flow of information and to sustain and build public legitimacy in each of these processes can improve strategic capabilities (see Schillemans 2012 for a similar approach).

– *Inputs* are about scanning the PGO niche to learn how to operate. All relevant sources of information, both public and backstage office in government, can be relevant sources of information on how to operate and position the PGO.

– *Throughputs* are about the internal processes, where the PGO must decide to what extent internal operations must be adapted to live up to the public legitimacy demands and standards.
– *Outputs* are about the interaction with the external environment – Like news organizations, state agencies, or citizens' initiatives that all affect the public experience of the PGO legitimacy.

Vertical Versus Horizontal Coordination

PGOs react differently to the need for public legitimacy. Some PGOs centralize the management and responsibility of public legitimacy; others spread the management to specialists (Schillemans 2012: 142). Some PGOs are more risk-taking and actively embrace the media as a way of reaching their goals, while others are more risk-averse and mainly want to avoid negative media coverage. The former wants to "use" the media – the latter wants to "handle" the media (Schillemans (2012:147).

This distinction between strategic responses that are more proactive or reactive can also be found in the mainstream strategic literature (Mintzberg 1994). Below, these two types of responses are titled *vertical coordination*, which is associated with the notion of centralized strategic planning (Mintzberg 1994), and *horizontal coordination*, which is associated with the notions of networks and complex responsive processes (Stacey 2001). These two types of responses are both highly relevant and make an obvious clarification of the fundamental strategic dilemmas for PGOs, in the fourth phase: Should our respond be reactive or proactive? Should our respond be centrally or decentrally managed? In each phase (input, throughput, and output), the PGO must decide on vertical coordination versus horizontal coordination or aim for a hybrid form of coordination.

Vertical Coordination

Vertical coordination rests upon the Weberian idea that change can be instrumentally controlled top-down (March 1995, s. 43). The approach builds on distinctions between different levels of the organization: strategy (leadership), tactics (administration), and the operative (implementation). According to Mintzberg (1994: 22), this layering of organizations is the strongest argument for maintaining vertical coordination, since it makes it possible to make distinctions between daily routines and actual change.

Furthermore, proponents of vertical coordination assume that the organization has a unified culture directed toward a unifying, primary purpose. This purpose is assumed not to change. Likewise, the organisation is assumed to have a clear hirarchy, where actors believe they are able to arrange problems, and solutions to public legitimacy in an order of causation. This order of causation tends to follow formal, procedural guidelines, created to manage processes of input, throughput, as well as output. This means that actors can make intended and linear changes to the way the organization responds to public legitimacy questions. In fact, proponents of vertical coordination believe that public legitimacy problems always can be solved by technical-instrumental solution, in the form of new knowledge, rules, or procedures (Organ and Greene 1981). Managing public legitimacy is just a question of defining target groups, defining and framing message, and then allocating sufficient resource to that part of the organization, who according to formal procedure are skilled to solve the problem. The very same approach can also be used, if problems of public legitimacy are outsourced to external public affairs consultants or public relations agencies, who are able to advise the PGO on how to maximize cost-efficiency in the pursuit of public legitimacy.

In general, there is a quest for causal predictability inherent in vertical coordination. The approach favors general modalities, formal rules, and procedures, which managers often believe can be effectively applied to more specified problems of public legitimacy. Through formalized procedures, managers verbalize their intentions and plan how internal or external reality should be altered in accordance with purposes and ideals (Mintzberg 1994: 12–14).

Horizontal Coordination

Horizontal coordination has a different understanding of strategic decision-making and leadership in organizations (Stacey 1995, Stacey 2007, Mintzberg et al. 1994, 2005; Bovaird 2008). Proponents of horizontal coordination tend to see the PGO as a relational, networked, and collaborative organism. Accordingly, strategy is seen as a pattern that emerges from responsive processes based on the simple interactivity among many different actors. The strategic pattern can go across the borders of the organization and enter the public niche the PGO inhabits. External media or involved citizens can be just as important and related to the strategic pattern as the colleague next door. Actors are seen as self-aware, interdependent entities, which are able to act strategically toward a specified goal, but no single actor is in control of the entire coordination (Stacey 2007: 298). This also means that the impact of leaders is limited, though not irrelevant (Byrne 2005; Klijn 2008: 314; Thompson 2004: 416). Authority and expertise are not given but rest on coalitions and recognition based on trust and continued reciprocity. Continuously actors must ask: Who is best, in this given situation, to respond to the emerging and changing demands of public legitimacy, the PGO face? The answer to this question will often lead to decentralization of the decision-making on public legitimacy challenges, to the ones who in the given situation are recognized as experts.

This line of strategic thinking has become part of the mainstream thinking in business management, but it is just as relevant in PGOs (Stacey and Griffin 2006; Mintzberg and Jørgensen 1987; Farjoun 2002; Bums 2002; Davis et al. 2009; Teisman and Klijn 2008; Bovaird 2008: 325; Paarlberg and Bielefeld 2009).

Instead of a simple transmitter-receiver relation (Lasswell 1927), everyone is able to communicate. That also means that direct, causal effect of communicative efforts can be difficult to measure. Output effect may also be the least important issue in horizontal coordination. Instead, new learning in the form of new communication capabilities is often the purpose of horizontal coordination. The aim is not to learn to be more efficient in daily routines but rather to enhance the ability to be more proactive (Paarlberg and Bielefeld 2009: 250). This can, for example, be done by elevating the skills and knowledge of every member of the organizations and not just the few members of the communication department.

The development of new communication capabilities is seen as an evolving, incremental learning process combined with rapid radical change, which has no obvious connection to the amount of resources put into strategic effort (Bovaird 2008: 322).

Table 2 summarizes the strategic space in PGOs, aiming for public legitimacy creation. It is important to recognize that both the vertical and the horizontal approaches have limitations.

Vertical coordination can be related to a profound belief in institutional engineering, where legitimacy can be "deliberately designed, chosen and reformed by actors" (Olsen 2002: 584). This approach is highly criticized by Olsen, because it is "not likely to capture processes of comprehensive reform in complex and dynamic political orders" (Olsen 2002: 582–582) like the ones that exist inside PGOs and their niche of the public sphere. A short-termed effectiveness may be achieved, but it may also be achieved on behalf of exploring the opportunities for more long-term survival (Olsen 2002: 588). PGOs are not rational organizational instruments, and preferences and goals are not consistent, especially not when it comes to legitimacy creation in a hybrid media system. Social media develop so fast (due to technologies like bots, AI, VR, etc.) that social-engineered responses of PGOs become obsolete in the process. Furthermore, the growth in niche media calls for more decentralized or specialized forms of surveillance of the media flow in the input phase, as well as the decision-making on how to respond to news stories and interaction with media in the output phase. You could even argue that in the fourth phase, any PGO professional employee must develop capabilities of public communication. Communication cannot be just an issue for the central communication unit. All PGO professionals must to some extent, and in their own specialized habitat, develop the ability to handle public affairs.

Critics would tend to claim that *horizontal coordination* cannot be a general alternative to vertical coordination. Instead, it should be seen as a supplement. Despite its fragmented character, the hybrid media system is not always fragmented.

Table 2 Strategic space in PGOs

	Vertical coordination	Horizontal coordination
Input	Centralized unit surveils all media flow in a more reactive manner	Decentralized/specialized and more proactive surveillance of selected parts of the media flow
Throughput	Centralized unit decides on the degree of adaptation to external media in a more reactive manner	Decentralized/specialized and more proactive decision-making on the degree of adaptation to external (often niche) media
Output	Centralized unit decides on the interaction with external media	Decentralized/specialized and more proactive decision-making on the interaction with external (often niche) media

Occasionally information circles (Chadwick 2011) centralize the public sphere and focus all attention on one event. These information circles take the form of scandals, shitstorms, or mega events. Here PGOs cannot rely on horizontal coordination but must also have a centralized – or at least an integrated – strategy. In general, vertical strategic planning can hardly be dismissed in any organization that attempts to be recognized as rational. Plans and planning still have a major important role to play in organizations, at least as resources that provide alternative courses of action (Cunha and Cunha 2002). Organizations still need strategic planning to make distinctions between efforts and goals of the daily routines and efforts and goals of their future strategic efforts.

Despite the two approaches, PGOs seldom have to make clear-cut decisions between them. Instead, PGOs can aim for a form of *hybridity*. Many PGOs have a historic preference for vertical coordination. Nevertheless, the fourth phase of political communication creates a need for more decentralized and specialized responses to public legitimacy, so the wind may currently blow in favor of more decentralization in many PGOs.

But in the long run, both vertical and horizontal coordination are needed. Public legitimacy is an outcome of both outside-in and inside-out processes. In other words, it is very difficult to say if it is the PGO leaders' strategic aim of creating public legitimacy that creates professional employees, who aim for public legitimacy, or if it is professional employees with a strong ethos that create the strategic considerations on how to build public legitimacy. In praxis, every PGO will attempt to integrate and balance the two forms of coordination into a hybrid form of coordination.

Legitimacy, Ethics, and Communication

The question of political communication and legitimacy unavoidably relates to how ethical values (like transparency or obligations to inform the public) are developed and practiced in PGOs. Therefore, the last subsection will discuss possible ways for PGOs to work with ethics as an active part of their political communication in the effort of creating public legitimacy. The reflections can be order in three categories, taking place at the three traditional analytical levels of social science:

1. What to expect from the professionals (micro)
2. What to expect from the PGO (meso)
3. What to expect from the branch of PGOs (macro)

What to Expect from the Professionals

At the individual (micro) level, the question of legitimacy can become ambivalent.

On the one side, it is clear that policy professionals of PGOs do not nurse the interest of the public but the interests of PGOs. Often policy professionals in privileged PGOs are caretakers of the power interest of elites. As the "hired guns" of elites, policy professionals may very well make compromises on behalf of higher ethics that in the long run may undermine an informed and democratic public debate. In that case, policy professionals tend to exclude the broader public and preserve political communication for the elite (Svallfors 2016b: 514).

On the other side, power will always be part of political communication. Likewise, policy professionals will always serve the interests of PGOs. Different political organizations have different – and in general – legitimate interests in influencing the public agenda. So professional communication is not necessarily bad for an informed, democratic public debate, if the outcome is a diversity of sources informing the public. To put it short – morally speaking – policy professionals in PGOs are acting with legitimacy, when they are *making* the news. However, if they are *faking* the news, they are clearly acting with illegitimacy.

Professional mind-sets and ethics become a challenge and a key asset in the age of digital communication. When the technological possibilities for data-driven communication are growing, data is no longer what is missing. What instead becomes a challenge is the ability to ask clever questions of how to create public value from the growing amount of data. Therefore, professional judgment may be even more important than before.

To take care of their role in legitimate ways, policy professionals in PGOs could aim for value-based wisdom in their daily judgments. Such an orientation is linked to the notion of *practical wisdom* and *practical ethics*, also known as *phronesis*. Phronesis is an ideal for practical action that takes account of the contextual circumstances, hereunder the distribution of power. As such it is not objective, but rather a value-based form of knowledge, which comes to life as a habitual disposition, when policy professionals try "to do the right thing, at the right time and for the right reason" (Küpers and Pauleen 2015 (online version): 494). Practical wisdom and ethics thus place the daily and habitual experiences of professionals at the center of attention and put practical knowledge into focus (Flyvbjerg 2006: 371; Nonaka and Takeuchi 2011: 59).

What to Expect from the PGO

We can also find the ambivalence of legitimacy at the organizational level (meso). PGOs are often subjected to two forms of legitimacy that can be labeled window in and window out (McGrath et al. 2010: 338).

Window out – deals with the inside-out processes described above. It is about the capability to enact and appeal to the outside world by communicating the values of the PGO to stakeholders. Ideally, this enables the organization, especially the leadership of the PGO, to influence the outside and enact the world in the PGO's own picture. Such external legitimacy may not necessarily be public or address the common good, but it can very well be so, if citizens, clients, or media organizations are among the stakeholders.

Window in – deals with the outside-in processes described above. It is about the external demands and societal values imposed on the organization. Window in can therefore be described as the “window” through which society influence on the internal organizational modes. The ideal is that the policy professionals take upon the responsibility to inform or even educate the organization and its leaders in how the outside world wants the organization to behave: Where and how are the winds of change blowing? What new trends can we expect to transform the niche, we, as a PGO inhabits (Ibid: 337)?

Window in and window out build on an idealistic notion of the relationship between organization and society. Instead of understanding communication as a form of simple transfer of information from organization to a passive audience in the outside world, the ideal is that the organization should seek a relationship, characterized by reciprocity, symmetry, and dialog. Of course, this is easier said than done. Window in and window out represent a double legitimacy relationship: On the one hand side, policy professionals must obtain legitimacy in the eyes of their PGO leadership. On the other hand, policy professionals must also gain legitimacy in the eyes of external stakeholders. There may not always be a conflict between window in and window out legitimacy, but often there is, and it is the task of policy professionals to navigate and handle this. Again, policy professional can base their navigation on a *phronetic* form of communication.

What to Expect from the Branch of PGOs

PGOs are a rather compound set of organizations, spread all over the state organization and civil society. This spread makes it difficult to perceive PGOs as one common branch. However, as described above, they also share a range of common features, like political- or value-based governance and the production of public value.

PGO also shares an embeddedness into a hybrid media system. As part of this system, PGOs must recognize that citizens and other stakeholders are not necessarily passive. Instead, social media can make citizens co-producers of political communication and thereby enable them to influence the niche of the public sphere that the PGO inhabits. So, PGOs and their audiences will occasionally take part of the same circles of information (Bennett and Segerberg 2012; Chadwick 2011). Instead of neglecting this new media reality, PGOs should support transparency and participatory democracy.

Social media in itself will not enable citizens, though. It still takes many resources to facilitate a strategic effort, also in a social media landscape. Especially those PGOs that are part of the state organization have a huge responsibility, when it comes to secure open access to new digital media platforms (Blumler and Gurevitch 2001: 9).

Again, a phronetic orientation in PGOs could be useful. Accordingly, any PGO should continuously try to answer simple questions, such us: Who benefits and who loses from our actions as PGO? Is this outcome fair and justifiable? How do our actions as PGO affect the common good? What are the democratic consequences of our actions?

Summary and Conclusions

Suchman emphasizes that legitimacy creation “rests heavily on communication” (1995: 586). Therefore, in this chapter, I have addressed the question of legitimacy creation for political governed organization (PGO), with a special focus on the communication task. Communication is associated with public and political communication.

PGOs are primarily value-driven instead of profit-driven. Accordingly, they are situated in the organizational body of government or in the civil society. Their purpose is, in general, to produce public value in the interest of common good of society. Regardless of where they are situated, PGOs today are expected to be able to justify and clarify or at least explain (and sometimes excuse) their behavior publicly.

Suchman’s perspective on legitimacy can be seen as a synthesis of two different approaches: an agency-oriented approach moving from the inside-out of the organizations and an institutional-oriented approach moving from the outside-in of the organization. Since public legitimacy is an outcome of both outside-in and inside-out processes, I consider both approaches in this chapter.

The external (outside) communicative environment of PGOs has transformed in four historical phases, a development that is closely related to the rise of the public sphere and the liberal democracy. Today, due to digitization the structure of the public sphere has become a hybrid of editorial media and social media (Chadwick 2011; Bennett and Segerberg 2012). This hybrid public sphere is combined with continued demands for mediatization and increased demands for strategic professional communication across different media platforms and spheres of influence. Each PGO is expected to take responsibility for their own little niche in the public sphere.

To describe the internal inside-out approach, the chapter combines two classic organizational models to frame the strategic space of PGOs: (1) an information process model, based on input, throughput, and output, and (2) a model of two types of coordination, horizontal and vertical. Vertical coordination is associated with a notion of more centralized planning, while horizontal coordination is associated with more networked form of strategic action. In the long run, both vertical and horizontal coordination are needed.

Finally, the chapter addresses how political communication and legitimacy relate to ethical values in the public. The reflections are order in three categories: (1) what to expect from the professionals, (2) what to expect from the PGO, and (3) what to expect from the branch of PGOs. Here I argue that a quest for more phronesis – the enactment of practical wisdom and practical ethics can help professionals and PGOs – in their communication can help sustain and develop public legitimacy.

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Journalism and Business Legitimacy

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Peter Kjær and Mark Blach-Ørsten

Contents

Abstract

This chapter focuses on the role of the news media in the creation, maintenance, or disruption of business legitimacy. The chapter first introduces the concept of legitimacy in organization theory and describes the evolution of new institutionalist approaches to legitimacy. The chapter then turns to the role of the news media, which are often seen as a conduit for public opinion with respect to business. Recent scholarship has come to question this passive view and has begun to examine how news media per se exert an influence on business and public opinion. Drawing on research on agenda setting and mediatization, the chapter argues that the news media should be viewed as an independent political institution, embodying particular values and beliefs and playing an active role in the preservation or challenging of organizational legitimacy.

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Organizational legitimacy · Legitimation · Institutionalism · News media · Business news · Mediatization · Agenda-setting · Framing

Introduction

This chapter addresses how the news media affect business legitimacy. The point of departure will be institutional theories of organizational legitimacy and work in media sociology and organization and management studies that examines the role of news media in the creation, maintenance, and disruption of organizational legitimacy. The chapter builds on a descriptive approach to legitimacy. A descriptive approach is not preoccupied with the validity or desirability of particular organizational or societal values. Rather, it is preoccupied with the role that such values play in constituting particular organizational entities or activities as legitimate.

The emphasis in the following is on the institutional role of news media. Organization and management researchers often use mass media reports as data sources either to map the actions of organizational actors or as a proxy for "public opinion." Until recently, the distinct role and contribution of media and journalism were scarcely considered. In contrast, the argument in this chapter will be to view mass media as institutions in order to highlight how they play a distinct role in relation to organizational legitimacy. They do not simply reflect broader social values but embody, produce, and reproduce particular values and beliefs.

The chapter is structured as follows: First, it introduces the concept of organizational legitimacy and its key dimensions and describes the evolution of approaches to organizational legitimacy within institutional theories of organization. The chapter then examines the distinct role of media in creating, maintaining, or disrupting business legitimacy, first by challenging conventional views of media and business, then by drawing on the concepts of agenda setting and mediatization to describe the institutional role of news media, and finally by describing the role of news media in relation to organizational legitimacy.

Organizational Legitimacy

The concept of organizational legitimacy stipulates that organizations rely on social acceptance and not only on operational efficiency in pursuing their goals – and indeed to survive. The American sociologist Mark Suchman has offered one of the most influential definitions of organizational legitimacy: "Legitimacy is a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman 1995: 574).

The definition involves four distinct claims:

– Organizations always face one or more constituencies or audiences upon whom they rely for approval.
– Legitimacy involves evaluations (passive or active) that render particular actors and actions appropriate or acceptable.
– Such evaluations build on a broader system of norms, values, beliefs, and definitions.
– This system is both a generalized property of organizational environments and, at the same, a social and historical construct, amenable to change.

Suchman's definition draws on several theoretical sources. Max Weber is often cited as the originator of the modern sociological concept of legitimacy, according to which "action, especially social action which involves a social relationship, may be guided by the belief in the existence of a legitimate order" (Weber 1978: 31). The American sociologist Talcott Parsons later rearticulated Weber's definition, in his introduction to a modern sociological theory of organizations. Parsons stated: "the value system of the organization must imply basic acceptance of the more generalized values of the superordinate system" (Parsons 1956: 67f). Conformity or convergence between specific organizational values and broader social beliefs or values was seen a prerequisite of organizational action. Therefore, any organization has an institutional dimension, alongside its task- or goal-oriented function. Theoretically, however, the latter function remained at the forefront of organizational theorizing (and business studies).

From the mid-1970s, the legitimate order or the generalized values of society changed from being a background assumption in organizational theory to a key theoretical issue. In their seminal article on institutionalized organizations, John Meyer and Brian Rowan (1977/1991) suggested that modern organizations were increasingly subject to the forces of highly institutionalized environments in ways that increased formalization (or bureaucratization) regardless of the technical or operational requirements of individual organizations. The authors stated that "formal structures of many organizations in postindustrial society. . .dramatically reflect the myths of their institutional environments instead of the demands of their work activities" (1977: 41). In this view, legitimacy is not a background condition but a force that imposes new and potentially disruptive structural and procedural demands on organizations.

Institutionalized environments, which encompass state institutions, professional associations, trade associations, etc., embody rationalized institutional rules that define roles, status, and appropriate ends and means for particular organizations and actors operating within their confines. Institutional environments justify actors and actions but may also withhold justification – which may have serious consequences: "Organizations that . . . lack acceptable legitimated accounts of their activities. . .are more vulnerable to claims that they are negligent, irrational or unnecessary" (Meyer and Rowan 1991: 50).

From these early formulations came a surge of organizational scholarship that both expanded on the idea of institutionalized environments and identified legitimacy as a key organizational concern.

New Institutional Perspectives on Organizational Legitimacy

The new institutional perspective on organizations involved new and more complex ideas of the nature of the legitimating values and beliefs. W. Richard Scott (1983) summarized the bases of legitimacy in terms of a typology of institutional rules: regulative rules, normative rules, and cognitive rules. In other words, institutional environments encompassed both formal and informal behavioral expectations as well as broader cultural systems of knowledge and meaning. Suchman (1995) added the category of pragmatic legitimacy to indicate that legitimacy may also involve more mundane and interest-based assessments by stakeholders of the value of organizations.

According to the new institutional perspective, to be legitimate as an organization is not only to adhere to general social values and norms or to act within the confines of formal (legal or bureaucratic) rules. Legitimacy also requires organizations to display congruence with particular cognitive structures, such as those conceptions of rational management and hierarchical control that inform public policy or private sector institutions – and to be an organization that other actors consider as “valuable.”

The interest in legitimacy involves a shift from a “logic of consequence” to a “logic of appropriateness” in social science inquiry (March and Olsen 1989). In an age preoccupied with rational decision-making, markets and the celebration of management, building on a model of rational choice, focusing on legitimacy, reinstated an interest in the social nature of choice and action.

Institutional scholars thus challenged the prevailing micro-theories of action and insisted on a sociological and contextual understanding of decision-making, action, and motivation. Here institutional theory offers a meso-level approach that situates organizations and organizational actors in particular institutional environments that are themselves “organized.” Rules of legitimacy may very well be “generalized,” but they are also carried by and reproduced by particular institutions that confer legitimate status upon individual organizations or groups of organizations.

Paul J. DiMaggio and Woody W. Powell drew on the sociological concept of “field” and described how organizations are part of organizational fields that are “sets of organizations that, in the aggregate, constitute a recognized area of institutional life; key suppliers, resource and product consumers, regulatory agencies, and other organizations that produce similar services or products” (1991/1983: 64f).

Within a field, there are particular organizations that have the capacity to evaluate or pass judgment on individual organizations. Institutional scholars have often highlighted the role of the state and professional associations as key sources of legitimacy (or challenges to legitimacy), using legislation or defining professional norms and standards for organizations in the field.

Research into the dynamics of organizational fields has tended to be preoccupied with the structure of fields and with institutional effects. At the field level, the key question is the following: What structural characteristics lead to intensified pressures for legitimacy? Field-level explanations have emphasized increased state involvement in particular sectors, industries, etc., processes of professionalization, and the concentration of capital and power within an industry.

At the organizational level, the key question concerns institutional effects: What are the effects of environmental legitimacy pressures on the individual organization. Here, one observed the ongoing proliferation and elaboration of formal organizational structure, leading to increasing uniformity across organizations, industries, sectors, and nation-states. Referencing Max Weber's notion of "the iron cage" of rationality, created by modern capitalism, the authors described new iron cage created by "the structuration of organizational fields," sustained by state policy and professional associations, leading to increasing homogeneity "in structure, culture and output" (DiMaggio and Powell 1983/1991: 64).

Over the last 20-30 years, however, institutional research has gradually moved away from this largely determinist approach and has embraced approaches that highlight context, process, and agency (see Lawrence et al. 2009).

Context. Researchers have highlighted the evolution and dynamics of specific contexts when seeking to identify the role of institutions and the nature of institutional outcomes. Institutional environments have histories that may be both unique and discontinuous and involve a distinct variety of institutional actors. A large body of institutionalist scholarship has examined changes in institutional contexts over time or across regions, nation-states, and industries. Such studies suggest that, although one may observe the spread of seemingly universal organizational values and beliefs in most developed economies, there are significant differences in the timing, the selection, and the concrete adaptation of legitimate organization forms. Here factors such as the role of the state or the structure of firms and industry are important contextual factors (e.g., Neil Fligstein 1990).

Processes. There is a renewed interest in institutional processes, which embraces at least two types of processes: legitimation processes and organizational agency.

By highlighting concrete processes of legitimation, i.e., the processes through which institutional actors confer legitimacy, researchers are able to discern the more specific dynamics involved in institutional processes that otherwise may appear to be both deterministic and pervasive. The different types of legitimation processes have been summarized by Deephouse et al. (2016: 10):

1. In most cases, organizations and organizational actions are simply passively accepted as legitimate as part of the ordinary conduct of business in a field.
2. Many organizations are deemed "proper" after having been subjected to a routine evaluation that follows standard procedure, e.g., as annual audits of financial reports.
3. Sometimes organizations or organizational practices may be debated, which means the appropriateness of particular aspects of the organization is questioned in relation to more fundamental values, e.g., when hiring practices are being challenged or a company's environmental performance is deemed questionable.

4. Occasionally, organizations are seen as illegitimate and judged as entirely inappropriate within a particular organizational field, e.g., in cases of systematic and pervasive criminal conduct or products/services deemed entirely inappropriate.

Agency. By focusing on processes of legitimation, one may highlight both stability and change and discern the particular dynamics involved both in routine processes of legitimation and in highly conflictual processes of contestation. Scholarship, inspired by Pfeffer and Salancik's (1978) early work on resource dependency that propagates a much more active and strategic approach to legitimacy, describes the ways in which organizational actors (managers, employees) respond to challenges to organizational legitimacy, e.g., by engaging in impression management in the engagement with external actors. Some of these contributions will be considered in detail below.

However, even scholarship building on institutional theory has come to focus on process and agency. Some organizational scholars have challenged the notion of "diffusion" in the institutionalist model, i.e., that isomorphism occurs as a process of more unilineal diffusion particular norms, concepts, models of organization, etc. across organizational boundaries. Brunsson and Olsen (1993) suggested that processes of change are much more loosely coupled and open to interpretation than hitherto imagined. Czarniawska and Sevon (1996) proposed that the diffusion metaphor be replaced by the concept of *translation* to indicate how organizational models and concepts are continuously translated and reworked as they travel to new contexts (how agents respond to institutional pressures and adapt and mediate them through loose coupling, sensemaking, and modification of ideas when implemented in specific settings (translation)). Thus institutional effects are never predictable; one always needs to examine concrete processes of sensemaking translation.

Institutional scholarship has moved even further in their emphasis on agency and has focused on institutional entrepreneurship to highlight how individuals and organizations may engage in the creation or reworking of existing institutions (but see DiMaggio also). The notion of "institutional work" has been suggested by Lawrence et al. (2009: 1), as a concept to focus on the "practical actions through which institutions are created, maintained, and disrupted."

The shift in institutional studies of organizational legitimacy away from a structural model of institutional influences toward more contextual and processual approaches thus prompted an interest in intermediary organizations, and an interest in distinct processes of legitimation and delegitimation, and in organizational responses both to legitimation challenges and to the broader institutions that are part of such challenges. Examples of intermediaries at the level of organizational fields are educational institutions, NGOs, and consultancy firms, all of which are important carriers of institutional values, norms, and beliefs. However, a large body of literature suggests that "the media" or more accurately "the news media," i.e., outlets where there is a predominant focus on news production and where journalists are key content producers, have come to play a key role in creating, maintaining, or disrupting organizational legitimacy.

Organizations and the Role of News Media

The interest in the relationship between organizations and news media has emerged since the 1990s, primarily in research on corporate or organizational reputation and in research on the diffusion of management ideas and models. From having viewed news media either as information channels or as arenas in which public opinions were being processed, researchers gradually began to raise the question of whether news media should be seen as a source exerting influence in its own right.

The study of organizational reputation is preoccupied with collective judgments by stakeholders or “the public” about the status and performance of organizations that may, among other things, create important competitive advantages (or disadvantages) for actors in a market. Early studies in the field of organizational reputation and image (e.g., Fombrun and Shanley 1990; Dutton and Dukerich 1991; Sutton and Callahan 1987; Elsbach and Sutton 1992; Elsbach 1994; Hatch and Schultz 1997) often used news coverage as an important data source in their mapping of cases where the reputation or image of organizations was being challenged. Aside from using news coverage as a data source, these scholars often saw the news media as an arena of public opinion in which image crises played out. They also noted that organizational strategies of impression or reputation management were primarily oriented toward the media, although the actual sources of disruption and influence were often found outside the news media – in the legal system, social movements, etc. (Brown and Deegan 1998). In an important programmatic article discussing the relationship between organizational culture, identity, and image, Hatch and Schultz (1997) noted that external images not only affected organizational reputation but also internal identity: “a negative reading of organizational image by the press can affect organizational identity when news reports are perceived as genuine reflections of organizational activity or intent” (p. 361). Morsing (1999) later illustrated this emerging dynamics in a study of the interplay of (positive) media attention and internal identity change in a Danish manufacturing firm that suggested how organizational actors attach real significance to and act upon media portrayals of organizational reality.

In studies of the diffusion of management models in various industries, researchers noted that the professional press, i.e., specialized outlets read by particular occupational groups, were important for the early awareness of new management ideas (Barley et al. 1988; Burns and Wholey 1993). Alvarez (1996) and Mazza and Alvarez (2000), examining the spread of academic ideas of management into business practices, saw the media as important for the popularization of management knowledge. They observed a growth in the coverage of business and management issues by the popular media, where widespread stories of implementation and successful performance were instrumental in linking global management ideas to local contexts. Diffusion research often adopted the notion of *carrier* in their approach to media (Sahlin-Andersson and Engwall 2000) and not only highlighted the importance of the news media as intermediary organizations but also warranted an interest in whether and how carriers shape the ideas and messages carried. In a parallel vein, adopting the lens of fashion theory, Abrahamson (1996) studied the spread of management fads and fashions, using, among other sources, media content to map the rise and fall of popular management ideals, concepts, and models. He observed that such the media could be seen as a "fashion setting community" and explicitly called for a closer analysis of mass media effects on dissemination.

Agenda Setting and Framing

By the early 2000s, several organizational scholars, inspired by these findings, began to theorize the role of news media as a distinct source of influence on organizations (Tsoukas 1999; Deephouse 2000; Mazza and Alvarez 2000; Pollock and Rindova 2003; Kjær and Langer 2005; Kjær 2009; Pallas and Strannegård 2010; Deephouse et al. 2016).

A significant first step was to theorize the agenda-setting role of news media with respect to organizations. Agenda-setting theory originated in research on political communication (McCombs and Shaw 1972) as an alternative approach to media effects. (It should be noted that agenda-setting arguments can also be found on the field of organization and management studies, especially in the study of decision-making in organizations (such as in the work of James G. March and John W. Kingdon).) Agenda setting here entailed the ways in which journalists and news media can influence the salience and valence of particular issues simply as an effect of the relative attention given to issues by the news media. The agenda-setting argument rejects the idea that news media can control what audiences think but at the same time asserts that the news media can affect what audiences think *about* and even offer particular ways of framing issues.

Deephouse (2000) argued that even though agenda-setting theory is based on studies focusing on public and political issues, the theory also applies to the study of reputations in a business context. According to Deephouse (2000: 1097), "the media provide a forum where firms and stakeholders debate what constitutes a good firm and which firms have good reputations." Thus the media both had an agenda-setting role and a role in the social construction of perceptions of actors.

Carroll and McCombs (2003) also focused on the news media's agenda-setting role when it comes to influencing the public's images and opinions about major corporations. Stating that "the core proposition in agenda-setting theory is that the prominence of elements in the news influences the prominence of those elements among the public" (Carroll and McCombs 2003: 36–37), the authors claimed that a number of contingent conditions "define the situations in which agenda-setting effects are enhanced or reduced" (Carroll and McCombs 2003: 43–44). Among these contingent conditions are the age and size of a corporation since both may affect the newsworthiness of a corporation, the proximity of a firm to news sources (e.g., local newspapers covering firms important to local economy more fully than other firms), and the difference between newspaper sections, especially between general news and specialty news. Thus firms are found to get a more favorable coverage in the general section and a more critical coverage in the business section. Finally, Carroll and McCombs (2003: 44) stressed that news media have a special fascination with CEOs due to their celebrity status and that the coverages of the CEO may have a huge influence on the public's image of a specific firm.

Favorable versus unfavorable coverage and the emphasis on CEO's rather than, e. g., structural aspects of corporations are examples of how news media may choose to frame the stories of an organization or a firm (see also Chen and Meindl 1991). To frame an issue, according to Entman (1993: 52), is to "select some aspects of a perceived reality and make them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation for the item described."

Media framing was highlighted in an influential study by Pollock and Rindova (2003: 631) that investigated how so-called information intermediaries (or infomediaries), such as the news media or financial analysts, affect investors' impressions and opinions of firms. The authors presented two rival views of the influence of these intermediaries: an economic view where the intermediaries simply convey information between buyers and sellers and an institutional approach that argues that the information intermediaries, particularly the news media, through their framing and exposure of firms, influence what stake- and shareholders perceive as desirable, worthy, and trustworthy. Based on a quantitative analysis of media content, the authors (2003: 640) find clear evidence that news media framing plays an important role in the evaluation of new business opportunities by affecting the salience and perceived value of a firm. Similarly, a number of qualitative studies have identified particular dominant frames in business reporting, such as history, nationalism, or inevitability (Tienari et al. 2003, 2007).

The agenda-setting approach can be viewed as an institutional approach. Although it starts from a straightforward measurement of prevalence of themes and positive versus negative evaluations, it directs our attention to selections built into news media organizations and journalistic practice. Routine choices of large versus small firms or old versus young or the prevalence of particular frames such as that of leadership or national status are indicative of a particular set of beliefs, norms, and values that constitute a particular "logic of appropriateness" of media institutions. Thus if we want to understand the influence of news media, we have to understand the routinized judgments and selections built into journalistic work and editorial processes (Deephouse 2000). This is elaborated further in the next section.

Mediatization

Over the last 10 years, the relationship between media institutions and organizations has been explored even further by utilizing the concept of *mediatization*. Here scholars have moved from simply examining agenda-setting and framing effects toward a broader field-level theory of the interaction between news media and organizations. The concept of mediatization, which draws on debates in media studies, can been used to describe the nature of this interaction (Kjær and Slaatta

2007; Pallas 2007; Pallas and Fredrikssson 2013; Ihlen and Pallas 2014; Kantola 2014; Wonneberger and Jacobs 2016).

The theory of mediatization builds on earlier institutional studies of the news media (such as Tuchman 1978, and Fishman 1980) but takes the institutional argument a step further. Whereas the classical concept of mediation (Strömbäck 2008) referred to how mass media functioned as a channel of information between politicians and their voters, the concept of mediatization refers to how the news media as an institution in its own right selects and shapes the information (news) that is presented across various platforms such as television, radio, newspapers, and online news sites. Thus the premise of mediatization theory is that the news media in many Western countries, from the 1980s onwards, has developed into an independent institution. This institution is guided by its own rules and norms, often summarized as "media logic" (Cook 1998; Strömbäck 2008; Allern and Blach-Ø rsten 2011), and over time the news media as a political institution and its logic have become deeply integrated into different levels of society (Hjarvard 2008; Strömbäck 2008). Studies on mediatization have mostly focused on how mediatization has transformed national politics as both political parties and politicians have adapted to media logic (Esser and Strömbäck 2014; Blach-Ørsten 2016), but, similar to the case of agenda setting research, many scholars have made the argument that the process of mediatization has not only influenced politics but has had just as big an influence on firms and organizations. Thus both Kjær and Slaatta (2007) and Pallas (2007) argue that just as national politics have become mediatized in many Western countries, so have firms and corporations. Based on a study of the rise of the Nordic business press from 1960 to 2005, they argue that the business press in the Nordic countries, but also around the world (Pallas 2007; Reed and Lewin 2005; Kanola 2014), has expanded and an increasing number of journalists have been hired to become business reporters. They also argue that the focus and working routines of business journalists have changed during this period (Kjær and Slatta 2007). From covering macroeconomic issues and labor markets, the primary focus of the business press has become corporations and stock markets.

In this environment the news media may influence not only the legitimacy and reputation of a corporation but also its brand and policy (Ihlen and Pallas 2014). Thus studies show that just as the coverage of politics can focus on scandals and crisis (Allern and Pollack 2012), so can the coverage of firms and organizations (Langer and Kjær 2004: Blach-Ørsten 2009; Vallentin 2009). And just as the coverage of politics have seen a rise in the personalization of politics understood as an increased focus on political leaders (Blach-Ørsten 2011), business news have seen an increased focus on the coverage of CEOs and their personality and, sometimes, also private lives (Kantola 2014).

It is therefore only natural that modern corporations have incorporated media logic and developed, or tried to develop, a workable relationship with the news media.

Writing on corporations and their media practices, Wonneberger and Jacobs (2016: 368) stress that the process of mediatization can affect several processes, levels, and structures in an organization or corporation. Pallas (2007) and Pallas and

Fredriksson (2013) argue that the process of mediatization is shaped by various interactions or negotiations between corporations and the news media. Some of these negotiations are front stage, such as press conferences, whereas other negotiations are backstage, for instance, negotiations about access to personal information (Pallas 2007). But Pallas and Fredriksson (2013) do not conclude that one side (the media) or the other (the corporation) controlled the interactions in the long run. Instead both parties are in continued interactions with one another, and these interactions are shaped and negotiated and changed by both parties. Indeed an article reviewing 50 years of empirical research on communication between corporations and the media (Verhoeven 2016: 514) concludes that just one key word can sum up the relationship: interdependence.

Summing up, this means that in recent years more and more studies have begun to focus on the news media as an important factor in shaping the legitimacy of firms and business corporations. Increasingly studies have turned to the theory of mediatization in order to better understand the relationship between news media and corporations. A central argument in mediatization studies is the existence of a media logic that not only shapes how the news is produced but that also increasingly becomes adopted by other institutions (Strömback 2008). The news media logic is constituted by three factors according to Esser and Strömbäck (2014: 19): (1) journalistic professionalism, that is, the ideals, norms, and routines that guide journalists in their work (also see Ørsten 2004); (2) commercialism that is to say the economic rationales motivating news media as business organizations; and (3) media technology which is the different media platforms and their affordances.

In other words the main argument behind a focus on the mediatization of business corporations and firms is that it is influenced by a certain kind of logic, a logic that in many ways are similar to the "contingent conditions" that Carroll and McCombs (2003) highlight. Thus the media logic influences which types of firms and corporations that the news media focuses on. Central parts of the media logic are the so-called news values or news criteria that journalists apply to select between what is considered newsworthy and what is not. Writing on news values and organizational newsworthiness, Kjær and Morsing (2011) write that Danish business journalists apply the same news criteria to business news as to regular news. Thus they focus on what is current, but preferable also something that also entails the possibilities of conflict and identification. Kjær and Morsing (2011: 25) also point out that Danish business news media tend to focus on national firms and corporations, as well as companies that are publically traded since that is expected to make them more interesting to the public and potential shareholders.

Agenda Setting, Mediatization, and Legitimacy

How, then, do agenda setting and mediatization influence organizational legitimacy?

First of all, the news media, through the processes of agenda setting and mediatization, assign importance and valence, and frame attributes of organizations, which may shape public opinion and knowledge about the organization in question.

The news media mirror general social expectations, such as honesty, human rights, or sustainability, but their focus may be shaped by the media logic with a routine focus on conflict or identification. In addition, the news media routinely use business representatives as expert sources (financial analysts, market analysts, etc.), which may legitimize some types of business as important social actors.

News media agenda setting per se does not influence organizational legitimacy. Agenda setting influences which organizational issues and actors are attended to by the public. The prevalence of, e.g., financial reporting over political reporting may install a sense of public importance to corporate financial performance. Similarly the frequency with which a particular organization or executive officer is mentioned may create a sense of familiarity. However, the influence on legitimacy depends on the valence (positive or negative) and framing of news media reporting. Again, the valence of individual news stories does not automatically influence organizational legitimacy, but sustained positive or negative reporting may decrease or increase the likelihood of challenges to legitimacy. Similarly, news media framing may both naturalize and problematize particular organizations and aspects of organizational reality. News frames emphasizing leadership may thus create expectations of individual agency, decision-making, strategy, and initiative by executive officers. Failure to meet such expectations may result in a questioning of management authority by the general public and among internal stakeholders. Similarly, framing events as scandals may create a sense that public trust has been lost or a sense of organizational "stigma" leading to both external and internal calls for remedial action (see also Sutton and Callahan 1987).

News media shape worldviews and processes in both organizational fields and individual organizations, both in the short run by reinforcing or upsetting established expectations and also in the long run through a gradual structuration of norms, routines, and interactions between news media, journalist, and organizations. This field-configuring property suggests that news media may, in the long run, affect the broader system of norms, values, beliefs, and definitions of a field (Suchman 1995), i.e., the perceptions or assumptions on the basis of which actors evaluate actors and actions within the field. Thus the long-term trend toward "financialization" of business and organizations or the popularity of "corporate social responsibility" may in part be related to mediatization and new routines and norms of news media production related to business.

Research on organizational legitimacy has moved from general claims about the importance of legitimacy to an interest in specific processes of legitimation. Suchman's four legitimation processes (accept, evaluate, debate, disrupt) discussed above may provide a useful elaboration of processes of influence and interaction between news media and organizations in relation to organizational legitimacy:

(a) By default, most firms and organizations are *accepted*. From a news media perspective, the vast majority of firms are "under the radar." They are beyond the media gaze and are simply passively accepted.
(b) A number of larger, mostly publicly held firms are routinely *evaluated*. This routine evaluation has expanded in recent decades as news reporting has shifted

from the simple listing of shares and commodity prices to the systematic monitoring of quarterly and annual reports, product news, market entries, etc. Usually evaluations follow standard schemata and elicit standard responses, based on highly organized interactions between corporate communicators and business reporters. Such interactions are often asymmetrical as news outlets, working under both economic and temporal constraints, rely on information, news releases, and sources controlled by strong corporate communication offices (Pallas 2007).

(c) Some firms are *debated*, based on sustained poor performance or problematic practices. Here a firm's claim to legitimacy is being brought into question, typically in a series of news reports, as expectations are not being met, norms are being breached, or status is being questioned. Debating not only involves journalists and corporate communicators but also experts, stakeholders, and other actors speaking on behalf of the public. Debating also typically involves remedial actions on behalf of the involved organizations to regain public confidence.

(d) In rare cases, firms and organizations face *disruption*, as large-scale media storms erupt and corporate responses fail. Media storms erupt when problems become scandals and spread across media outlets and arenas. Media storms are likely to erupt when corporate behavior involves illegality (fraud, white-washing), danger (industrial accidents), or systemic crises (the collapse of markets or projects), often combined with a failure to respond to public questioning or attempts to cover up (Tsoukas 1999; Langer and Kjær 2004; Ørsten 2009). While media attention may play a significant role in processes of disruption, it is important to emphasize that such processes often move into other arenas, such as the courts, local or national parliaments, or professional communities.à

This elaboration of processes of legitimation is indicative of the concrete ways in which news media reporting may influence organizational legitimacy, but it also suggests how there are interactions between news media institutions and organizations. This ongoing interaction can be described as a pattern of action and reaction, but as suggested above the relationship is perhaps best characterized as a case of interdependency (Verhoeven 2016). Much business reporting is effectively "corporate reporting," based on strategic communication produced by firms. At the same time, many firms depend on media attention in order to reach their customers or stakeholders and manage their role and status in various fields. The two sides thus depend on one another and can be said to engage in a process of negotiation – of attention, valence, and framing – rather than simply a never-ending battle for superiority.

Concluding Remarks

This chapter has outlined the concept of organizational legitimacy, which can be described as a particular set of beliefs and norms, a logic of appropriateness, built into institutional environments.

News media can be seen as intermediary institutions that both convey and rely on broader societal norms and also exert an influence in and of themselves via processes of agenda setting and mediatization. As institutions, the news media influence legitimacy norms, and processes of legitimation, but also engage in interactions with organizational actors over news production and legitimation.

While much research has been conducted in the field of news production, agenda setting, etc. in relation to business and organizations, the interaction and interdependency between media institutions and business should be studied more closely in the coming years, especially in the context of processes of legitimation and delegitimation.

The present introduction to organizational legitimacy and the news media has adopted a traditional approach to media communication. Future research will have to look more closely at the impact of social media on legitimacy. Although traditional news media still play the most important part in setting the public agenda even in a hybrid-media society (Chadwick 2017), social media and the interaction between social media and traditional news media with regard to the legitimation of corporations and organizations need to be examined. Here we could find a combination of volatile interactions and, perhaps, lower level of institutionalization deserving attention it its own right.

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Crisis Communication and Organizational Legitimacy

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Finn Frandsen and Winni Johansen

Contents

Abstract

Drawing on two major reviews of the academic literature on organizational legitimacy, the aim of this chapter is to examine how crisis communication scholars have adopted and applied the concept of organizational legitimacy since the early 1990s. More specifically, the chapter addresses the following issues: How do crisis communication researchers define organizational legitimacy? How can a potential crisis damage the legitimacy of an organization, and how can the organization mitigate this damage by managing its legitimacy before, during, and after the crisis? Last, but not least, why do crisis communication researchers seem to have lost interest in organizational legitimacy in favor of reputation after the year 2000?

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Crisis · Crisis communication · Crisis management · Legitimacy management · Legitimacy communication · Organizational legitimacy · Reputation · Status

Introduction

"Danske Bank violates our understanding of what is right and what is wrong." This was the captivating first sentence of a background article headlined "Overdraft in the bank" and published by the Danish newspaper *Weekendavisen* in July, 2018 (Hansen 2018). The occasion was a gigantic money-laundering scandal, a scandal in which two of Denmark's biggest banks, Danske Bank and Nordea, were deeply involved.

This article was unusual, not only because it was very long but also because it told the story about the three most severe crises that Danske Bank had faced since it was founded in 1887. The first crisis broke out in 1920 when Danske Bank was involved in stock exchange speculations and risky loans to such an extent that it had to be reconstructed with help from the Danish state. The second crisis took place in the years following the financial and economic crisis in 2008. At the time, Danske Bank was perceived as an arrogant and elitarian bank. Its CEO Peter Straarup, nicknamed the "fee vulture," denied all kinds of responsibility for the international crisis on behalf of Danske Bank. Finally, the third crisis was the money-laundering scandal. Between 2007 and 2015, DKK 1500 billion derived from criminal activities flowed through accounts in Danske Bank's Estonian branch. Danske Bank was accused of not obeying the Anti-Money Laundering Act and of reacting too slowly.

All three crises can be described as *crises of legitimacy*. Legitimacy plays a crucial role in all types of organizations, private as well as public. If there is no congruence between an organization, its activities, and value systems, on the one hand, and the expectations, activities, and value systems of the larger social system in which it operates, on the other hand, it is difficult to gain or receive legitimacy. And without legitimacy it is difficult to find resources, active and passive support, and a license to operate (Diaz-De-Castro and Peris-Ortiz 2018).

This chapter is about crisis communication and organizational legitimacy. The aim is to examine how crisis communication scholars have adopted and applied the concept of organizational legitimacy in their research since the early 1990s. How do they typically define legitimacy? Have they succeeded in adding new dimensions to this field of study? How can a crisis damage an organization, and how can the organization avoid that this will happen by managing its legitimacy before, during, and after the crisis? Last, but not least, why do crisis communication researchers seem to have lost interest in organizational legitimacy in favor of reputation after the year 2000?

The last of these issues remains a puzzle. How can we explain this development? Both academics and practitioners seem to agree that legitimacy is a central concept for our understanding of the relationship between an organization and its environment. However, even if we left the specialized subdiscipline of crisis communication and looked at the discipline of public relations as such, the negative reaction would still be the same. Patel et al. (2005) criticized public relations researchers and practitioners for being slow to consider the importance of organizational legitimacy in establishing and maintaining organization-public relationships. Their bibliometric study of two major public relations journals (all issues released between 1995 and 2005) and four major public relations textbooks (all released since 2003) clearly demonstrates how low the interest is. Only two journal articles, but none of the text books, incorporated organizational legitimacy. Unfortunately, Patel et al. (2005) only identified the problem without providing an explanation.

The chapter is structured in six sections. Apart from the first section, each of these sections begins with a presentation of a key issue in organizational legitimacy research (definitions, typologies, management, and communication) based on the two reviews of the academic literature. The presentation is then followed by a discussion of how this issue has been approached in crisis management and crisis communication. The first section consists of a brief introduction to crisis communication. The following two sections focus on how legitimacy can be defined and how it forms part of a small constellation of key concepts (such as reputation and status). The fourth section is devoted to legitimacy management and crisis management and the fifth section to legitimacy communication and crisis communication. The chapter ends with an attempt to solve the puzzle.

Brief Introduction to Crisis Communication

What is an organizational crisis? Pearson and Clair (1998) have established one of the most popular definitions. According to this definition, a crisis is a "low-probability, high-impact event that threatens the viability of the organization, and is characterized by ambiguity of cause, effects and means of resolution, as well as by a belief that decisions must be made swiftly" (p. 60). A crisis can harm an organization in several ways, economically, politically (influence), socially (trust), and symbolically (reputation). Many crises, like Danske Bank's money-laundering crisis, can also damage the legitimacy of an organization.

Crisis management and crisis communication are the two core components of the crisis preparedness of an organization. Crisis management can be defined as the conceptualization, implementation, maintenance, and enactment of the organizational crisis preparedness, that is, the resources allocated by the organization to be able (1) to detect strong and weak signals indicating that a crisis is building up; (2) to prevent that a crisis breaks out; (3) to prepare to handle the crisis if it breaks out any way; (4) to bring the crisis to an end and reduce the damage caused by the crisis to the organization, the industry, and external and internal stakeholders as much as possible; and (5) to learn from the crises experienced by the organization and other organizations and to implement the changes made necessary by this organizational learning process (Frandsen and Johansen 2017). This comprehensive definition of crisis management includes all three stages of the so-called crisis life cycle: the pre-crisis stage, the crisis stage, and the post-crisis stage.

Crisis communication can be defined as made up of two parts: (1) to manage information (collecting and analyzing crisis-related information which may serve as input for crisis decision-making) and (2) to manage meaning (influencing how people perceive the crisis and the organization in crisis) (Coombs 1995). The bulk of the academic literature on crisis communication focuses on how individual organizations in crisis try to influence how stakeholders perceive the crisis and the organization in crisis by applying various types of crisis response strategies. This is also the case in legitimacy management and legitimacy communication.

Since the mid-1990s, two theories have dominated the field of crisis communication (Avery et al. 2010). The first theory is image repair theory (IRT), which represents a rhetorical and text-oriented stream of research (cf. Benoit 1995). The second theory is situational crisis communication theory (SCCT), which represents a strategic and context-oriented stream of research (cf. Coombs 1999; for an overview of crisis communication theories, see Frandsen and Johansen 2017). Both of these theories have contributed importantly to our understanding of organizational crises. One of their key points is that handling a crisis is primarily about protecting and repairing the image and/or the reputation of the organization in crisis.

Today, crisis communication research is still mostly conducted within the discipline of public relations. The consequences of this bias are manifold. The approaches are often organization-centric, crisis communication is conceptualized as *apologia*, and the sparse but interesting research conducted within the field of management and organization studies, based on, for example, organizational perception management (Elsbach 2006), is largely neglected. Recently, however, new approaches focusing on complexity have emerged, including, for example, rhetorical arena theory (RAT) and the multivocal approach to crisis communication.

Defining Organizational Legitimacy

Organizational legitimacy has been the subject of academic research since the early 1970s. If we include pioneers such as Max Weber (1864–1920) and Talcott Parsons (1902–1979), we can even go further back. It is therefore no surprise that our body of knowledge on this topic is substantial and that numerous attempts have been made to define what we understand by organizational legitimacy. However, the ambition in this section is not to add yet another definition to the list. Instead, our plan is to introduce two major reviews of the academic literature on organizational legitimacy, including their overviews of definitions and typologies. Both reviews are written by researchers in organizational studies. After this introduction we will take a look at how organizational legitimacy is defined by crisis communication scholars.

The two literature reviews – Suchman (1995) and Suddaby et al. (2017) – were published at two different points in time, with an interval of more than 20 years. The motives behind the two reviews were also different. Suchman (1995) was written to make a synthesis of a rapidly growing literature. The idea behind Suddaby et al. (2017), on the contrary, was to find back to the core of the concept and to remove the layers of surplus meaning and misunderstandings generated by the widespread application of the concept in various disciplinary contexts.

How is organizational legitimacy defined? Suchman (1995) defines legitimacy as "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (p. 574). Suchman describes his own definition as an inclusive and broad-based definition that incorporates both an evaluative dimension and a cognitive dimension, but he does not tell us how he has reached this definition. The definition is followed by a series of typologies in the remainder of the review article: general approaches, basic types and subtypes of legitimacy, and strategies for legitimacy management.

Suchman (1995) has become *the* definition of organizational legitimacy. The article has been cited more than 12,500 times (Google Scholar, August 2018). About half of these citations are verbatim repetitions of the original text. Deephouse et al. (2017) refer to this as "the concept's ossification" (p. 28), but there are also citations that reveal that Suchman's definition after all is dynamic. Finally, in the first edition of *The SAGE Handbook of Organizational Institutionalism*, Deephouse and Suchman (2008) recommended that the term "desirable" had to be removed or bracketed to avoid potential confusion with the concepts of status or reputation. In the second edition of this handbook, Deephouse et al. (2017) continue the updating of the reception history of Suchman's definition.

In contrast to Suchman, Suddaby et al. (2017) do not define what they understand by legitimacy. Instead of providing us with a general definition established by themselves (like Suchman does), they use the result of their interpretive review or thematic analysis, to identify "three distinct configurations of legitimacy" (p. 2). These three configurations emerge from asking three questions:

1. What is legitimacy? The authors offer three answers to this question: (a) legitimacy as *a property*, that is, a thing, a resource, an asset, or a capacity of an entity; (b) legitimacy as an *interactive process* of social construction, and (c) legitimacy as a sociocognitive *perception*.
2. Where does legitimacy occur? Once again there are three answers: (a) between an organization and its external stakeholders, (b) between multiple actors, and (c) between individual and collective evaluators.
3. How does legitimacy occur? Once again three answers: (a) through a "fit" between the attributes of an organization and the expectations, (b) through purposive efforts, and (c) through social judgments.

If you take a look at the table entitled "three streams of legitimacy research" at the end of Suddaby et al. (2017), you will observe two interesting things: first, that Suchman (1995) is categorized as representing the legitimacy-as-property tradition and, second, that the literature review is not only systematic but also chronological.

We need to address one more issue before we take a look at how crisis communication researchers define legitimacy: the concept of *illegitimacy* or *legitimacy crisis*. According to Suchman (1995), a legitimacy crisis is a "crisis of meaning."

According to Suddaby et al. (2017), there are two distinct conceptualizations of illegitimacy: (1) illegitimacy is not a "low level" or "absence" of legitimacy but rather a qualitatively different set of properties; (2) legitimacy and illegitimacy are part of a continuum of attributes that exist in opposition.

Defining Organizational Legitimacy from a Crisis Communication Perspective

Seeger (1986) became one of the first researchers who studied organizational legitimacy from a crisis communication perspective when he investigated the *Challenger* disaster on January 28, 1986, as a legitimacy crisis for NASA. Seeger attached particular importance to the Rogers Commission appointed by President Reagan to investigate how the space shuttle could disintegrate only 73 s into its flight killing all seven crew members. In its report released already on June 9, 1986, the commission claimed that the accident was caused by a design flaw in the O-rings and by bad decision-making and management structure. The commission also urged NASA to improve its safety features on the shuttles and in its organizational handling of future missions. Seeger concluded that with the aid of the Rogers Commission, NASA worked to reestablish its social legitimacy by holding open hearings, shifting authority, creating an impression of renewed rationality, and limiting performance goals.

In their important review of the communication and organizational literature dealing with crisis, Seeger et al. (1998) devoted an entire section to legitimacy and organizational crisis.

Suchman (1995) was written at a time where crisis communication research was still at its very beginning. The same year saw the publication of William L. Benoit's *Accounts, Excuses, and Apologies* and W. Timothy Coombs' "Choosing the right words: The development of guidelines for the selection of the 'appropriate' crisis-response strategies," which launched image repair theory and situational crisis communication theory, respectively.

We have already emphasized that crisis communication researchers seem to lose interest in the concept of organizational legitimacy by the end of the 1990s. This applies to the most popular and comprehensive textbooks and handbooks as well as to the most dominant theories of crisis communication, including image repair theory and situational crisis communication theory. When the authors occasionally refer to organizational legitimacy, it is almost always through Suchman's (1995) definition. But then, can we not expect this to take place in many other disciplines?

In what is perhaps the most authoritative textbook, W. Timothy Coombs' *Ongoing Crisis Communication* (1999/2019), the concept of organizational legitimacy was introduced and defined briefly for the first time in 2007, that is, in the second edition of the book. In this definition, Coombs refers to Suchman's (1995) definition: "Legitimacy refers to actions that are considered desirable, proper, or appropriate to some system" (Coombs 2007, p. 43). However, Coombs also refers to Mitchel, Agle, and Wood's (1997) use of the legitimacy perspective in their stakeholder salience model, claiming that legitimacy can be used to establish a "likelihood score" (Coombs 2012, p. 61). In the fourth edition of the textbook from 2015, the concept disappears again. In W. Timothy Coombs and Sherry J. Holladay's *The Handbook of Crisis Communication* (2010), the absence of the concept of organizational legitimacy is once again conspicuous. However, the concept is mentioned in the short introduction to corporate apologia (Chap. 1), including the work of Keith Michael Hearit, (see below), but it is not listed in the subject index of the handbook. Coombs and Holladay define social legitimacy as a form of reputation.

Some crisis communication researchers apply definitions made by scholars who were active before Suchman (1995). This applies, for example, to Keith Michael Hearit who defended his dissertation entitled "Organizations, *Apologia*, and Crises of Social Legitimacy" in 1992. Hearit is inspired by Dowling and Pfeffer (1975). He defines organizational legitimacy as "the rhetorically constructed and publicly recognized congruence between the values of a corporation and those of a larger social system in which it operates" (Hearit 1995, p. 2). Social legitimacy is one of the key concepts in Hearit's theory of terminological control or definitional hegemony.

Boyd (2000) has tried to introduce the concept of *actional legitimacy* as a new area of study for public relations research. Inspired by Brummer (1991), Boyd makes a distinction between institutional and actional legitimacy. Institutional legitimacy takes place at a macrolevel of analysis, while actional legitimacy takes place at a microlevel of analysis. This approach allows for the study of more day-to-day public relations activities in which publics have a more immediate impact on corporate policy.

Massey's (2001) study of the effects of crisis response strategies on stakeholders' perception of organizational legitimacy is one of the very few experimental studies in the field. Massey wants to test if organizations that produce *consistent* crisis communication across different stakeholder groups will enhance their legitimacy while organizations that produce inconsistent crisis communication will reduce their legitimacy. He also wants to test if *niche width* plays a role, that is, if generalist organizations who have broader width in a market are perceived as being more legitimate than specialist organizations who operate in single domains having a narrower width. Niche-width theory is part of organizational ecology yet another of these streams of research focusing on organizations and their environment that emerged in the 1970s (see Hannah and Freeman 1977).

Massey comes close to Suchman (1995) in his approach to organizational legitimacy. He cites Suchman's definition *verbatim* right from the beginning of his article, and like Suchman, he is also in favor of combining the strategic and the institutional approach (see the section on legitimacy management and crisis management). However, there are some important differences. Like Hearit (1995), Massey emphasizes the ways that organizations strategically manipulate symbols, through communication behavior, to achieve legitimacy. But Massey views the ongoing interaction between organizational strategy and stakeholder expectations as a "dialogical process" (Ginzel et al. 1993) or as "ritualistic communication" (Carey 1989).

Combining Legitimacy, Reputation, and Status

So far, we have examined organizational legitimacy as a concept in and for itself. However, we must not forget that this concept also forms part of a small but very important constellation of concepts that share the same semantics: they all refer to how stakeholders perceive or evaluate organizations. In his theory of legitimacy, reputation, and status, Bitektine (2011) calls them *social judgments*. The fact that crisis communication researchers have moved away from the concept of legitimacy toward the concept of reputation makes a comparison of these concepts, if not necessary, then at least rather interesting. Neither Suchman (1995) nor Suddaby et al. (2017) really take up this challenge. Admittedly, Suchman is alert to the fact that the various types of legitimacy coexist in most real-world settings. He also emphasizes that the combination of different types of legitimacy may represent both a strength and a weakness. But his treatment of this aspect remains within the same conceptual typology.

What is the difference between legitimacy and reputation? According to many scholars, legitimacy is based on *similarity* as the key principle, whereas reputation is based on *difference*. An organization receives legitimacy when there is a sufficiently large amount of *con*gruence, *con*formity, or sameness, between the organization and the larger social system in which it operates. Reputation is sometimes defined as the "assessment of a company's attractiveness to a specific group of stakeholders relative to a reference group of companies with which the company competes for resources" (Fombrun 2012, p. 100; see Deephouse and Suchman 2008, for an overview of definitions of legitimacy, reputation, and status, including explanations of how and why the literature frequently confuses and conflates the three concepts).

We can add the concept of status to our repertoire of social judgments, that is, an organization's position in a hierarchical order or ranking of organizations, based on the esteem or deference that each organization can claim by virtue of the organization's membership in a group with distinctive practices. So we can expect that there will be, for example, high-status and low-status banks. The day before Danske Bank released the results of an internal investigation of the bank's involvement in the money-laundering crisis (September 19, 2018), the Danish newspaper Politiken published a vox pop where customers told about their relationship to Danske Bank. A 91-year-old lady who had been a customer for 60 years declared: "I am truly disappointed. It is an old bank. I thought it was a bank that I could trust." A 26-year-old man declared: "The reason why I have not switched to another bank is that I have had my account [in Danske Bank] ever since my parents opened it for me" (Hergel 2018). Thus, being old, in the sense of having stayed in business for a long time or having had a business relationship for a long time, confers status to an organization.

Inspired by research within sociocognitive psychology, Bitektine (2011) has formulated four questions to which an organization's stakeholders, or *evaluators* as he prefers to call them, try to provide an answer: (1) Does the organization have the right to exist? (= sociopolitical legitimacy judgment), (2) how will the organization perform/behave in the future relative to other organizations in the set?

(= reputation judgment), (3) where does the organization fit in the ranked order of similar organizations =? (= status judgment), and (4) does the organization belong to any class or category which is already familiar and nonproblematic? (= cognitive legitimacy judgment). These four questions are very useful, but again, they do not tell us anything about what would happen if the concepts were combined. For example, would a company in crisis that has an unfavorable reputation but a high status do better than a company in crisis that has an unfavorable reputation but a low status? Is it possible to describe and explain how the complex cognitive inferences or processing of information that take place among individuals at a microlevel are combined with equally complex social processes at a macrolevel?

There are scholars who reject that legitimacy should be different from reputation. This applies, for example, to King and Whetten (2008) who perceive legitimacy and reputation as perceptions of approval of an organization's actions. Organizations are perceived as having legitimacy when they comply with the minimum standards of a prototypical X-type organization. Similarly, organizations are perceived as having a good reputation when they are viewed favorably relative to the ideal standard for a prototypical X-type organization. King and Whetten use a social actor conceptualization of identity to propose a complementary, reciprocal relationship between organizational legitimacy and reputation.

However, the idea of a constellation of different types of social judgments can improve our understanding of the complexity of crisis communication from a rhetorical arena perspective, including the role played by organizational legitimacy. If we combine the three reputational levels identified by Frandsen and Johansen (2018) in their study of the crisis communication of trade associations with the types of social judgments and crises, we get something similar to Table 1.

Table 1 Complexity, actors, crisis, and types of social judgment

Level of complexity	Actors and crisis situation	Type of social judgments
First level	One organization in crisis	Corporate reputation (organization in crisis)
		Legitimacy
		Status
Second level	Two or more organizations in crisis (e.g., members of the same industry)	Corporate reputation (organization in crisis)
		Reputation commons (the industry)
		Legitimacy
		Status
Third level	Several organizations in crisis (members of an industry, one or more trade associations)	Corporate reputation (organization in crisis)
		Reputation commons (the industry)
		Intermediary reputation (trade association)
		Legitimacy
		Status
Fourth level	Network of actors	All types of social judgments

The first level represents what we may call the standard crisis situation where complexity seems to be low. Typically only one organization is in crisis, and the corporate reputation of only one organization is threatened. The second and third levels represent higher degrees of complexity. It is mainly due to interorganizational relationships and multi-crises, crises by association, or spillover crises. The second level represents a crisis situation where two or more organizations representing the same industry are involved. Concerning social judgments, a *reputation commons*, that is, the reputation of the industry (King et al. 2002), has been added to the corporate reputation. So now we have two different types of reputation.

The difference between the second and the third levels is important. We are still dealing with a crisis situation where two or more organizations representing the same industry are involved, but we have added a third type of reputation: the reputation of the trade association that protects the reputation, not only of the industry and its members but also of the trade association itself. As the crisis situation becomes more complex, involving industry and trade association, legitimacy will also frequently tend to be activated as an evaluation category. The fourth level represents the highest degree of complexity: a crisis situation in the shape of a network. Legitimacy, reputation, and status are located at the fourth level of complexity, but they can of course be present at the other levels as well.

The idea of a multi-conceptual and multilevel approach, based on a constellation of key concepts such as legitimacy, reputation, and status which can be combined or not in specific crisis situations, represents a major step forward in both organizational legitimacy research and crisis communication research. Such an approach will serve as a counterweight to the typological craze in legitimacy research (see, e.g., Wæraas 2009). Some categories of social judgments will perhaps be organization-specific. Wæraas (2009), for example, who examines the significance of organizational legitimacy for public sector organizations, claims that public organizations depend more on legitimacy than on a favorable reputation. Finally, some combinations of social judgements, for example, legitimacy *and* reputation or reputation *and* status, will reveal how complex the interaction between legitimacy management and reputation management is.

Legitimacy Management

In the previous section, we focused on how to define organizational legitimacy both as a concept in and for itself and as part of a constellation of concepts representing different types of social judgements. We also observed that most crisis communication researchers defined organizational legitimacy along the lines of Suchman's (1995) classic definition. In this section, we will concentrate on the managerial dimension. What are the most important approaches to legitimacy management? And to what extent have crisis communication researchers been able to benefit from these approaches?

Suchman (1995) divides the academic literature on organizational legitimacy into one of two categories: *strategic* or *institutional*. The strategic approach views legitimacy as an operational *resource* that organizations can extract from their cultural environment and employ in their efforts to achieve their long-term strategic goals. From this instrumental perspective, the process of legitimation is seen as purposive and calculated but also as pervaded by conflicts between managers and stakeholders or between competitors. Suchman (1995) refers to Jeffrey Pfeffer and his collaborators as important representatives of the strategic approach (see, e.g., Dowling and Pfeffer 1975).

The institutional approach views legitimacy as *a set of constitutive beliefs*. According to this approach, organizations do not simply extract legitimacy from their cultural environment, as if it was a kind of underground mining. Organizations are penetrated and constructed by external institutions in their environment, and legitimacy is viewed as the amount of cultural support received by an organization where culture refers to shared systems of belief held by society in general and by stakeholders in particular. Suchman (1995) refers to neo-institutional researchers as the most important representatives of the institutional approach (see, e.g., DiMaggio and Powell 1983).

In 1995, Richard Scott published his today classic introduction to neo-institutional theory *Institutions and Organizations*. Inside this book, you find the following definition of legitimacy which sums up the difference between the strategic and institutional approach: "Legitimacy is not a commodity to be possessed or exchanged but a condition reflecting cultural alignment, normative support, or consonance with relevant rules or laws" (as cited in Deephouse and Suchman 2008, p. 31).

Suchman's distinction between a strategic and an institutional approach conflates with the first theme in Suddaby et al. (2017), that is, the functionalist understanding of legitimacy as a *property* possessed in some measurable quantity by an organization.

After having introduced the distinction between the strategic approach and the institutional approach, Suchman (1995) continues building up his conceptual system by introducing yet another important distinction, this time between three broad types of legitimacy. Each type of legitimacy involves a generalized perception or assumption that organizational activities are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions. However, the three types of legitimacy are based on what Suchman refers to as different behavioral dynamics. They also include a number of subtypes, which makes it obvious to consider the concept of legitimacy what French sociologist Edgar Morin has named a macro-concept (Morin 1982).

The first broad type of organizational legitimacy is *pragmatic legitimacy*. This type of legitimacy is based on stakeholders' self-interested calculations. Is the activity performed in the most competent and effective way and in favor of stakeholder interests? There are three subtypes of pragmatic legitimacy (exchange legitimacy, influence legitimacy, and dispositional legitimacy). The second broad type of organizational legitimacy is *moral legitimacy*. This type of legitimacy is based on a positive normative evaluation of the organization and its activities. Is the activity the right thing to do? There are four subtypes of moral legitimacy, corresponding

Table 2 Overview of Suchman's three (sub)types of organizational legitimacy

Broad types	Subtypes	Example
Pragmatic legitimacy Focus: Interest	Exchange legitimacy Influence legitimacy Dispositional legitimacy	Exchange legitimacy: "As consumers we only focus on one thing: ourselves. This also applies when we choose a bank. Most people don't care about the ethics and moral of the bank. It is the price of the product and the service we can get for the our money that determine our choice" (the results of a survey made by Megafon and TV as presented by *Politiken* 24.9.2018)
Moral legitimacy Focus: Evaluation	Consequential legitimacy Procedural legitimacy Structural legitimacy Personal legitimacy	Structural legitimacy: The day before Danske Bank releases the results of an internal investigation of the bank's involvement in the money-laundering crisis (19.9.2018), *Politiken* published a vox pop where customers told about their relationship to Danske Bank. An 91-year-old lady who has been a Danske Bank customer for 60 years declared: "I am truly disappointed. It is an old bank" Personal legitimacy: The legitimacy of the CEOs of Danske Bank, in particular Peter Straarup, Eivind Kolding, and Thomas F. Borgen
Cognitive legitimacy Focus: Cognition	Comprehensibility	

roughly to Max Weber's theory of legitimate authority: consequential and procedural legitimacy both reflect legal-rational authority, structural legitimacy reflects traditional authority, and personal legitimacy reflects charismatic legitimacy. The third broad type of organizational legitimacy is *cognitive legitimacy*. This type of legitimacy is based neither on interest nor on evaluation but on cognition or comprehensibility. Table 2 provides an overview of all the (sub)types, including a few examples from Danske Bank's money-laundering scandal.

Suddaby et al. (2017) see the multiple attempts to identify types and establish typologies of legitimacy as one of the hallmarks of legitimacy-as-property research. They also question the utility of such projects hampered as they are by the "obvious over-proliferation of types" (p. 12).

Legitimacy Management from a Crisis Management Perspective

The strategic approach to organizational legitimacy is also the dominant approach within the field of crisis management. Before crisis management became an academic discipline, it was a simple practice. The key question sounds like this: How can the organizational practice of crisis management be as effective as possible when it comes to preventing, preparing, and mitigating crises? The institutional approach to organizational legitimacy is, if not nonexistent, at least very rare. The key question is how has crisis management been institutionalized in organizations?

Keith Michael Hearit is one of the scholars who have contributed the most to the study of crisis communication from an organizational legitimacy perspective (though he prefers to talk about *social* legitimacy). Hearit is a rhetorician, and his research is firmly rooted in the *corporate apologia* tradition, that is, the new type of rhetorical studies of the organizational and managerial rhetoric that emerges in the United States in the 1980s. We call his theory terminological control theory (see Frandsen and Johansen 2017).

Regarding the concept of organizational legitimacy, Hearit is first and foremost inspired by Dowling and Pfeffer (1975). Hearit defines corporate apologia as the public response to a social legitimacy crisis, a response that seeks to distance actors from their wrongdoing and reaffirm their adherence to central values. Hearit combines two criteria that a company must fulfill to achieve and maintain legitimacy: *competence* or the ability to "deliver the goods" and *community.*

Frandsen, Johansen, and Salomonsen are among the few scholars who have attempted to apply an institutional approach to crisis communication based on a cognitive understanding of legitimacy. In a series of articles published between 2009 and 2016, they have investigated how an older institutional logic (an emergency management logic) has been supplemented, overlayered, and, in some cases, replaced by a newer institutional logic (*a crisis management logic*) in public sector organizations in Denmark following a far-reaching municipal reform consolidating 271 municipalities into 98 larger units, effective January 1, 2007. The two logics have different histories, vocabularies, status, and focus. The old emergency management logic emerged in the 1930s, while the new crisis management logic did not appear until 2007. The term *crisis* was not used very frequently in the old logic; it talked instead about *extraordinary incidents*.

Inspired by the institutional logics perspective (Ocasio et al. 2017), the Danish scholars investigated how the shift in institutional logics took place. First, Frandsen and Johansen (2009) conducted a multiple case study examining how emergency managers (emergency departments) and communication managers (communication departments) perceive themselves and each other, how they use different professional vocabularies, and how they interact. Then, Frandsen and Johansen (2013) conducted a major document analysis based on a large corpus of different types of general and specific emergency management plans (EMPs), crisis management plans (CMPs), communication strategies, and policies. The data also included a study of the relevant concept literature and development arenas. Finally, Frandsen et al. (2016) investigated the complex process of institutionalization of reputation management and crisis management.

Within the field of crisis communication, Massey (2001) has taken up Suchman's distinction between a strategic approach and an institutional approach emphasizing how organizations achieve legitimacy through their communication behavior. He summarizes the distinction in the following ways: the strategic approach views legitimacy as a *resource*, and the institutional approach views legitimacy as a *constraint*. Thereby he joins Suchman in a reading of Dowling and Pfeffer (1975) that must be characterized as oversimplified. Legitimacy, social norms, and values constrain the actions taken by individual organizations, but at the same time actions taken by the very same organizations for the purpose of legitimation can alter these norms and values.

Legitimacy Communication

In the literature on organizational legitimacy, communication is often assigned a key role in gaining, maintaining, or repairing legitimacy. In their list of things an organization can do to become legitimate, Dowling and Pfeffer (1975) mentioned three strategies. First, the organization can adapt its goals, methods of operation, and output to the prevailing definitions of legitimacy. Second, the organization can attempt, through communication, to alter these definitions so that they conform better to the organization's activities. Third, the organization can attempt, again through communication, to become identified with symbols, values, or institutions that have a strong base of social legitimacy. Unfortunately, Dowling and Pfeffer were not very specific about what we have to understand by communication in this context. These three strategies mentioned above are rather similar to the issues management strategies proposed a few years later by Jones and Chase (1979).

Suchman (1995) also emphasizes that legitimacy management is based on *communication* between the organization and various types of stakeholders. However, his understanding of communication goes beyond "traditional discourse, to include a wide range of meaning-laden actions and nonverbal displays" (p. 586). As we shall see later in this section, Suchman (1995) has a broader approach to crisis communication (a term that he does not use) than traditional crisis communication research. For each of the three broad types of legitimacy – pragmatic, moral, and cognitive legitimacy – Suchman provides us with examples of strategies for gaining, maintaining, and repairing legitimacy. Given our focus on crisis communication and organizational legitimacy in this chapter, we are first and foremost interested in the last category of strategies.

Suchman (1995) defines legitimacy repair as a "reactive response to an unforseen crisis of meaning" (p. 597). Most crisis or disruptions are based on what he calls "failures of meaning." They happen because managers have become enmeshed in their own legitimizing myths and because they have not noticed that their cultural support is declining. According to Suchman, the literature has identified three broad types of tactics for repairing legitimacy (for an overview, see Table 3). The first tactic is to formulate a *normalizing account* that separates the "local" crisis or disruptive event from more "global" assessments of the organizations as a whole. This tactic has four subtypes: the managers may attempt to deny the problem; to excuse it by questioning the organization's social responsibility; to justify the disruption; and to explain it, that is, to frame it in such a way that the organization will preserve its support. The second tactic is to facilitate legitimation through *restructuring*, a strategy that has two subtypes: to create monitors and watchdogs and to disassociate. The replacement of executives, like in the case of Danske Bank and its CEO Thomas Borgen, may serve as an example of disassociation. The third tactic is rather straight forward: *to avoid panic*.

Table 3 Suchman's list of strategies of repairing legitimacy

Strategies	Tactics	Example
(1) Formulate a normalizing account	Four types of normalizing accounts: (a) Denial (b) Excuse (c) Justification (d) Explanation	
(2) Strategic restructuring	Two types of strategic restructuring: (1) Creation of monitors and watchdogs (2) Disassociation	Dissociation: Replacement of the CEO
(3) Avoid panic		

Legitimacy Communication from a Crisis Communication Perspective

Crisis response strategies have been one of the cornerstones in crisis communication research since the 1990s. The many empirical studies of crisis response strategies, conducted either as case studies or as experimental test, have been inspired by different theoretical frameworks such as *corporate apologia* (see Ware and Linkugel's article "They spoke in defense of themselves," 1973); the *sociology of accounts*, that is, statements made by a person or an organization to explain unanticipated or untoward behavior (see Scott & Lyman's article "Accounts," 1968); and *impression management* or the attempt to influence the perceptions of other people about a person (see Goffman 1959).

If we compare the repertoires of crisis response strategies in image repair theory (Benoit 1995/2015) and in situational crisis communication theory (Coombs 1999/2019) with Suchman's rather short list, we immediately see that there are both similarities and differences. There are a few verbal legitimacy communication strategies, such as *denial*, *excuse*, and *justification*, which are similar to crisis communication strategies. There are also a few different strategies such as *avoid* panic. Suchman explains this strategy by combining it with threat-rigidity theory (Staw et al. 1981). Finally, there are also some nonverbal strategies such as *the creation of monitors and watchdogs*. What characterizes Suchman's approach is his usage of nonverbal tactics.

Allen and Caillouet (1994) are early but important contributions to the study of crisis communication from an organizational legitimacy perspective: "Crises occur when an event or series of events threaten a corporate actor's legitimacy and therefore, ultimately, its survival" (Allen and Caillouet 1994). The goal of the study is to provide a detailed typology of naturally occurring message strategies that can shape stakeholder attitudes regarding organizational legitimacy. The theoretical framework of the study combines institutional theory and impression management. The findings of the study demonstrated that *ingratiation* was the primary strategy appearing in the almost 800 statements collected for this study, followed by denouncement and justification. Surprisingly, there were no apologies. However, the most interesting finding was that different impression management strategies were used with different stakeholders.

A Wasted Opportunity?

In this section, we want to return to the puzzle that we touched upon at the beginning of the chapter. If it is a fact that the survival of an organization is closely linked to the legitimacy it receives from the society in which it operates, how can we then explain that crisis communication researchers have lost interest in the concept of organizational legitimacy in favor of the concept of reputation? As we have observed, the academic literature on crisis communication research in corporating an organizational legitimacy perspective is not very extensive. There seems to be at least two plausible explanations.

The first explanation concerns the academic (sub)disciplines that make up the context in which the concept of organizational legitimacy can be developed. Max Weber and Talcott Parsons, a German sociologist and an American sociologist, normally are identified as the two originators of the concept of (political or organizational) legitimacy. In Weber's case, the concept was introduced as part of a theory of legitimate rule. In Parson's case, the concept was very much related to the congruence of organizational values with societal values. Similarly, systems theory, neo-institutional theory, resource dependence theory, and population ecology, four streams of organizational research from the 1960s to the 1970s focusing on the relationship between organizations and their environment, made legitimacy into an "anchor-point" in organizational studies (Suchman 1995, p. 571).

Crisis communication has to a large extent developed as a subdiscipline under the discipline of American public relations. This means, among other things, that there has been a strong influence from psychology at the expense of sociology and that it has been less obvious to incorporate theories from management and organizational studies into public relations research. If we go to Europe, the situation changes. Here, it is much more common to take a sociological approach. *Public Relations and Social Theory: Key Figures and Concepts*, edited by Øyvind Ihlen, contains a chapter authored by Arild Wæraas "On Weber: Legitimacy and legitimation in public relations." Thus, the lack of interest in the concept of organizational legitimacy among crisis communication researchers could be explained as the result of a specific academic tradition.

The second explanation concerns a methodological issue. "To date, relatively few research efforts have involved the application of legitimacy to crisis and crisis communication. This may be due to the fact that organizational legitimacy as a concept is very difficult to operationalize" (Seeger et al. 1998, p. 257). To operationalize is to define the measurement of a concept so as to make it understandable in terms of empirical observations. The supporting structure of organizational legitimacy is the relationship between an organization and the larger (peer or superordinate) social system in which it operates. The organization seems to be the easiest of the two to operationalize, but what do we have to understand by the larger social system? Is it society at large, or an organizational field, or specific external stakeholders?

Conclusion

On September 19, 2018, Danske Bank released a report on the money-laundering scandal that the bank had ordered from Bruun & Hjejle, a Danish law firm. "The bank has clearly failed to live up to its responsibility," said Ole Andersen, chairman of Danske Bank. On the same day, the CEO of Danske Bank, Thomas Borgen, resigned. He declared:

Even though the investigation concludes that I have lived up to my legal obligations, I believe that it is best for all parties that I resign. As the CEO, I have the responsibility for the things that take place in the bank, and of course, I take on this responsibility. It has been clear for me for some time that resigning would be the right thing to do, but I have held off the decision, because I felt a responsibility for seeing the bank through this difficult period towards presentation of the investigation. It has been a great privilege to lead the more than 20,000 employees who each day work tirelessly to give our customers the best advice and services on the market, and I will miss them all. The bank obviously has a big job ahead of it because of this case, but has a strong foundation and is well prepared for the future. (Dansk Bank, September 19, 2018)

As it appears from the statement made by Thomas Borgen, the bank does its best to attempt to restore its reputation using crisis response strategies such as bolstering. However, external stakeholders, such as business partners, local governments, and NGOs, are challenging the banks by declaring that they will stop their cooperation with the bank due to its behavior and involvement in the scandal. For example, Copenhagen Business School wants to stop the cooperation with the bank as it "no longer constitutes a proper role model to their students" (Finans.dk, October 10, 2018). However, it is not only the corporate reputation of Danske Bank that is threatened but the reputation commons of the banking industry in Denmark. A month later, following new revelations, Danish experts encouraged the politicians to get to grips with what they called the bank's "culture of greed" (Morgenavisen Jyllands-Posten, October 19, 2018).

Finally, it is not only the corporate reputation of Danske Bank that has been damaged but also its legitimacy, its *license to operate*. Danske Bank is facing problems related to pragmatic as well as moral legitimacy. The crisis management of the bank did not live up to what one can expect from a big and important bank operating internationally, and the bank did not have a proper crisis prevention system able to perform the necessary signal detection to avoid criminal activities such as money laundering.

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Part X

Philosophical Dimensions of Corporate Citizenship and Business Legitimacy

Business Legitimacy in the Social Market Economy: Individual and Corporate Economic Citizenship

38

Alexander Lorch and Christoph Schank

Contents

Abstract

Questions of business legitimacy do not touch upon organizational and stakeholder issues alone. Businesses are also set in a particular social and economic system, with specific norms and values that need to be considered – especially in an economy that is increasingly connected, globally and culturally. To analyze this normative background, the idea of a social market economy needs to be considered. Being the spiritual and factual foundation for many European economies, it suggests a more just design for economic policy, possibly remedying the problems and inequalities the past decades of unbridled capitalism have brought.

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Considering this idea of a specific economic order, the social market economy is examined with regard to business legitimacy, i.e., the relationship of business and society and how it ties in with current debates of business legitimacy. By looking at the historic economic thoughts of ordoliberalism as its underlying theoretical foundation, what defines a social market economy and the role of business for this economic order are discussed. The discussion of a just economic order is then connected to considerations of a republican view of *economic citizenship*. This concept ties the idea of the social market economy to both the legitimacy and responsibility of businesses and individual integrity and citizenship.

Keywords

Social market economy · Ordoliberalism · Third way · Legitimacy · Responsibility · Citizenship · Corporate citizenship · Corporate social responsibility · Integrity · Corporate economic citizenship · Civic virtues · License to operate

Introduction

Building upon Max Weber's (1978) definition of legitimacy, organization studies define legitimacy as the "generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman 1995: 574). In the wake of recent business scandals, it became rather clear that such business behavior is not perceived as desirable or proper by a large part of society: The public reacts with outcries, demands stricter state regulation, or is boycotting firms that were involved in illegitimate practices. Legitimacy is thus very relevant for the success and survival of both individual organizations and the industries to which they belong (Deephouse and Suchman 2008).

Over the past decades, such repeated business scandals have not only resulted in a loss of trust in and reputation of corporate actors and very vocal public debates on the legitimacy of business practices but also eroded trust in the stability and legitimacy of the economic system in general. While legitimacy is usually attributed to a specific action of an actor (be it a business or an individual), legitimacy depends upon the social order the action takes place in – this is the system of norms, values, and beliefs mentioned in Suchman's definition. As such, questions of business legitimacy do not only touch upon organizational and stakeholder issues alone: Businesses are set in a particular social and economic system, with specific norms and values that need to be considered, especially in an economy that is increasingly connected, globally and culturally. These values, norms, and beliefs are never just *set* – they rather develop in a cultural, political, and historical setting.

Most notably during the events of the world economic crises from 2008, the debate thus opened up to questions about not only how specific actors behaved or ought to behave but about the values and norms of market economies, the way they are functioning, and whether capitalist economies in general can or should be considered legitimate or not. The past years have thus seen a rise in discussions of heterodox economics (such as feminist economics, social economics, post-growth economics) (Lawson 2005) and how to think about the legitimacy of the economic system in a broader sense (cf. Ulrich 2008; Lorch and Beschorner 2018). It therefore seems necessary to imbed the discussion on business legitimacy in the discussion about what role corporations are and ought to be playing in a specific economic order and in society.

The treaty of Lisbon has constituted the idea of a *social market economy* as the shared economic order for the European Union, i.e., the world's largest domestic market (cf. European Union 2007, Treaty of Lisbon, Article 2.3). The idea of a social market economy, which has, as a specific economic term, most notably determined German economic and political thought for more than the past 60 years, can be found in one way or another in most European countries. It strives to be an alternative attempt at constituting and moderating a liberal market economy, suggesting a more just design for economic policy and possibly remedying the problems and inequalities the past decades of unbridled capitalism have brought.

Considering this idea of a specific economic order, the social market economy needs to be examined with regard to business legitimacy and how it ties in with current debates on the relationship of business and society. By looking at the historic economic thoughts of ordoliberalism as its underlying theoretical foundation, the social market economy can be defined, and the role of business for this economic order can be discussed. Notably, while the social market economy has a lot to say about the rules and regulations of a competitive market order (i.e., allocation and distribution) and also rules of redistribution (i.e., economic justice), it did not conceive of corporations (or consumers) as specifically relevant actors with regard to legitimacy – which seems problematic, considering the current debates. In part 3, the discussion of a just economic order is connected to discussions of *economic citizenship*. This concept ties the idea of the social market economy to both the legitimacy and responsibility of businesses and individual integrity and citizenship. The chapter concludes with some final remarks on business legitimacy in general.

The Economic Order as a Source of Business Legitimacy: Discussing the Social Market Economy

The first challenge of discussing business legitimacy in the specific setting of the social market economy is to find an acceptable definition of this economic theory. As constant adaption to political and economic circumstances has changed the concept significantly from its inception, the social market economy has become a rather vague term that is quite difficult to define. Nevertheless, a certain theoretical foundation of a set of economic policy considerations has remained and can still be considered the core of the social market economy today.

Ordoliberalism and the Social Market Economy

During and right after World War II, a group of economists attempted to shape political and economic thinking in Germany. The work of these scholars, known as ordoliberals, and their influence on political and economic debates cannot be underestimated: not only have they laid the theoretical foundation for the unique economic success story of the postwar German economy with the conceptualization and implementation of the social market economy and its related “economic miracle” (“Wirtschaftswunder,” Ptak 2004; Sally 1996). The social market economy has also become a major term in economic theory, and, furthermore, ordoliberal thinkers were also members of the renowned Mont Pèlerin Society that reinvented and broadcasted liberal political and economic thought in the twentieth century – their efforts are today commonly known as neoliberalism (Mirowski and Plehwe 2009).

The focus of ordoliberal thought, mostly undertaken between the 1930s and 1950s, was the design of a “third way” between laissez-faire capitalism on the one hand and a socialist planned economy on the other, striving to reconcile the promises of and the issues with these two conflicting ideologies. The result of the theoretical considerations was the conceptualization and implementation of the social market economy in Germany.

To the ordoliberals, the social market economy meant a clear commitment to a liberal constitution of the economy that is closely linked to a specific social setting. The authors emphasize that the social market economy is not just a free and unrestrained competitive order, as this would lead to unwanted social problems. The market economy would inevitably fail if it is not politically shaped and embedded:

> The market economy is not everything. It has to be embedded into a higher order that cannot rely on supply and demand, free prices and competition alone. (Röpke 1958: 19, own translation)

As ordoliberal authors such as Eucken, Müller-Armack, Röpke, and others have emphasized, the social market economy is not just an economic order, limited to the description of socioeconomic rules and policies, but rather a shared notion of how the economy is to be integrated into society. This facet is crucial: The social market economy ties its design for economic policy very closely to social predispositions. Thus, the social market economy has two components:

One is the decision for a competitive market economy based on economic principles that especially Eucken (1990) discussed extensively. The essential elements of these principles are legal preconditions regulating trade (such as the guarantee of property rights, freedom of trade, liability, and contract rights), fiscal conditions (taxes and duties), and infrastructural preconditions necessary for economic performance (such as the availability of human capital and services, transportation networks, and telecommunications) (Eucken 1990: 254–303).

At the same time, the specification of a “social” market economy is not only delineating a social system in the form of the welfare state, for an ex post redistribution. It rather symbolizes the aforementioned social embeddedness and the thoughtful ex ante design of the market economy. The addition of the "social" is not just a mere attachment to the market economy but a constitutive principle of the economic order. It is meant to "civilize" the market economy and constitute a humane economic order by tying it to a superordinate notion of a good society, to counter the competitive and egoistic tendencies that are characteristic of a market order. As Müller-Armack puts it:

> The market is incapable of integrating society as a whole and of producing common attitudes and value norms, without which society cannot exist. It nibbles away at the substance of historical forces of cohesion and places the individual into a painful isolation. (Müller-Armack 1978: 327)

Underlying values, norms, and social cohesion are fundamentally important for a competitive market order to function properly – the economy is based on "the precondition of an already existing minimum of basic ethical convictions. In other words: the market economy does not exist in a moral vacuum. It is always endangered to lose its ethical footing if it cannot rely on moral support" (Röpke 1955: 285).

While these general ideas of ordoliberalism seem sensible with regard to current debates on business legitimacy, the way the ordoliberals designed the social order seems rather problematic, as they are at least anachronistic and sometimes outright paternalistic. They share a very traditional view on individual values and virtues as a condition for an operational, i.e., legitimate market economy, based on Christian values and a return to certain traditions and virtues. In order to "civilize" the egoistic, competitive participants of the market economy, the authors of the social market economy demand a "return to eternal values" (Müller-Armack 1981: 50) and to "subordinate economic life" (Müller-Armack 1981: 50) to the values of Christian religion (Goldschmidt 2009). Ordoliberals thus define the necessity of a "higher order" in which the economy needs to be embedded:

> Every economist, at least the mentally ambitious ones, must agree on the fact that the market, which consists of competition, of supply and demand, and flexible prices, can only be thought of as a part of a higher order. This higher order consists of morals, law, the natural conditions of existence and happiness, of government, politics, and power. Society as a whole cannot only consist of the law of supply and demand. (Röpke 1958: 130)

However, this "higher order" or the "natural conditions of existence and happiness" are not arbitrary – according to Röpke, they are bound to a very specific set of virtues:

> Self-discipline, a sense of justice, honesty, fairness, chivalry, moderation, public spirit, respect for the dignity of others, strong moral norms – these are things that man needs to have when going to the market. They are indispensable pillars that save him from degeneration. Family, church, real community and traditions need to equip him with these. (Röpke 1955: 286)

Throughout their writings, it becomes quite clear that the values the authors of the social market economy demand are based on a rather romantic view of humankind as an enlightened, benevolent people with strong family bonds, situated in a small rural and religious community (cf. Lorch 2014, 2017), regressing to religious beliefs that form the background for a particularly traditional European ideal society.

While these considerations do not seem adequate for a globalized and pluralistic society, the social framework seems especially important when considering questions of legitimacy: What can be seen here is that the market economy does not exist in a vacuum. It is not only connected but even dependent on a certain set of social norms and values, which it cannot (re-)produce on its own.

The Role of Business in the Social Market Economy

Based on this cursory overview of what the social market economy is about, the specific role of business and its legitimacy needs to be considered.

The way the social market economy was conceptualized was by thinking about what *rules* to establish, the rules that govern the market economy, and to embed the economy in a larger order. This is mostly why specific economic actors were only considered in passing. Eucken, for example, tasked the government, academia, and churches (Eucken 1990: 325) with the implementation of the rules and principles of the economic order – businesses were not supposed to have any considerable influence but were meant to be embedded in the economic order and only mattered if they would influence the economic order negatively.

Such influences by businesses were seen with regard to two aspects: One was the danger of excessive market power. The social market economy rests on the neoclassical conception of perfect competition, and so any way that a single actor could influence the market by sheer size or power poses a threat to the economic order. One of the founding ideas of the social market economy is that any sort of excessive power, be it public despotism or private cartels or monopolies, can only be to the benefit of the few wielding that power and will have negative impacts on the rest of society. The most important function of the state in the conception of a social market economy is thus to limit and dissolve groups that gain too much power (Eucken 1990: 334). Public institutions to govern markets would thus be tasked with upholding a state of perfect competition and appointing a trade commission. Considering this deep-rooted optimism of perfect competition, it becomes clear why businesses do not play a prominent role in the conception of a social market economy: They were simply not supposed to wield a large amount of power and influence (on the market or on society) in the first place.

The second aspect of influence the ordoliberals considered was the question of liability, which was also a pivotal foundation of the social market economy. Showing first signs of an early debate about corporate responsibility, the ordoliberals argued for the liability and responsibility of the *business man*, rather than business itself. Analogous to the early debate on corporate responsibility, the discussion in the first half of the twentieth century mostly revolved around the actions of the business founder and/or owner, which at that time was still mostly the same person managing the operations (cf. Bowen 1953, for an overview, see Carroll 1999). This entrepreneur was also the focal actor in the theory of a social market economy: It was she/he who carried the entrepreneurial risks and was awarded with the corresponding profits if the endeavor was successful. Entrepreneurial courage and initiative were virtues to be fostered – the locally embedded entrepreneur, a spirited, courageous, and successful, yet also responsible, tactful, and considerate individual is one of the major foundations of the social market economy (Aßländer 2009: 247).

Heavily interwoven with this entrepreneurial spirit is also the call for the entrepreneur to be liable for his/her actions and the risks she/he is taking. Liability is where taking responsibility becomes legally binding – those who are liable are legally required to take responsibility for their actions. For the social market economy, it was essential that it is clear who is liable and that this liability is encompassing for all economic actions of the entrepreneur. It is essential that entrepreneurs are liable and even retire from their activities if they don't manage the invested capital carefully. As such, responsibility and legitimacy are closely attached to the entrepreneur, and not the corporation.

Over the past decades, very different corporate structures have developed that are (a) much larger and influential than ordoliberals would have liked and (b) shift the focus from the responsibility and legitimacy of the business woman/man to that of the business itself. This is due to the change in ownership structures and the implementation of professional managers who are not the owners of the business anymore. These developments, not yet foreseen by the authors of the social market economy, make it necessary to discuss more than just legal liability of the owner and think about businesses as important and influential actors in societies.

In summary, the social market economy sets the stage for legitimacy in business, but does not really address the behavior of businesses specifically. Legitimate business practice here seems to boil down to being profitable, to follow the law, and to not wield excessive market power. The social market economy is a useful framework for a discussion about business legitimacy, but while it seems natural to include legitimacy and responsibility in the conception, it currently does not discuss these aspects. While the state has the task of establishing the conditions of a well-functioning market economy and the social market economy calls for embedding this market framework in a social setting, it rarely makes suggestions as to how this social setting comes about. It does not discuss the actors – neither business nor consumers – or how they would generate legitimacy.

It seems rather remarkable that the guiding principle of the current economic order is conceptually rather anachronistic in parts and not adapted to a modern global economy. It should set the stage for a discussion of business legitimacy but falls rather short in this regard and just shifts this discussion toward the state and/or civil society, without specifying how economic actors assume legitimacy. The next section thus wants to introduce economic citizenship as a way to integrate business legitimacy in the theoretical context of a social market economy.

Business Legitimacy and Economic Citizenship

Following the brief overview of its theoretical foundations, one essential problem of the social market economy seems to be that it only focuses on the rules of the (economic) game of the market economy and does not sufficiently consider the actors, i.e., the players of the game. By focusing on the backdrop of the economic order alone, it assumes that the business of business is just business (Friedman 1970). But in the debate on business ethics, it is now widely accepted that businesses face legitimate claims by a multitude of actors, arguing for a shift from a shareholder value approach to a stakeholder one (Freeman 1984, 2004; Freeman and McVea 2001). The social market economy omits this discussion of the socially correct function and the legitimacy of business activities entirely (cf. Ulrich 2008: 376f.) and therefore ignores the reciprocal relationships between the institutional ethics of the market economy and socially responsible corporate management. To close this gap, the concept of economic citizenship is introduced, discussing how a just society and a beneficial market economy need actors whose self-conception includes being economically active while being conditionally legitimized as part of a surrounding societal system.

In the broadest sense, citizenship "implies membership in a bounded political (normally national) community" (Hettne 2000: 35). In both Greek and Roman societies, citizenship meant more than mere membership though – citizenship was connected to a sense of civic responsibility; with the rights of a citizen also came certain duties, as every citizen was meant to participate in a shared *res publica* (cf. Ulrich 2008: 274f.). This liberal-republican definition of a citizen is the core of economic citizenship to be introduced (cf. Schank and Lorch 2015). Citizenship, in this sense and adjusted to modern societies, implies that free and democratic societies grant individual rights but also depend on the civic sense and political participation of its citizens. Individuals then need to adhere to a certain *minima moralia* in order to uphold the regulative idea of the public: Citizens should be willing to reflect on their preferences and attitudes; they need the will to compromise in areas of dissent and to accept the need for legitimation (Ulrich 2008: 99).

Turning toward *economic* citizenship, these civic virtues are not only necessary conditions for dealing with political matters in the public sphere. In a civic community, *any* action needs to be questioned for its legitimacy – thus civic virtues also become *economic citizen virtues* insofar as business activities always have public relevance:

> [T]he idea of a neat and tidy separation between the political citizen (as homo politicus) and the economic citizen (as homo oeconomicus) turns out to be the symptomatic expression of a privatistically reduced self-understanding of the bourgeois who has lost his awareness of the priority and indivisibility of his status as a citoyen. The core of a republican economic ethics consists precisely in reflecting on the indispensable republican civic ethos in the self-understanding of the economic agents and putting it into practice. From this point of view, all economic agents essentially share a responsibility that cannot be delegated. Their shared responsibility refers to the quality of societal processes of deliberation, particularly in regard to debates concerned with the general economic, social and political conditions for the legitimate pursuit of private economic interests. (ibid: 300)

It is this legitimate pursuit of private economic interests and the connected *integrity* of the individual that is the regulative idea of economic citizenship. Citizens need to adhere to the principles of legitimization in all areas of their life, including economic matters and such roles as that of an employee, a manager, or a consumer. Economic citizens then are “economic subjects who do not separate their business acumen from their civic spirit, i.e., their self-conception as ‘good citizens’, but integrate both” (Ulrich 2005: 14; cf. Ulrich 2008: 283) in a community of free and equal citizen.

Economic citizenship therefore refers to a kind of integrity built upon two complementary notions (McFall 1987): The *moral notion* requires one to comply with the ethical convictions, shared values, and civic virtues that are the foundations of a shared vision of economic activity and which in a sense enable a well-ordered society in the first place. This notion does not negate moral conflicts, which are the necessary ground of a pluralistic society, but requires moral compromising in areas of dissent (Goodstein 2000). The second, *nonmoral notion* of integrity emphasizes the original Latin sense of the word, as in being “holistic” or “undivided.” This personal integrity of the citizen requires a person to be consistent in their convictions, intents, and actions and let neither part of this triad be endangered by systemic constraints. Integrity in this sense is not only a duty of the individual but a value per se, as the basic foundation for a succeeding life of the individual (Koehn 2005). But to think, act, and judge with integrity in this sense are also not only the duty of the actor: It requires an organizational and social setting that does not impede or restrain the integrity of a person through conflicting requirements, processes, or objectives as well.

Importantly, this call for integrity and legitimacy extends to all economic actors, and not just individuals alone. This means that in the wake of debates on corporate social responsibility and corporate citizenship, the idea of economic citizenship can be applied to both natural (i.e., individual) and artificial (i.e., corporate) actors. For both dimensions, what legitimacy means with regard to economic citizenship needs to be discussed.

Individual Economic Citizenship

While businesses constitute the most powerful and influential (and certainly the most visible) actors in economies today, the moral character of those companies is still largely determined by individuals, i.e., the kind of management authority and how this authority is used in the company (cf. Warren 2003: 156). Therefore, and in line with the concept of the social market economy, individuals still play a major role for the legitimacy of business. According to the republican understanding of economic citizenship and the discussion about corporate economic citizenship, it should have become clear that not only managers but every individual has to be concerned about the legitimacy of their economic actions at all times. It thus remains everyone’s *individual* responsibility as citizens to participate in a shared *res publica* (Ulrich 2008: 274f.).

Economic citizens are faced with a multitude of different roles every single day – as consumers, employees, managers, family members, and political actors – and these roles might certainly be conflicting. Thus, legitimate actions depend again on the integrity of the actors. This concerns all kinds of actions: decisions about consumption and purchasing, investment and portfolio strategies as an individual, decisions made as a member of an organization, as well as political commitment and voting decisions. They all concern political and social matters which can and should be reflected. Economic actions can be the cause for substantial externalities, like environmental damage, precarious labor conditions, or violations of human rights. This is especially true in a world economy that is increasingly globalized, where local events are embedded in worldwide chains of interdependence. The individual is thus embedded in multiple social settings, such as movements and groups that shape their behavior. One of these settings is business organizations, where many individuals spent most of their working time and are influenced by rules, processes, and hierarchies they can only shape in a limited way. This is why, besides the individual actions, collective actions of corporate actors need to be considered as well.

Corporate Economic Citizenship

While the individual actors remain important, a rise in the discussion about another important addressee of citizenship in corporate actors can be observed. Corporations are the central actors of modern economies; with their global supply chains, they substantially affect the social and natural environment and influence other social subsystems like education, health, or politics through countless interdependencies. This indisputable power and the influence of (especially global) corporations call for an in-depth discussion of their legitimacy (Matten and Crane 2005).

It is important to note though that the idea of citizenship cannot simply be transferred to artificial actors like corporations. The nexus of contract theory, for example, defines corporations as simply the sum of all implicit and explicit contractual relationships and the way they are established between individuals in the form of employment or purchase contracts or property rights (Jensen and Meckling 1976). This way, a corporation could not be the addressee of responsibility or legitimacy at all, as it is nothing more than a formal entity, comprised of multiple individual responsibilities. In his seminal article, Milton Friedman (1970: 122) also establishes this view:

> The discussion of the 'social responsibilities of business' are notable for their analytical looseness and lack of rigor. What does it mean to say that 'business' has responsibilities? Only people can have responsibilities.

To so reduce the discussion of responsibility and legitimacy to natural individuals alone does limit the discussion tremendously though and can hardly be satisfying in an age where the economy is based heavily on the division of labor and countless interdependencies. As most business scandals show, corporate actions can rarely be attributed causally to the actions of single individuals anymore. To understand corporate actors simply as the sum, aggregate, or legal entity of individual actions and responsibilities therefore deprives the discussion of an important addressee.

By discussing organizational goals and dynamics, views have developed that acknowledge that corporate actors, in the sense of a machine (Ladd 1983) or an organism (Goodpaster and Matthews 1983), intervene with the responsibilities of individuals and might thus justify their own sphere of responsibility. Most notably, French (1979, 1995) equalizes artificial and natural actors and acknowledges a metaphysical existence of corporations, thus interpreting them as adequate moral actors.

But even without following these extensive analogies, it seems comprehensible to understand corporate actors generally as moral actors (Werhane 1985; Goodpaster 1983) to acknowledge the degrees of freedom and rights they have in the social market economy. This is also in line with the general impression of the public that does ask for the legitimacy of economic actions and demands that corporations assume their respective responsibilities.

Contrary to natural actors, corporate actors do not have a natural right to exist but have to constantly legitimize their activities in the market and in society. This is being discussed in the debates on the social *license to operate*, which is very closely linked to the debate on legitimacy (Gehman et al. 2017). Acquiring and securing the social license to operate are the most visible expression of legitimacy of corporate actors and the focus of many scientific and business debates. Following Palazzo and Scherer (2006) and in line with the republican view of citizenship, legitimacy can only be acquired through discourses that mirror the plurality of society and that consider a broad range of stakeholder. What legitimacy means for corporate actors and how good corporate economic citizenship is established can thus not be decided by simply following a static catalogue with certain criteria but requires a continuously dynamic process. Such requirements are mostly discussed in the current discourses on concepts such as corporate social responsibility (CSR) and corporate citizenship (CC) – discourses that have by now also found their way into mainstream management literature (Beschorner and Schank 2013: 87). But while corporate social responsibility has been defined quite extensively and in a legitimate and inclusive way in the ISO 26000 (Castka and Balzarova 2008: 303), corporate citizenship is still a rather contested concept.

As was mentioned, a corporate economic citizen is understood as a *citoyen* in a republican tradition that acquires legitimacy not just by paying taxes and following the law and the rules of the game but that understands all its economic actions in the light of social legitimacy (Ulrich 2008; Beschorner and Schank 2013: 93). For a corporate actor, following its economic self-interest then remains legitimate as long as it does not violate any substantial moral rights of its stakeholders. Its ambition for legitimacy requires it to constantly reflect its own business activities with regard to the common good. In contrast, a corporate *bourgeois*, following the liberal tradition, might also further the common good (e.g., with its corporate philanthropy activities) but would not consider the common good in its core business, thereby sometimes even possibly contradicting its well-meant efforts of philanthropy (Moon et al. 2003, 7f.). While corporate citoyens would follow an extensive, *proactive* understanding of responsibility, the corporate bourgeois only *reactively* follows the rules of the economic order. The core of a republican understanding of economic corporate citizenship is the search for legitimate collective solutions and an approach to responsibility that is not limited to the "internal" corporate social responsibility performance of a company. Legitimate corporate actors should thus not merely act according to the rules of the game but ought to be game changers themselves, through an active political participation. The commitment and engagement of companies to develop ethically sound standards within their industries or their participation in multi-stakeholder initiatives are important examples of the political co-responsibility of firms.

In conclusion, legitimate business behavior is seen as embedded in a nexus of social and economic norms, set by a social and economic order that itself is constantly changing and needs reflection and support of actors that are striving for integrity and legitimacy. Different actors and levels of analysis are thus always interwoven and establish a multitude of interdependencies with regard to business legitimacy (cf. Fig. 1).

Corporate economic citizenship means the individual and collective responsibility of corporate actors for the effects of their core business, above and beyond legal requirements. They do not understand themselves as a counterpart to the political sphere and civil society and strive to only follow legitimate economic interests. They can thus be an active partner for and an integral constituent of a well-ordered society.

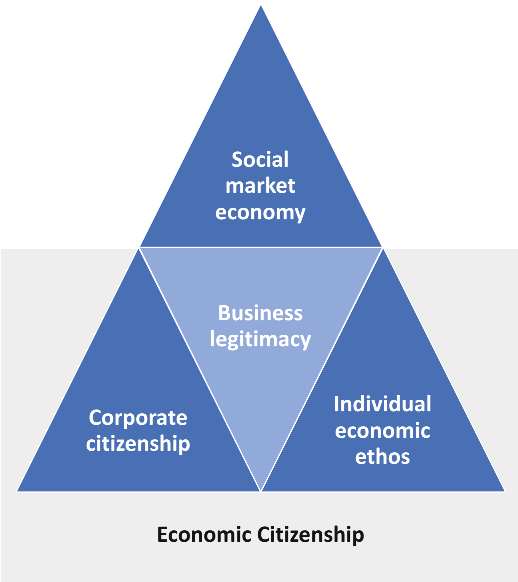

Fig. 1 Economic citizenship, business legitimacy, and social market economy

Conclusion

The social market economy laid the ground for the discussion of economic citizenship. It is an economic theory that tries to reconcile a liberal market economy with the acknowledgment that a market economy is dependent on certain social values and norms to function properly and in order for it to generate welfare for all. The economic order thus needs to be designed in a way that it prevents civic virtues and public welfare orientation from being subordinated to the pure systemic logic of economics. While the economic and social principles of the social market economy generally seem sound and important, the discussion about how economic actors ought to behave in modern, global economies falls short and misses input from current debates in business ethics on corporate responsibility, corporate citizenship, and business legitimacy. *Economic citizenship* was introduced as a concept to enlarge the discussion of corporate citizenship, by introducing a republican view on citizenship that grants individual rights but also asks (corporate) citizens for a certain minimum involvement in the *res publica*.

It should have become clear that the kind of legitimacy here discussed goes further than the descriptive definition of Weber and Suchman: It is not enough for an action to only be in line with the de facto values, norms, and beliefs of a social system. In line with the republican understanding of citizenship here introduced and above the mere adherence to social expectations, economic citizens need to *reflect* upon these values and norms and should, if necessary, help shape the society they are embedded in (for an in-depth discussion of descriptive and normative legitimacy, see Peter 2017).

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Dignity, Corporate Political Responsibility, and Business Legitimacy

39

Christian Neuhäuser and Swaantje Siebke

Contents

Abstract

In this chapter, we argue that there are good reasons for ascribing human rights duties and other duties of justice to transnational corporations. We do so by basing duties of justice on human dignity. Though a contested idea, human dignity provides a sound basis for grounding all duties of justice on one common concept as well as linking the argument to current political and legal discourse. Our argument is that corporations are not only private economic actors that act within a certain political and judicial framework, but they proactively play a part in shaping the legal framework that governs their economic activities. Because they are political actors, it is reasonable to ascribe not only negative duties to respect human rights but also stronger duties to protect to them when they operate outside sufficiently just states. But even if states are sufficiently just, it is a mistake to think that no duties of justice remain for corporations, since at all times there is the duty to follow the spirit and not only the letter of the law. Moreover, because legal systems are only more or less just, there is room for

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improving justice beyond what the law requires. Finally, we draw the conclusion that corporations' license to operate depends on their fulfillment of their dignity-based duties and that if they do not fulfill their duties sufficiently, it is legitimate and maybe even mandatory to withdraw their license to operate.

Keywords

Corporate political responsibility · Dignity · Legitimacy · Transnational corporations · Human rights · Justice · Duties · Volkswagen emission scandal

Introduction

Companies and especially transnational corporations play an important role in shaping our social world and individual lives. Everybody experiences this almost daily, which is probably a central reason why the idea that corporations do have moral responsibilities receives considerable support in academic literature and public discourse. This idea is at least as old as the discourse on corporate social responsibility, which was initiated in the beginning of the twentieth centuries when transnational corporations emerged as a global force operating relatively independently of their home states (Carroll 2006, 2008).

Compared to this idea of general moral responsibilities, the more specific thought of corporations as political actors with precise duties of justice is rather new. To be sure, the basics of this argument were prominently elaborated by Onora O'Neill (2001) in a seminal paper almost 20 years ago. But the idea generated traction only more recently in the context of the ongoing discourse on business and human rights (Wettstein 2012; Karp 2014). Scholars and activists, who were unhappy with the global compact, lobbied for a document called "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights." However, this initiative was not endorsed by the UN Commission on Human Rights (Ruggie 2007; Wettstein 2015).

Instead, in 2005 John Ruggie was appointed as a special representative of the Secretary-General and charged with developing a new framework. In 2008, he presented his own proposal to the UN Human Rights Council (which replaced the UN Commission on Human Rights in 2006), which was endorsed after extended reworking as the "UN Guiding Principles on Business and Human Rights" in 2011 and as of today is the official position of the UN regarding the human rights responsibilities of companies. This framework limits the responsibility of companies to not violating human rights themselves and not being complicit to the violation of human rights (Ruggie 2011, 2013).

In this chapter, we want to defend the claim that corporations do have proper duties of justice, which includes human rights or at least human rights-related duties (Hsieh 2015). We will do so in four steps. In the first step, we will argue that the idea of human dignity is a good moral foundation for ascribing duties of justice to corporations. In the second and third steps, we will show that, as political actors, corporations do have human rights duties and other duties of justice. In the fourth and the final step, we will argue that their license to operate depends on their fulfillment of their dignity-based human rights duties and other duties of justice. Thus, if corporations do not fulfill their duties sufficiently, it is legitimate and maybe even mandatory to withdraw their license to operate.

We will use two examples in making the argument. The purpose of the examples is not to provide detailed case studies. Rather, they are only meant to focus the discussion on different aspects of corporate duties of justice. One example is the Volkswagen emissions scandal, where Volkswagen used programming software in their diesel-engined cars to cheat during emissions testing, which was revealed in 2015 (Bovens 2016). We will point out that in so doing, Volkswagen violated several duties of justice toward its customers and the wider community. We will also consider the further complication that Volkswagen is one of the biggest German companies and an important player in domestic and regional politics, which can influence those political bodies that are supposed to control the company's activities and thus have a strong effect not only on the lives of current people but also future generations with respect to environmental issues, e.g., by successfully lobbying for less strict emissions thresholds (Bovens 2016: 264).

The second example is the Savar building collapse in Bangladesh in 2013, which caused the death of 1134 people and injured approximately 2500 people. The collapse was due to a number of factors, including the inappropriate use of the building as a factory, the addition of three floors, and the use of substandard construction materials. Also, warnings regarding the state of the building were ignored by owners and officials. Companies located in the building produced garments for well-known brands such as Benetton, Mango, Primark, and Walmart (Neate 2014). This leads to the question whether the corporations owning those brands share responsibility for what happened and, if so, to what extent.

Before we start the argument, four clarifying remarks are in order. First, we focus on corporations and exclude other kinds of firms from our discussion. The reason for this focus is not only that corporations are normally the largest, most international, and most powerful kinds of firms (Hansmann 2000); it is also that corporations have a certain legal structure which makes it possible to deal with their license to operate in a specific way. Kraakman et al. (2017) argue that corporations all over the world share five legal features. They have legal personality, limited liability, and delegated management, and their shares are transferable and owned by investors. As we will see later, because of these features, specific questions of corporate legitimacy emerge.

Second, we speak of transnational and not of multinational corporations. Not much depends on this choice of words, but there are two advantages in using "transnational." It is more open to the idea that corporations are not just entities that operate across borders, but that they are political actors that take part in shaping the structure of the transnational institutional world. At the same time, it points to the fact that corporations are still embedded in the legal structures of states. Their activities are subject to the laws of the states they operate in. Moreover, their headquarters are located in one single state and their constitution, organizational structure, and basic legal responsibilities, including, for instance, tax duties, are subject to the laws of this particular state (Dietsch 2015: 84–85).

Third, we use the concepts of "responsibility" and "duty" in a specific way. There are quite a number of different ways of determining the relation of these two concepts. They may simply be used interchangeably. "Duty" may be seen as the more specific and "responsibility" as the vaguer concept (Feinberg 1966). Duties, especially duties of justice, may be seen as something that is legally enforceable, while responsibilities are not necessarily enforceable (Lyons 1970). In what follows, we will speak, for the simple reason of terminological clarity, of general moral responsibilities and specific duties of justice. As said, the claim advanced here, which we will discuss in the following sections, is that transnational corporations have not only very broad moral responsibilities, but quite specific duties of justice, including human rights duties, based on the concept of human dignity.

Fourth, we will simply assume from the outset that corporations are responsible agents. They can have moral responsibility and as political actors – something for which we will argue later – they can also have political responsibility. There is an older debate over whether or not corporations can have this kind of responsibility (Velasquez 2003). But in the work of Peter French (1979) and later, in the work by Philip Pettit (2003) together with Christian List (List and Pettit 2011), we find very strong arguments for the assumption that they indeed are responsible agents. In our reading, these strong arguments have gone unchallenged up until today, which makes it reasonable to assume that this is the dominant position now from a philosophical point of view (Chapple 2014). We think that this discursive setting provides sufficient reason to accept the position that corporations are responsible agents as a given for the more practical purpose of this chapter, which is to show that, on top of their basic responsibility, corporations also have human rights duties and other duties of justice.

Human Dignity, Human Rights, and Justice

The widespread assumption that transnational corporations have human rights duties and duties of justice seems to derive from the belief that they are powerful actors operating in our midst and shaping the world we live in. However, a skeptic may ask on what ground it is justified to ascribe these duties to transnational corporations (Bilchitz and Deva 2013: 2–3). Then it seems to be a good initial response to refer to human dignity. The normative idea of human dignity includes that all moral actors must respect the dignity of all human beings in what they do or omit to do (McCrudden 2014). So, if we assume that transnational corporations are moral actors, then it follows that they also have to respect the dignity of human beings. Moreover, it seems to be straightforward to derive duties of justice and human rights duties from the idea of human dignity. In the case of human rights, it is common to assume that human dignity is the foundation of human rights duties (Griffin 2009; Habermas 2010). In the case of other duties of justice, it is also possible to ground them in the idea of human dignity (Nussbaum 2007; Dworkin 2011). We will call this the standard account.

How this general perspective of the standard account works for transnational corporations can be easily seen by applying it to the two aforementioned examples. When Volkswagen (VW) decided to install fraudulent software to sugarcoat the emission level of their diesel-engined cars, it violated the dignity of different human beings in several ways. VW certainly instrumentalized its customers by lying to them about the environmental friendliness of their cars – they made false claims about the level of NO_x emissions under real driving conditions and thus concealed information that consumers may have regarded as crucial in their purchase decision. Thus, it used customers only as a means to its end and completely disregarded the ends of the customers themselves, which are often seen as a basic moral requirement (Hill 2000). VW also jeopardized the health and lives of citizens living in densely populated areas. Its cars contributed greatly to exceeding safe NO_x levels in those regions by exceeding the legally established safety value for cars. For these reasons, it seems to be appropriate to say that VW violated its duties of justice by disrespecting the dignity of different human beings in the described ways.

In the case of the Savar building collapse, it is beyond doubt that the human rights of workers were violated. This is certainly the case for the right to life and security of persons as stated in article 3 of the Universal Declaration of Human Rights. It also applies to the right to social security in article 22 and the right to desirable work in article 23. It could be argued that in the aftermath of the collapse, rights to freedom of speech (article 19) and peaceful assembly (article 20) have also been infringed upon. The Declaration is quite clear about the fact that these human rights are grounded in dignity. The preamble states: "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world... Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations..." Other human rights documents list similar rights. The central open question here, to be discussed later, is of course whether or not transnational corporations are among the actors who violated the dignity of workers and protesters.

For now, it should be clear how both examples make look promising the initial thought of justifying human rights duties and other duties of justice of transnational corporations by referring to human dignity. However, there are also serious problems with this approach. We want to discuss two particularly thorny issues, one briefly and the other more extensively. First, human dignity is a contested idea and some opponents argue that we should avoid it altogether. We will only make a few remarks on this aspect, because an extended discussion would lead too far away from corporate duties. Second, and for this chapter more importantly, it may very well be that all moral agents have a moral responsibility to respect human dignity. But, as some authors argue, only certain political agents have specific duties of justice to protect human dignity, including accordant human rights duties (Beitz 2009: 122–128; Buchanan 2013: 130–131). We will discuss the first problem in this and the other problem in the subsequent chapters. Our aim is to overcome or at least weaken the skepticism deriving from these two problems. The hope is to thereby strengthen the idea that corporations are actors with human rights duties and other duties of justice.

The first problem for the standard account mentioned above is that human dignity is a contested idea. Although referred to in several human rights documents as the basis for these rights, critics argue that human dignity is not a useful concept. There are three common objections. The first objection is that dignity rests on controversial metaphysical assumptions; for instance, regarding the nature of human beings or their relation to a transcendental entity (Moyn 2015). Second, it is argued that dignity is used as a vehicle to advance a specific worldview based in Christian or European perspectives (Rosen 2014: 147–149). Third, it is claimed that dignity is void of any sufficient justification that can overcome reasonable skepticism (Sangiovanni 2017: 14–16). For two reasons, we do not think that these kinds of criticism are damaging for our idea of grounding corporate human rights duties and corporate duties of justice in human dignity. One reason is that we do not deny the possibility of replacing the mere word "dignity" with other words such as "common humanity" or "equal self-respect." It is therefore wrong to associate the use of the word "dignity" with metaphysical assumptions or historical ideas of thought. In fact, nothing much depends on this; it is rather that by using "dignity," a certain tradition that emphasizes the nobility of being human is invoked (Waldron 2007, 2012; Habermas 2010; Neuhäuser and Stöcker 2014). The central point is that it is the property of being human itself that gives human beings an equal and high moral status, which has to be respected by all moral agents. This status can be called dignity, but it can also be given another name.

The other reason is that the philosophical discourse about human dignity underestimates the normative force of socially established morals in the sense of German *Sittlichkeit*, which includes the moral standing of positive law. If, generally speaking, moral concepts used in social practice and law can be judged as having a progressive impact, then one must have strong reasons for wanting to replace them (Honneth 2015: 63–68). Since international human rights law invokes the idea of human dignity and because, all things considered, human rights law can be seen as an important source for progressive global morals, it seems to be prudent to stick to the concept of dignity, especially if one wants to work within the human rights tradition. Something similar holds with respect to important traditions in justice theory, which also draw heavily on the idea of dignity and related ideas (Nussbaum 2007: 159–160; McCrudden 2014). We concede that our reply to this facet of criticism is more contestable in the area of justice because important philosophers of justice, such as John Rawls, have tried to avoid using the concept of dignity. However, even Rawls worked with a concept of self-respect that plays a fundamental role in his theory and that is very close to dignity (Rawls 2005: 440–446). It may very well be that he simply wanted to avoid the metaphysical and traditional baggage all too easily associated with the use of the word "dignity." However, since our aim is to discuss human rights duties and duties of justice of transnational corporations together, in a way that is close to the legal and political discourse, it seems to be prudent to stick to the word "dignity" and not to replace it with "self-respect" altogether. Moreover, grounding human rights and other considerations of justice in dignity allows for combining both kinds of related duties in a straightforward way. In this perspective, human rights duties and duties of justice both derive from the normative necessity to respect the dignity of human beings (Habermas 2010). Their difference is rather that they address different actors and are embedded within different social structures. It is because of this, we claim that they also have a different scope. Human rights duties are duties of political agents operating on an international level. They apply to those agents in a direct way, because their international activity is not embedded within the legal structure of domestic states. Human rights duties also apply to political actors in single states of limited statehood and in rogue states (Moon et al. 2005; Börzel 2013). This is so because the legal structure in those regimes does not secure justice in a sufficient way. In other words, human rights duties are background duties that apply when legalized duties of justice do not respect human dignity and instead are inexistent or extremely dysfunctional. Of course, on a theoretical level, it is also possible to simply assume just one and the same set of duties of justice on a domestic and international level. In this view, talking about human rights duties would then simply be a specific way of talking about duties of justice.

Since we do assume that both duties of justice and human rights duties derive from human dignity, we see some truth in this view. However, it underestimates the different ways in which human rights duties and other duties of justice are socially and politically embedded. Human rights duties were established on a global level for the specific purpose of dealing with situations that are not covered by justice based in domestic law (Moyn 2010). Separating duties of justice and human rights duties takes this specific purpose of human rights into account. If one wants to work within the existing normative framework of the global order and not propose a completely different framework, then human rights duties and duties of justice need to be separated in the way described above, although both are grounded in human dignity.

Also it becomes possible to conceive that some duties of justice emerge in the context of states and are directed at citizens and residents only. Since people living in one country, integrated into the same institutional structure for their cooperation and subjected to the same laws, stand in a relation that is different from the relation they have with other human beings in other countries, it is reasonable to assume that different duties of justice emerge within this societal context (Scheffler 2018). Since we see duties of justice as grounded in human dignity and because the ability to live a dignified life depends on institutions and structures of interaction, those structures and institutions have a direct impact on what duties of justice exist.

Human Rights Duties of Corporations

What are the consequences for corporations if human rights duties and other duties of justice are grounded in human dignity? From this point of view, it may seem as though corporations do not have human rights duties and are not agents of justice at all. They do not seem to have human rights duties, because in the traditional view, only states have human rights duties (Kobrin 2009: 352). They do not seem to be agents of justice, because if they act within states with a sufficiently just legal system, it seems to be enough for them to simply follow the law (Friedman 1970; Pies et al. 2009). In our reading, both appearances are misleading. It is a mistake to think that only states have human rights duties. It rather is the case that only political actors operating outside of sufficiently just states have human rights duties (Karp 2014). It is also a mistake to think that no duties of justice remain for non-state actors, such as corporations, in sufficiently just states. There is always the duty to follow the spirit and not only the letter of the law. Moreover, since legal systems are only more or less just, there is room for improving justice beyond what the law requires. Also, corporations are not only actors that behave within a certain political and judicial framework; they also proactively play a part in shaping the legal framework that governs their economic activities (Néron 2010). It is worthwhile to elaborate on these points. In this section, we will focus on human rights duties and in the next, on other duties of justice emerging within single states with sufficient human rights protection.

Not only states, but all political actors in the international arena have human rights duties because human rights are meant to fill a regulation gap on the global level. The basic idea here is that the global structure should be governed by human rights in order to secure human dignity. From this basic idea, it can be inferred that all morally capable actors, who have the power to take part in global governance, have a prima facie duty to do so to a certain extent. In other words, they have a prima facie duty to respect and implement human rights. Their human rights duties are only prima facie duties, because there may be overriding concerns. One important overriding concern is that there are other agents who are better equipped to act within the human rights framework (Ladwig 2016). So, if the state of Bangladesh and a transnational corporation are capable of protecting human rights in Savar and willing to do so, then it seems prudent to assign the respective duty to the state. The most important reason for this assessment is that this arrangement is more compatible with the human rights framework itself, especially the right to self-determination (Kobrin 2009: 353). However, if the state is unable or unwilling to implement sufficient mechanisms of human rights protection, then it is the duty of transnational corporations such as Mango and Primark to step in and help to secure the protection of human rights in the factories of their suppliers. They can have a remedial responsibility in cases like the Savar building collapse (Miller 2001, 2011).

At this point, we have to concede that the received view, especially within human rights law, is that only states have human rights duties (Buchanan 2013). However, we think that this is so for the simple historical reason that at the time of its development, the creators of human rights law believed that apart from the supranational UN-structure, only states are relevant political actors within the international realm. They simply did not envision that transnational corporations and NGOs would become global political players as well. If this is correct, then it seems to be prudent to go one level deeper and ask why states were seen as the primary duty bearers in the past and whether those reasons also apply to transnational corporations today. In our understanding, there are two reasons why states were seen as the primary duty bearers. First, they have the political power to violate human rights on a large scale, since they are not controlled by a higher authority (Lukes 2005). The human rights framework is an attempt to implement such a higher authority. Second, states have the power to secure human rights in areas of limited statehood and against rogue states. The human rights framework is an endeavor to coordinate, but also to prevent abuse of this power; for instance, in the case of humanitarian intervention (Buchanan 2004: 176–179; Buchanan 2013: 196–204).

We think that something similar applies to transnational corporations today. They are not exactly like states, since there is much dissimilarity regarding the monopoly of force and sovereignty. But corporations should also be recognized as political actors on a global level with the political power to violate and secure human rights. The Guiding Principles acknowledge that corporations have a responsibility to respect human rights. However, they do not assign any duties to protect and secure human rights to them (Ruggie 2007). In our reading, this is an inconsistency because the same argument that allows for assigning them a responsibility to respect human rights makes it possible to assign stronger duties (Wettstein 2010). One needs to have additional reasons to argue that there is a fundamental difference between a responsibility to respect and stronger duties of protection. We do not think that there are convincing reasons of this sort and want to show this by discussing the three strongest reasons given in the literature.

First, it is argued that it is simply not the job of transnational corporations to protect and secure human rights. They are private actors with the task of increasing their profits within the boundaries of the law, which is their only responsibility. In the absence of a strong legal framework on the global level, human rights can be seen as setting those boundaries. This is why it can be argued that transnational corporations have a responsibility to respect human rights. This view was brought forward by John Ruggie (2013) and the way we present it shows that it resembles the way Milton Friedman (1962, 1970) understood the idea of corporate social responsibility. However, if corporations have something like a duty not to violate and instead to respect human rights, why can they not have positive duties as well? If the overall aim is to secure human rights, all kinds of duties can derive from this central goal for all kinds of duty bearers, as Henry Shue (1988) has shown. In the Savar building collapse case, it seems to be normatively incoherent to claim that transnational corporations would have had a duty to secure human rights if they operated the factories themselves, but could have easily gotten rid of this duty by simply outsourcing the production (Pogge 1992).

Second, it is argued that according to the existing framework, only states have legal human rights duties. Transnational corporations, on the other hand, only have something like human rights-related moral responsibilities. It is true that corporations do not play an important role as duty bearers within the existing human rights law framework (Karp 2014: 33–34). However, concluding from this that they should not play such a role would be a violation of Hume's law that ought cannot be derived from is. The fact that transnational corporations are not primary duty bearers within human rights law does not support the conclusion that this should not be the case. Instead, a good reason for assuming that transnational corporations should have stronger human rights duties is that they are transnational actors with the political power to protect and secure human rights in cases where states are unable or unwilling to do so. If this is true, then the existing human rights law is simply defective and should be reformed accordingly (Bilchitz 2016).

This leads to the third reason usually given for not assigning stronger human rights duties to transnational corporations. It is argued that they are controlled by states, especially those where their headquarters are located (Dietsch 2015: 144–145). Those states could define and enforce certain duties for transnational corporations; for instance, regarding their duty to monitor their supply chain. Corporations buying their apparel produced by suppliers in Bangladesh would then have a duty to make sure that their clothing is produced in safe working conditions. However, for three reasons this argument is inconclusive. First, assigning human rights duties to corporations in public discourse helps to pressure states to assign stronger duties to corporations in the first place (Young 2006). Second, as political actors, corporations can influence states to not burden them with strong duties; for instance, through lobbying and by threatening them with relocating their headquarters (Ulrich 2006; Malleson 2014: 137–138). Third, if corporations are moral actors, as we assume, then they simply have the duty to respect human dignity, which implies human rights duties independently of state enforcement (Griffin 2009: 101–104; Karp 2014: 138).

Other Duties of Justice of Corporations

Even if corporations have human rights duties in cases where they are not sufficiently controlled by domestic law, it still looks like they do not have any additional duties of justice based on human dignity. In cases where they are sufficiently controlled by domestic law, it seems to be enough for them to follow the rules of the law and otherwise focus on doing business, as Milton Friedman famously has claimed. However, for two reasons we think that corporations do have additional duties of justice based on human dignity that are not directly related to the human rights regime. The first is that certain demands of justice may be unfulfilled even in legitimate states that respect human rights. The second again has to do with the political status of corporations. Because they can influence law making, it is not enough for corporations to follow the letter of the law. Instead they are able to judge what justice demands of political actors who are able to strongly influence the process of law making. This insight can lead corporations to refrain from exercising their influence altogether. And in cases where this is not possible, it can lead them to express what justice demands and work together with governments on solutions to change policies accordingly (Heath 2006).

The case of VW can help to clarify both points. Since VW mainly operates in states such as Germany and the USA, it is reasonable to assume that in those countries, a domestic law is in place that attempts to protect human rights. We want to argue that it is not only the case that VW broke the law in countries such as the USA and Germany, although there is an obvious duty of justice to obey human rights-based law. It is important to emphasize that, in addition to that, VW also showed lack of respect to its customers. And it violated its duty of justice to refrain from influencing the law-making process in a negative way and its duty of justice to work on solutions of running their business in accordance with what human dignity demands.

Regarding the first point, it is reasonable to assume that VW knows about the objective, but also the subjective importance its customers may place on environmental protection and especially the control of emission levels of cars. By lying about the real level of emissions and even installing software to cheat in test situations, VW decided not to take the concerns of its customers and the wider society seriously. Even if, contrary to the facts, we assumed for the moment that VW had good reason to believe that the laws were too strict and their real emission levels safe, it violated a dignity-based duty of justice, by cheating its customers. The reason is that it made it impossible for customers to make their own sufficiently informed decision about what car to buy or not, based on a sufficient provision of information that they deem to be important, which creates a kind of market failure (Heath 2006). VW simply treated their customers as a means to boost its own sales, without also respecting the widely acknowledged moral constraint of considering the ends of the customers themselves (Hill 2000). This also implies that even if there were a loophole in the law, VW would have had a duty of justice to provide accurate information for its customers.

The second point regarding the political role of VW might be of even greater importance. Large car manufacturers have a great deal of influence over politics in those countries where they operate, because they are strong contributors to the gross national product and because they employ many people. Given that steady growth and a low unemployment rate are important success factors for any government, especially in countries where the headquarters of large car manufacturers are located; those governments have a strong interest in keeping the corporations happy. For instance, the German government used its influence to push through a rather lenient environmental regulation for its manufacturers on the EU level. It is worth showing in more detail how this works.

Already in 2012 the European Commissioner for Environment noted the profound difference in NO_x emission during testing compared to on-the-road emission (Potočnik 2012). Even before that, the Commission instituted a working group to establish a procedure that could test cars under so-called “real driving conditions”. The process was protracted and observers attributed this to interference by automobile industry lobbying (Faller et al. 2017). The VW scandal sped up the process, but those member states with large automobile industries intervened and successfully negotiated for transition periods which allowed for exceeding the agreed-upon emissions levels by a factor of 2.1 until 2021 and subsequently to a factor of 1.5, while originally it was planned to allow transgression of 1.6 until 2021 and 1.2 after that (Deckwirth 2016; Faller et al. 2017). A similar impact of lobbying activities resulted in the adjusted CO_2 emission level thresholds that were announced in November 2017. The goal was set at a reduction rate of 30% until 2030. Beforehand, the president of the German Automobile Industry Association (VdA) spoke to several EU officers to convince them that a higher target would threaten the automobile industry (Balser and Mühlauer 2017).

It is obvious that these political maneuvers are due to the influence of companies such as VW, Daimler, and BMW. It may not even be necessary for representatives of those companies to journey to the chancellery, although this happens frequently. In many cases, the government simply knows what the interests of those companies are and has a strong incentive to give them a great deal of consideration (Crouch 2011, 2015). In cases where the government is uncertain, it will make sure that it learns of the interests of one of its most important industries. This is why companies such as VW are political actors quite independently of whether or not they want to be. Because of their political importance, everything they do and say, but also and importantly, do not do or do not say, will have political meaning and impact. Because of this, corporate political actors such as VW have an additional duty of justice beyond the requirements of law. VW must consider how its decisions relate to wider social concerns and how they can be reconciled with what justice demands.

The general result of this short discussion of the VW case is that we can assume at least three additional duties of justice based on human dignity for corporations, even when they operate in countries where human rights are to a large extent implemented into constitutional law. First, there is an obvious duty to operate within the boundaries of this law. Second, there is a duty to respect partners and customers and treat them as ends in themselves instead of merely as means. This also applies in cases not regulated by the law. Third, corporations have a duty of justice to evaluate their political role and bring it in line as much as possible with what human dignity demands. In some contexts, this can result in refraining from exercising political influence altogether. In other cases, it can require them to speak out in favor of policies that respect human dignity and to help find regulations that make sense from an economic point of view without violating what justice demands.

Corporate Responsibility and Legitimacy

If it is correct that corporations do have human rights duties and other duties of justice, then it becomes possible to assess the legitimacy of corporations and their activity on those grounds. In all those cases of corporations whose business is to produce goods or provide services mainly used for violations of human rights or other justice-based rights, the whole enterprise is simply illegitimate. This applies, for instance, to corporations producing anti-personnel mines or software especially designed for manipulating democratic elections. In most cases, however, it is not the nature of the business itself that is at odds with human rights and justice, but rather the way corporations conduct their business. It would be legitimate for corporations to conduct this business if they did not violate human rights or other justice-based rights while doing so. Also, the more they fulfill their human rights-related duties and other duties of justice, the more legitimate corporations become in doing their business. Since justice is used as a basic normative standard for assessing the legitimacy of corporations and since corporations can act more or less justly, they can also be more or less legitimate. Just like justice, legitimacy is a gradual concept (Buchanan 2013: 178–180). Linking justice and legitimacy in this way provokes two questions. First, what is the use of the concept of legitimacy when it is so closely tied to justice? Second, when are corporations sufficiently legitimate in their overall conduct and what follows if they are not?

If the concept of legitimacy is directly linked to justice, then it is not clear anymore what the additional value of introducing this concept is. Why is it not enough to speak of more or less just and justified corporations? We think that initially the concepts of justice and legitimacy can be seen as distinct in the following way. Justice is used for the critical judgment of the activities of individual and corporate actors from a moral point of view, in the approach advanced here, based on dignity. Legitimacy is used for the critical assessment of political actors from a political point of view that is somewhat distinct from the moral point of view. Bernard Williams (2005: 4–6) has famously called this normative point of view the basic legitimation demand and argued that political communities need to fulfill this demand in order to be stable. Without legitimation, they lack cohesion in times of crisis. The authority of political actors depends on legitimation; otherwise, it is reduced to more or less fragile power.

If one follows Williams (2005) in seeing legitimacy and not justice as the first political virtue, how then is it possible to link political legitimacy and justice in the way described above? It is possible to do so, but contingent on members of a political community and subjects of political authority basing their assessment of legitimacy on concerns of justice (Weber 1958). For instance, in liberal societies, the legitimacy of government depends on respecting liberal rights in the eyes of the citizens subjected to this government. In cases of autocratic regimes, the government might not be seen as illegitimate in the eyes of its subjects, if those subjects do not take a liberal stance. However, even then, such regimes will not appear to be legitimate in the eyes of the citizens of liberal states and a liberal-minded global audience. This insight can be translated to corporations as political actors. The conduct of those corporations is judged as more or less legitimate on grounds of justice. From the liberal point of view advocated here, human dignity is used as the normative foundation for this assessment.

At this point, it is possible to object that although corporations may be political actors, it is still a categorical mistake to ascribe more or less political legitimacy to them. According to this objection, legitimacy should be linked to authority. What is assessed is whether or not a political actor with a certain authority makes legitimate use of this authority or not (Buchanan 2013: 190–191). Following this objection, corporations can be seen as having political power, but not political authority. They are not granted specific positions within the political structure that authorizes them to make collectively binding political decisions. We concede that corporations do not have authority in this strong sense. However, for three reasons, they do have authority in a somewhat weaker sense. First, as mentioned in the introduction, they are granted legal personhood and limited liability by states (Ciepley 2013). It is possible to say, then, that they are authorized, in a wider sense, to conduct their business in a certain way. States grant corporations those privileges because they expect them to increase the overall welfare and act within certain boundaries. If those expectations of states are not fulfilled, observers can judge the conduct of corporations as illegitimate and states can, at least in principle, revoke those privileges. In other words, corporations are authorized to pursue profits, under the condition that this benefits the wider society and happens within the boundaries of justice. The current investigation of the German car industry into the allegation of forming a cartel, for instance, may result in severe financial penalties precisely because they did not conduct their business within the boundaries of justice (Diekmann 2017).

Probably more straightforward is the second reason why corporations can be seen as having authority. Especially large corporations have something like authority over their workforce. In some countries, where regulation of the economic sphere is very weak and freedom of contract rather unrestricted, such as in the USA, corporations can create strong, almost law-like regulations for their employees. Contracts can depend on personal conduct and even the personal faith of employees. Also, unbelievable as it may sound, corporations can decree that employees have to wear diapers, instead of granting them more bathroom breaks. Based on these kinds of observations, Elisabeth Anderson (2017) argues that corporations act like neo-feudalistic governments in their sphere of influence, which not only affects their workforce, but also the communities in which they are active.

Third, and maybe most importantly, corporations have influence over those political bodies that do have authority. They can influence collectively binding, decision-making processes to a large extent, as the example of the car industry in Germany shows. To be sure, corporations are not formally authorized to exercise this kind of political meta-authority, although they are regularly encouraged to do so by governments, who ask for their expertise and advice (Crouch 2011). So, in reality, they do have this de facto authority. At this point, two theoretical options are available to deal with the authority, and especially the meta-authority, of corporations. The first is to take away the de facto authority from corporations and thereby also solving the most important issue of illegitimacy of corporate political action. The second is to make corporations more legitimate in their internal organizational structure and through external control and thereby also legitimizing their authority. Both are theoretical options in the sense that it is not clear whether there is any feasible way of carrying them through. Moreover, it is not obvious what the possible consequences of such rather fundamental changes would be.

The first option would require severely restricting corporations' license to operate; for instance, by taking away their legal personhood or limited liability. This would reduce the attractiveness of big corporations and favor small- and medium-sized enterprises. It could be argued that this would then result in less negotiation power of corporations in the political process as well as reduced influence over their workforce. However, it may be that some important businesses, such as aviation, require big corporations in order to work at all. More importantly, those countries whose whole business model relies on big corporations would most likely not agree to such a fundamental change of corporate law, because it would take away most of their competitive advantages. So, although this first option sounds attractive as an idea of reinstalling the primacy of politics over business, it also appears to be rather unrealistic.

The second option would require fundamental changes within corporations, but also in the way corporations are controlled externally. For instance, a democratization of corporations or strong measures of stakeholder integration could make corporations more accountable to the interests of those who are not shareholders, leading to more responsible decision making and higher legitimacy (Hsieh 2008, 2009). Stronger measures of corporate control in international law may increase their accountability as well. However, this second option appears to be rather unrealistic too, because it also depends on the willingness of the majority of states to change regulations accordingly in order to avoid competitive disadvantages. It appears then that the chances of either a considerable increase in the legitimacy of corporations as political actors or a decrease in their political agency are rather low in the absence of a global political will to make the necessary changes.

In light of these rather gloomy observations, it does not seem that major changes in the political and legal international framework are soon to be expected. Nevertheless, the perspective on corporations as active participants in the political process, argued for here, does imply that there are good reasons to see them as agents of justice. This normative conclusion substantiates the possibility of ascribing stronger duties of justice to transnational corporations on a theoretical level as well as advocating the position that corporations are to be held morally responsible for their actions in public discourse (Young 2006).

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Philosophical Theory of Business Legitimacy: The Political Corporation

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Jacob Dahl Rendtorff

Contents

Abstract

This chapter addresses the concept of business corporation as a good citizen as a fundamental political-philosophical legitimacy strategy. This strategy is based on a democratic-republican formulation of theory of legitimacy in business ethics. From this, the chapter defines the concept of good citizenship in the light of a democratic corporate ethics as the basis of legitimacy. Thus, good citizenship and the political becomes the basis for the definition of corporate social responsibility (CSR). The argument is that it is necessary to assume the notion of good citizenship to make sense of CSR, which can be considered as an argument for political CSR. The chapter covers the following main parts: (1) legitimacy strategies that build on the good citizenship go beyond the neo-liberal view of economics and politics; (2) legitimacy as defined as based on a democratic-republican perception of the role of the corporation in society; (3) definition of good citizenship of the company and of the cosmopolitan legitimacy of global corporate ethics; (4) discussion of legitimacy through the company's good citizenship and political role in society; and (5) conclusion and perspectives.

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Corporate citizenship · Corporate citizen · Democratic-republican business ethics · Global corporate citizenship · Political corporation

Introduction

In the current philosophical and business ethics debate, the legitimate company that has achieved stable public relations is defined as based on the concept of "Good Corporate Citizenship" (Scherer and Palazzo 2007; Rendtorff 2009a; Rendtorff 2013f: 158–179). This concept has a long history back in the middle of the twentieth century, when Peter Drucker, in his famous book about *The Concept of the Corporation* of 1946, based on a case study of General Motors during and after World War II, introduced the concept of "Corporate Citizens," where the company was perceived as an institution which, during the war, specifically contributed to the struggle for a free society by helping in the Second World War.

In continuation of this, Drucker described companies with good citizenship as institutions that contributed to the integration of human beings and society to develop a free society (Drucker 1946: 23–24, 114). In continuation of this, it can be argued that "corporate citizenship" was already perceived as a holistic concept early on, which summed up the ideal perception of the company's legitimacy as a responsible participant in the processes of society (Butten and Birch 2005).

One can also distinguish between different stages of development of "corporate citizenship" (Mirvis and Googins 2006). There are different levels of legitimacy expressed in the relation of the corporation to society (Mirvis and Googins 2006: 106). The stages run from committed, innovative, integrated into a complete transformation of the business to be politically responsible as fully oriented towards its social obligations.

It is on this basis that one can describe the concept of "corporate citizenship" as central to a democratic-republican political theory and perception of company ethics, which focuses on democratic societal and political unity as a basis for the perception of legitimacy. Therefore, "corporate citizenship" of the political corporation can be considered the most basic concept of legitimacy, which aims to summarize the company's responsibilities, values, and ethics in a political philosophical and ideological framework of the company's legitimate contribution to community and place in society (Rendtorff 2009a, 2011b).

A philosophical definition of the company's citizenship in a democratic-republican perspective is that the company is regarded as a responsible institutional political person who, as a participant in Republican democracy, has duties to the representatively structured and constitutional state. This is clarified by the discussion of the corporation in philosophy of management (Rendtorff 2013a, b, c, d, e, 2014a). Thus, the company's good citizenship involves a generalization and summary of the ideals behind the company's social responsibility. Similarly, corporate citizenship can be regarded as the basis for other concepts of the company's social commitment and social involvement, such as political CSR, corporate governance, corporate social responsibility, corporate social responsiveness, corporate social performance, stakeholder theory (Matten and Crane 2005: 167; Buhmann and Rendtorff 2005). In an institutional perspective, the concept of corporate citizenship is regarded as an expression of the company's acceptance of its obligations as a member of society (Jeurissen 2004: 87). This means that companies also have moral obligations and can be regarded as collective agents with a collective ethical responsibility (Jeurissen 2004: 95).

It is important to distinguish between the political-philosophical concept of corporate citizenship and the goal of the company's legitimacy strategies as an ethically responsible democratic citizen and a number of more or less vague definitions of corporate citizenship. Thus, one cannot reduce the company's citizenship to a particular notion of social responsibility. For example, it is not possible to understand "corporate citizenship" solely as corporate philanthropy, which would misunderstand the scope of the concept. Although enlightened self-interest and profit maximization can be one of the arguments for corporate citizenship, this is not the only argument, and a deeper understanding of the concept is needed if you want to work with an ethical understanding of the company's institutionalization as a legitimate agent in society through the development of good corporate citizenship with political responsibilities for the common good of society.

Corporate citizenship includes social responsibility, but it also goes beyond social responsibility, as it characterizes the fundamental role of businesses in society and does not limit corporate institutional responsibility to social responsibility (Birch and Littlewood 2004). It goes beyond social responsibility by arguing for fundamental corporate institutional and political responsibilities, that is, the economic-social role of corporations and their responsible political actions in society as a responsibility far more comprehensive than purely social responsibility (Rendtorff 2008a, b).

The Controversy Between the Neo-liberal Business and Democracy View

The legitimization of the company through corporate citizenship can be said to presuppose a social-liberal notion of a democratic-republican social order that goes beyond the neo-liberal view of society. The notion of citizenship must be understood not only from the liberal tradition which defines it by emphasizing that citizens have certain inviolable social, civil, and political rights (Matten and Crane 2005: 171). It is a concept of citizenship that refers to the duties of organizations and institutions to good governance towards society and its individual members. It is possible to agree with Crane and Matten when they argue that the concept of "corporate citizenship" in the liberal tradition is difficult to transfer from individuals to organizations (Matten and Crane 2005: 170; Rendtorff 2011b).

What is understandable about the concept of the company as a good citizen and politically responsible agent is rather that companies – as public and state actors – are in a place in society where, in order to legitimize their actions, they must behave as organizations and institutions involved to create a good and just society. When companies, in order to legitimize themselves, have to act as good citizens, their role in society is not only economic but also social and political, and therefore businesses cannot be fully understood as economic agents, thus challenging the neoliberal and neoclassical business model. This is the approach to the analysis of the company's democratic-republican legitimization process as a political citizen of society.

If one analyzes the company's legitimacy strategies in the light of the different approaches to business ethics, including liberalism, communitarianism, and Kantianism, it can be emphasized that the liberal position does not see the company's good citizenship as important for the company's legitimacy in society (Rendtorff 2017a, 2009a). The liberal view of the company describes it first and foremost as an economic entity that produces value for society. Production of value constitutes the real political legitimacy of the company and in addition to that, the company must accept the applicable norms and legal rules in society. The communitarian and virtue-based approach to business ethics goes beyond the liberal position, since in addition to economic value creation; it perceives personal and organizational integrity through good character and ethically correct action as fundamental to legitimacy. The communitarian and virtue-based perception of business ethics argues that the company's good citizenship must first and foremost be established locally and nationally, and that it is important that the company with high integrity contributes to the formation of the common good (Logsdon and Wood 2003: 161). In addition, the Kantian approach to business ethics considers corporate citizenship as an obligation to follow universal principles and this approach protects rights and freedoms and contributes to justice in society (Bowie 1999). In relation to these different perspectives on legitimization, that is, the liberal, the communitarian, and the Kantian, it can be said that the democratic-republican approach to corporate legitimacy strives to integrate the different levels into one whole. It is true that legitimizing companies is based on value creation, but we should also take national and international levels into account when dealing with the value creation of the company.

At the local and national level, the communitarian approach means that legitimacy is created by embedding the business and contributing substantially to strengthening society's cohesion (Solomon 1994). At the international and universal level represented by the Kantian approach, the universalist legitimacy strategy involves not only engaging locally, but also legitimizing itself as a world citizen committed to defending human rights and universal ethical principles of autonomy, dignity, integrity, and vulnerability (Rendtorff 1998, 2002, 2003, 2008a, 2014c; Jørgensen and Rendtorff 2018; Jørgensen et al. 2018; Rendtorff and Kemp 2019d). Following on from the integrated contract theory, this approach emphasizes the importance of local moral freedom to follow local and national business ethics standards as long as they do not violate fundamental human rights (Donaldson and Dunfee 1999).

Regarding the democratic-republican legitimacy strategy, reference can be made to the political-philosophical tradition of "civilian republicanism" to describe the company's engagement as a good citizen. It is an important element in the concept of "corporate citizenship" that it must be considered as a metaphor for the company's social commitment to society (Moon et al. 2005: 433). As a metaphor, it describes the companies' fundamental moral responsibility as the basis for the companies' commitment to different conditions in society (Rendtorff 2015a, b, 2017a, b, c, 2019a, b, c). With reference to Gareth Morgan and his book on the *Metaphors of Organizations* (1997), it can be argued that metaphors are used to characterize different metaphors for organizations in organizational analysis and, in this light, the notion of the company's democratic-republican citizenship can be highlighted as being the best metaphor for describing a company that achieves good social legitimacy as a stakeholder-oriented and socially responsible company (Morgan 1997).

The good citizenship metaphor in this context integrates the notions of corporate organizational responsibility, its ethical identity, and integrity into one whole as a basis for legitimizing the company in society. Moon, Crane, and Matten refer to the classical tradition of political philosophy, and they claim to have found four models of good citizenship: "liberalist minimalist," "civic republicanism," "developmental," and "deliberative" that can describe various forms of participation in society, which can be said to stem from the idea of "corporate citizenship" as a metaphor for relations between companies and society (Moon et al. 2005: 435).

One might say that the Democratic-Republican legitimacy strategy contains elements from all four of these concepts of citizenship, although it particularly combines elements of the civil republicanism idea of community participation with the concept of deliberative democracy in an open public and with the idea of an open dialogue with stakeholders as central to ensuring the company's legitimacy in society. This deliberative model and civilian republicanism is based on the notion of business and the market as a mediating social institution that contributes to community integration between state and civil society. One can say that the legitimacy of the company as a good citizen is expressed in the vision of the French philosopher Paul Ricoeur for the foundation of the just society based on "The Good Life for and with the other in just Institutions" (Riceour 1992: 202; Rendtorff and Kemp 2009).

In continuation of this, reference can be made to James E. Post's definition of the company's citizenship as: "the process of identifying analyzing, and responding to the company's social political, and economic responsibilities as defined through law and public policy, stakeholder expectations, and corporate values. and business strategy. . . [it] includes both actual results (what corporations do) and the process through which they are achieved (how they do it)" (Thompson 2005). With this definition, we have a more concrete and operational determination of legitimizing the company through the good citizenship and we can say that corporate citizenship implies that companies act responsibly and socially, both locally, nationally, and internationally in the globalized society (Rendtorff 2009a, b, 2010a, 2013a, b, c, d, 2014a).

Legitimacy in the Perspective of a Democratic-Republican Business Ethics

In order to deepen the understanding of the company's legitimate citizenship, it is appropriate to elaborate on the concept of democratic-republican understanding of business ethics. One can say that the Republican company ethics involves a holistic approach to business ethics that integrates elements of the different perceptions of the business into one whole. This approach recognizes that the various business ethics credentials, that is, Liberal business ethics, stakeholder management, and the communitarian, Kantian and universalist as well as the theory based on the social contract contain important elements that are integrated into a democratic-republican view of society (Rendtorff 2009a, b, 2011a). This means that legitimate companies must be justified in the light of a deliberative concept of democracy (Habermas), which translates into a democratic constitution, based on fundamental constitutional rules that protect common good in the republic (res publica).

This approach is inspired by Jürgen Habermas' description of the democratic rule of law in *Faktizität und Geltung* (1992) and has been particularly developed by the German business ethicist Peter Ulrich (1998, 2008), who works on the concept of "integrative business ethics," which integrates economic, social, and political aspects of social action. Ulrich's formulation of the concept of "integrative business ethics" helps to give reasons why it is the purpose of economic markets and economic action in companies to contribute to realizing the good life between free and responsible citizens in a democratic rule of law (Rendtorff 2009a, b, 2011a).

One can say that the goal of legitimate business is to help develop a free and fair society. Through its value creation and economic activity, legitimate businesses help protect and promote individual political and social citizenship as a legitimate corporate citizen in society (Ulrich 1998: 235). Thus, contracts and other agreements in companies are only legitimate if one can say that they contribute to value creation in society and contribute to strengthening the development of society's economic, social, environmental, and political conditions. It is crucial that the company handles the demand for legitimacy by signing up as a responsible player in the political public domain. Seen in this perspective, the company's free value creation in itself becomes an important emancipatory ideal for society, where progressive companies can increase their legitimacy by striving to create more freedom in society (Ulrich 1998: 283).

This can be achieved by ensuring, in order to ensure the legitimacy of their products and services and economic activities, that they are considered democratically acceptable through dialogue with communities, the state, and the international community as to whether they contribute to the strengthening of a democratic republican social order. The democratic-republican perception of business ethics thus emphasizes that the company achieves its legitimacy by entering into open and transparent public relations, where the company communicates rationally and dialogue-based with the public, which is the case of Habermas' theory of communicative action, which, contrary to instrumental action, is based on the better arguments free of coercion (Habermas 1981).

According to the democratic-republican perception of the company, the legitimacy of economic action and value creation is based on the recognition of the critical public use of reason as a basis for understanding the company's responsibilities towards the various stakeholders, cf. R. Edward Freemans' concept of "corporate stakeholder responsibility" (Freeman et al. 2010). This means that companies, public organizations, and other economic actors must strive to pursue democratic values and establish a just and fair economic market based on fair competition without corruption and bribery, discrimination, and repression or any other form of undermining of democratic values. The democratic legitimization of the companies implies that companies in different ways should integrate a critical democratic public dialogue in relation to their stakeholders as a basis for both external and internal decisions and decision-making processes (Ulrich 1998: 304). According to this view, decisions at all levels of the company should be responsibly matched to economic conditions, community law, and ethical values in society, as uncovered in the joint communicatively regulated public, based on a democratic-deliberative reflection between rational participants in a community of communication and argumentation (Habermas 1981; Ulrich 1998).

Conversely, it is also the task of a democratic society based on a critical-rational public debate to help clarify the normative structures that define the democratically legitimate business, business and economic value creation. In such an endeavor to "civilize civil society" by making it more democratic and fair, the legitimacy of the economic system depends, in particular, on a critical public in society where the various stakeholders are properly involved in the joint creation of values between businesses and their stakeholders (Rendtorff 2010a, b). It is important here to understand that, according to the democratic-republican business ethics, the market logic, contrary to the system theorist Luhmann's theory of the market as a differentiated system (Luhmann 1988), is not closed to itself in an economic "black box" with its own and independent systemic structures. Rather, it is an open reflective system that is part of a dynamic interaction with other systems of society, that is, the legal sphere, the political sphere, the social sphere, and the technological sphere, and the legitimacy of market dynamics is structured through the critical interaction with these systems. With the view of the American economist Buchanan, this perception of interplay between market and society can be referred to as a "New Constitutional Economics" (Buchanan 1990) that addresses the demarcation of the liberal tradition of state, society, and market, and basing the economy on individual property rights.

A democratic-republican constitutional economic theory is an institutional approach to the economy, which regards the economic market as an integral aspect of the political and social structure of society. In this perspective, economic policy, both in the public domain and in relation to the civil society's private market and in relation to corporate governance decisions, must be regarded as an instrument for managing society for the purpose of common value creation and for achieving common social and political goals aimed at the common good in society (res publica). Such a constitutional democratic-republican perception of economics and economic action regards the company's legitimacy through ethical stakeholder management as part of democratic communication in society. This stakeholder approach involves a democratization of the company, where there is a continuous dialogue on the legitimacy of privileges in the form of ownership and wages and power relations in companies in relation to the economic market (Rendtorff 2017a). Economic inequality is justified in this context on the basis of efficiency considerations related to Rawls' difference principle, which states that inequality can be allowed if it is to the benefit of everyone and the weakest (Rawls 1971). However, the freedom-based legitimacy of economic inequality is often neutralized for the sake of the weakest, which is then compensated for by inequality through social benefits, which companies also contribute to making available to the weakest. In the constitutional economy, corporate citizenship is thus defined by the participation of the company in the political community as a responsible player with duties and rights.

Therefore, the concepts of “business ethics,” “corporate social responsibility” (CSR) (Carroll 1999), “corporate responsiveness,” “corporate accountability,” “corporate philanthropy,” and “corporate governance” express the company’s efforts to legitimize itself as a democratic player in society. (Crane and Matten 2004). By actively addressing these areas and formulating a management strategy in relation to this, the company contributes to actively legitimizing itself as a socially responsible player, which makes the community commitment a prerequisite for its “license to operate.” Here, the company can appear to be particularly legitimate if it includes in its strategy and management national and international goals and strategies, such as “sustainable development,” focusing on the sustainable ethical principles in relation to both social, environmental, and economic conditions (Rendtorff 1998, 2002, 2003, 2008a, 2014c; Rendtorff and Kemp 2009; Jørgensen and Rendtorff 2018; Jørgensen et al. 2018). No wonder the three Ps, People, Planet, Profit, today are an integral part of most companies’ legitimacy strategies, where they work to integrate a balance between social (People), environmental (Planet), and economic relationship (profit) in business operations (Rendtorff 2015b). It is the case that corporate citizenship is specifically implemented as an effort to follow the triple bottom line, which not only aims at economic profit, but also towards environmental and social profits.

Thus, it appears that good corporate citizenship is not only based on the individual integrity and responsibility of individual managers and employees, but rather implies that the company as an institution and collective entity. The company is more an economic-legal instrument for gaining profit as a whole is attributed to a political and ethical responsibility for the common good in the social and political institutions of society (Rendtorff 2009c, 2010b, 2014b, 2015c).

The democratic-republican perception of corporate legitimacy can be seen as a response to the strong societal demands and expectations of “good corporate governance” ethical business and social responsiveness that have become stronger with globalization and intensified with the capitalist system’s corporate scandals and crises. This was the case of the international financial crisis in 2008 and the criticism of capitalism’s creation of greater inequality, where the Occupying Wall-Street movement’s 1/99 dogma, claiming that inequality in USA after the financial crisis has worsened, where 1% has gained more while 99% have become even poorer. These demands on businesses mean that businesses have to convince the people that they are able to take responsibility that can contribute to economic profit and value creation in society at large so that they can secure their legitimate existence. The political-philosophical discussion of corporate social legitimacy, which has emerged from the discussion of the various business ethics theories, thus builds on a communicative and ethical perception of politics and political legitimacy.

This means that the ethically and politically mature company understands legitimization as other than power politics or self-staging with “window dressing” or “green-washing” as instruments, but understands it self as a sincere democratic player who will gain points by being respected for its integrity and responsibility as the basis for the company’s license to operate (Crane and Matten 2004: 41–49). The company as a good citizen with political responsibilities is a company that works actively to bridge the tension between ethics and economics by formulating its strategy and management in accordance with society’s needs and democratic principles. This definition of corporate citizenship involves an idealization of politics, where politics is not solely a power policy, but is defined by a focus on the common values of society, which have an impact on values-driven management (Pedersen and Rendtorff 2004; Mattsson and Rendtorff 2006). Distribution or development of value in society is based on what is considered politically legitimate goals of economic action. Focus on democratization of the company and on stakeholder engagement contributes to the development of the political company that chooses the democratic-republican legitimization strategy (Rendtorff 2015a, b, 2017a, b, c, 2019a, b, c).

This is also reflected in the market dynamics of advanced democratic societies. Consumers do not choose here products based on pure economic and material considerations, but they appear to be politically creative and value-conscious consumers who prioritize their own ethics and morals in the choice of products. Likewise, suppliers are demanded a decency in respect of human rights and the environment, and shareholders and investors are politically and ethically aware in their valuation of companies and the purchase of shares. In addition, employees have become more aware that the companies they work for have decent values so that they can handle the company’s handling of human rights, environment, and contributions to the community (Rendtorff 2011a). Furthermore, there has been more focus on multinational and national companies’ tax payments and financial contributions to the community. All of this contributes to documenting the requirement for the company’s political legitimacy as a good citizen in the welfare state, where the corporate responsibility implies contributions to realizing common social and political objectives.

These demands for increased democratic-republican legitimization are increased by the legislative focus on corporate social responsibility and social and political commitment. In addition to environmental reporting and other forms of alternative reporting, the Danish Financial Statements Act from 2009 made CSR reporting for the largest companies in Denmark subject to an accounting requirement in the Act. Developing CSR initiatives beyond what is common law is not a legal requirement. However, it is understood that a company that does not work with social responsibility or sustainability and, in general, does not think about involving its stakeholders, cannot be perceived as a good citizen (Rendtorff 2019a, b, c, d). Therefore, voluntary work on social responsibility as part of the company’s ethics and values becomes an important part of the company’s efforts to legitimize itself in society. This applies not only nationally but also internationally, where the company is accounted for its attitude towards sustainability, the triple bottom line, and protection of employees' rights and welfare. It is thus an integral part of legitimizing the company as a good citizen, that it is part of open dialogue and communication with the public and stakeholders (Ulrich 1998: 443; Rendtorff 2015a). Thus, the democratic-republican business ethics contribute to making respect for democratic values and social goals central to the company's legitimacy.

The Company's Good Citizenship and Global Business Ethics

There is an increasing focus on the concept of "corporate citizenship" as a basis for legitimizing the company's global and cosmopolitan ethics (Scherer and Palazzo 2007). When the Global Economic Forum in Davos in Switzerland defines the company's citizenship, it is emphasized that not only is it a CSR concept or a new concept of the company's philanthropy. Here, the concept of its citizenship is much more fundamental, as it must be done an integral part of the company's strategy and day-to-day practice if it is to be able to legitimize the company's activities in the globalized society. At the same time, the company's citizenship on the democratic-republican basis is an attempt to understand the business of a global cosmopolitan society where different cultures and states live together while creating a common supranational reality that we all must relate to. The democratic-republican business ethics here becomes a cosmopolitan business ethics, which, based on the universal norms of all people and all companies, nevertheless recognizes the cultural differences and claims that there must be some free moral space to organize in different cultures as long as this does not violate fundamental human rights and ethical standards (Rendtorff 2017a). This means that even though the company's legitimacy must be measurable on the universal cosmopolitan rules, there is also room for some local variance in the theorization and practice of "corporate citizenship." It turns out in practice, because there are differences in the way different cultures and different countries define the concept of the company's good citizenship (Katz et al. 2001: 149).

Being a good citizen as a company does not mean, primarily, that you follow ethics and rules in the national state. On the other hand, the company's efforts to legitimize itself as a good citizen in addition to its affiliation with the nation state and demand of companies become "a citizen of the world," a participant in the world community (Rendtorff 2017a). Here, the company deals with the problems of the world community and acts in relation to its universal obligations as a member of the world community. The UN Global Compact Principles on Environment, Human Rights and Corruption in the light of the UN Sustainable Development Policy reflect how businesses have commitments beyond national law. Since more than 9000 companies have now joined the Global Compact principles integrated in sustainable development, it can be said that there is great support for this cosmopolitan legitimization of the company's good citizenship (Rendtorff 2015a, 2017a, b, c, 2019a, b, c, d).

It can be said that businesses will appear to be good citizens, are forced to handle, and respond to world society's expectations of meeting sustainability demands, respecting human rights, and taking responsibility for development and the communities in which they operate, among others, by paying taxes and not dealing with corrupt regimes that violate human rights (Rendtorff 2015a, 2017a, b, c, 2019a, b, c, d). Moreover, companies' efforts to obtain legitimacy at international level are becoming more urgent, as they are increasingly acting globally outside national law. Not least because critical media such as international watchdogs are increasingly pursuing businesses and shouting rifles if they pursue their own greed and profit without being able to legitimize their actions as important to the international community.

At the international level, "corporate citizenship" is about how to overcome the imbalance between economic growth, poverty, and the destruction of the environment by ensuring a connection between economy and happiness and social welfare. At the international level, "corporate citizenship" is also closely linked to "Fair trade" and other ethical initiatives concerning cross-border trade (Zadek 2001: 40). It is important to overcome the inequality between the West and the developing countries (Zadek 2001). The company's cosmopolitan citizenship is about working for greater international and transnational justice in the world.

Jeanne M. Logsdon and Donna J. Wood have developed the concept of Global Business Citizenship, which expresses the need to legitimize corporate global engagement (Logsdon and Wood 2005). They argue that global corporate citizenship is linked to corporate efforts to legitimize themselves with cosmopolitanism by incorporating universal values into their mission and value catalogs to show that they live up to international business standards (Rendtorff 2017a). Global business citizenship is being promoted as an attempt to build a business ethics at the global level that can legitimize companies as responsible international actors. Logsdon and Wood define the global corporate citizenship in the following way: "A global business citizen is a multinational enterprise that responsibly implements its duties to individuals and to societies within and across national and cultural boarders" (Logsdon and Wood 2005).

Being a global citizen means for a business that it must develop universal standards and norms and values for its actions and must have global principles for its strategy and leadership as it follows the world (Rendtorff 2009a, b, 2011a). At the same time, the company must pay attention to cultural differences and respect these differences as far as these differences do not violate the universal international human rights standards. In addition, the global corporate citizenship implies that the company engages in the learning process of developing international norms and values in order to respect human well-being in global development (Rendtorff 2015).

James E. Post has also defined "global corporate citizenship." His definition is in line with Logsdon and Wood's conceptualization. Post emphasizes the importance of the company's global commitment as a "Stakeholder Corporation." At the same time, the global corporate citizenship expresses the fact that companies are actively engaged in the development of democratic values internationally (Post 2003: 143–153). Here it becomes particularly clear that legitimization through corporate citizenship is not just about economic value. This is rather about the company's public activities as a contributor to the common good in a democratic society. It is the political commitment to common democratic public and civil values, political and social human rights, which lies behind the concept of the good citizenship of the company. This notion of citizenship involves a close link between citizenship and democratic stakeholder management, which enhances the consideration of sustainable development, where respect for the threefold bottom line and the three Ps: People, Planet, and Profit is central (Rendtorff 2015a, 2017a, b, c, 2019a, b, c, d).

Discussion of Legitimacy Through the Company's Good Citizenship

However, legitimizing companies through good citizenship also faces a number of critical objections, which it is important to relate to if you want to assess the strength of the theory. One frequently encountered objection is that the new focus on "corporate citizenship" as legitimation is not a solution to the legitimacy problem, but rather a symptom of a broken contract between company and society. Not least, the cynicism and the greed of many companies that led to the financial crisis testify to this imbalance (Rendtorff 2016). Short-term profit maximization has replaced a sustained commitment to society's long-term goals. This has led to the dissolution of employee loyalty and the consideration of shareholders and investors have separated the companies from their stakeholders. Above, companies' citizenship involves an effort to reinstate the company in the center of society as an active, committed, and constructive citizen. Identification through corporate citizenship implies a new focus on the companies' obligations to society and commitment to society's "long-term interest" (Waddock 2005; Rendtorff 2009a, b).

Moon, Crane, and Matten have analyzed Logsdon and Wood's approach in this perspective (Moon et al. 2003). They believe that a better conceptual justification for corporate legitimacy is needed for the ide of companies as good citizens. Primarily, it does not really make sense to take the concept of corporate citizenship literally, so the concept should be regarded as a metaphor. In addition, it is important that the notion of citizenship does not rely on much disagreement between liberal and communitarian positions, but instead helps to create continuity between the two positions so that political philosophy can be based on insights from both approaches (Moon et al. 2003: 431). This is, in many ways, the intention of the democratic Republican approach that combines elements from both approaches. We can emphasize that the important thing about the concept of "corporate citizenship" is that companies understand themselves as citizens and contributors to the common good or to the general interest in society. Here, the communitarian model for social participation in political philosophy and business ethics is important in understanding what really lies behind the concept of citizenship. It is also wrong when someone has historically wanted to restrict "corporate citizenship" to philanthropy and participation in community activities. "Corporate citizenship" cannot be reduced to philanthropic CSR, but includes all considerations for all the company's stakeholders.

This fundamental perception of legitimacy through corporate citizenship is also the central argument of Matten, Crane, and Cheapple in an article emphasizing that corporate citizenship means that large corporations, like governments and other administrative institutions, must contribute to the protection of certain rights and obligations with the same kind of responsibility that governments have (Matten et al. 2003). They emphasize corporate citizenship as a more central concept than CSR and stakeholder management, because the concept includes the essentials of both these types of socially committed management thinking. Therefore, it is possible to emphasize that "corporate citizenship" is a good new concept that precisely refers to the role that we want companies to have in society (Matten et al. 2003: 116–117). Similarly, in another article, Crane and Matten claim that legitimacy through corporate citizenship implies that, by virtue of their social involvement, companies intervene in areas where governments, municipalities, or other public administrations are unable to provide social tasks that protect and promote the rights of citizens (Matten and Crane 2005: 172). Companies can help protect and promote citizens' social, civil, and political rights, and they can play an active role in formulating welfare policies and contributing to the social development of society.

Crane and Matten define, by extension, "corporate citizenship" in the following way: "CC describes the role of the corporation in administering citizenship rights for individuals. Such a definition reframes CC away from the notion that the corporation is a citizen in itself (as individuals are) and towards the acknowledgment that the corporation administers certain aspects of citizenship for other constituencies. These include traditional stakeholders, such as employees, customers, or shareholders, but also include wider constituencies with no direct transactional relationship to the company" (Matten and Crane 2005: 173). Although this is a good description of the content of the democratic-republican perception of the company's citizenship, it is not enough to understand the concept from the point of view of human rights and civil rights. There are many conditions in society that cannot be understood from the point of view of social, civil, and political rights (Matten and Crane 2005: 174), so we need a more comprehensive definition of corporate citizenship, which we have described as based on the company's legitimacy through the consideration of "The good life for and with the other in just institutions."

At the same time, however, Crane and Matten are not reluctant to emphasize that there are many problems with this broader definition of corporate citizenship. The question is, for example, how far companies can go in order to take over the role of public institutions and organizations in formulating politics and strategy for social development without turning the balance between public and private over in a way that makes society even more undemocratic than it was before. This would not have been the case if the companies had remained within the economic sphere. A fundamental democratic problem arises when it is argued that the companies' stakeholder democracy must play a more active role in society, where they take over the role and functions of the governments (Matten and Crane 2005: 177).

A more critical objection is that there are no real social intentions behind legitimization through companies' good citizenship. This objection focuses on the fact that "corporate citizenship" is nothing more than a new ideological legitimacy discourse that serves to give capitalism a more humane face. From such a critical social science point of view, the company's ethics and responsibilities are legitimized through good citizenship, nothing more than the fashion phenomenon, which is used as a strategic power tool to cover the companies' real interests in always obtaining more money and profit. The ethics and responsibilities of companies in this light are nothing more than a rhetorical attempt to certain that one wants to adapt to society's expectations (Chouliaraki and Fairclough 1999). This discourse analytical approach claims that business citizenship acts as a discourse that strives to adapt businesses to their environment. The discourse analysis argues that the legitimacy as a good citizen makes it possible to merge the social and ethical within the company, so that the profit perspective is covered by social and social concerns. The discourse on good citizenship should be seen as an attempt to construct and strive for social contradictions and conflicts, whereby the company, through the discourse on good citizenship, appears to be socially legitimate. Thus, the discourse analysis is right in this point. We must not be naive about companies' interests in legitimizing themselves as good citizens. The discourse on "corporate citizenship" serves a well-defined strategic goal of legitimizing the company's value creation and economic earnings as a contribution to the common good for everyone in society.

A system theoretical approach analysis of the company's legitimacy through good citizenship, like the discourse theory, considers a social system that follows codes of profit maximization and competition as the fundamental logic of the system (Luhmann 1988). With the German sociologist Niklas Luhmann, we can consider legitimization through the company's good citizenship as a way in which the company interacts with society's other systems and handles tensions and irritations between the company and other social systems (Holmström 2004). Accepting and legitimizing society is important to the company, because legitimacy determines the company's ability to act in society. The system theory also emphasizes that "corporate citizenship" acts as a marker, whereby the company adapts to its environment to avoid image loss and destruction of its social and economic conditions of existence.

Discourse and system theoretical analyzes are important for understanding the company's legitimacy processes in society. They uncover the ideological dimensions of legitimization through the good citizenship as the company's endeavor to survive and adapt as an economic-strategic entity in a complex economic market. At the same time, the discourse and system theoretical analyzes also have certain blind points when they are to understand "corporate citizenship," since they do not have theoretical instruments to assess the company's citizenship normatively. Here we go from the discourse analysis and the system theory back to the political philosophy and company ethics, which assesses corporate citizenship in the light of justice and ethical theory.

Conclusion and Perspectives

Simon Zadek helps us to conclude our discussions on legitimization in relation to corporate citizenship and political responsibility of business. He can say to develop the different positions that we have met at Matten and Crane and Scherer and Palazzo and the theorists for a concrete management theory. Zadek's book *The Civil Corporation. The New Economy of Corporate citizenship* (2001) won the 2006 Academy of Management award for being the best management book. Zadek uses the concept of "New Economy of Corporate Citizenship" to include new partnerships between companies, governments, public organizations, and NGOs. The economy that emerges from the companies' good citizenship is at the same time an answer and a result of the networking's new forms of partnerships (Zadek 2001: 2). Zadek's concept of "corporate citizenship summarizes the content of legitimization through corporate citizenship by emphasizing that stakeholder engagement is an integral part of corporate efforts to make money and maximize their profit" (Zadek 2001: 8). Citizenship is a financial benefit for the company because it creates trust and long-term sustainability (Rendtorff 2015b, 2017a, b, c, 2019a, b, c, d).

The principles of interaction in the network economy are a "civil governance" and polycentric decision-making situation where not only governments are governed by the states, but where companies as political actors become key figures for decisions in a form of decentralized political networking governance, through which companies go through ethics and responsibility contributes to creating the norms and values of society (Zadek 2001: 10). Cross-sectoral partnerships are becoming more and more common. The network economy is based on the companies' active responsibility and commitment as a basis for institutionalizing trust relations (Zadek 2001: 13). The network economy institutionalizes governance relationships based on the good citizenship in response to the new economy's intensified credentials due to radical organizational changes and intensification of innovation, production, and communication in the information society (Zadek 2001: 27). Zadek emphasizes that "civil regulation" is a great advantage for society (Zadek 2001: 43).

When companies contribute to society with self-regulation, it is both in their own and in the interest of society. Nevertheless, it is also a response to society's expectations of companies that have been increasingly intensifying towards social responsibility demands over the past 50 years. Therefore, "corporate citizenship is the expression of learning and innovation in the new economy." The slogan is "Doing well by doing good" (Zadek 2001: 76). Identification through the good citizenship of companies is concretized at the same time in the company's voluntary civil commitment and self-regulation, where the companies nationally and internationally build systems for ethics and value management that govern the market without any direct form of state interference (Zadek 2001: 101). "Civil governance" is based on company ethics and communication with stakeholders through value-based management with mission, vision, and goals that are essential for the design of the good citizenship (Zadek 2001: 162). Here are various kinds of social and ethical accounts and alternative reporting of great importance.

The new economy of corporate citizenship is no longer based on strict legal rules, but is to a large extent a confidence economy. Trust is only achieved through genuine care and consideration of the company's stakeholders, such as when a company seriously does something to improve product quality or employees "working conditions, because trust depends on the citizen's" autonomous impressions and assessments (Zadek 2001: 39). Therefore, transparent communication and stakeholder dialogue is a prerequisite for achieving legitimacy (Zadek 2001: 221). This ethical definition of trust based on the good citizenship does away with antisocial networks that do not contribute to social integration (Field 2003: 72). Social capital in the network society cannot be based on opportunistic manipulation, because society's expectations of companies are that they act with integrity and reliability. Even game theory emphasizes mutual confidence-building behavior as at one time maximizing one's own and common interests (Govier 1997: 10). Cooperation is a game, and it is a great risk to be open and enter into cooperation with others (Axelrod 1984). Therefore, both parties have the greatest benefit of playing with open cards facing each other. However, it is difficult to work with a strong contradiction between trust and not trust, as there are many different levels of trust in the organization's practical reality (Govier 1997: 11).

Amartya Sen considers the guarantee of trust and transparency as fundamental to protecting the individual's freedom to act in the capitalist market (Sen 1999: 39–40). This helps the company's good citizenship to strengthen its confidence in the economic market. Well-established rules for behavior and predictability on the market are an important prerequisite for the development of the market economy (Sen 1999: 265). Rules for value-based management and ethics help ensure this confidence in the company at institutional level. This is strengthened through the company's self-regulation as a good citizen. Ethical principles formulated as ethics rules in the company are important to help create a culture of trust between the company and its stakeholders. According to the theory of "embeddedness" developed by Karl Polanyi and later Marc Granovetter, one can say that legitimization through the company's citizenship contributes to securing embeddedness in civil society (Granovetter 1985; Polanyi 1944).

Against this background, we can conclude that the company's legitimacy through the good citizenship, as it is the case in the democratic-republican political philosophy, constitutes the real basis for the company's social responsibility and company ethics. "Corporate citizenship" constitutes a political-philosophical conceptual basis for strategic management, which aims to integrate the company into society and strengthen a market-based network and trust economy nationally and internationally.

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Principles of Business Ethics and Business Legitimacy

41

Jacob Dahl Rendtorff

Contents

Abstract

In a report to the European Commission from an EU-BIO-MED-II Research Project with 22 Partners from different European countries, researchers proposed four ethical principles as guiding ideas for a European ethical and legal culture. Researchers had chosen to investigate the concepts of autonomy, dignity, integrity, and vulnerability. This research on bioethics and biolaw was mainly about how to give these ethical principles meaning in bioethics and law. However, during the research for this book emerged awareness that the ethical principles being classical ethical ideas with a fundamental significance for European culture do not only apply in bioethics but might have significance in other ethical fields, in particular business ethics, corporate social responsibility and business legitimacy.

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This chapter shows how the values of autonomy, dignity, integrity, and vulnerability can be applied in business ethics as the basis for business legitimacy. In this perspective, the ethical principles constitute a core of protection of human persons including their rights to economic development and the duty of civil society and its corporations not to let human beings be eliminated in subhuman conditions of poverty and misery. The argument is that the concepts of basic ethical principles have fundamental significance both at the individual and at the organizational level – and in addition that they provide an important foundation for ethical standards of sustainability in a future global culture of human rights. The chapter provides a brief outline of the meaning of the concepts in business ethics illustrated by some examples of the uses of the concepts in different fields of business ethics as the foundation of business legitimacy.

Keywords

Ethical Principles · Institutional responsibility · Organizational integrity · Sustainable development · Vulnerability

Introduction

In a report to the European Commission from an EU-BIO-MED-II Research Project with 22 Partners from different European countries, researchers proposed four ethical principles as guiding ideas for a European ethical and legal culture. Researchers had chosen to investigate the concepts of autonomy, dignity, integrity, and vulnerability. The book *Basic Ethical Principles in European Bioethics and Biolaw*, *Autonomy, Dignity, Integrity and Vulnerability*, Vol I-II (Rendtorff and Kemp 2000, 2009) is mainly about how to give these ethical principles meaning in bioethics and law (Rendtorff 1997, 1998, 2002, 2003, 2008, 2014c; Jørgensen and Rendtorff 2018; Jørgensen et al. 2018; Rendtorff and Kemp 2019). However, during the research for this book emerged awareness that the ethical principles being classical ethical ideas with a fundamental significance for European culture do not only apply in bioethics but might have significance in other ethical fields. Thus, the same ethical framework is very powerful for business ethics, and in this context, the basic ethical principles can also be understood as the basis of protection of basic economic rights of the human person (Rendtorff 1997, 1998, 2002, 2003, 2008, 2014c; Jørgensen and Rendtorff 2018; Jørgensen et al. 2018; Rendtorff and Kemp 2019). Therefore, it is possible to apply the basic ethical principles of respect for autonomy, dignity, integrity and vulnerability in business ethics and corporate social responsibility. Thus, overview gives an outline of this application on the basis of earlier research in the field (Rendtorff 2009a: 9–19; b).

This chapter shows how the values of autonomy, dignity, integrity, and vulnerability can be applied in business ethics and philosophy of management (Rendtorff 2009a, b, 2010a, 2013a, b, c, d, 2014a). In this context, the ethical principles constitute a core of protection of human persons including their rights to economic development and the duty of civil society and its corporations not to let human beings be eliminated in subhuman conditions of poverty and misery. The argument is that the concepts have fundamental significance both at the individual and at the organizational level – and in addition that they provide an important foundation for ethical standards of sustainability in a future global culture of human rights. The chapter will provide a brief outline of the meaning of the concepts in business ethics illustrated by some examples of the uses of the concepts in different fields of business ethics and business legitimacy (Rendtorff 2009a, b, 2011).

Definition of the Basic Ethical Principles

In the book, researchers provide an extensive definition of the basic ethical principles (Rendtorff and Kemp 2000, 2009). They are four values to guide decision-making for law and public policy in late modernity. The context is the rapid developments of the life-sciences, for example, biomedicine and biotechnology. We only need to mention genetics, transplantation, pharmaceutical industry, food production, and the difficult problems of genetic manipulation, patenting of the human genome, commercialization of the body, production of transgenetic animals, environmental protection, etc. Thus, there is a need for good ethical values in order to protect human beings in technological development. Moreover, the relationship between business and biotechnology is clear. Society is in a process of developing new markets, and we already witness the globalization of the biotechnology business by multinational pharmaceutical companies with increased power and responsibility (Rendtorff 2014b).

In short, there are many overlaps between bioethics and business ethics, and the two disciplines have to work together in solving the great ethical problems of the globalized biotechnology industry. However, the basic ethical principles do not only apply to biotechnology, but they can be extended to be said to constitute an important foundation for the idea of "Sustainable development" as proposed by the UN report "Our Common Future" by the World Commission on Environment and Development from 1987. The basic ethical principles constitute the foundation of the "triple bottom-line" as proposed by John Elkington in his path-breaking book *Cannibals with Forks: The Triple Bottom Line of 21st Century Business*, which is conceived as an application of the principle of sustainable development in international business practice. This has recently been expressed in the definition of the UN sustainable development goals as essential for creation of corporate social responsibility and legitimacy of business corporations (Rendtorff 2015a, b, 2017a, b, c, 2019a, b, c, d).

In this context, the basic ethical principles provide the important link between protection of human persons, social and economic development, and concerns for the environment, because they indicate central values for taking care of nature, society, and human beings (Rendtorff 1997, 1998, 2002, 2003, 2008, 2014c; Jørgensen and Rendtorff 2018; Jørgensen et al. 2018; Rendtorff and Kemp 2019). We do not only talk about human integrity and vulnerability but also about the integrity and vulnerability of nature and society (Rendtorff 2015a, b). In addition, there is a close link between the human social and natural environment to the required respect for our autonomy and dignity. Therefore, we need casuistry for the application of the principles of autonomy, dignity, integrity, and vulnerability in developmental policy, economic progress, and business ethics.

In the report to the European Commission, we defined the ethical ideas in the following manner (Rendtorff and Kemp 2000):

1. Autonomy should not only be interpreted in the liberal sense of "permission," instead five aspects of autonomy should be put forward: (1) the capacity of creation of ideas and goals for life, (2) the capacity of moral insight, "self-legislation," and privacy, (3) the capacity of rational decision and action without coercion, (4) the capacity of political involvement and personal responsibility, and (5) the capacity of informed consent. However, autonomy remains merely an ideal, because of the structural limitations given to it by human weakness and dependence on biological, material and social conditions, lack of information for reasoning, etc.
2. Dignity should not be reduced to autonomy. Although originally a virtue of outstanding persons and a virtue of self-control in a healthy life – qualities, which can be lost, for instance by lack of responsibility or in extreme illness – it has been universalized as a quality of the person as such. It now refers to both the intrinsic value of the individual and the intersubjective value of every human being in its encounter with the other. Dignity concerns both oneself and the other: I must behave with dignity, and I must consider the dignity of the other; I must not give up civilized and responsible behavior, and the other should not be commercialized and enslaved.
3. Integrity accounts for the inviolability of the human being. Although originally a virtue of uncorrupted character, expressing uprightness, honesty, and good intentions, it has, like dignity, been universalized as a quality of the person as such. Thus, it refers to the coherence of life that should not be touched and destroyed. It is coherence of life, which is remembered from experiences and therefore can be told in a narrative. Therefore, respect for integrity is respect for privacy and in particular for the patient's understanding of his or her own life and illness. Integrity is the most important principle for the creation of trust between physician and patient, because it demands that the physician listens to the patient telling the story about his or her life and illness.
4. Vulnerability concerns integrity as a basic principle for respect for and protection of human and nonhuman life. It expresses the condition of all life as able to be hurt, wounded, and killed. Vulnerability concerns animals and all self-organizing life in the world, and for the human community it must be considered as a universal expression of the human condition. The idea of the protection of vulnerability can therefore create a bridge between moral strangers in a pluralistic society, and respect for vulnerability should be essential to policy making in the modern welfare state. Respect for vulnerability is not a demand for perfect and immortal life, but recognition of the finitude of life and in particular the earthly suffering presence of human beings.

The basic ethical principles are promoted in the framework of solidarity and responsibility as the basis for sustainable development. It is an expression of the movement of society in the civilizing process toward the Kingdom of Ends. This framework indicates a movement toward global justice (equality). In this context it is important to stress that the four values have a universal foundation in a hermeneutical circle of "wide reflective equilibrium" and considerate judgment. The principles should be interpreted as expressions of the concrete phenomenological reality of the everyday human lifeworld. Accordingly, they have great importance as reflective ideas for concrete decision-making. This "weak universality" of the principles indicates their position as important values for European (and global) ethical and legal culture. Moreover, in this framework emerges a foundation for dealing with global poverty problems, indicating the fight against poverty as an important concern for development policy based on basic ethical principles (Rendtorff 2009a, b).

The Basic Ethical Principles in Business Ethics

Now, the chapter will discuss how it is possible – with some modifications – to use this framework of ethical principles, responsibility, solidarity (equality) in business ethics as the foundation of business legitimacy. A significant change of perspective is that the principles no longer only concern individuals but also the institutional context of organizations on economic markets. We have already considered the reality of global biotechnology as one important field of application, but the principles can indeed be extended to other fields of business ethics. In fact, the shareholder-stakeholder debate has similarities with the bioethics debate about who should be subject to moral concern. Applying the basic ethical principles to business ethics is an argument taking all stakeholders – that can be identified – serious as subjects of moral concern. In this perspective, basic ethical principles provide an argument for the need of ethical values and social concerns as the basis for economic institutions in different societies.

This argument must be based on a communicative or integrative paradigm of business ethics (Ulrich 1997). The integrative view challenges a libertarian concept of business ethics. Instead of building ethics on the principle of profit maximization, integrative business ethics argues for institutional external limitations of the market. It disagrees with the view that "business is business" and that morality is external to the market. Legitimate profit maximization is limited by structural and institutional external conditions. The framework for integrative business ethics is critical rational reflection on correct profit maximization within these standards (Ulrich 1997).

In this critical view, we realize that no theory of profit maximization can escape external constraints. Profit maximization is only meaningful as a moral duty within social legitimacy and responsibility. Arguments for profit maximization as a metaphysical virtue and life form of protestant economic man presuppose the external view of the common good (Rendtorff 2009a, b).

Milton Friedman's famous statement "the social responsibility of business is to increase its profits" can be considered as an example of this mistake. He mentions the following constraints on the principles of profit maximization: "to make as much money as possible while conforming to the basic rules of the society, both those embodied in law and those embodied in ethical custom" (Friedman 1970). "There is only one social responsibility of business – to use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say engages in open and free competition without deception or fraud" (Friedman 1970).

So even Friedman – the great neoliberalist – admits external ethical constraints on profit maximization. International corporations have to respect conditions of fair competition in acting on economic markets. The principle of profit maximization is an ideal and formal principle, which in concrete situations is dependent on conditions for legitimate action, social custom, consequences of actions, and implied stakeholders.

Thus, profit maximization must be justified in the perspective of general social welfare. Perhaps, an argument based on Pareto-optimality and utilitarian welfare policy might deliver the sufficient conditions for coherence of the doctrine of profit maximization (Ulrich 1997). Concerns for short-term profits for shareholders could be replaced by long-term profits for general welfare for consumers and community. Nevertheless, this is not possible on a purely formal basis solely on the conditions of the market. A principle for maximizing community welfare is dependent on social legitimacy of action. Moreover, shareholder value can only be defined as long-term profit maximization, which opens up for considering the interests of other stakeholders of the firm. Nevertheless, this is very far from the original individualist definition of shareholder value.

The external limitations of profit maximization signify that even if this principle is constitutive for the economic market it should always be considered as integrated in other social life forms and practices. Real profit maximization can only be morally legitimate profit maximization (Ulrich 1997: 415). It is dependent on socially defined conceptions of the common good in a republican state (Ulrich 1997: 416).

In this chapter, we can consider the basic ethical principles of respect for autonomy, dignity, integrity, and vulnerability to be based on such an integrative view of business ethics and therefore they are the basis for the idea of the "triple bottom line" as an essential principle of good and fair business. This should not be confused with an instrumental ethics. It is wrong to reduce ethics in business to a moral investment in good business in order to improve public relations or human relations of the firm (Ulrich 1997: 421). The strategic improvement of external and internal relations might be an important consequence of ethical behavior but it is not the whole meaning of business ethics as critical reflection on market conditions.

It is also wrong to understand business ethics as based on charity or generosity. Saying that "Social responsibility is fine, as long as we can afford it" opens up for a potential conflict between ways of earning money and ways of using the surplus of the firm. Charity cannot be the ultimate foundation of a communicative and republican concept of business ethics. Critical reflection on business life conceives principles of business ethics at the level of the totality of the activities of the firm and it tries to see firm as an actor that contributes to the common good of society.

On this basis, the basic ethical principles emerge as important values in stakeholder dialogue. Integrative business ethics considers stakeholder communication in the perspective of political deliberation in a critical public sphere. This contributes to a communicative foundation of the basic ethical principles. Stakeholders are not only defined strategically as causes of possible benefit or harm of the firm. They are considered in the broader light of the common good. Freeman's definition of a stakeholder can help to define this position: "A stakeholder in an organization is (by definition) any group or individual who can affect or is affected by the achievements of the organizations objectives" (Freeman 1984: 53).

This definition is symmetric because it takes into account both future changes in the strategy of the firm and because it relates to broader issues of policy. Stakeholders connote legitimacy. They should be treated as ends and not only as means. Property rights are not a license to ignore respect for persons (Freeman 1984). Integrative business ethics aims at institutionalizing stakeholder rights as a part of a culture of responsibility in business. The basic ethical principles of respect for autonomy, dignity, integrity, and vulnerability are the very values to insure the emergence of such culture as external constraint on profit maximization.

This argument is based on the fact that the basic ethical principles are important reflective ideas for formulating codes for values-driven management, which are coherent with basic human rights. Such a process of formulating codes based on autonomy, dignity, integrity, and vulnerability is predominant in international regulation of bioethics, for example, The UNESCO Declaration on Protection of the Human Genome (1997). The work of international groups like the World Economic Forum and Global Reporting Initiative (1997), but also OECD Guidelines for multinationals (1976 and 2000), but also United Nations Global Compact's principles for environment and human rights can be said to presuppose the basic ethical principles in the framework of solidarity and responsibility as important values for constituting the good society. In addition, similar principles play a role in the Caux-Roundtable guidelines as well as the codes developed by American firms trying to comply with the law. Together with the ideas of "Sustainable development" and the triple bottom line they may also be the case for EU's different communications on corporate social responsibility promoting a European framework for corporate social responsibility. Here, it important to notice that the European Commission emphasizes the importance of impact as an important goal of basic ethical principles in corporate social responsibility.

Thus, the basic ethical principles are already widely used in business ethics. Moreover, our task is not an invention or social construction of morality, but an interpretative social criticism of the ethics implicit in our social behavior (Walzer 1987). We are clarifying the meaning of ethical ideas that have an importance for our lives. In doing so, we come to understand the institutionalist context of the principles that is based on the framework of justice, responsibility, and solidarity (equality).

In this way social responsibility is essential for the legitimacy of the firm. Originally, responsibility had the significance "to respond to the other." It implies the capacity to respond for your own actions. It is closely related to having power over your own actions. Institutional responsibility includes three different subjects of the responsibility: the corporate board, the employees, and the organization. Social responsibility for all stakeholders in the perspective of the principles places the firm in society as a community. It implies a moral dimension of the economy (Etzioni 1988) where the firm has a duty to contribute to the protection of the vulnerable and weak in society. Thus, international firms are important actors in order to fight poverty and contribute to social coherence of the developing world.

This culture of responsibility in the perspective on integrative business ethics therefore has three dimensions: (1) Economical responsibility as defined by the mandate of profit maximization: "the social responsibility of the firm is to increase its profits" (Friedman 1970). (2) Judicial responsibility. The firm has responsibility to behave according to the legal rules of society, at all levels locally, nationally, and internationally. (3) The ethical responsibility of the firm. This level is beyond the two other levels. It is defined by the respect for justice and fair treatment of all stakeholders. The ethical responsibility defines the democratic legitimacy of the firm in community.

When moving from bioethics to business ethics and sustainable development we go from solidarity toward equality, fairness, and trust. It is difficult to define the meaning of solidarity in business ethics (Rendtorff 2015a, b, 2017a, b, c, 2019a, b, c). The concept was important when the labor unions should fight capitalism, and therefore, it seems to reject any kind of market-driven economy based on Darwinian reason. Trust seems to be a much more useful concept than solidarity (Fukuyama 1995). It can be defined as the expectation that a person, a group, or a firm is behaving in a moral way. Trust is the basis for engaging in a community of moral action and economic transactions. When trust is breaking down, the moral and social community is destroyed. So trust is necessary for making economic transactions and that is why economic science starts to work with trust as an important social glue of civil society. We realize that there is a close connection between responsibility, trust, and the basic ethical principles as essential values for development of sustainable economies.

Justice means "fair constraints" and equality in market interaction. Justice also commits to the Rawlsian "difference principle" as a guiding component of justifying inequality in market economics and the whole business system (Rawls 1971). On this basis, the ideas of autonomy, dignity, integrity, and vulnerability constitute important guidelines for fair business and market interaction and they help to define good governance for the developing world. Nevertheless, how should we define the particular applications of the principles in relation to the fields of business ethics and business legitimacy?

The Applications of the Principles

Autonomy

Even though it mostly is considered as a political principle of democracy, autonomy is very important in "liberal market economics." The market is based on the idea of free self-determination and creation of your own business. Participation in economical contracts is based on free will and workers should be free to accept different types of work. However, as it is the case in bioethics we see that autonomy is an ideal notion that can be questioned. All kinds of economic, social, and organizational constraints soon tell us that decision-making at the market is far from free. To focus on autonomy implies “a capability approach” to economic development. And autonomy is only understood as market liberalism, the right to pursue your own interest. The moral dimensions of autonomy have been totally forgotten. Autonomy has been considered as the right to egoism rather than in the perspective of the Kantian ideal of autonomy. It has been defined as the rights of the individual to maximize profits.

Organizational autonomy of the firm has been defined as the right of the firm to be independent and autonomous in relation to society. However, this consideration of autonomy is challenged by the recent shareholder-stakeholder controversy (Goodpaster 1991). Our integrative stakeholder view of the firm does not define the firm as an independent entity. Rather it argues that the firm should take into account the social context – not only its own autonomy but also the autonomy of all stakeholders that have an interest in the firm. The whole idea of social responsibility to the local community of the firm indicates such a communitarian critique of the abstract idea of autonomy, arguing for the local situatedness of the firm.

Another example of this change of the notion of organizational autonomy has been recent developments of values-driven management from a perspective of democratic communication (Thyssen 1997). Such a theory emphasizes the interests and autonomy of all the participants in the dialogue with regard to the formulation of goals and accountabilities of the firm. To respect autonomy means being aware of the interests of all the stakeholders (Rendtorff 2009a, b). The stakeholders all have a perspective that includes the respect for their autonomy. Such new communicative autonomy-based view of the firm is in accordance with democratic theory of the stakeholder society. To do ethical accountability of the firm is a second-order reflective way from the perspective of the domination free dialogue to measure all types of interests and stakeholders.

Dignity

In a similar way, the concept of dignity can be borrowed from political philosophy and applied to the fields of business ethics and business legitimacy.

Concerning weak individuals, dignity indicates the respect for each human being not only as means but also as Ends in them-selves. This is the foundation of Human Rights Declarations. The respect for “the right to work” and not to live in poverty is very important. It is said that dignity in working life is essential to individual well-being. The idea of the individual as a being without a price and that everyone should not only be treated as means but also as “Ends-in-themselves” accordingly has an application in business. At the same time, this is difficult because we all sell ourselves and our body to our employers. Dignity is important to indicate limits of the rights of business to corporeal exploitation of individuals and discrimination at the workplace. Nevertheless, we can also mention cases of degradation of human beings in the organizational hierarchy. Respect for dignity limits the rights of superior officers to reduce their employees to mere things.

Concerning the powerful individuals, dignity indeed finds an interesting application. It is a matter of the dignity of the directors and board of the company to be responsible for how they treat their employees. They lose moral dignity if they do not respect the people who work in the firm. Similar things can be said about criminal behavior of the firm, for example, non-corporation of the firm with law-enforcement officials.

Moreover, it is a matter of dignity of how high officials cope with success and failures. Some leaders are not able to handle success and they lose dignity while experiencing success or failure. To act with dignity is evidently a question of moral virtue in the experience of happiness or tragic (moral) losses.

As with autonomy, it is a major theme of discussion to what extent organizations can have dignity. This relates to the question of whether they can be held responsible for their actions and it concerns the relations of organizations to the environment. The initiatives of organizations that have had success to contribute to social success and welfare illustrate how organizational dignity can be demonstrated in superior generosity.

Integrity

The concept of integrity has been quite popular among scholars of business ethics (Badaracco and Ellsworth 1991). Integrity has mostly been defined as coherence or completeness indicating the purity of a totality that has not been destroyed. The notion is associated with identity, honesty, respect, and trust (Rendtorff 2015a, b). In short, business ethics has been working with the idea of personal integrity as moral virtue. But this notion of integrity has in modern legal theory been extended to institutional structures and legal entities (Dworkin 1986). Important scholars have using the idea of "organizational integrity" described this implied broader ethical perspective on ethics and law of the firm (Paine 1994). The *US Federal Sentencing Guidelines for Organizations* (1991) that admit organizations significant mitigation of sentence if they have incorporated a meaningful ethics and compliance program can be seen in this perspective because they focus on organizations rather than on individuals.

Such a notion of organizational integrity implies a collective perspective on values-driven management (Rendtorff 2015a, b). Moral and legal responsibility is not only individual responsibility but also dependent on the structure and culture of the firm as a "nexus of formal and informal contracts." We should not only focus on the Moral Manager but also look at the organization in interaction with the environment, which can be described as the Moral Market (Boatright 1998).

Many researchers have stated that management by values is an important way to ensure sound just decision-making based on corporate values taking into account all stakeholders of the firm. The programs of values-driven management are an indication of the fact that ethics is not merely a personal issue but is influenced by the culture of the organization. The demand for an effective ethics program as a prevention of wrongdoing implies the possibility of becoming more conscious of the ideals and values of the organization. An ethics program can help the corporation to improve its social legitimacy and participation in the life of the community. Such procedures "will not prevent all illegalities or improprieties but they can help to influence the character of an organization and its employees" (Driscoll and Hoffman 2000). An institutionalist account of integrity moves the perspective from individual morality toward the analysis of the "ethical logic" of basic concepts of modern economies: organizations, markets, property, information, etc (Rendtorff 2015a, b). Integrity in organizations is an important indication of efforts of corporations to contribute to the constitution of non-corrupt institutions of civil society in the developing countries.

Vulnerability

The concept of vulnerability is closely linked to the idea of the social responsibility of the firm, because the relation to the vulnerable generates particular concerns from responsible business managers (Rendtorff 2009a, b). Vulnerability, defined as an ontological concept, seems to be contradictory to the idea of competitive market relations involving a struggle for success and survival in which vulnerability can have little significance. The social struggle of Darwinism indicates a vulnerability of the weakest that are destroyed by the competition at the market. The market conditions are that competition is free and that participants should increase their profit submitted to some minimal conditions for restricting the market. It is acknowledged that each participant in the market competition has vulnerabilities (Brenkert 1998).

This means that the dark side of business is vulnerability and the vulnerable will not survive. Vulnerability expresses the exposedness or disadvantaged position of a person or an organization to another stronger person or organization that is able to do harm to this person or organization. The vulnerability is a point of the person or organization, some special characteristics, which means the possibility of the destruction of this entity when certain conditions are actualized. In this way, vulnerability is a part of the business condition because no one would be able to make one-self assured against all evil.

Although some overlap exists, the vulnerable groups cannot be totally identified with the disadvantaged but must be considered as a distinct group (Brenkert 1998: 517). We can talk about psychological, physical, and social dimensions of particular vulnerabilities. Especially in marketing, concern for the vulnerable means a specific awareness of the firm to the vulnerability of the consumers, for example, children, elderly, poor, people from developing countries in the global business system. Nevertheless, it could also mean responsibility toward employees with particular vulnerabilities. It must be the aim of the firm or society to avoid irresponsible action destroying these particularly vulnerable groups.

The meaning of vulnerability in business ethics accordingly generates a principle of respect for vulnerability. It seems to be the responsibility of business to give the vulnerable a fair treatment, not exploiting their vulnerability but rather in caring and being aware of their dispositions. Responsible managers and salespersons would not exploit vulnerable people but rather support them in a responsible business relation built on dignity, integrity, and trust (Rendtorff 2009a, b; 2015a, b). Respect and care for vulnerable human beings is the basis for protection of the integrity of society.

Conclusion

The aim of this chapter has been to show that – although they were firstly developed within bioethics – the ethical principles of autonomy, dignity, integrity, and vulnerability in the framework of justice based on responsibility and trust can have a powerful meaning and application in business ethics (Kemp et al. 2000; Rendtorff 2005, 2010b). The basic ethical principles are also the foundation for the idea of sustainable development in international economics. Moreover, they help to give substantial content to the idea of the "triple bottom line" (Elkington 1999). The principles are analyzed in the perspective of integrative business ethics and a communicative paradigm of stakeholder dialogue (Rendtorff 2009a, b). The principles are not limited to the European perspective but they can be applied globally as the foundation for the fight against poverty and creating fair and healthy markets in developing countries. In this context, the basic ethical principles are closely linked with the need to rethink corporate social responsibility and business ethics for sustainable development. Since the Brundtland commission there has been a development toward the millennium goals of sustainable development and more recently the UN sustainable development goals as goals for global development of the whole world toward a sustainable future for humanity (Rendtorff 2015a, b, 2017a, b, c, 2019a, b, c). This is a cosmopolitan horizon for business ethics and business legitimacy (Rendtorff 2019d). The principles are not only theoretical ideas but also practical guidelines for business. The task is not to reduce one principle to another but their internal tensions should be further investigated. There is much further work to do concerning their particular implications in light of reflective judgment. In working this out, a powerful and comprehensive theory of business ethics and economic development policy will emerge.

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Part XI

Business Legitimacy as Institutionalization of Responsibility

Past Legitimacy and Legitimacy Under Construction

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Contents

Abstract

The premise underpinning social responsibility was that doing business in a given society presupposed the sustainability of both market and society. This implicitly assumed the existence of a state of harmony between the given market and

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society, governed as it were by an invisible hand, with the business world working in cooperation with society rather than in opposition to it.

The history of Western democracies in the twentieth century has exposed many flaws in the quest to achieve this balance between industrial sectors and more generally the business world and political decision-makers.

The nature of this alliance has been progressively transformed. The balance ensuing from this voluntary process has been forced on the business world by means of rules, norms, and laws. The legitimacy of corporations proposing a declaratory approach has become more conditioned by legal constraint, whereas the equilibrium between the public and private spheres was previously based on the capacity possessed by market and society to negotiate their common ground, their demarcation lines, their independence, and their respective third parties.

This equilibrium was maintained thanks to accepted embodiments of representative democracy in liberal and neoliberal regimes, thanks to intermediary political institutions – classical Labor Unions for the most part. Lastly, the notion of a juncture between the economy and politics was an inherent major feature in explaining the appeal of stakeholder theory at the end of the 1980s, the period commonly referred to as the birth of the global economy.

As for stakeholder theory itself, it is deeply rooted in the ability of the decision-taking entities within corporations (their governing bodies) but equally within Nation-States (elected governments) to take into consideration the multiple interests which are liable to either converge or diverge and are essentially complex in nature and to negotiate in a context characterized by multiple contradictory factors. By considering this complexity inherent to civil societies, their internationalization, and the importance of the nonprofit sector, it has enabled liberal economies and societies to enjoy prosperity.

Nevertheless, between the end of the 1980s and the noughties, the legitimacy of corporations has been challenged and the very notion contested. In this paper, our ambition is to review the main features of this radical shift in perception.

Keywords

Legitimacy · Social responsibility · Stakeholders · Civil society · International civil society · Stakeholder theory · Nonprofit sector

Changes in the Status of Legitimacy

It is interesting to observe the way in which the notion of the legitimacy of corporations has altered from the standpoint of critical studies in business administration. Indeed, the issue regarding the legitimate right of economic entities intervening in markets is difficult to address without taking into consideration (1) a rational legal system regulating this form of action, (2) the dialectic between legitimacy and legality, and (3) the distinction between public and private spheres and their permeability.

The Rational Legal System of Action

All action, whether it has economic or other motivations, is set in the context of society and is open to challenge. "All questioning of any action whatsoever amounts to a challenge to the legitimacy of the person responsible for the aforesaid action" (Laufer 1996). If we accept that the State has the monopoly regarding legitimate violence, that is to say authority based on law, we also accept that this violence meets with the consent of all members of society (even if the legitimate violence exerted by those incorporating justice may sometimes give rise to unjust verdicts). The origin of legitimate violence in a democratic State was explained at the time by Max Weber, to whom we owe the sociological theory of legitimacy (Weber 1922, 1958). The dominant form of legitimate authority in the nineteenth and twentieth century was the preserve of Nation-States and is of the rational legal variety which means that two principles are admissible in rendering an action legitimate: scientific rationality and the laws. Hence, conflicts which mere negotiation has failed to resolve can be brought before a tribunal deemed competent to judge them. Thus, in a rational legal system, legitimacy is superseded by legality, or, to cite Weber, legitimacy is only valid if it is legal and rational, so it presupposes the identity of law and the State.

The Dialectic Between Legality and Legitimacy

"The role played by Law in the smooth running of the system of legal rational legitimacy is an accurate reflection of this system of legitimacy" (Laufer 1996). There have been three successive periods: the era of public power (1800–1900), the era defined by the criterion of public service (1900–1960), and the era marked by the crisis of this criterion (1945 to the present). This process of dividing the history of legal rational legitimacy into distinct periods sheds light on why the notion of legitimacy has re-emerged. In fact, once the legal doctrine itself recognizes that it can no longer provide citizens with simple, easily identifiable criteria, the notion of legitimacy may (and even must) reappear as a managerial concern: either as a way of avoiding the vagaries of relying on the courts or as a way of presenting one's action in a more favorable light towards those very same courts. "In this way, the legitimacy of actions doesn't just emanate from respect for institutional rules alone but from the consent of people concerned to actions which at the end of the day determines the degree of confidence which people are willing to bestow on the institutional system which governs their destiny in the final analysis" (Laufer 1996). The crisis of the criterion originates precisely from a loss of faith among the general public in the legal rational. We could say that we have come full circle, were it not for the fact that these lines were written at the end of the 1990s before the framework of administrative law had been weakened by the crisis in the institutional system: the undermining of the sovereignty of Nation-States by capitalist hegemony, specifically that of multinational and transnational corporations.

The Crisis in the Rational Legal System and Fluctuating Legitimacies

Up until then the rational legal system was supported essentially by the sacred separation between the public sector and the private sector as well as by the separation between administrative law and private law, the legitimacy of action was derived from its end purpose: the general interest or private interest. However, it would seem that this dichotomy no longer works as well as it used to and that there is now a kind of permeability between the two spheres. The proliferation of rules and of management norms in the public sector designed to facilitate the implementation of what is usually termed "public management" since the 1970s illustrates the inability of the public sector to develop its own system of norms as it had succeeded in doing during the period in the nineteenth century which was described by Max Weber as the heyday of bureaucracy.

The theme of corporate social responsibility has become a business in its own right, capable of supplying a range of services, norms, rules, and guidelines profiting from the crisis in the rational legal system and the permeability between the public and private sectors. It has often been said that social responsibility constitutes a "soft law" replacing legality or, as Anglophones put it, replacing hard law. But, above all, during this period CSR assumed a prescriptive role, offering business leaders a guarantee of legitimacy in carrying out action which might otherwise have been undermined or challenged. The emergence of Business leaders' legitimacy is closely linked to the emergence of the question of the legitimacy of the Corporation and of Management, and this is reflected in the fact that, henceforth, a Corporation's activity operates simultaneously on two levels: on the level of action exerted on the system of social norms (particularly via lobbying activities) which defines the legal and scientific set of rules which are supposed to govern the Corporation's activity and on the level of activity carried out inside the framework of the rules which have been shaped in this way (Laufer 1996).

The Different Stages in the Development of CSR in France

The history of corporate social responsibility in France as an area for research and as a normative activity in corporate affairs began with a long spell in the wilderness from 1950 to the 1980s and then saw a breakthrough in terms of public awareness between 1984 and the late 1990s and finally underwent a period of institutionalization. Several highlights merit our attention, over and above the recognition of these aforementioned distinct phases (El Akremi et al. 2008).

Economic Activity Increasingly Governed by Legal Requirements: From Norms to Laws

In Europe, social responsibility has progressed from occupying a marginal role in economics, management, philosophy, law, and political science to achieving legitimate status between the end of the 1990s and the noughties, championed by the European Commission in its Green Book in 2001 and then in its European model of social responsibility in 2011. Corporate social responsibility went from strength to strength once an approach founded on responsibility became accepted via the ISO norms (ISO 26000 for CSR, 14001 for environmental management, 9001 for the CSR control framework, 50001 for energy management).

In France, legality began to replace incentives from 2001 onwards. For instance, there was the law relative to new economic regulations, referred to as the NER laws, adopted on 15 May 2001. These laws regulate three areas (financial regulation, competition, and corporations), and they oblige publicly listed corporations to make public their social and environmental record (article 116). The Grenelle Laws 1 and 2 were adopted in 2009 and 2010, following large-scale concertation. They were good examples of negotiations with the different stakeholders. Launched in 2007, the Grenelle Environment summit brought together representatives of the State, from local government, NGOs, corporations, and employees, with a view to promoting action in favor of ecology, the environment, and biodiversity in France. Certain of the objectives came in for criticism, however, particularly the jettisoning of the carbon tax plan. Five years after Grenelle Environment, a "national debate on the topic of energetic transition" (the NTE) began in France, resulting in the adoption of the law on the energy transition towards green growth in the summer of 2015.

The Grenelle Laws

Grenelle Law 1: The Law Relating to the Time Schedule for the Implementation of the Grenelle Environment Agenda

The "Grenelle Bill" was tabled by the government in the French Parliament in June 2009. It was adopted on 23 July 2009 and promulgated on 3 August 2009 (1). This law is a program framework which confers legal status to the Grenelle process. It states the major objectives set and the pledges undertaken by the State. This law sets out, via 57 articles, measures relating to the battle against global warming, the protection of biodiversity and natural habitats, the setting up of a new form of governance, and, finally, protection against risks to the environment and health. Among other measures, it features France's commitment to reducing greenhouse gas emissions by 75% between 1990 and 2050 ("the factor 4"). Furthermore, the State pledges to look into "the setting up of a so-called climate-energy program designed to encourage responsible behavior relating to carbon emissions and energy." This plan for a carbon tax was abandoned in 2010 (it was later relaunched and adopted by Parliament at the end of 2013) which at the time caused the Nicolas Hulot Foundation to quit the work groups presided by the government in connection with the Grenelle Laws in favor of the environment and the oceans.

Nonetheless, the measures announced were not submitted to a detailed cost-assessment.

Grenelle Law 2: The Law Promoting National Mobilization in Favor of the Environment

The Grenelle Law 2 was presented by the government of Nicolas Sarkozy to the Senate in January 2009. It was finally adopted by Parliament on 29 June 2010 and published on 12 July 2010. This law covers the implementation of a number of commitments undertaken by the Grenelle Environment summit.

The 248 articles which this sizeable bill comprises were considerably embellished by Parliament and detail measures relating to six major project areas: buildings and urban planning, transport, energy consumption, biodiversity, risks, health, and waste and ecological governance.

However, no measures concerning energy conservation norms or monitoring procedure were mentioned. Furthermore, the bill omitted to broach the financial means which were to be made available.

Other Laws Linked to Grenelle 1 and 2

In addition to the "Grenelle Laws 1 and 2," further bills reinforced the commitments made at the Grenelle Summit, such as the law relating to environmental responsibility, the GM law, and the law concerning the organization and regulation of railway transport.

The law relating to environmental responsibility dated 1 August 2008 introduced for the first time into French law the concept of responsibility for causing severe damage to the environment and constitutes a strong crackdown on pollution of the oceans. This bill translates into national law the European Directive 2004/35/CE which sets out a common framework of responsibility in the case of severe damage caused to the environment. The GM (genetically modified organisms) law adopted on 25 June 2008 aimed to clarify the conditions surrounding the growing of transgenic plants and their coexistence with "traditional" farming. This law resulted in the setting up of the National Council for Biotechnology, among other things. This council's rulings, which are made public, deal with the pros and cons of GM organisms with regard to the environment and public health. The goal of the law organizing and regulating railway transport was the introduction of a process of efficient regulation in this field, guaranteeing nondiscriminatory access to the network for all railway companies. This ruling was rendered necessary by the opening up to competition of rail freight transport from 31 March 2006 on and the similar measure for international passenger transport introduced on 13 December 2009.

Since then, other binding legislation has been introduced: for instance, the laws about parent companies' obligations to remain vigilant and to oversee, requiring them to document, identify, prevent, and calculate all the social and environmental risks run by them and their subcontractors in France and abroad. This legislation, strongly backed by the socialist deputies during François Hollande's presidential term in office, forces corporations to be alert to a wide range of risks linked to fundamental human rights (child labor, forced labor, threats to freedom to join a

Labor Union, premises not complying with safety regulations, damage to the environment). These restrictions apply to firms employing more than 5,000 employees in France or 10 000 for those whose headquarters are located abroad. The special feature of this law is that it covers the activity of both the firm itself and also that of its subcontractors or suppliers with whom it is engaged in “a proven business relationship,” to quote the legislator. The aim of the bill was to access more detailed knowledge of the production chains and to be able to question the consequences of different investment decisions. It also offers the means to prevent certain tragedies, such as the Rana Plaza scandal in Bangladesh, where the collapse of a building housing dozens of subcontractors operating for Western textile manufacturers caused the death of more than 1000 workers in April 2013. Despite the fact that the ideas which had inspired the bill encountered wide approval, it gave rise to heated debate and was fiercely opposed by French business federations. The law’s wide scope (it applies to subcontractors and suppliers and covers the entire gamut of social and environmental risks) indeed makes life tough for international corporations. However, the penalties initially intended to punish infringements were considerably attenuated by the Conseil Constitutionnel, and the fine of 10 million euros was removed from the text even if the notion of criminal responsibility was retained.

We can observe that the French Grenelle Laws (2009–2010) and those concerning vigilance were directly inspired by the dramatic impact which international crises of both an environmental and social or financial nature had on successive governments. For the record, in 1982 we witnessed the industrialized nations’ debt crisis; in 1984 the Bhopal catastrophe occurred, followed in 1986 by the Exxon Valdez oil spill tragedy and the nuclear disaster in Chernobyl. In 1999 it was the turn of the Erika scandal, succeeded by another nuclear horror in Fukushima in 2011 and the surge in the number of category 5 cyclones during the period 2000–2017, from 11 in 1924 to 33 in 2000. The financial sector wasn’t unscathed either: in Europe and in France, the regulation CRBF 9702 in 1997 as well as the Basel Committee in 2003 obliged banks and financial and credit establishments to comply with legal and regulatory requirements. Norms and obligations were introduced to regulate these professions, to limit risks, to prevent insider trading, to fight against money laundering and funding of terrorism, to enforce trade embargos, etc.

In the United States, the federal law proposed by Senator Paul Sarbanes and Congressman Mike Oxley, referred to as the SOX law, was approved virtually unanimously by the Congress on 25 July 2002 and ratified by George W. Bush on 30 July that same year. It followed in the wake of the scandal involving the firm Enron, the pride of the American energy sector, which occurred during the stock exchange crash of 2001–2002, with the debt crisis and multiple bankruptcies providing the backdrop. Thousands of investors lost their savings and their retirement pensions. Although the SOX law brought some order to the proceedings, it wasn’t able to forestall the sub-primes crisis nor sovereign debts nor scandals like the one caused by Madoff.

Legal Regulation of Business and Loopholes in the Coordination of Different Public Sovereignties

It's irrefutable that corporate social responsibility, whether voluntary or arrived at through constraint, has established itself in different hemispheres, supported by governments facing major international crises. CSR has well and truly undergone the transition in 30 years from moderate measures of incitation to regulatory constraints. The systems in place have been beefed up, increasingly placed within a legal framework, extended as in the case of GAFA. Thirty years ago, outside insider circles, themes relating to tax justice weren't relevant to CSR. Was corporate tax optimization considered immoral back then? It was the widening inequality gap which appeared at the turn of the new millennium between the Internet giants and small entrepreneurs (who nevertheless make up the backbone of the European economic system) on the one hand but also and above all the chasm between those same mega corporations and the mass of citizens which proved the decisive factor behind the popularity of the idea of social responsibility, albeit a more technical version of the concept but one whose underlying philosophy views the economy from the angle of political science.

When Margrethe Vestager, the commissioner at the head of the department in charge of competition at the European Commission, sued Google for more than 2.5 billion euros and Apple for 13 billion – a record sum corresponding to the firm's illegal tax avoidance over a number of years – she had no qualms about doing so as she was merely playing her role as guardian of the antitrust laws (in a sense she was simply acting in accordance with the rational legal mode previously alluded to). She also felt quite justified in acting in this way owing to the context of growing public indignation in the face of social injustice exacerbated by governmental powerlessness to arbitrate, especially when up against tax avoidance and cheating perpetrated by corporations and individuals visibly oblivious to their social and moral obligations towards the Nation-States where they had set up their businesses. Likewise, when the same European Commissioner imposed a 110 million £ fine on Facebook and Twitter during the conference "All for Democracy." Actually, what was really behind all this wasn't just the antitrust laws regulating the protection of personal data available to GAFA but the core issue of how wealth created in the European Union could be redistributed by the Member States acting in cooperation with local players, assuming of course that the Nation-States concerned approve of the European Commission's approach. Ireland, for instance, was opposed to Europe's attack on Google. At the same time, the very notion of a country's attractiveness and government policy intent on approving it is a tricky area. In 2018, IBM announced that they wanted to create 1200 jobs for engineers in France; Facebook confirmed that they were increasing their funding dedicated to academic research, and Uber entered into a partnership with AXA to insure their drivers against certain serious risks. But the lion's share of big corporations' assets lie elsewhere, in Silicon Valley mostly, in Seattle, or in Boston. The same applies for Huawei. Much of the value created (highly qualified engineers, tax breaks obtained through public subsidies) is seized by these multinationals who then promptly send it back home to their headquarters and to their top executives or distribute it to their shareholders around the world. So we can see that what is presented as contributing to welfare in another country simply amounts to treating that country as a subcontractor in the production chain, for wealth is created locally but is promptly dispatched elsewhere. For these multinationals to act in a socially responsible manner, they would need to commit to meaningful, sustainable local development.

The factors alluded to above emphasize the growing importance of social responsibility which has gravitated from being a well-meaning incantation inspired by a sense of morality to induce a form of liberal harmony between the economy and society to embodying a conflictual relationship between the global economy and worldwide civil society within a context characterized by the drastic decline of public sovereignty (which no longer guarantee basic human rights) or at best by a remodeling of this sovereignty (giving rise to coordination between Nation-States and Europe, e.g., or between States and federal government, as in the United States).

Nation-States, Less and Less in a Position to Uphold Basic Human Rights

In France, exactly 70 years ago, on December 1948, 50 States ratified the Universal Declaration of Human Rights, drafted by René Cassin, an expert in legal matters. Although this declaration is the most widely translated document in the world (into 152 languages in fact), the record concerning its application makes for grim reading. One hundred and ninety-three UN Member States have adopted it, but none have entirely put it into application. “Worse still, if this text were to be put before the UN General Assembly today, it would probably be rejected outright” stated Kumi Naidoo, the General Secretary of Amnesty International in the issue of “Le Monde” dated 8 December 2018.

The original flaw in this declaration stems from the fact that it isn’t a treaty: hence the act of approving the text isn’t legally binding but simply involves compliance with nine conventions (on political and civil rights, economic and social rights, racial discrimination, discrimination against women, torture, children’s rights, migrants’ rights).

Yet towards the end of the 1990s, in order to advance the cause of fundamental human rights in the wake of the wars in the very heart of Europe (in what was previously Yugoslavia to be specific) and following the genocide in Rwanda, two new concepts saw the light of day: “International Penal Justice” on the one hand and “the moral duty to protect” on the other hand. The latter was the brainchild of a Frenchman, Bernard Kouchner. The first idea assumed a concrete identity in 2002 with the setting up of the International Penal Court whose jurisdiction covered genocides, crimes against humanity, and war crimes as defined in an international treaty (the Statute of Rome). This treaty was ratified by 127 countries. The second concept was adopted by all UN Member States in 2005.

But despite these two new concepts, despite the setting up of an International Court, and even if the twentieth century marked an end to apartheid, slavery, the colonial system, and the absence of rights for women, the Declaration of Human Rights still resembles a polite progressive petition rather than a real set of constraints for existing or putative democracies. We need to ask ourselves whether the 15 years ensuing the end of the Cold War were an exception, given that we have witnessed a clear worldwide regression of human rights. It would be impossible to draw up a list of all the States around the world who don't uphold human rights. However several events which have occurred in recent decades stand out in our memories: the torture perpetrated in the United States (during the traumatic post-9/11 period) and the illegal assassinations which followed, the example of China who simply pay lip-service to Human Rights, Latin America (with a special mention for Brazil, Mexico and Venezuela), not to speak of the Middle-East countries or of Africa.

The fragile nature of democracies, the setting up of democratic regimes not based on pluralism but featuring a single party unchallenged by any institutional counter-powers, and political regimes of an extremely authoritarian nature such as those present in Turkey or in Russia, all these examples show us that States which justify legitimate violence are incapable of protecting fundamental human rights. Even worse, "Some strong men whip up hatred against minorities and legitimize, in the name of national sovereignty, measures which jeopardize basic Human Rights" according to individuals who have witnessed such exactions, such as Yves Daccord, Managing Director of the International Committee of the Red Cross. He went on to assert: "It is abundantly clear that Nation states no longer inspire a consensus amongst their citizens, that they have ceased to seek collective solutions to problems, and that we're experiencing a period characterized by exceptionalism."

Without a shadow of a doubt, if Nation-States are no longer up to guaranteeing their citizens basic rights, and if no international organization is in a position to rectify this major flaw, the key issue which needs to be addressed isn't whether corporations can attain legitimacy by concerning themselves with the common good still realistically attainable as much as with their bottom line but rather how to set about tackling the vital issues which need to be resolved if we are to ensure a sustainable world to live in. Solving these problems is assuredly the vital prerequisite facing any organization aspiring to achieve legitimacy for its role in society.

The standard-bearers posing these legitimate questions are nowadays civil societies who some observers would like to see operating on the international stage. Immanuel Kant, who was a fervent advocate of a cosmopolitan outlook, ardently desired this; he wrote: "The major challenge facing mankind, one which nature obliges us to resolve, is how to instigate a civil society which applies the Law on a universal basis." "A universal civil society alone is capable of getting Nation States to renounce their absolute and potentially brutal freedom of action via the adoption of a civil constitution free to determine their foreign policy" (Kant 1784).

Yet the universal or even international civil society of the type alluded to by Immanuel Kant in the eighteenth century hasn't yet seen the light of day or at best only partially.

Legitimacy which Has Shifted Towards an Emerging International Civil Society

Stakeholder theory has long since stressed the legitimacy of the interests of all stakeholders affected by or influenced by business activity which impacts society (Freeman 1984, 1994).

Naturally it goes without saying that all business activity affects society and citizens in one way or another. In support of this premise, certain theorists have even gone as far as calling for the construction of a new social contract (Donaldson and Dunfee 1999). The theory has won over many adepts: it is used on a wide basis nowadays in multinational corporations which produce a map of their stakeholders in order to facilitate their relationship with them and to avoid conflicts; it has exerted a widespread influence on public decision-makers who incorporate them in their diaries in order to create opportunities for dialogue and to rationalize and optimize deliberation faced with the surge of requests to participate in the decision-making process and the proliferation of legitimate representatives at the committee stages (from the COP 21 to the COP 24). But overall, after 35 years of practical experience, interpretation of stakeholder theory has been restricted to the identification of the various stakeholders (Bonnafous-Boucher and Rendtorff 2014, 2016). Even if Mitchell et al. (1997) managed to render this identification more intelligible by applying the set theory instead of a mechanical listing of internal and external stakeholders, of primary and secondary rank, the fact of hierarchizing the importance of their aspirations and their demands only goes to show to what a large extent the question of recognition of the composition of these stakeholders is an issue in its own right. Depending on the viewpoint one adopts, stakeholders are, respectively, a set of players who don't represent the State, according to the United Nations, the World Bank, and the European Commission; they can equally be considered as a set of individual players – the civil society in the Hegelian sense of the term – as they are treated by the multinationals (Bonnafous-Boucher 2004, 2006, 2011), or the nonprofit sector, as they are viewed by public authorities. In this respect, the growing inclusion of stakeholders' agendas in the strategy of certain multinational corporations or likewise in that of public authorities has enabled them to embrace a prodemocratic rhetoric which enhances the legitimacy of their strategies without fundamentally undermining their stances. At any rate, that is what is implied by certain schools of thought in political science, at the World Bank, for example (Hibou 2001).

Essentially, in 30 years globalization has profoundly transformed the core facets of the market and economic organization (multinationals, transnationals, medium-sized companies, born global, the statute of independent businessmen and entrepreneurs); it has radically deconstructed the rules of public and political life by inviting civil societies to confront local and global issues simultaneously, whereas they had previously intervened at either a national or micro-local level. At the same time, we have witnessed a considerable increase in the importance of players unconnected with the State. Their growing influence has transformed them into defenders of sectorial interests on an international and world scale. It is highly questionable whether we can compare their role to that of a civil society thought (Bonnafous-Boucher 2011). This ambiguity resides in the precise philosophical definition of the very concept of civil society in Hegelian terms. Let's leave aside philosophical tradition for a moment and content ourselves with observing that non-State organizations may be compared to lobbies when they represent sectorial interests "although they are not motivated by the pursuit of personal profit, they are not invested with a comprehensive vision of the common goods" (Thaa 2001). Furthermore, some observers point out that the representative nature of NGOs is completely relative: their leaders are unelected, they have no clearly defined responsibilities towards their members or civil society, and their independence from their donors is often rather tenuous, which amounts to saying that the very status of non-State players is still rather unclear and leads us to imagine new forms of cooperation between the State and the market and between political authority and civil society (de Senarclens 2002). This also leads us to observe a certain ungovernability and to reflect on a new conception of democracy featuring direct supervision of government policy via popular assemblies and movements able to protect basic rights instead of relying on parliamentary institutions. In this new situation, democratic negotiation can take place on a local level and deal with international issues, such as how to deal with migration or even to further the cause of tax justice in different countries. Certain authors such as Dahl (1999) have perceived in this updated conception of democracy a wish to see an international civil society based on the ideal of a cosmopolitan democracy whose citizens would "enjoy rights and be subject to moral obligations rather than create laws." Such a vision raises certain questions; and some authors consider on the contrary that "this conception doesn't provide any answers to the problem of the democratic deficit largely created by the forces of internationalization and economic and financial integration which impose an external limitation on the leeway Nation States possess, particularly with regard to Keynesian policies designed to fund social policy and job creation achieved by means of budget deficits" (Cox 1997). Drawing attention to this ungovernability, or even to the continual improvisation governing authorities resort to when facing legitimate and radical demands expressed by citizens represented in non-State entities, amounts to "stating that, faced with the growing degree of social complexification, the current political system is no longer fit to govern society on its own and must, therefore, acquire more complexity by sharing its power with players from outside the system. Put otherwise, the conclusion that our societies have become ungovernable goes hand in hand with the existence of an imperative need to transform authority by removing the central role of the State" (Perret 2003). But the hypothesis involving this loss of authority, which has also been designated as a crisis of the rational-legal mode, is a double-edged sword however. On the one hand, it could take the shape of the rise to prominence of a neoliberal version of governance still called "a government without government," in which States no longer retain a monopoly of legitimate power but are forced to share it with other entities such as international organizations, NGOs, corporations, and associations. The latter contribute, at different levels, to social regulation and to the maintenance of a certain international order. In this case, governance combines a logic both of privatization and of decentralization of authority resulting in a joint regulation carried out by networks of public and private players (Rosenau and Czempiel 1992).

On the other hand, especially in the Eastern part of the globe, we can witness a strengthening of the central role and prerogatives of the State, achieved by reducing civil rights, vehemently opposed to civil society and built around alliances between authoritarian regimes and semi-dictatorships.

But a third model may see the light of day: the chance to counteract the decline in the regulatory power of the State by embracing a new political ideal, the objective being to build a cosmopolitan democracy via a global system of governance. "This response aims to hand back control over public life to the citizen, specifically by foreseeing the establishment of new political entities on every level, thanks to the reinforcement of a spirit of solidarity locally and its subsequent dissemination internationally" (Dahl 1999).

Ultimately, non-State players, despite their stature and their potential for action on an international level, have yet to organize themselves in the shape of a civil society even if coalitions of non-State players do exist.

In fact, even if between the end of the 1990s and the noughties nongovernment organizations existed in relative isolation, we could nonetheless observe the formation of NGO coalitions pursuing a common strategy whose aim was to subordinate the world economy to the goal of social justice, subsequent to the failures epitomized by several signed agreements: the Multilateral Agreement on Investment, for example, reached in 1998 at the OECD, the Seattle summit in 1999 which also gave birth to the anti-globalization movement, and the vicissitudes in the negotiations with Monsanto which sought to outlaw the use of terminator. To cut a long story short, coalitions uniting various NGOs managed to systematically organize counter-summits or alternative forums such as the one at Davos (Houtart 2010).

It remains to be seen of course how these coalitions of non-State players acting both on a local and an international level could sync into an international civil society and hence claim legitimacy. Several problems raise their head in this respect. First of all, the context we have described emphasizes the State of upheaval which legitimate governments are subject to. An international civil society would need to establish itself alongside resilient democratic regimes. Yet, as we have seen, we continue to witness the ongoing crisis of the rational-legal mode which causes a multitude of woes: loss of upholders of basic human rights, the instability of the very institutions which are meant to guarantee those same human rights in free democratic societies, and the vulnerability of pluralist democracies when confronted with authoritarian regimes including some hiding behind a parliamentary façade. Secondly, without an effective guardian of the Rule of Law, how to avoid being torn between legitimate rival interests? And thirdly, conditions of principle come into play in order for a civil society to exist. It is difficult for these conditions to prevail today in a Sovereign State and even harder to transfer those conditions onto the international stage.

Comparison of the Problems Facing Non-State Players with the Ones Confronting Stakeholders

The Position of Stakeholders in a Deconstructed Public and Private Space

Stakeholder theory is embedded within a specific strategic and political context, the displacement of sovereignty. By creating a new center of gravity, corporations have introduced competition between public sovereignty and economic sovereignty; as a result, the equilibrium inherited from the liberal philosophies of the eighteenth and nineteenth centuries has gradually disintegrated for it was based on an alliance between an organized public space and a private sphere, national civil society. Stakeholders came into being in an environment composed of competing interests and not as a sort of global civil society. From the outset they didn't attempt to engage with public or para-public national institutions but rather with multinational or transnational corporations implanted globally, whereas up to that point, the dual relationship between liberal democracies and capitalist systems of production had been centered around an exterior force for regulation which guaranteed the autonomy of civil society, namely, the Rule of Law. The steady shift in the center of gravity of sovereignty has raised questions as to its legitimacy and continues to do so.

Can a multinational or transnational corporation claim to represent civil society? Can it don the mantle of an arbiter for the stakeholders? These questions reveal that stakeholder theory is positioned on the one hand at the interior of a latent conflict of interest between economic organizations and institutions and on the other hand that it is the expression of the competition between different organizations: private organizations but also regional and intergovernmental ones, starting with the EU and a host of other players (e.g., NGOs) who have multiple, final objectives. Profit-making organizations as well as nonprofit-making ones are engaged in competition with established institutions that made the laws and the norms and whose role was to monitor the activities of private entities. Voluntary agreements, above all charters embodying commitments, are visible proof of this encroachment on prerogatives which had previously been the sole preserve of public institutions.

This radical change in perspective is the expression of new needs, different rules regarding counter-powers in civil society for the change in the strategic environment appears to be irreversible. In fact (1) the distinction between national and international no longer has the same meaning: we are now acting in a world domestic policy framework; (2) the abolition of the boundaries between the economy, politics, and society signals the beginning of a new confrontation between power and counter-power (Beck 2002).

Stakeholder theory questions traditional demarcation lines between public and private space; it deconstructs political philosophy, ethics, business management, and corporate strategy and advocates a different approach to these areas.

Stakeholder Theory as a Theory of Civil Society

Stakeholder theory is presented as a theory in turn relating to civil society associated with the corporation. Which bridges exist between stakeholder theory and civil society theory? There is indeed a similarity (the dependence of stakeholders on the compositions activity), but this is not a connection (the dependence of civil society on positive law embodied by governing authorities). In fact, whereas the classical theory of civil society initiated by Adam Ferguson (1783) and Hegel (1820) is constructed around a dependency on the state, the civil society comprising stakeholders exists in a state of dependence on companies and more particularly on large corporations.

The major argument is that the state allows members of civil society to give full expression at their liberty, whereas a corporation exerts its own liberty to act and prosper without feeling the necessity to guarantee the liberty of the stakeholders.

Review of Definitions

In his *Philosophy of Law* (1821), Hegel defines civil society as being the sum total of the intermediary groups existing between the two extremes represented by the individual and the State. He instigates a division/separation between what relates to the organizing state (political state) and what relates to society (the exterior state), comprising the liberty of an individual separated from the state but linked to it principles by positive law and the awareness of the law. Later Tocqueville asserts the autonomy of civil society, the natural birthplace of political expression; it monitors the state by means of its activism and associations. Stakeholder theory refers to his premises and analyses by basing the separation between organization and individuals no longer from the starting point of the state but rather of the corporation. In order for the stakeholders to form a civil society, we would need to accept that a civil society is built on an economic entity, whereas in the liberal philosophical tradition, it develops in relationship with but independently of the Nation-State. Such a change would represent a turning point in the history of liberalism and capitalism. What is the basis justifying the congruence between stakeholders and civil society?

The First Principle of Civil Society Consists in the Recognition of Individual Interest

Civil society is primarily characterized by the selfish tendencies of individuals who seek to obtain satisfaction for their needs (§ 182). These specific interests are concrete and of a socioeconomic nature because individuals in a modern society are dependent on collective economic production. Thus civil society is a system of interdependence of individuals with regard to the whole of society “where the individual’s welfare depends on the standard of living of the entire community” (Fleischmann 1964). The descriptive approach to stakeholder theory develops this very hypothesis since each stakeholder represents an individual interest which has to be taken into account, and the addition of these individual interests can give rise to a convergence (the convergent approach to stakeholder theory).

The first principle of civil society is in phase with stakeholder theory in as far as each individual merely seeks his own well-being by aspiring to the satisfaction of his vital interests. But the realization of a superior form of common welfare is necessary to enable all the individual interests to coexist because they participate in social organization via work. Individual interest is connected to the collaboration of other interests which are means to achieve an end. Satisfaction is obtained by means of other people's mediation.

The Second Principle Views Civil Society as a State Existing Outside the Political State; It Is the Basis of the Individualist, Liberal Society

"Liberal society effectively acknowledges the rights of all individuals to procure material goods for themselves, it recognizes as an objective right whatever they feel to be their duty, that is to say ensuring a comfortable lifestyle for themselves and their families" (Fleischmann 1964). Rights are associated with duties, and the nature of individualism is such that the notion of common good can seem to be negated. We are, writes Hegel, facing the advent of a "moral reality confounded by its extremities." Although this struggle between conflicting interests is a justified one (nothing which is universal can be obtained simply by refuting individual claims), it is nevertheless impossible to consider this interplay of interests as the ultimate goal of civil society. In reality, civil society exerts pressure and constraints on its members, in order that they may become not merely individuals but also useful members of a community founded around the universal principle of work (§186–187). For Hegel, individual interests are neither arbitrary nor abstract, and the individual isn't either; he is defined as belonging to a class. He is the individual industrial worker, and his personal interest is also that of his class. This is what prompts Hegel to declare: "social classes are the second pillar of the State, after the family." These classes have opposing interests, and collective wealth is produced within a process of differentiation of income which results in the exacerbation of the age-old opposition between "rich and poor." Indeed, with the emergence of civil society, a modern form of poverty develops in the shape of a mass of individuals (unemployed workers, peasants reduced to an itinerant existence, ruined craftsmen) who are literally victims of social relegation, not belonging to any particular class, forming rather a paradoxical class. They represent a large group of individuals bereft of those conditions which enable each separate being to satisfy his legitimate private interest and his interest as a member of a class by means of a useful job, performed with dignity and a sense of professional honor. Reduced to being unable to satisfy this interest, the members of this populace lose their sense of the common interest. The only option left open to them is subversion. Therein resides the veritable state of nature which, far from being the mythical origin of society, is the historical outcome produced socially. For if civil society is the mother of modern man, it can also reveal itself to be a cruel stepmother (§245). Yet were it to remain on this level, civil society would just be "the battlefield of individual private interests, of the combat between all of them." This is where we discover deep down the roots linking self-interest to universal interest, State interest whose role is to make this connection firm and long-lasting. Individual interest cannot become constituent, contrary to what natural modern law believes when confusing civil society with the State. The social bond which truly embodies genuine universal interest cannot emanate from calculating individual interests. Left to its own devices, the mechanism based on the system of needs, the market system and production for and by the market system, is threatened with disappearance.

As for the third principle, it involves the universalization of individual interest by means of positive law. However, all the issues pertaining to law are not present in positive law, and for Hegel there exists (a) a "legal apparatus," (b) an awareness of the law, the code representing the publication of the law or what is more its empirical manifestation in the form of (c) a court.

But without positive law and without the State, there exists no possibility of pursuing one's own private interest. Civil society realizes the seriousness of this threat, that of the presence of a natural state within civilization, and it attempts to outline a correction which entails organizing private interests in the form of the corporation or trade guild: "the evaluation of private interests according to a quasi-political universal ideal," and "self-organization of the classes belonging to civil society by resorting to the expedient of the corporation." The corporation simply means that private interests take shape and organize themselves on a meta-level, in the form of professional associations or guilds or of consumer groups, for example. "Partial interests are already invariably of a social nature, they relate to regularities and institutional regulations which distance themselves from the interests in question by placing them within exterior networks of relatively autonomous solidarity. This is how civil society demonstrates that it is in fact an exterior State."

The judiciary apparatus in civil society (§208) is the defense of the common good – collective wealth and universal property – against the arbitrary actions of individuals. The judicial system limits itself to maintaining the status quo brought about by economic competition between free human beings. The law, in civil society, is the guardian of private property. For Hegel, capitalism is a conversion of private property into collective wealth belonging to the entire community.

An awareness of the laws signifies the realization by civil society of the economic necessity of what it ultimately aspires to, namely, the universal goal which it strives for and which can only be accomplished in its breast. To put it another way, the law and freedom represent a perfect match in as far as it is an intrinsic, internal movement belonging to the private interests of civil society which creates the laws necessary to its own existence, civil society acts on its own in becoming aware of the law.

This exterior universalization which characterizes civil society is at once both its strength and its weakness. It ensures the constitution of the universal concept of man as a rational subject of needs and definer of interests, the equal of all his peers in terms of possession of the same freedom (§190), which allows us to complete the description of the individual whom we have already defined in legal and moral terms.

Stakeholder Theory in Terms of an Unattainable Civil Society

The detour via Hegel's philosophy on law shows us that if there is a similarity between civil society and stakeholders, it doesn't amount to equivalence however. The civil society of old does not experience a Cassandra-type renaissance in the form of stakeholders; it is more a case of stakeholder theory putting paid to the cozy, well-balanced relationship between civil society and the State, for several reasons. It is true to say that stakeholder theory, like civil society, acknowledges the coexistence of private interests, as well as their infinite number. But the mere existence of these private interests doesn't suffice to label stakeholders as being a civil society.

First Objection

We can lodge *a first objection*. In the case of civil society, the different interests can be added together in the universal form of civil society; all these divergences between rival interests can only be resolved by the State. The descriptive approach to stakeholder theory, for example, into something which supersedes those divergent interests: the stakeholders are aggregates unless we decide to allow all the irrefutable demands of all the direct or indirect claimants. In this case, the intrinsic legitimacy of all the stakeholders is real enough but not calculable in a regulatory entity such as the State by means of positive law but not exclusively. The issue of corporate governance in a stakeholder context is precisely that the corporation governs but is unable to total the divergent interests represented by the consumers, the suppliers, the shareholders, and the employees. It is obliged to recognize them and to hierarchize its action towards them. Conversely, the stakeholders are unable to form an entity integrating the divergences: What does a supplier negotiating with a purchasing manager about product quality and a consumer disputing the quality of a product have in common?

Second Objection

Stakeholder theory doesn't allow for mediation capable of providing the different players with a coherent existence and enabling them to give voice to their intentions. Each side is left to state its intentions in a context where the law is becoming obsolete. The traditional confrontation between shareholders and management is replaced with a new one opposing those who have entitlement and those who do not. Stakeholder theory is, from this point of view, the proof of shortcomings in positive law which we generally recognize as being a deficiency in regulation. The stakeholders' recourse to firms is really a matter of legal rights, but we are talking here more about incitements. In France, the law dated 15 May 2001 dealing with new economic regulation made it obligatory for companies to publish annual reports on sustainable development (the annual report issued by listed companies comprises information as to the way in which they take into account the social and environmental consequences of its activity). (We could add two other laws passed in France to this list: the law concerning employee savings (February 2001, article 21), "the rules of employee savings funds will specify in the future . . .. . .the social, environmental and ethical norms that the asset management firm must comply with when buying or selling shares and when exercising associated rights"; the relating to the reserve fund for retirement pensions (law passed on 17 February 2001, Article 2), the board has to report to the supervisory committee on "the way in which strategic choices regarding investment policy have taken into account social, environmental, and ethical issues.") In the United Kingdom, the July 2000 law insisted that social, environmental, or ethical issues should influence in the choice, maintenance, or carrying out of investments. In Germany, regulation was voted in on social and environmental criteria for private pension funds. And in the Netherlands, a legal obligation for pension funds to invest 50% of their capital in firms boasting the CSR label came into force in 2008. But on a worldwide level, we are looking at nonlegally binding incitements. In France, the law voted in on 15 May 2001 made it mandatory for companies to issue annual reports on sustainable development (the annual report of listed companies comprises information about how they take into account the social and environmental consequences of their operations). In the United Kingdom, a law passed in July 2000 imposes that firms consider social, environmental, and ethical considerations when making choices, renewals, or fresh investments. But it was deemed necessary to set up an association in order to monitor compliance with this law in October 2001 (Association of British Insurers). In Germany regulation regarding social and environmental criteria for private pension funds was introduced in January 2002. And in Holland a legally binding obligation requiring pension funds to invest 50% of their capital in firms boasting the RSE label was decided on in 2008. But on a worldwide scale, we're still talking about incitement rather than real legislation. In 1976, then again in 2000, the OECD drafted guidelines intended for multinational corporations. In July 2000 the UN published the Global Compact which is a benchmark in terms of stakeholder demands and aims at establishing RSE best practices. In 1977 the International Labor Organization had also published a declaration of tripartite responsibility dealing with multinational corporations and social policy. This declaration was updated in 2000. Anyway, corporations have an incentive to obtain stakeholder approval; by doing so they meet overall performance targets, but there is no obligation involved other than their own medium-term interest.

Rating corporations have been created: for declarative rating and sought rating. Indeed, the breaking up of law into regional law led by J.P. Di Maggio and W.W Powell considers that the right response to stakeholder claims is a utilitarian one and relates to an instrumental approach of several varieties: the firm complies with the rules because they are laid down by public and para-public authorities (institutional constraints) or again because professional bodies are favorable to them (normative constraints) or lastly because it is imitating a partner, competitor, or another firm (imitation constraints).

Third Objection

The different intentions and interests of the stakeholders cannot be categorized in specific groups unlike the classes described by Hegel, and the methodological question of the identification of stakeholders is a recurrent problem in the descriptive approach to the theory. The theory's future and its unity are dependent on its ability to define the nature of stakeholders and consequently determine how to identify them. If we can manage not only to clearly identify the stakeholders influencing or being influenced by an organization's activity but also succeed in taking into account the firm's embeddedness and consequently the structuring of the vested interests defended by legal entities, public interest groups, individuals, and groups of individuals, if we can get to discern the intention of these stakeholders (is not intentionality the very basis of the business process), and if we can take into account the specific and historical action frame which this theory is unfolding in, namely, a novel form of capitalism (at once salaried and proprietary), well then we could perhaps manage to comprehend better how a firm addresses stakeholders whom it equates with a national or global civil society.

Conclusion

Between the end of the 1980s and the mid-2000s, the legitimacy of corporations was challenged and the very notion contested. The present chapter offers a review of the main features of this radical shift in perception.

The theme of corporate social responsibility has become a business in its own right, supplying a range of services. Norms, rules, and guidelines allow various actors to profit from this crisis in definition as well as a permeability between the public and private sectors.

As an area for research and as a normative activity in corporate affairs, corporate social responsibility has a long history in France. After a long spell in the wilderness from 1950 to the 1980s, it saw a breakthrough in terms of public awareness between 1984 and the late 1990s and finally underwent a period of institutionalization. Corporate social responsibility only grew in import as a concept once an approach founded on responsibility had gained acceptance via ISO norms (ISO 26000 for CSR, 14001 for environmental management, 9001 for the CSR control framework, 50001 for energy management). In France from 2001 onward, legality began to replace incentives: laws pertaining to new economic regulations and referred to as the NER Laws (2001), the Grenelle Laws 1 and 2 (2009, 2010), and finally a national debate in 2015. The Grenelle laws and other laws concerning vigilance were directly inspired by the dramatic impact which international crises of an environmental and social or a financial nature had on successive governments.

Influential on these factors has been the growing importance of social responsibility, which has gravitated from being a well-meaning incantation inspired by a sense of morality, and intended to induce a form of liberal harmony between the economy and society, to signifying a conflictual relationship between the global economy and worldwide civil society. This latter context is characterized by, at its worst, a drastic decline in public sovereignty (which can no longer guarantee basic human rights), or, at best, a remodeling of this sovereignty (giving rise to coordination between, for example, Europe and various Nation States, or, in the United States, between states and the federal government).

One result of the health crisis of 2020 that led to a global suspension of activity both economic and social has been the awakening of civil societies to the historical failings of public authorities that have, over time, seen a diminishment in their capacities to take on the role of strategist as a state. Many perspectives, those of social movements, collective uprisings, and the protests of workers organizing against the resolution of major crises as their vital activities ensure the functions of daily life and even survival can go on, have been heard, from China to Europe and across the Americas. It remains to be seen if these echoes will ricochet, spreading, from one continent to another, and if an international coordination of civil society or global governance will emerge. Too many conflicting interests are at stake.

Over the course of decades and crises, stakeholder theory has also evolved and been called into question for it has shed a light on divergent interests which, atomized, have difficulty coordinating.

Stakeholder theory is deeply rooted in the ability of not only decision-making entities within corporations (their governing bodies) but also Nation States (elected governments) to take into consideration multiple interests which are liable to either converge or diverge and are essentially complex in nature, and to negotiate in a context characterized by multiple contradictory factors. By taking into account this complexity inherent to civil societies, their internationalization, and the importance of the nonprofit sector, the theory has, in its application, contributed to the prosperity that liberal economies and societies enjoy.

What appears as a newly emergent international stakeholder system could be, in turn, the first sign of a legitimacy under construction.

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Change, Institutional Theory, and Business Legitimacy

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Contents

Abstract

This chapter brings together and discusses the implications of neo-institutional theories about organizational change as translation for the implementation of stakeholder management and the legitimate business organization. It suggests that – according to these theories – being a legitimate business organization is not something that the organization is but rather something that the organization does. First, the organization needs to institutionalize stakeholder management as the way the business organization organizes its management processes. Then it needs to negotiate and develop its identity as a socially constructed boundary object that is interpreted, theorized, and viewed as legitimate across stakeholders

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intersecting social worlds. Then as more and more humans and stakeholder groups become interested and mobilized, exercise their roles, and start acting on the basis of the assumption that the particular business organization as a boundary object is to be interpreted and viewed as legitimate, the legitimate business organization is becoming constructed as a social fact.

Keywords

Legitimacy · Stakeholder management · Translation · Implementation · Neo-institutional theory

Introduction

Researchers agree upon the importance of business organizations being legitimate (Suchman 1995; Deephouse and Suchman 2008). A lot of research have thus been done, and a lot of efforts have been put into showing how and why this is the case and into finding out ways in which organizations may obtain such an aim (Suchman 1995; Deephouse and Suchman 2008; Freeman 2010; Mitchell et al. 1997; Schrempf-Stirling et al. 2016; Waddock et al. 2002). As a consequence, many management ideas have developed that present themselves as means to helping organizations become a legitimate business organization. Such management ideas include management approaches with many different labels: corporate social responsibility (Schrempf-Stirling et al. 2016), ethical management (Peale and Blanchard 1988), stakeholder management (Freeman 2010), and total responsibility management (Waddock et al. 2002). Becoming a legitimate business organization however does not happen by itself. It depends on such ideas being carefully translated and thus implemented in the organizations that adopt them (Czarniawska and Joerges 1996). In other words, it depends on organizational change. If the organization does not change as a consequence of introducing such management ideas, nothing will happen, no change will occur, and no effects on stakeholders' legitimacy assessments will be produced.

Change management may be defined as "the process of continually renewing an organisation's direction, structure, and capabilities to serve the ever-changing needs of external and internal customers" (Moran and Brightman 2001: 111). Change management is about an organization's ability to identify where it needs to be in the future and how to manage the changes required getting there (By 2005: 369). In this chapter we will explore the implications of neo-institutional theories about organizational change for the introduction of a popular management idea, the idea of stakeholder management in organizations attempting to change into or becoming legitimate business organizations.

The concept of translation is central to neo-institutional theories about organizational change (Wæraas and Nielsen 2016). It focuses upon and accentuates the exact types of work that needs to be done to make organizational change happen. Czarniawska and Joerges (1996) draw upon Bruno Latour's definition of the concept of translation who claims that "... The spread in time and space of anything-claims, orders, artefacts, goods -is in the hands of people; each of these people may act in many different ways, letting the token drop, or modifying it, or deflecting it, or betraying it, or adding to it, or appropriate in it" (Latour 1986: 267). The concept thus implies that people need to do something with an idea for it to move, become institutionalized, and change the organization. The fate of new ideas and concepts and their ability to produce organizational change thus literally lies in the hands of the receivers of these ideas each of whom may react to it in different ways as the idea is moved between humans and groups of humans within the organization as well as in the organization's environment.

The chapter is organized in the following subsections.

The first section explores and gives an overview over different ways to theorize and define the concept of organizational legitimacy. It is suggested that it is the socially constructed interpretations and theories stakeholders have about organizations as social entities with certain structures, actions, and ideas that are being assessed and subjected to legitimacy judgments.

The second section presents stakeholder management as an approach to management based on certain ideas and implying use of certain types of tools that may be used to becoming a legitimate business organization.

In the third section, two types of (organizational change) work that need to be done to realize the intention of becoming a legitimate business organization through the use of stakeholder management are identified using translation theory as a lens:

(a) Stakeholder managers need to translate the idea of stakeholder management in a way that assures that the idea becomes institutionalized in their organizations.
(b) Stakeholder managers need to negotiate and socially co-construct the organization as an appropriate and legitimate boundary object in collaboration with the organization stakeholders.

The fourth section asks when the legitimate business organization has become constructed as a social fact. It is suggested that the legitimate business organization becomes materialized, powerful, and socially constructed as a social fact as more and more humans and stakeholder groups become interested and mobilized, exercise their roles, and start acting (Callon 1986) on the basis of the assumption that the particular business organization as a boundary object is to be interpreted and viewed as legitimate.

The fifth section focuses upon the practical consequences of the analysis for stakeholder managers wanting to introduce stakeholder management as an approach to becoming a legitimate business organization. The specific question discussed is what stakeholder managers should consider in such a situation.

In the sixth section, some conclusions are drawn about using stakeholder management to becoming and performing the legitimate business organization. It is emphasized that in the view of the translation perspective, being a legitimate business organization is not something that the organization is but rather something that the organization does.

Gaining Organizational Legitimacy

Deephouse and Suchman (2008) have reviewed and given an overview over how legitimacy has been theorized in organizational institutionalism: Weber (1978) suggests that legitimacy can result from conformity with both general social norms and formal laws. According to Meyer and Rowan (1977), organizational survival may result not only from being efficient but also from conforming to institutionalized myths about appropriate organizing from an organization's environment. They point out that organizational legitimacy can result from suppositions of rational effectiveness, legal mandates, and collectively valued purposes, means, and goals. They highlight that legitimacy protects the organization from external pressures and protects it from having its conduct questioned. As pointed out by Pfeffer and Salancik (1978), comments and attacks will occur when activities of an organization are considered illegitimate (Pfeffer and Salancik 1978: 194). In a political and interest group perspective, legitimacy may thus be defined as "the acceptance by the general public and by relevant elite organisations of an association's right to exist and to pursue its affairs in its chosen manner" (Knoke 1985: 222).

In 1995 Suchman defined legitimacy as "a generalised perception or assumption that the actions of an entity are desirable proper or appropriate within some socially constructed system of norms, values, beliefs and definitions" (Suchman 1995: 574). He identified two approaches to obtaining organizational legitimacy: a proactive approach based on resource dependence theory and a reactive approach based on neo-institutional theory. The approach based on resource dependence theory suggests that one element of competition and conflict among social organizations involves the conflict between systems of belief or points of view (Pfeffer and Salancik 1978). It theorizes legitimacy as an operational resource that organizations extract – often competitively – from their cultural environments and that they employ strategically in pursuit of their goals (Schuman 1995: 576). In contrast the institutional approach downplays both managerial agency and manager-stakeholder conflicts and depicts legitimacy not as an operational resource but as a set of constitutive field-related beliefs about what characterizes an appropriate organizing of organizations in a given field. Thus according to Suchman (1995) in this view, a manager's decisions are constructed by the same belief systems that determine audience reactions because they are all embedded in a strong and constraining symbolic environment. This is in accordance with Oliver's (1991) view that managers in organizations may choose to react to external pressures and contests of legitimacy by reactively adapting to institutional pressures from socially embedded (Granovetter 1985) stakeholders or by proactively trying to influence them. Managers may thus choose to adapt to external pressures by habitually following taken-for-granted norms, imitating legitimate institutional models, and complying with rules and accepted norms. Alternatively, they may choose to try to proactively influence stakeholders that exert these pressures and question the legitimacy of their organizations. This is by trying to make compromises with, avoiding, defying, or manipulating, these stakeholders. In their analysis of legitimacy in organizational institutionalism, Deephouse and Suchman (2008) identify the different dimensions of legitimacy. Legitimation and delegitimation is the process by which the legitimacy of the subject changes over time. Subjects of legitimation are defined as "those social entities, structures, actions and ideas whose acceptability is being assessed." The sources of legitimacy are "the internal and external audiences who observe organisations and make legitimacy assessments." They are those entities who have the capacity to mobilize and confront the organization.

As proposed by Tost (2011), whether a subject of legitimation is assessed as legitimate or not depends on individual-level legitimacy judgments. Because individuals' judgments and perceptions constitute the micro motor that guides their behavior, they thereby influence interactions among individuals, which in turn coalesce to constitute collective-level legitimacy and social reality. Tost (2011) identifies three dimensions of content underlying legitimacy judgments: instrumental, relational, and moral. When a social entity is viewed as legitimate on instrumental grounds, it is perceived to facilitate the individual or group attempts to reach self-defined or internalized goals or outcomes, for instance, perceptions or beliefs concerning the effectiveness, efficiency, or utility of the entity. An entity is viewed as legitimate on relational grounds when it is perceived to affirm the social identity and self-worth of individuals or social groups and to ensure that individuals or groups are treated with dignity and respect and receive outcomes commensurate with their entitlement, for example, as when an entity is perceived or believed to be fair, characterized by benevolence or communality. Thirdly, an entity is perceived as legitimate on moral grounds when it is perceived to be consistent with the evaluators' moral and ethical values. This includes perceptions or beliefs related to morality, ethicality, or the integrity of the entity.

As implied above organizational legitimacy is a socially constructed phenomenon. It is produced, reproduced, and changed by internal and external audiences/groups that are separated in time and space who observe organizations and make legitimacy assessments and judgments and thus interpretations of the appropriateness of organization's structures, actions, and ideas. During this process, those subjects of legitimation whose acceptability is being assessed are organizations as "social entities, structures, actions, and ideas" as the stakeholders interpret and theorize them. It is thus the interpretations and theories stakeholders have about organizations as social entities with certain "structures, actions, and ideas" that are being assessed and subjected to individuals and stakeholders' instrumental, relational, and moral legitimacy judgments. In such a view, a completely legitimate organization would be one about which no question could be raised. Every goal, mean, resource, and control system would be necessary, specified complete, and without alternatives. The perfect legitimate organization would thus be based on a perfect interpretation and theory about that organization, complete without uncertainty and confronted by no alternatives (Meyer and Scott 1983: 201). Such an organization would be perceived as efficient and effective, as pursuing its affairs in a socially acceptable way and in a way that is in accordance with generally accepted beliefs and values of the groups of stakeholders that affect or are affected by the organization's activities.

From Profit to Triple Bottom-Line and Stakeholder Management

Milton Friedman (Friedman 1970) once suggested that the social responsibility of the firm is to increase its profits. The Brundtland report later defined sustainability as "... economic development that does not compromise the ability of future generations to achieve and enjoy the same level of welfare or standard of living as the present generation" (Brundtland 1987). Since then things have changed further. Today firms and corporations are expected to behave responsibly toward their employees as well as in relation to the environment. In their global compact initiative, the United Nations has even broadened the social responsibilities of business organizations to also include principles related to human rights and anti-corruption (https://www.unglobalcompact.org/sdgs/17-global-goals). As a consequence being a legitimate business organization has increasingly become associated with behaving responsibly and ethically. It has become associated with triple bottom-line slogans like "profit, people, planet" (Elkington 1994) rather than Milton Friedman's more narrow claim and focus upon only profits. As pressures on business organizations for behaving in sustainable and socially responsible ways have grown, different ideas and concepts have developed suggesting how an organization may organize and use different approaches to obtain such a goal. These include ideas and concepts like "corporate citizenship" (Matten and Crane 2005), "corporate social responsibility" (Schrempf-Stirling et al. 2016), "sustainability and total ethical or total responsibility management" (Waddock et al. 2002), and "stakeholder management" (Freeman 2010). In the following sections, it will be looked into how a fashionable idea related to corporate social responsibility (CSR) and ethical management, namely, "stakeholder management," may travel between and into organizations in organizational fields. It will be discussed how translating the idea of stakeholder management and thus changing the organization may lead to business organizations being interpreted and theorized as legitimate by stakeholders in instrumental, relational, as well as moral ways. However, before we do that, the content of and types of recipes (Røvik 1998) related to this theory and approach to management will be analyzed.

Stakeholder Management as an Idea

In an interview, Freeman (Freeman and Moutchnik 2013) points out that stakeholder theory changes the unit of analysis of business. He notices that business is not just about economic transactions. It is about relationships with customers, suppliers, employees, communities, and financiers. And it is about how these relationships are dependent on each other. Stakeholder theory is thus about how we cooperate with each other. He explains that as a consequence, there is no need for a separate CSR approach since the stakeholder perspective has a wide definition of stakeholders and integrates their concerns into the business processes. It may be suggested that a similar type of argument may be applied to business ethics. Since stakeholders that are influenced by or have the ability to influence the business organization are included in a dialogue and discussion of the business organization's activities, their different types of interests and values are taken into consideration and dealt with pragmatically during the stakeholder management process. What is or should be considered ethical (and thus legitimate) in relation to a business organization is thus socially constructed, contested, negotiated, and decided upon pragmatically as part of the stakeholder management process.

According to Rendtorff (2005), stakeholder management theory is the strategic basis for business ethics and CSR. Instead of theorizing humans as actors rationally pursuing their economic self-interests in the marketplace, stakeholder management theory builds on institutional theory that theorizes humans as embedded in social groups and networks. In such a view, the responsibility of the business organization is not only to increase its profits and shareholder value. Rather profits and increased shareholder value as well as long-term survival are viewed as dependent on a business organization's ability to serve and manage different stakeholder groups with different beliefs, values, and interests in relation to the organization's activities. In the sections that follow, we will shortly describe the content of stakeholder management as an idea and some of the tools or recipes related to practicing stakeholder management.

The Content of Stakeholder Management

The stakeholder approach builds on active management of the business environment, relationships, and the promotion of shared interests (Freeman and McVea 2001). The central task is to identify, manage, and integrate the relationships and interests of shareholders, employees, customers, suppliers, communities, and other groups in a way that ensures the long-term success of the firm. The interests of key stakeholders should be integrated into the very purpose of the firm, and stakeholder relationships should be managed in a coherent and strategic fashion. It offers a single and flexible strategic framework making it possible for the business organization to adapt to its environment in a flexible way. According to Freeman and McVea (2001), the content of the stakeholder approach (as a theory/an assembly of ideas) may be characterized in the following manner:

1. It is a strategic management process rather than a strategic planning process. Managers should not plan but set a direction for the organization while considering how the firm may affect the environment as well as how the environment may affect the firm.
2. To survive and achieve the organization's objectives, management must direct a course for the firm rather than just try to optimize current outputs. To successfully change course, management needs the support of stakeholders who can affect the firm, and management needs to understand how the firm will affect others. Management focuses upon balancing and integrating multiple relationships and multiple objectives.

3. Stakeholder management develops strategies by identifying, and investing in, all the relationships that will ensure long-term success. To be successful it incorporates values of the different stakeholders as a key element of the strategic management process. It assumes that different stakeholders can only cooperate over the long run if, despite their differences, they share a set of core values.
4. The stakeholder approach builds on concrete facts and analysis, and is thus descriptive, but it must also recommend a direction for the firm, given its stakeholder environment. The strategic stakeholder management process thus helps management plan and affects stakeholders in a way that helps to create the future environment of the firm. It enriches management's understanding of the strategic options they have.
5. Stakeholder management builds on developing an understanding of the stakeholders who are specific to the firm and the circumstances in which it finds itself. It is assumed that it is only through this understanding that management can create options and strategies that have the support of all stakeholders. And it is only with this support that management can ensure the long-term survival of the firm. Rather than only understanding how customers react to a price, it is important to understand why customers as well as other stakeholders react as they do.
6. Finally, stakeholder management builds on an integrated approach to strategic decision-making. Rather than deciding upon a strategy for each stakeholder, managers must find ways to satisfy multiple stakeholders simultaneously. Successful strategies thus integrate the perspectives of all stakeholders rather than offset them against each other.

The Tools of Stakeholder Management

Stakeholder management is not just based on certain ideas and principles but also implies that certain tools are used. As managers move from a theory of strategic planning to a theory of strategic stakeholder management, Edward Freeman thus suggests that managers need to assure that the organization's relationships with its stakeholder groups are managed in an action-oriented way (Freeman 2010: 53). Processes and techniques are needed that enhance the strategic management capability of the organization defined as "the organisations understanding or conceptual map of its stakeholders, the processes for dealing with the stakeholders, and the transactions which it uses to carry out the achievement of the organisations purpose with stakeholders" (Freeman 2010: 73). Edward Freeman identifies three things that a stakeholder manager needs to do in order to manage the relationships with its stakeholders. Firstly, the stakeholder manager needs to analyze who the stakeholders in the organization are and how they perceive their stakes. Secondly, he/she needs to understand the organizational processes used to implicitly or explicitly manage the organization's relationships with its stakeholders and whether these processes fit with the stakeholder map of the organization (identified by the stakeholder manager). Thirdly he/she needs to understand the set of transactions or bargains among the organization and its stakeholders and deduce whether these negotiations fit with the stakeholder map and the organizational processes for stakeholders (Freeman 2010: 53). An organization's stakeholder management capability will now depend on the organization's ability to put these three levels of analysis together. The tools used to analyze the abovementioned three processes are described in detail by Freeman (see Freeman 2010: 54–79).

He suggests that stakeholder managers start with using the generic stakeholder map and different types of grids as a tool to analyze and map who the stakeholders of the organization are, how they perceive their stakes, and what their roles, relationships, power, values, and interests are. This analysis has to be supplemented with an analysis of the organization's strategic and operational processes, that is, the organizational processes that are used to achieve some kind of fit with the external environment including formal standard operating procedures as well as more informal assumptions about "the way we do things around here." Examples mentioned are portfolio analysis processes, strategic review processes, and environmental scanning processes. This analysis is followed by an analysis of the interactions and transactions between stakeholders. Questions focused upon are how do the organization and its managers interact with stakeholders? What resources are allocated to interact with which groups? The aim is to create a better fit between the organization's stakeholder map and the organization's transactions and processes with stakeholders identified by that map. Successful transactions with stakeholders are assumed to be built on understanding the legitimacy of the stakeholder and having processes to routinely surface their concerns (Freeman 2010: 73). Transactions must be executed by managers who understand the currencies in which the stakeholders are paid. They need to think about how to assure that the stakeholder and the organization win at the same time. Or put differently the relationship between the organization and its stakeholders needs to be built on voluntarism – that is, a willingness to satisfy the organization's key stakeholders (Freeman 2010: 74).

Edward Freeman suggests that the abovementioned analysis should be followed by three types of strategic management processes and suggests a number of tools that might be used in each of them. The three processes are (1) setting strategic direction, (2) formulating strategies for stakeholders, and (3) implementing and monitoring stakeholder strategies (Freeman 2010: 83–192). The tools used to setting strategic direction include tools aimed at making stakeholder analysis, values analysis, and social issues analysis. Moreover, stakeholder audit is suggested as a tool to setting the strategic direction at the corporate level just as a typology of enterprise and stakeholder strategies is provided. The tools related to formulating strategies for stakeholders include a standard process for formulating strategic programs for stakeholders and a model of the stakeholder strategy formulation process consisting of six major tasks: (1) stakeholder behavior analysis, (2) stakeholder behavior explanation, (3) coalition analysis, (4) generic strategy development, (5) specific programs for stakeholders, and (6) integrative strategic programs. The tools related to implementing and monitoring stakeholder strategies include grids, an implementation matrix, and some concepts that may be used to implement strategic programs and a number of concepts and methods that may be used to monitor progress with stakeholders as well as control the implementation process.

As demonstrated above then, a management idea as stakeholder management does not only consist of assemblies of certain internally related ideas and principles but also of a number of more specific tools and recipes (Røvik 1998) describing how such an idea may be realized. The stakeholder management process is thus described as a process consisting of not only ideas and principles but also of certain steps, activities, and tasks that have to be performed if the idea of stakeholder management (and thus the legitimate business organization) is to be realized in practice.

Two Tasks when Constructing the Legitimate Business Organization

We have now analyzed and discussed different views on the legitimacy of business organizations. And we have identified the subjects of legitimation whose acceptability is being assessed as organizations as "social entities, structures, actions, and ideas" as the stakeholders interpret and theorize them. We have moreover shown how researchers in the area of stakeholder management theory have theorized the stakeholder perspective and how they interpret this strategic management perspective as a way to realize the idea of the legitimate business organization. In the following sections, we will analyze the different types of work a business organization needs to do to introduce the idea of stakeholder management. The analysis takes its point of departure in theories about organizational change developed in neo-institutional theory. In this stream of research, ideas like stakeholder management are not implemented but rather translated when they are introduced in organizations (Wæraas and Nielsen 2016). It will be suggested that according to these theories of organizational change as translation changing your organization into a legitimate business organization will depend on how you as a stakeholder manager handle two important tasks:

1. Your ability to translate and institutionalize the idea and practices of stakeholder management in your organization
2. Your ability to negotiate, translate, and co-construct the organization as a legitimate boundary object with each stakeholder group as well as across stakeholder groups

First Task: Translating Stakeholder Management

In neo-institutional theory, organizational changes have been theorized as translation processes (Czarniawska and Joerges 1996). The translation perspective focuses upon how an object or token changes from one state to another as it "travels" within and across organizational settings (Wæraas and Nielsen 2016). In this view an approach to obtaining business legitimacy like stakeholder management is theorized as a management idea that circulates and travels between and into organizations in organizational fields.

According to Czarniawska and Joerges (1996), ideas may be defined as images which become known in the form of pictures or sounds (words can be either one or the other). They suggest that the ideas and concepts that circulate in institutionalized organizational fields, for instance, “stakeholder management,” are abstract, symbolically mediated, and communicated entities that travel by being translated into an object (for instance, a book about stakeholder management, some recipes or tools related to practicing stakeholder management, a PowerPoint presentation, or other types of publication) that is then dis-embedded from one social group and context and later translated and re-embedded in another social group and context. The idea of stakeholder management is thus viewed as an abstract and symbolic object that literally “travels” among and between humans and groups of humans that are situated differently in time and space.

The authors suggest that in order to become implemented, an idea or assembly of ideas as those related to stakeholder management need to be institutionalized. They claim that an idea or assembly of ideas will be translated into an object and then into actions which if they are repeated as routines become institutionalized. The concept of translation is central to this theory. Czarniawska and Joerges (1996) draw upon Bruno Latour’s definition of the concept of translation which claims that “. . . The spread in time and space of anything-claims, orders, artefacts, goods -is in the hands of people; each of these people may act in many different ways, letting the token drop, or modifying it, or deflecting it, or betraying it, or adding to it, or appropriate in it” (Latour 1986: 267).

The concept of translation thus suggests that people need to do something with an idea for it to move and become institutionalized. The fate of new ideas and concepts literally lies in the hands of the receivers each of whom may react to it in different ways. It follows that new ideas have to resonate with the local interest in order to be taken up and that the way in which they will be attributed meaning will depend on local conditions. The successful translation of an idea and concept thus proceeds along an uninterrupted chain of translations where the energy that makes the idea or practice move in time and space is provided by each new human who takes up and starts acting upon it. At each step, the idea or practice is somewhat reinterpreted and modified in order to fit the interests of the new imitators. Thus instead of a process of transmission, the process of translation is characterized by continuous transformation (Nicolini 2010).

Second Task: Constructing the Organization as a Legitimate Boundary Object

Another phase in the work of becoming a legitimate business organization unfolds after the organization has institutionalized stakeholder management as the way the organization organizes its management processes. At this point in time, the business organization needs to identify who the stakeholders of the organization are and which types of legitimacy assessments and judgments and thus which types of interpretations of the appropriateness of the organization's structures, actions, and ideas the different stakeholders have. At this point in time, the subject of legitimation whose acceptability is being assessed becomes the organization as characterized by certain structures, actions, and ideas as the stakeholders interpret and theorize them (as explained above). Or put differently the organization becomes socially and symbolically constructed as an object whose appropriateness and legitimacy are being assessed and judged by the stakeholders. Following Star and Griesemer (1989), such an object may be theorized as a boundary object:

> Boundary objects inhabit several intersecting social worlds and satisfy the informational requirements of each of them. They are both plastic enough to adapt to local needs and the constraints of the several parties employing them, yet robust enough to maintain a common identity across sites. They are weakly structured in common use, and become strongly structured in individual site use. They may be abstract or concrete. They have different meanings in different social worlds but their structure is common enough to more than one world to make them recognisable, a means of translation. (Star and Griesemer 1989: 393)

In accordance with stakeholder management theory, Star and Griesemer (1989) address the problem of common representation in diverse but intersecting social worlds and suggest that the creation and management of boundary objects is a key process in developing and maintaining coherence across intersecting social worlds. According to stakeholder management theory, stakeholder managers have a similar aim. They want to socially construct and negotiate a version of the business organization (characterized by certain structures, actions, and ideas) that is perceived as appropriate and legitimate by each stakeholder group as well as across these groups. In order to succeed with that, the organization as a perceived and interpreted boundary object needs to satisfy the informational and legitimacy requirements of each stakeholder group. It moreover needs to maintain a common identity as a legitimate organization across sites and stakeholder groups. As a consequence interpreting, negotiating, and co-constructing the organization as a legitimate boundary object with each stakeholder group as well as across stakeholder groups is a key activity and (the second important) task for stakeholder managers working with turning their organizations into legitimate business organizations. It is an important means to making stakeholders translate the organization as a legitimate entity.

An organization as a boundary object will be assessed and judged as being legitimate if it is perceived as efficient and effective, as pursuing its affairs in a socially acceptable way and in a way that is in accordance with generally accepted beliefs and values of the groups of stakeholders that affect or are affected by the organization's activities. In order to socially construct and maintain stakeholders' perception of the organization as boundary object as a legitimate business organization, stakeholder managers must be able to confront and find legitimate answers to any attack, question raised, uncertainty, or alternative communicated by the stakeholder groups that may question the legitimacy of the organization as a boundary object in the eyes of each stakeholder group as well as across stakeholder groups.

When Has the Legitimate Business Organization Become a Social Fact?

An obvious question that arises when constructing the legitimate business organization is how you evaluate when the idea of the business organization as a stakeholder organization and a legitimate boundary object has been realized? As pointed out by researchers in actor-network theory, the more people and objects that are mobilized and start acting and doing work that realizes an idea or practice, the more powerful it becomes (Latour 1986; Callon 1986). The successful translation of an idea like stakeholder management thus depends on the number of managers and employees that take up, start acting, and mobilize objects in accordance with the ideas, concepts, and recipes related to that management approach (Røvik 1998). Secondly the legitimacy of the organization as a boundary object depends on the number of external stakeholders that are mobilized and agree upon interpreting the organization as boundary object as legitimate (despite they may have different reasons for doing so). Translation thus has a political meaning, referring to the political struggle related to the translator's pursuit of interests or specific interpretations, involving acts of persuasion, power plays, and strategic maneuvers (Nicolini 2010) (Wæraas and Nielsen 2016). Or as Michel Callon and Bruno Latour point out: "by translation we understand all the negotiations, intrigues, calculations, acts of persuasion and violence, thanks to which an actor or force takes, or causes to be conferred on itself, authority to speak or act on behalf of another actor or force" (Callon and Latour 1981: 279). The idea of the business organization as a legitimate boundary object is thus first realized when stakeholder managers have done the work – that is, all the negotiations, intrigues, calculations, acts of persuasion, etc. – making solving the two types of tasks mentioned above possible. First then managers and employees as well as other stakeholders will have been mobilized and made to do the practical work that realizes the idea of the organization as a legitimate boundary object. And first then a stakeholder manager will be able to become a spokesperson for and a representative of the will and acts of all those who do work and thus in practice realizes the idea of stakeholder management and the idea of the business organization as a legitimate boundary object.

Discussion: What Should Stakeholder Managers Consider?

In relation to the first task mentioned above, stakeholder managers should consider and be aware of the following: If the idea of stakeholder management and the recipes and tools related to it are not just implemented but rather translated. And if that which is translated depends on what the next human in the translation chain does with these tokens, what the outcomes may be of this translation process becomes uncertain. As pointed out by the Norwegian translation researcher Kjell Arne Røvik (2016), the idea of stakeholder management and the recipes and tools related to it may be copied and thus translated as intended. It may be modified, that is, cautiously adjusted to the local context. Something may be added to it or something may be omitted and thus toned down or some elements abstracted from it. As a consequence managers need to be aware of what is translated in relation to the idea of stakeholder management by whom and where in their organizations since these translations will eventually produce the concrete outcomes of the introduction of these ideas and recipes in these organizations and thus affect the organization's ability to become a legitimate business organization. And that however only if researchers in stakeholder management are right when they assume that this management approach may help realize such an aim.

In relation to the second task, stakeholder managers should consider the following:

It should be noted that stakeholders are separated in time and space. Some stakeholders like managers and employees are close in time and space, while other stakeholders like suppliers, customers, competitors, policy makers, investors, communities, the media, etc. are more remote in time and space. Therefore, the level of information a stakeholder may have about an organization when making legitimacy assessments of it as a symbolic boundary object may vary and be asymmetric. Organizations may participate and communicate symbolically about their engagement in programs such as the United Nations Global Compact program to obtain legitimacy in the eyes of stakeholders without practicing or living up to the standards suggested by these programs. Managers and employees of an organization may publicly talk and communicate about CSR, business ethics, and their stakeholder management program without translating these ideas into actual decisions and actions without other stakeholders noticing it (Brunsson 1992). Another similar situation may occur when an organization boasts about its CSR and ethical and stakeholder-based approach to business while at the same time using child labor in the production of their products or polluting in third world countries situated far away from other stakeholder's view and the Western markets where they sell their products. Or they may write up contracts with their suppliers where the suppliers promise to follow the organization's ethical standards, which are then not followed by the suppliers nor controlled by the organization making the contract, thus making it possible for the organization to claim that it did not know and that it was a fault if a stakeholder as the media finds out.

In all of these situations, stakeholder's perceptions of the organization as a legitimate boundary object will be affected if the organization is found out and attacked and questions were raised about the legitimacy of the activities of the business organization (perceived as a boundary object). As a stakeholder manager, thus you need to decide whether you want to take the risk and rely on the asymmetric level of information between stakeholders who are situated close compared to those who are situated far from your organization and continue the potentially illegitimate activities of your organization. Or whether you will adopt and translate stakeholder management effectively through all chains of translation and negotiate one or more versions of the organization as legitimate boundary objects as honest as possible with stakeholders who affect or are affected by the organization's activities. This either because you/the stakeholder manager truly believes in stakeholder management as a way to practice ethical management and to obtain legitimacy in the eyes of your organization's stakeholders. Or because you assess that the risk (and potential costs) of your organization being found out and your organization as a boundary object being judged not legitimate by stakeholders has become too high. For instance because, local and global societies have become more connected and transparent than before because of the development of global news media as well as global media such as the Internet, Facebook, Twitter, etc.

Finally a stakeholder manager needs to remember that becoming recognized as a legitimate business organization depends on the number of managers and employees who take up and translate ideas and recipes of stakeholder management in appropriate ways in their organizations as well as on the number of external stakeholders who are mobilized and through different methods made to agree upon interpreting the organization as boundary object as legitimate. Only then the stakeholder manager will have become a spokesperson for the wills and acts of all these people, and only then the aim of becoming a legitimate business organization will have been realized as a social fact!

Conclusion: Becoming and Performing the Legitimate Business Organization

It follows from what was mentioned above that being a legitimate business organization is not something that the organization is but something that the organization does. First, the organization needs to institutionalize stakeholder management as the way the business organization organizes its management processes. Then it needs to negotiate and develop its identity as a socially constructed boundary object that is interpreted, theorized, and viewed as legitimate across stakeholders' intersecting social worlds. Then as more and more humans and stakeholder groups become interested and mobilized, exercise their roles, and start acting (Callon 1986; Latour 1986; Callon and Latour 1981) on the basis of the assumption that the particular business organization as a boundary object is to be interpreted and viewed as legitimate, the legitimate business organization is becoming constructed as a social fact. Or put differently, the idea of the particular organization as a legitimate entity is becoming materialized and powerful.

The legitimate business organization is thus first realized when stakeholder managers have done the translation work – that is, all the negotiations, intrigues, calculations, acts of persuasion, etc. – making the construction of such a social fact possible. First then managers and employees as well as other stakeholders will have been mobilized and made to do the practical work that realizes the legitimate business organization. And first then a stakeholder manager will have become a representative for and a representative of the will and acts of all those who do work and thus in practice realizes the legitimate business organization.

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Corporate Legitimacy and Institutionalization: From Corporate Innocence to Responsibility for Complex Impacts

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Inger Jensen

Contents

Abstract

This chapter studies some of the significant changes in history of corporate responsibility and legitimacy. One line of development is that the company in the middle of last century was considered innocent. The main coordination mechanism was the market and economy. Gradually, more values and norms were introduced to judge the impacts of the company; and national regulation addressed some of the market imperfections and business impacts on health and environment. In this development, sociological theories, New Institutionalism, came up with very broad and general theories about norms, values, habits, norms,

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and institutions. The author finds that the very broad theories did not focus on the material aspects and the complexity of the praxes of the many agents. Therefore, Jean-Paul Sartre, John R. Searle, and Jürgen Habermas are introduced to focus on social reality as materialized result of the many agents. In light of this, social construction is considered in two ways: institutions as socially constructed coordination mechanisms and as materially mediated and legitimate when supported in praxis. In the historical development of companies, their responsibility and legitimacy, there is a growing awareness of the need of new institutionalized coordination mechanisms that do not leave all responsibility to the individual company but enable cross-sector collaboration to address common international priorities.

Keywords

Corporate social responsibility · Institutionalization · Coordination mechanisms · Complexity reduction · Materially and socially mediated praxis · Seriality · Collaboration · Cross sector partnership · SDGs

Introduction

There is no position from which the legitimacy of corporations can be finally established or defined. In history, a marked change has taken place and changes will continue. It is implicit in the very concept of legitimacy that it has to be based on acceptance and that it can still be discussed. This means that values forced upon agents in fundamentalist and authoritarian regimes that are not open for critical discussion cannot claim legitimacy. This chapter will trace some of the changes by examining the coordination mechanisms involved, from pure market mechanisms to international institutionalizations. There seems to be a historic evolution from corporate innocence to growing awareness of the complexity of material impacts on the globe and human life. Before outlining these changes, the chapter will present some critical reflections on the theoretical approaches to legitimacy and institutions.

Jean-Paul Sartre criticized the way Marxist-inspired theories tend to describe history as general laws that neglect the variety of human praxis and its material and social mediation. Inspired by this, the author also finds that social constructivism makes the concepts in theories of legitimacy and institutions too general and static. They focus on language, values, and norms, neglecting the complexity of human praxis and the multiple influences in reality.

John R. Searle, with his concepts of brute facts, agentive functions, and the social construction of reality, has contributed to an understanding of institutionalization that underlines the processes of the many agents, the materialization of these activities, and the legitimacy that links to realization in praxis.

Jürgen Habermas' concept of legitimacy focuses on the continuous discursive processes in the public sphere where primarily governmental regulations but also corporate impacts can be criticized and legitimized. His concepts of systemic coordination mechanisms and communicative coordination will be introduced in relation to institutionalization.

Jean-Paul Sartre's Critique

In 1960 Jean-Paul Sartre claimed that the Marxist theories of development had ossified and turned into a stagnated dogma. He criticized what he called a fundamentally asymmetric relationship between the particular individual praxis and general development. The particular activity had lost its role as co-constituting the total movement and been reduced to an expression of overarching history; man had become a puppet in the general movement. Sartre wanted to reintroduce human activities into historical processes, making it comprehensible how humans create history and that they always do so based on directly given and handed-down conditions (Sartre 1960; 2004).

He therefore focused on praxis as having an impact on inert material that has an antidialectical function: the individual praxis – say, for instance, digging a ditch – makes lasting changes in the field that enable the individual to continue from where he stopped the day before. However, the inert material also makes it possible for other individuals to continue the former work on the ditch, to ruin it, or to transfer it to something else. The antidialectical function of the inert material has an accumulated function that facilitates some praxis rather than others. When you look at the inert material in a city – the streets, houses, shops, tools, and vehicles – all materialized results of former projects – the antidialectical function of the inert material calls upon some praxis and makes other praxes difficult. It is sensible to walk on the pavement rather than in the middle of the street. However, this does not mean that the transformed material enforces human beings per se. The particular conditions that the transformed material seemingly enforces on the human subject result from the praxes of multiple coexisting individuals.

To understand how multiple individuals simultaneously coexist in the praxis inert fields and in a social field, Sartre describes two fundamental societal forms: seriality and groups.

Seriality is the societal form whereby a number of individuals have parallel praxes. They can be isolated from each other, not knowing their similar praxes. They can know the existence of the others, like passengers in the subway, but do not have a common project. They can register the number of others and the accumulated impact of their praxes. They can be in each other's way, as when queuing to acquire scarce goods. They can realize that their similar praxes accumulate in a negative way, like leftover litter. Alternatively, they can realize that their similar praxes accumulate in line with their own intentions, as when they are present with many others to show respect at a funeral. Finally, they can hope that many others by their similar praxes will manifest the number of individuals with similar projects, like voters in a referendum. In this last example, the seriality could transform into collective praxis.

The group – unlike seriality – is an internal unity that reciprocally mediates the members' intentions and praxes to a common project and a common praxis.

Every member of the group is the mediator that organizes their individual goals into the mediated common goal and praxis of the group. An important point for Sartre is that the group never becomes one organism – a hyper-organism. It will always depend on the reciprocal mediation of different individual projects to a common praxis. The group is unstable and risks splitting if the reciprocal mediation is discontinued. Sartre also describes how a political party group can turn into petrified processes that simply keep the bureaucratic procedures running without a reciprocal project. In society, active groups can operate in serial relationships following similar or opposite projects. Furthermore, the inert material can mediate societal issues, as illustrated by the crosses on paper collected and counted in a referendum.

This very brief presentation of more than 800 pages from Sartre aims primarily to stress what is lost when a conception of history is reduced to positivistic empirical studies or abstract generalizations (Jensen and Vestergaard 1979; Sartre 1960, 2004).

Sartre wanted to make it comprehensible how humans create history and that they always do so based on directly given and handed-down conditions. That means understanding the socially constructed as a result of human praxis and understanding social realities as constructed by the many – in seriality or with collective intentionality. It also means that the socially constructed becomes reality mediated in material, setting further conditions for human agents.

Sartre criticizes a positivist approach to society because it constrains studies to what we can observe directly. The obligation of a positivist – a naïve realist – is to observe carefully and describe correctly. Within this approach, truth is a question of correct reference. What is lost here is the complexity of the social and material mediation of praxis and intentionality that is not directly observable.

Searle represents a further development in line with Sartre's epistemological approach. Searle argues against radical constructivism. As opposed to naïve realism, radical constructivism holds that reality is socially constructed through the concepts we develop. It does not make sense to presume any objective reality out there: we will always be caught in phenomena defined by our concepts and language, and truth is merely a question of agreement and shared conception. Against this radical constructionism, Searle offers a very advanced analysis of epistemological and ontological concepts of reality, facts, and truth (Searle 1995, 2010). Utterances about facts can be true or false, so it makes sense to distinguish between facts and fake news. The author finds that many theories about legitimacy and institutionalism belong to social constructivism. They tend to be too generalized and mainly deal with concepts, values, and norms – not with the complexity of praxis and material aspects.

John R. Searle's Concept of Social Reality

Using Searle's theorizing, the author will further develop Sartre's ideas to understand the socially constructed as a result of human praxis and as reality – rather than just a matter of concepts (Searle 1995, 2010). By doing so, the author will include concepts of institutionalization and legitimacy.

Using Searle's concepts, one can describe a continuum from "brute facts," the least socially constructed, pure material facts, through "agentive functions," and ultimately to "institutional facts," the most socially constructed reality (Searle 1995, pp. 20–27). Respective examples we will consider further are Arctic ice (brute fact), the attributed function of a screwdriver (agentive function), and the parliamentary election (institutional fact). According to Searle, and in line with Sartre, brute facts or material matter are involved in the whole continuum.

Brute Facts

Brute facts are the material and physical qualities that are supposed to exist at a given time, independently of what we say and mean about them:

- Arctic ice
- The materials (metal and plastic) from which the screwdriver is made
- The lists of candidates and the crosses made by voters on ballot papers in the polling station

We can observe the brute facts and test the observation. Of course, when we say and mean something about them, we are depending on language that is socially constructed. We could influence Arctic ice by CO_2 emission or by making an igloo on an Arctic expedition; we could break the metal of the screwdriver; or we could tear up the candidate list or draw caricatures instead of crosses in the voting booth. Thus, we can change the brute facts, but their physical qualities are supposed to exist in some form at a given time. Moreover, their social functions may be changed.

Agentive Functions

Agentic functions are attributed by users, producers, and observers. Our daily life is replete with objects with attributed agentive functions: screwdrivers, cars, computers, drinking tubes, etc. These tools and means are socially constructed and understood in line with Sartre's focus on how praxis transforms and is mediated by the material around us. To be reality, agentive function depends on the activities of users. The agentive function of a screwdriver depends on users. Perhaps a superglue could replace the function of a screwdriver. However, the reality does not depend on collective activity. Few or many individual activities can realize the function of a screwdriver. The very first or the very last person using the screwdriver can individually use it as screwdriver. This understanding of agentive functions is in line with Sartre's concept of serial praxis. Individual praxis can be similar to many others' praxis and does not need to have collective intentions.

Institutional Facts

In institutionalization, a social coordination function is attributed based on collective intentionality. Let us study two banal examples: the queuing system at the pharmacy and the procedures for forming the parliament.

When you go to the pharmacy, you may be asked to take a queue number from a roll. You know that if your number is 25 and a costumer with number 24 is just being served then it is your turn next. Normally, you do not reflect on the installation of this little institution as the preferred way to coordinate the order for serving customers. A number of different principles could have been used or discussed: customers could have been treated according to their importance, wealth, power, age, gender, or busyness. Under ordinary conditions, we prefer not to discuss the relative importance of such principles and accept the queue number principle as a legitimate institution. Imagine, however, if a badly hurt and bleeding person suddenly enters the pharmacy. It is likely that all the customers and the pharmacists – except, maybe, a stubborn person – would spontaneously suspend the queuing institution until the bleeding person has been taken care of. After this, they would reinstall the queuing institution as usual. This banal example illustrates that we collectively install and accept an institution as a legitimate social coordination mechanism. It also illustrates that the conditions of legitimacy could be limited to "ordinary conditions" (cf. Jensen 2013, p. 68).

In parliamentary democracies, discussion takes place in many contexts about a variety of political programs before constituting the parliament. Because nobody believes it would be possible to reach consensus by continuing the discussions, election procedures are established. The detailed procedure for where and when individuals can cast their vote and how the votes are counted and calculated are formulated and carefully surveyed. When people trust the procedure and find it a legitimate means to calculate the mandates, and when they realize the election procedure by casting their votes free of pressure, it can be considered a legitimate institutionalized social coordination mechanism that is socially constructed; it thereby becomes a reality for and by citizens (cf. Jensen 2013, p. 69).

The institutional function cannot be directly observed or performed solely by virtue of its material qualities: the lists of candidates and the crosses of the voters will not suffice to realize the function of the election. The reality of the election depends on the collective belief, trust, and activities of many agents. Single individuals cannot create or disregard institutional facts. However, if no voters or very few turn out, the election would lose legitimacy as institution. A strictly positivist study could not observe what is occurring.

What are the common features of the queuing procedure and the election? Beyond mere habits and routines, they are social coordination mechanisms of many agents and are based on constitutive rules. These rules are explicitly declared and often implicitly taken for granted in praxis. To be a social reality, institutions depend on corresponding interpretation, agreement, and practice by many agents. Thus, they are based on collective intentions.

Legitimate institutions are created by communication. They are anchored in matter (brute facts) and reduce complexity. They coordinate the praxes of many agents in one of many possible ways and are sustained as social coordination mechanisms in praxis. As replacements for explicit, dialogical communication, they are changed or cancelled by explicit communication or by nonattendance. An institution can be relatively independent of other institutions, like the queuing procedure, or can be highly integrated into a complex hierarchy of institutions, as in a parliamentary election. Somewhere in between, corporations are composed of a number of coordination mechanisms institutionalizing the board, the divisions, and more or less formalized agendas.

Habermas' Coordination Mechanisms

In *The Theory of Communicative Action*, Habermas describes two fundamentally different forms of social coordination mechanisms: communicative coordination and systemic coordination (Jürgen Habermas 1991, 1992). In a communicative action, three different validity claims can be questioned: truth, normative rightness, and trustworthiness. In communicative coordination, the agents organize their activities based on the actors' explicit communication. However, in this communication, not all validity claims are necessarily met. Open and hidden intentions can come into play. Thus, in communicative coordination, all participants are not necessarily trustworthy.

Systemic coordination, by contrast, does not happen via explicit communication. The participants' activities are mediated by a system medium. In the market, that medium is money. The availability of this abstract medium enables a huge number of transactions. Habermas pointed out that the system coordination in the market implies that participants primarily tend to care about the instrumental validity criteria: what one can achieve with money. Normative, ethical validity criteria are not primarily demanded in the market. Other important systemic coordination mechanisms are made by regulations, institutions, and procedures. The coordination medium is the power and/or right that is attributed by rules. Habermas would understand the procedures at a parliamentary election as an example of systemic coordination. According to Habermas, we face a paradox: systemic coordination – including markets and institutions – can relieve the coordination of social actions by reducing complexity while simultaneously undermining the validity criteria of communicative coordination. However, this cannot be concluded in general but must be included in a critical reflection on the legitimacy of a coordination mechanism (Fig. 1).

In sum, based on Sartre, Searle, and Habermas, the author stresses that to understand the history of legitimacy and corporate responsibility, one must focus on: (1) institutionalized coordination mechanisms that are realized in praxis; (2) communicative coordination and discursive processes involving normative and ethical validity criteria; (3) communicative and discursive processes that express collective intentions by questioning the legitimacy of corporate material impacts; and (4) communicative and discursive processes that initiate or change institutional coordination mechanisms.

Fig. 1 Institutional facts as social constructions. (Source: Inger Jensen inspired by John R. Searle (1995) and Jean-Paul Sartre (1960))

Tracing Changes in Corporate Responsibility

Since the middle of last century, there has been a marked change in concepts of corporate responsibility and in related corporate praxis. This chapter will track some of the significant changes that imply a growing complexity. The chapter's premise is that there is no position in society from which the content of legitimate norms and values can be finally established. What we can study and reflect upon, however, are the processes, dynamics, and discourses that – at a certain time in praxis – define and delimit what is legitimate. It is possible to study how these processes develop locally and globally in history.

Table 1 illustrates some of the changes in the concepts of companies, the development of coordination mechanisms, and public discourses related to corporate responsibility in four periods. The years are tentative: they vary from country to country and overlap across countries.

The First Period

Historically, corporate legitimacy rested on the fundamental basis that the company was free from responsibility – it was innocent. In the first period, the public did not question that companies were primarily coordinated by market mechanisms and their economic success, without further responsibility. There was no attention to the environmental or societal consequences of private business.

Table 1 From corporate innocence to responsibility for complex impacts (Inger Jensen)

	First period until about 1950s	Second period between 1950 and 1980	Third period between 1980 and 2010	Recent period from 2010 to date
Concepts of legitimate companies	Financial success; no further responsibility Innocent	Financial success; compliance with law; no further responsibility Compliant	Financial success; compliance with law; responsible locally and globally Multiple bottom lines Compliant and philanthropic	Financial success; Compliance with law; responsible locally and globally Cross-sector partnership Compliant; philanthropic and transformational
Coordination mechanisms	The market	The market; regulation as a reaction to market imperfections	National and global markets; national regulations; International collaborative institutions UN Global Compact (UNGC)	National and global markets; national regulations; International collaborative institutions UNGC UN Sustainable Development Goals Cross-sector partnership
Public discourses related to business	Hardly any	Market imperfection; political regulation of businesses' impact on the environment	Businesses' roles in global development; discrepant national rules NGOs	Businesses' roles in global development; inequality Tax haven; tax incentives Cross-sector partnership Transparency
Concepts of corporate legitimacy		Legality equals legitimacy	License to operate Compliance with generalized norms and values	Progress related to specific and complex impacts Collective intentionality

The Second Period

During the second period, H.R Bowen (1953) commented, "social consciousness of managers means that businessmen are responsible for the consequences of their actions in a sphere somewhat wider than that covered by their profit-and-loss statements" (p. 44) (Bowen 1953). He was a pioneer on the broader impact of companies. In public discourses, there was a growing focus on externalities.

Externalities are consequences of business activities that are not included in price mechanisms. In reaction to these market imperfections, national governments regulated impact on health and environment through taxes and fines, which added former externalities into economic calculations. Consequently, the legitimate company had to comply with rules, such that legality equals legitimacy.

However, not everyone agreed with Bowen's position in this period. Milton Friedman, recipient of the Nobel Prize in Economics and one of the most cited opponents of corporate social responsibility, wrote that "The social responsibility of business is to increase profit" (Friedman 1970, p. 1). He argued against what he found to be undue governmental regulation and socialism.

The Third Period

At the beginning of the third period, in 1983, the Danish chemical company Cheminova was in deep crisis. Over a long period, it had deposited poisonous waste in the sand dunes on the company's estate at Harboøre Tange, located where the Limfjord meets the North Sea. Environmentalists drew attention to the deaths of sea birds and fish near the plant. It became evident to a number of interest groups that the poison was leaking from the sand dunes into the fjord and the sea. The fishers' associations were concerned about the quality of edible fish in the fjord and the North Sea, while the local population and tourist association witnessed the destruction of attractive natural resorts.

Interestingly, in the public debates it was argued that the company had not broken any law. There were no regulations on depositing waste on private property at that time; however, the critics did not accept that the company was free from responsibility.

Before the crisis, the management defined Cheminova as a company that produced chemical products of high quality for international industrial customers. It was a company with highly qualified technicians, and there was no reason, nor tradition, to communicate with environmental organizations or the public sphere in general. The policy of the company was to obey the law. Thus, their self-understanding belonged to the second period.

The management had not recognized the development in political opinions at all (Jensen 1987). The company suffered a serious loss of reputation and legitimacy (Some years ago, the company was acquired by new owners and changed its name. It became a signatory of the UN Global Compact in 2015).

In this third period, companies were not considered responsible if they focused on only one bottom-line: profit. Responsible companies introduced multiple bottom lines, such as people-planet-profit.

A new institution, the UN Global Compact (UNGC), was established in 2000 as a voluntary coordination mechanism to reduce the complexity for corporations that commit to following ten principles regarding human rights, labor, the environment, and anticorruption. The author analyzed this kind of institutionalization in an earlier work (Jensen 2013, pp. 72–78).

Some of the pioneers of theories of organizational institutionalism have similarly questioned the idea that appropriate decisions by managers could be based on one single technical/economic rationale (DiMaggio and Powell 1983; Meyer and Rowan 1977; Meyer and Scott 1983; Zucker 1977). They questioned the specific type of business concept illustrated by the Cheminova case before the crisis in 1983. Accordingly, they also introduced the understanding of norms, rationalized myths, and shared meanings, thereby drawing attention to the importance of developing values and norms beside the technical/economic rationale.

In this third period, Suchman (1995) distinguished between two groups of legitimacy studies in organizational theory: the strategic and the institutional. Strategic approaches adopt a managerial, instrumental perspective to garner support from society, thereby being able to manage and control these processes. Legitimacy is here perceived as something manageable, purposive, and calculated (Suchman 1995, p. 576).

The institutional interest lies in understanding how pressures in the form of cultural norms, symbols, and beliefs constrain and empower organizations and organizational actors. Suchman places himself between these two approaches and defines legitimacy as "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions" (Suchman 1995). The term "license to operate" was coined in this period.

In the third period, there was a growing awareness of the complex roles that businesses play in global development and of discrepancies in national cultures and regulations. Companies are held responsible for more than economic results and compliance with governmental regulations. These responsibilities are not always compatible with economic success. In this period, Porter and Kramer (2006) argued that corporate social responsibility is unavoidable. Corporate legitimacy crises are too expensive, while corporate social responsibility is not necessarily expensive. The individual company is not supposed to solve all the world's sustainability problems but must select areas of responsibility that are consistent with competitive advantages (Porter and Kramer 2006).

In UNGC's CEO Studies (2013), it is reported that CEOs in 2007 were optimistic regarding the possibility of the individual company practicing the principles of sustainability. The impression was that consumers and the market would demand and support sustainability. However, in 2013, after the finance crisis, business leaders described a plateau beyond which they cannot progress without radical changes in market structures and systems, driven by a common understanding of global priorities (UNGC-Accenture 2013). This marks an important transition to the recent period.

The Recent Period

In the recent period, we see a number of changes. CEOs do not trust that the market would support the responsibility of individual companies Thus, they were not convinced that Porter and Kramer's (2006) instructions would suffice, and that the individual company must select areas of responsibility consistent with competitive advantages. The CEOs surveyed in 2013 expressed the need for radical changes in market structures and systems, driven by a common understanding of global priorities (UNGC-Accenture 2013). This means that they question the prevailing system coordination mechanisms: the markets and national regulations. They call for collaboration and new coordination mechanisms – regulations or other institutions that transform markets.

UNGC participants must deliver a yearly Communication of Progress Report about the ten principles regarding human rights, labor, the environment, and anti-corruption. Today, there are about 9,000 active companies and small- and medium-sized enterprises. At the time of writing, there are 1,355 active global and local NGOs (https://www.unglobalcompact.org/). The UNGC website lists all participants and provides free access to their reports and details on a number of collaborative initiatives. Every third year a general progress report is made available in the UNGC Library. Thus, this institution addresses some of the common interests and contributes to transparency.

At the beginning of the recent period, and with references to the third period, Greenwood et al. (2011) argued in favor of the broad definition of institutions by W. R. Scott: "Institutions consist of cognitive, normative, and regulative structures and activities that provide stability and meaning to social behavior. Institutions are transported by various carriers—culture, structures, and routines—and they operate at multiple levels of jurisdiction" (Scott 1995, p. 33). In opposition, Heather A. Haveman and Robert J. David argued that the broadness of the concept also implies weakness: "If institution and institutionalization mean everything and explain everything—changes and stability; routines, values, and norms; intra-organizational, organizational, and inter-organizational structures and behaviors; cognitive, regulative, and normative processes—then they mean nothing and explain nothing" (Haveman and David 2008, p. 583). The author agrees with the latter position. There are several advantages to Searle's constricted definition of institutions as coordination mechanisms, reducing some of the complexity, based on constitutive rules, involving brute facts, realized and legitimized by praxis of many actors. It clarifies the difference between, on the one hand, habits and routines without any collective intentions and, on the other hand, institutions as collectively invented and realized coordination mechanisms. Together with Habermas' concepts of communicative coordination and systemic coordination and their mutual dialectic, this precise definition of institutions presents an understanding of the social construction of reality that differs from the radical constructivism described above: beyond words, concepts, and norms, it contains the results of praxis and material impacts.

Focus in the third period was on how the individual company could comply with generalized norms and values. In the recent period, by contrast, we find awareness of complex material impacts on the globe and human life, and the need for radical changes in market structures and systems, driven by a common understanding of global priorities. The focus on responsible companies shifts from individual compliance and adaptiveness to becoming transformative and engaging in new kinds of institutionalizations – cross-sector partnerships. This involves companies taking initiatives to transform coordination mechanisms in areas unsupported by the current market. In an earlier work, the author provided case examples of such transformative praxis (Jensen 2017).

One prominent initiative to institutionalize common priorities is the 2030 Agenda for Sustainable Development, adopted by all United Nations Member States in 2015. The 17 Sustainable Development Goals (SDGs) stress that ending poverty and other deprivations must be combined with strategies that improve health and education, reduce inequality, and spur economic growth – all the while tackling climate change and working to preserve our oceans and forests.

The SDGs initiative was initially intended to impose mutual obligations on nations and their governments. In 2017, the UNGC and the Global Reporting Institute (GRI), an independent international organization that has pioneered sustainability reporting since 1997, undertook a new initiative to involve companies

Fig. 2 United Nations Global Compact Progress Report 2019 (UN-Global-Compact 2019)

with the SDGs. Having worked through all 17 goals and 167 targets, they generated detailed suggestions on how businesses can contribute to the targets (GRI-UNGC 2017). The initiative institutionalizes business reports. Thus, it consists of guidelines to make the reports comparable, but it is not just about words and norms. The guidelines capture the complexity of business praxis and material impacts on the 167 targets.

However, not all SDGs are easy to address for individual companies or companies in partnerships. The UNGC Progress Report describes the ways that members' CEOs take action on the goals (UN-Global-Compact 2019). Figure 2 shows the relative importance for businesses, rather than for the world.

The report also describes differences between company size and the very uneven distribution of company members around the world: Europe accounts for about half of the members. If we use Searle's understanding of what makes institutionalization real and legitimate, namely, collective intentionality and the extent to which it is realized by praxis of the many actors, it is, at best, the very beginning of the process.

Conclusion and Further Perspectives

Humans create history and they always do so based on directly given and inherited conditions. The history of companies, their impacts and responsibilities, shows that there is no position from which the legitimacy of business can be finally set or generally defined. In the middle of the last century, it was unquestioned that the market was the main coordination mechanism, the company was "innocent," and profit was the only success criteria. Later, some governments regulated externalities and legality equaled legitimacy. Further, the individual company was confronted with the normative criteria of responsibility. In recent years, public discourses have identified a number of business impacts on the material world and human life. It has been realized that the prevailing coordination mechanisms – national and global markets and disparities between national regulations – do not support sustainability. The individual company cannot meet the challenges on its own. International institutions are invented to commit nations and to support voluntary companies by creating coordination mechanisms to reduce complexity and find collective ways to balance impacts.

An important methodological question about such institutionalization concerns transparency and support in praxis. As described above, according to Habermas, legitimacy depends on the ongoing discursive processes within democratic nations. With the globalization of companies and the disparity of regulation in various nations, it is interesting to observe whether international institutions can be based on deliberative democracy as described by Habermas (1998). In her chapter of this handbook, Luise Li Langergaard (▶ Chap. 23, "Public Sector Innovation, Social Entrepreneurship, and Business Legitimacy") discusses the nuances of this important question.

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Part XII

Management of Corporate Social Responsibility and Business Legitimacy

Major Management Thinkers on Corporate Social Responsibility

45

Yves Fassin, Simon Liekens, and Marc Buelens

Contents

Abstract

Many of the most influential management scholars had a focus on strategy. The objective of the explorative study was to analyze and discuss the view on CSR of the major management thinkers of the twentieth century. The study was performed on the basis of an earlier study that analyzed the major works and the contribution to theory of 22 selected management thinkers. Their view on

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CSR, business ethics, and stakeholder management are investigated through their writings and through articles on those management thinkers.

In fact, the major management thinkers acknowledge the importance of social responsibility, if not explicitly, at least implicitly, even if the term CSR had not been coined at the time of their writings. They encourage good relations especially with employees and recognize the importance of a stakeholder approach to management. In fact, contrarily to the academic finance thinkers, the major management thinkers who have a broader strategic approach had integrated a CSR vision in their strategy, explicitly or implicitly. Business legitimacy in relation to the environment of the corporation is an essential condition for the strategic views of management thinkers.

Keywords

Management thinker · Corporate social responsibility · Business ethics · Stakeholder management · Strategy

Introduction

Management education has contributed to the dissemination of management knowledge to the business world. Whereas a large number of specialized researchers on specific management fields as finance, marketing, many of the most influential management scholars had a focus on strategy.

In this diffusion process, a number of important management thinkers, consultants, professors, and some practitioners have played a major role. Marc Buelens (2000) studied the work of the major management thinkers of the twentieth century, and on the basis of the impact of their contribution in management education, made a selection of 22 management experts, who played an important role in the twentieth century. Buelens called those management thinkers “management prophets.”

In this same twentieth century, and more especially in the last decades, corporate social responsibility (CSR) has emerged as an important managerial concept. CSR is about the role of business in society and the responsibility of corporations toward its stakeholders. CSR encompasses business legitimacy in relation to the environment of the corporation. The aim of this chapter is to study what the view is on CSR of those 22 management thinkers, as well as their views on related themes as business ethics and stakeholder management.

Methodology

The selection of the management thinkers was based on a study of the managerial literature of the twentieth century, especially “the classics” in general management and in strategy, by Marc Buelens (2000). On a basis of different criteria, with a focus on impact in the business world and in business school education, he selected a list of

20 management thinkers; in this list appear two duos, who worked closely together during long years; this leads to a total of 22 management thinkers. Buelens studied the work of those selected management thinkers and defined their main ideas and contribution in management, organization, and strategy.

The first search relates to the studies and background of those authors, and their period of activity. Subsequently, the management thinkers' view on CSR, ethics, and related fields is analyzed and their vision compared. A systematic literature review in the Web of Science is undertaken on the terms "corporate social responsibility," "business ethics," and "stakeholder management" combined with each of the selected management thinkers. A further search was performed in Google Scholar for the CSR terms in each author's work, not only in their publications in academic journals but also in the books written by those management thinkers. The results were grouped around the selected terms and topics and further analyzed.

The Management Thinkers

The selected management thinkers are presented hereunder, with either the title of their most important book, or the basic focus or major concepts of their research.

1. Frederick Taylor: *The Principles of Scientific Management* (1911) or Taylorism – the right man on the right place
2. Henri Fayol: *Administration industrielle et Générale* (1915): planning, leading, organizing, control, coordination – prepare the future
3. Max Weber: bureaucracy – *The Protestant Ethic and the Spirit of Capitalism* (1930)
4. Herbert Simon: *Administrative behavior* (1947) – bounded rationality – satisficing vs. homo economicus satisfactory
5. Michael Hammer and James Champy: *Reengineering the Corporation* (1993), HBR-article 1990 – business process reengineering
6. Henry Mintzberg: *The Structuring of Organizations* (1979) – management process, organization theory, strategy
7. Geert Hofstede: *Cultures consequences* (1980) – four dimensions of culture
8. Charles Handy: *What Is a Company For?* (1990) – corporations are institutions for people
9. Elton Mayo: *The Social Problems of an Industrial Civilization* (1945) – human relations movement – Hawthorne experiment
10. Douglas McGregor: *The Human Side of Enterprise* (1960) – theory X and Z
11. Abraham Maslow: *Motivation and Personality* (1954) – pyramid of needs
12. Peter Drucker: *The Practice of Management* (1954) – corporation as a political and social institution
13. Michael Porter: *Competitive Strategy* (1980) – value chain – creating shared value
14. Gary Hamel and C.K. Prahalad: *The Core Competence of the Corporation* (1990)

15. John Kay: *Foundations of Corporate Success* (1993), four ways to success: stakeholder relations, reputation, innovation strategic advantage
16. Tom Peters: *In Search of Excellence* (with Waterman, 1982) – transformational leadership
17. Daniel Goleman: *Emotional Intelligence* (1996)
18. Rosabeth Moss Kanter: *The Change Masters* (1983) – empowerment
19. Chris Argyris: *On Organizational Learning* – (1978) single-loop and double-loop learning
20. Peter Senge: *The Fifth Discipline: The Art and Practice of the Learning Organization* (1990)

Table 1 presents the country of origin, the year of birth and death of the management thinkers, the universities, the degrees they obtained, and the professions of the selected management thinkers. Most of the management thinkers are American; a few of them are British or Irish. Only the pioneers Fayol and Weber are French and German, while Frederick Taylor is American. Three-quarters of the management thinkers obtained a PhD. Three-quarters of the management thinkers studied at American universities. Frederick Taylor later obtained a degree in mechanical engineering via correspondence. Fayol, Hofstede, and Mayo did not go to the big management schools. Fayol based his work on practical experience in the company he worked for.

Figure 1 presents the timeline of the lives of the management thinkers and the positioning of the year of publication of their major impactful work. Half of the most important works were published in the 1990s, a period of expansion of the notion of CSR.

About one-quarter of the management thinkers died before 1970, which means that they have hardly been confronted to the notion of "formalized" CSR. Half of the management thinkers are still alive in 2020. While most of the management thinkers have been active in management research during the largest part of their professional life, solely James Champy was active only for a decade. One-quarter of the major works have been written before 1970, and a majority in the 1990s; all management thinkers were over their 30 when they published their major work, mostly in the mid of their career. Later on, when aging, their synthetic approach and sharp remarks generally diminished. Some of the management thinkers wrote on CSR in their later career as Mintzberg and Hofstede in 2009. Some others like Porter, in a somewhat opportunistic approach following the recent trends, wrote, with a coauthor Mark Kramer, a few articles on CSR (2006) and shared value (2011) applied to their core strategic work, in case competitive strategy.

Most of the management thinkers have taken up professorships at universities. Many of them stepped over toward consultancy or entered the lucrative conference circuit to lecture and present their theories all over the world. That partially explains why their innovative drive diminished.

The list of management thinkers contains only one woman, Rose Kanter. There are four Harvard professors in the list (Mayo, Argyris; Porter, Kanter) and six other professors wrote influential articles in the *Harvard Business Review*. Drucker

Table 1 Country of origin, year of birth and death, university, degree, and profession of the selected management thinkers

	Country of origin	Year birth and death	University	Degree(s)	Profession
Frederick Taylor	USA	1856–1915	Harvard university (not terminated) and Stevens institute of technology University of Pennsylvania	Mechanical engineer (via correspondence) Honorary doctor of science	Engineer, manager, professor, and consultant
Henri Fayol	France	1841–1925	École Nationale Supérieure des mines de Saint-Étienne	Mine engineer	Engineer, manager, and director
Max Weber	Germany	1864–1920	Humboldt-Universität zu berlin	Doctor of law	Sociologist, philosopher, lawyer, and political economist
Herbert Simon	USA	1916–2001	University of Chicago	Doctor in political science	Economist, professor, and political scientist
Michael Hammer and James Champy	USA USA	1948–2008 1942	Massachusetts Institute of Technology and Massachusetts Institute of Technology, Boston College Law School	Doctor in computer science and engineering and Master of science in civil engineering, doctor of law	Engineer, professor, and consultant
Henry Mintzberg	Canada	1939	McGill University and Massachusetts Institute of Technology	Undergraduate degree in mechanical engineering and doctor of management	Professor
Geert Hofstede	Netherlands	1928–2020	Technische Universiteit delft Rijksuniversiteit Groningen and Maastricht	Master of science in mechanical engineering and doctor in social psychology	Social psychologist and professor
Charles Handy	Ireland	1932	Oriel College and Massachusetts Institute of Technology	Master of business administration	Philosopher, marketeer, professor, and economist

(continued)

Table 1 (continued)

	Country of origin	Year birth and death	University	Degree(s)	Profession
Elton Mayo	Australia	1880–1949	University of Adelaide	Master of arts degree in psychology	Psychologist and researcher
Douglas McGregor	USA	1906–1964	Rangoon Institute of Technology and Harvard University	Bachelor in mechanical engineering and doctor in psychology	Professor and director
Abraham Maslow	USA	1908–1970	University of Wisconsin	Master of arts degree in psychology	Psychologist and professor
Peter Drucker	Austria - USA	1909–2005	Goethe University Frankfurt	Doctor in international law and public law	Consultant, professor, journalist, and economist
Michael Porter	USA	1947	Harvard university	Master of business administration and doctor in business economics	Consultant, economist, and professor
Gary Hamel and C.K. Prahalad	USA India	1954 1941–2010	University of Michigan, Harvard University, and University of Madras, Harvard University	Doctor of international business and Bachelor in physics, doctor of business administration	Consultant, management expert, professor, and Professor
John Kay	Great-Britain	1948	Edinburgh University and Heriot-Watt University	Undergraduate in economics en Honorary doctorate	Economist, professor, director, and consultant
Tom Peters	USA	1942	Cornell University and Stanford Business School	Master's degree in civil engineering, master of business Administration and doctor in organizational behavior	Consultant, advisor, and engineer
Daniel Goleman	USA	1946	Harvard University	Doctor in psychology	Journalist and professor
Rosabeth Moss Kanter	USA	1943	Bryn Mawr College and University of Michigan	Doctor in sociology	Professor, director, and consultant

(continued)

Table 1 (continued)

	Country of origin	Year birth and death	University	Degree(s)	Profession
Chris Argyris	USA	1923–2013	Clark University, Kansas University and Cornell University	Master of arts in psychology, master of science in economics and doctor in organizational behavior	Professor and consultant
Peter Senge	USA	1947	Stanford University and Massachusetts Institute of Technology	Bachelor of science in aerospace engineering, master of science in social systems modeling and doctor in management	Engineer and professor

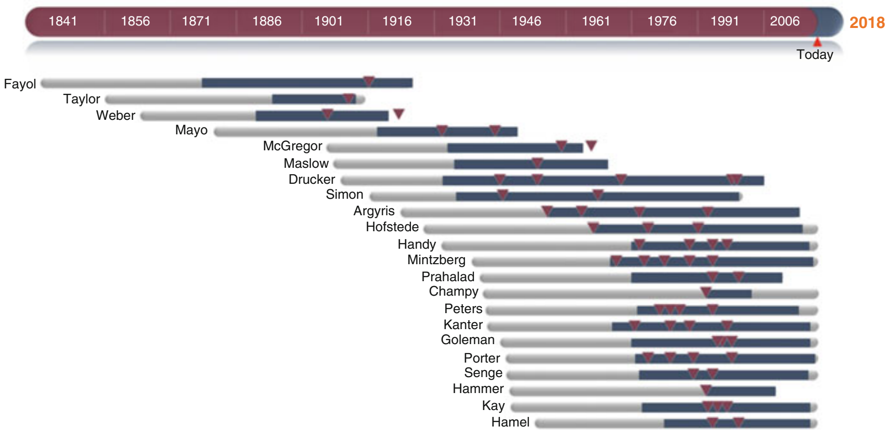

Fig. 1 Main works and most active publication periods of selected management thinkers

published 35 articles in HBR before 2000, Kanter 24, Porter 19, Prahalad 16, Hamel 15, Argyris 14, Mintzberg 12, Hammer 7, and Handy 4.

The research in *Management profeten* by Marc Buelens (2000) analyzed the contribution of the work of the selected management thinkers and their major ideas. He distinguishes six fundamental forces or viewpoints: rational, sensitive, steering, self-regulating, result searching, and stabilizing. He further analyzed the major contribution of the selected management thinkers to management theory and practice. The difficulty for comparison lies in some radically different approaches:

some authors study an industrial sector from a macroeconomic point of view (Porter), while others focus on corporations (Hamel, Kay) or on individuals (Maslow). Those different viewpoints can complement each other. Interesting approaches try to emphasize relations. Many management thinkers own their status to the shape they express their ideas: Handy to a stirred style, Mintzberg to his provocative syntheses, Porter to his sharp analyses. Many of the successful models of management have been introduced by major management thinkers. Despite critique on the simplicity of some of those models, and despite more sophisticated models with a more realistic view on the complexity of organizations, the shaper insights of a simple model prevail to reach a wider audience and to gain status (Buelens 2000).

The View on CSR

Based on this analysis of the work of the major management thinkers, a survey is the basis for analysis whether they wrote on CSR or whether they indirectly give some opinion on the underlying themes of CSR, people, environment or planet, profit. The search focused on their main ideas around CSR and related issues, on stakeholder management, and on business ethics. Selected quotes in their work or in contributions on their work were retrieved (Bardy and Rubens 2010; Carr 2003; Driver 2012; Drucker 2006; Freeman and Liedtka 1991; Goleman 1995; Hamel and Prahalad 1990; Hofstede 1990; Hoppe 2004; Kanter 1985; Kanter 1995; Kanter 2011; Liekens 2018; Mintzberg 1983; Mintzberg 1989; Mintzberg 2005; Moore 2003; Pervin 1997; Pugh and Hickson 2007; Schwartz 1998; Senge 1995; Wren et al. 2002) (see Table 2).

Discussion

The quotes in Table 2 make an attempt to survey the writings of the major management thinkers on CSR and underlying themes. An additional analysis was performed whereas the CSR approach is mentioned explicitly or implicitly (Matten and Moon 2008).

A further examination concentrated on how the management thinkers view and interpret stakeholder management (Phillips et al. 2003), their attitude regarding personnel management and empowerment, and also their standpoint on shareholder maximization.

Efficiency and Profitability

The eldest management thinkers, Taylor and Fayol, have been the first to analyze the internal working of organizations, with emphasis on efficiency of production. Efficiency is a major common concern in all the further strategic management

Table 2 The selected management gurus' view on corporate social responsibility and on ethics/business ethics

	Corporate Social Responsibility	Ethics/Business Ethics
Frederick Taylor	Equal responsibilities between employees and management No mention of the environment of the corporation	Realized that there were ethical problems around his thesis and posits that there were limits to the realization of the optimum and that the health of the employees should not be harmed.
Henri Fayol	Good relations within the company No mention of the environment of the corporation	Clear advocate of conditions, principles, and rules in the corporation.
Max Weber	Internal view No account for the environment of the corporation	Ethics arises by finding solutions to unethical activities of the corporation. Talks about ethics of conviction and ethics of responsibility.
Herbert Simon	Corporations should react upon the values of the environment and this should go beyond explicit legal considerations	Every researcher is responsible for the social consequences of his research and should inform people.
Michael Hammer and James Champy	Building unique relations with radical changes can have negative consequences for the environment	Realized that problems can arise with important changes in the firm and with unadapted application of *reengineering*. Find it important that everybody respects the others in an organization.
Henry Mintzberg	Managers implement CSR, because it is a form of natural enlightenment Large companies have to take their social responsibility seriously. Healthy companies take CSR seriously	Is opposed to the exploitation and abuse of large corporations. Finds that when companies are too dominant people can suffer.
Geert Hofstede	He noticed the upcoming of new systems with a long-term vision, less fascinated by growth and personal enrichment but more responsibility toward society Cultural integration as duty for top management	Research around five dimensions and ethics. But has no clear stance on it.
Charles Handy	Corporations are institutions for and by people. Corporations with CSR have to check whether they have negative effects from their competitors. But finds that firms have obligations toward their customers, employees, and community. CSR can diminish in hard periods	Noticed that large firms give statements of vision and values with a focus on CSR. Those companies may want to play too ethically, as the rules allow to play it hard. Admits that ethics was a side issue, that survival was the main objective..
Elton Mayo	Countries where businessmen do not only strive for economic profits but also set responsible goals will grow in a more stable and surer way	Advocate of taking decisions in group Tried to diminish the negative effects of hierarchy

(continued)

Table 2 (continued)

	Corporate Social Responsibility	Ethics/Business Ethics
	Corporations should take up their social responsibility, integration is more difficult for large companies.	People are social beings and want to be part of a team .
Douglas McGregor	Was one of the first generations that was in defense of CSR and who talked about CSR He dared to attack business leaders to question their good intentions	Defended a more democratic approach in business life Managers create a climate that reflects their conviction on their employees (theory X and Y) Managers should always be positive, have to respect everybody, and should not manipulate people
Abraham Maslow	Persons who attain self-actualization try to make the difference by contributing to the common good. Management should take up Carroll's responsibilities	Corporations should comply to the physical and safety needs of their employees They should respect their employees and follow the law
Peter Drucker	Described corporations as political and social institutions He advocated for a self-steering community where individuals and work-teams take all kinds of decisions He posits that corporations have huge social power and therefore have also to take up great responsibilities	Was against the use of *business ethics*. It stimulates the *whistle blower*, so that the power of the firm decreases. It is always politically loaded and has ethical preferences Despite that, he judged an ethical behavior against employees necessary
Michael Porter	He saw that most companies found it is obligated to support good social initiatives How to strategically implement CSR He formulated with Kramer the notion of "*creating shared value" (CSV)*. That stands for policy and ways to increase the competitive power of corporations and at the same time the economic and social circumstances in the communities where they are active CSV instead of CSR	With his value chain, diamond model and 5-forces model to look at the relations in and outside the firm The creation of shared value is for him a new opportunity, but also a new responsibility
Gary Hamel and C.K. Prahalad	Described how social responsibilities require a combination of activities, as the intense study of the powers that can determine the future of industry Environmental problems will become more important in the formulation of strategies	Communication toward *stakeholders* and ethical business behavior are important for him
John Kay	Firms who work with stakeholder groups are more democratic, more socially responsible and also more competitive than other companies CSR is a way to distinguish yourself from your competitors. Many	Good relational contracts with and between employees Commitment to the goals of the firm stimulates a common ethical behavior

(continued)

Table 2 (continued)

	Corporate Social Responsibility	Ethics/Business Ethics
	corporations use CSR in an instrumental way; a self-interested way and not from an ethical viewpoint	
Tom Peters	Managers have to take into account all people who are influenced by their decisions and actions, not only customers of their products and service Every stakeholder has to be well treated	Good and ethical relations with the employees are necessary for success. He finds business ethics has to be applied in a very general way and you have to see it as a way to add value rather than as a constraint. Focus on the employees via an ethical program that stimulates *empowerment*
Daniel Goleman	Many environmental projects of companies are easy wins to convince skeptics of your company Sustainability leaders have to check how the company can be profitable without creating fear to harm the environment or creating social inequality	Emotional intelligence leads often to ethical correct behavior, but this is not always the case
Rosabeth Moss Kanter	Social responsibility is omnipresent in her work The start-up of a firm to be socially responsible is the newest trends to obtain an honorific distinction The alignment between the company's objectives and social values is important to obtain public approval Leaders as the architects of social institutions can solve the modern changes and problems	There are several steps to fight fraud; one of them is to make an ethical code. De leading managers have to be morally and ethically coached
Chris Argyris	His objective was to diminish the injustices in the world He witnessed that some governmental institutions prefer to create social crumbling than to solve the common problems	Finds it important that top-managers have certain values, a kind of ethical *framework*. He was also an advocate of value-directed trainings for managers and other activities that stimulate the ethical participation of management
Peter Senge	The objective of the firm is to create a common Well-being in this heavily changing world. He sees firms as a helping means to force changes, but he sees possibilities for systematic changes when several companies want to learn from each other. Formulates the slogan "*act locally, think globally*"	The creation of a learning organization should always be the objective of the ethical correct leader The goal of the corporation is to create general Well-being and they should always handle ethically

approaches from Drucker to Porter, Hamel and Prahalad, Tom Peters. Hammer and Champy focused on business processes:

> "During the 1980s, top executives were judged on their ability to restructure, declutter, and delayer their corporations. In the 1990s, they'll be judged on their ability to identify, cultivate, and exploit the core competencies that make growth possible - indeed, they'll have to rethink the concept of the corporation itself." (Hamel and Prahalad 1990, p. 2)

Later, other thinkers have focused on the soft management skills as empowerment, organization learning, Argyris, Kanter, and Senge. However, despite his rational and technical approach, Taylor, already in those days, realized the importance of people:

> "The principal object of management should be to secure the maximum prosperity for the employer coupled with the maximum prosperity for each employee." (Taylor 1911, p. 9)

The shareholder maximalization of the Chicago School is not present in most management thinkers' writings. On the contrary, Kay posits:

> "No one will be buried with the epitaph 'He maximised shareholder value'." (Kay 2010, p. 79).

Only a minority of management thinkers consider shareholder maximalization as the goal of the organization. Most of them find profit a necessary condition for a business; organizations need profit to survive. Simon even questions the shareholder maximalization paradigm:

> "Whereas economic man maximizes - selects the best alternative from among all those available to him, his cousin, administrative man, satisfices - looks for a course of action that is satisfactory or good enough." (Simon 1947, p. xxix)

Social Responsibility

Mayo is the first of the selected management thinkers who explicitly mention the social responsibility of companies. The majority of the management thinkers tend toward a CSR and stakeholder approach. Power brings responsibility toward the society. Some authors mention explicitly the common good concept:

> "If the managers of our major institutions [. . .] do not take responsibility for our common good, no one else can or will." (Drucker 1974, p. 325)

CSR is omnipresent in Kanter's work. Mintzberg, Porter, and Argyris are big supporters of CSR. They see CSR as a kind of enlightenment that has to be integrated in the corporate strategy. They agree that companies have a responsibility to help to find solutions for social issues.

Other management thinkers, as Hammer and Champy, and Goleman are more skeptical or neutral toward CSR, as they stress the importance of profitability. CSR can be a disadvantage compared to competitors as companies with a CSR strategy are continuously scrutinized. And CSR has the tendency to diminish in hard times. Goleman argues that companies have to be profitable and do not have to fear to harm the environment or to create social inequality; John Kay warns against an instrumental use of CSR rather than from a genuine ethical attitude.

The CSR view of those twentieth-century management thinkers focus on the social aspect of CSR with emphasis on the employees, some on the society and surroundings, but does not yet encompass the sustainability or green aspects CSR has included in the last decades (Fassin et al. 2011).

Values and Purpose

Some of the management thinkers explicitly mention the notion of values of the corporation. Some other authors notice the necessity for employees that the company has a purpose. Decades before those notions became fashionable, Peters and Waterman have examined this value concept in their studies of excellent companies:

> "Every excellent company we studied is clear on what it stands for, and takes the process of value shaping seriously. In fact, we wonder whether it is possible to be an excellent company without clarity on values and without having the right sorts of values." (Peters and Waterman 1982, p. 280)

But other authors had previously drawn attention to extrinsic features:

> "Once employees base their motivation on extrinsic factors they are much less likely to take chances, question established policies and practices, or explore the territory that lies beyond the company vision as defined by management." (Argyris 1978, p. 236)

> "It must be possible for the individual as he works to see that his work is socially necessary; he must be able to see beyond his group to the society." (Mayo 1919, p. 37)

Change has also been studied by the management thinkers, either as reengineering the processes of a company or from a system thinking approach:

> "[. . .] it's doubly hard to see the whole pattern of change" (Senge 1990, p. 7).

> "Systems thinking is a framework for seeing interrelationships rather than things." (Senge 1990, p. 68).

Studies on change lead also to organizational learning and to empowerment:

> "Embrace change as an opportunity to learn, to improve, to make a difference in others' lives as well as in your own." (Kanter in Morris 2011)

Stakeholder Management, Personnel Management, Empowerment

Peters finds the employees have to be considered as the most important stakeholder. To realize this objective, he proposes an ethical program that stimulates empowerment. Kanter also advocates empowerment in companies. She illustrates how bureaucracies hinder talents. Peters, Senge, and Kanter are strong proponents of empowerment of employees. Taylor, Fayol, and Weber prefer clear rules and hierarchy in corporations. The other management thinkers have a less strong opinion around bureaucracy and empowerment.

> "Companies used to be able to function with autocratic bosses. We don't live in that world anymore." (Kanter in Jayaraman 2008, p. 159)

> "The essential task of management is to arrange organizational conditions and methods of operations so that people can achieve their own goals best by directing their own efforts toward organizational objectives." (McGregor 1960, p. 178)

> "Creating in all employees the awareness that their best efforts are essential and that they will share in the rewards of the company's success." (Peters and Waterman 1982, p. i)

There is no systematic approach of the stakeholder management concept as introduced by Ed Freeman (1984). While most of the management thinkers concentrate on the employees as major stakeholder, customers as stakeholders are judged as trivial and not really further studied in depth. Some authors mention the broader community, or society. But the systematic analysis of each important stakeholder group is not integrated in their writings. Many authors assert that the environment has to be taken into account. Although most see the environment as the external circle of the firm's stakeholder, including society as a whole. Porter views the environment from a strategic perspective:

> "The essence of formulating strategy is relating a company to its environment." (Porter 1980, p. 3)

A few authors already mention the environment in the meaning that the term has gained in the last decades in a more sustainability or green approach. Hammer and Champy and Hamel and Prahalad warn for the negative consequences for the environment. Goleman pleads that companies should not harm the environment.

The attention for the role of business in society and for the responsibility of corporations in relation to the environment of the corporation also indirectly encompasses the concept of business legitimacy. However, just as for CSR, this notion is not explicitly used.

Business Ethics and Corporate Governance

Hamel, Prahalad, Peters, Kanter, and Argyris are strong proponents of ethics and/or business ethics. They find ethical relations in corporations essential for success and advocate ethical codes and ethical programs. Only Peter Drucker opposes to the use of the term “business ethics” because of its political component and ethical preferences. His fear is that whistleblowing may undermine the corporation’s power. He refuses an instrumental use of “business ethics,” while he supports ethics in corporations, especially an ethical attitude toward the employees.

For some concepts, especially for corporate governance, mainly aspects around systems in decision making were found. The relation between governance and management has not been investigated in depth by most management thinkers, probably as also this concept and their study emerged at the end of the twentieth century.

Proponent or Opponents of CSR?

Most major management thinkers are proponents of CSR. In fact, most of them integrate CSR in the corporation strategy. However, not all those management thinkers explicitly talk about CSR. Most of the selected major management thinkers wrote their main works before the term of CSR had even been coined. In that case, the presence or absence of the main elements of a CSR policy in their work was examined. They did not express a clear standpoint whereas they were pro or contra, but often described the consequences of their theories. This analysis shows how most of them at least implicitly had accepted and integrated the principles of CSR.

In order to better visualize the results of this explorative study, a Likert scale was used in an endeavor to position the different management thinkers on a scale from opponent to CSR to strong proponent of CSR, and also to which extent the view on CSR is implicit or explicit in their work (Matten and Moon 2008). The three researchers quoted first independently from each other, and in a second stage a common classification was negotiated in agreement. The combined result is presented in a matrix (Table 3) on those two dimensions, with the constraint that these positions are somewhat arbitrary and reductive as based on interpretation of the researchers on the view of those thinkers expressed in their various publications.

Table 3 Positioning the major management thinkers’ view on CSR

	Explicit	Vague	Neutral	Implicit
CSR strong proponent	Drucker Kay Kanter Mintzberg Handy	Argyris McGregor		
CSR proponent	Senge Hamel & Prahalad	Mayo Peters Porter Maslow		Simon
CSR neutral		Hammer & Champy Hofstede	Fayol Goleman Weber	Taylor
CSR opponent				

Limitations

The present study has limitations: its explorative character, a possible bias in the researchers' interpretation, and the reductive aspects inherent to any succinct synthetic report of a complete oeuvre. The arbitrary selection of the 22 authors may have been somewhat biased by the personal preference of the author of the book. There might be arguments to include some other management thinker. The selection was made in 2000, one could also envisage to add more recent management thinkers. Although the advantage of the present selection with classics is that most have written their major book in the period of emergence and of early diffusion of the CSR phenomenon, some authors have evolved over the years and may have a different view on CSR than in the beginning of their career, which is not so clearly reflected by the reductive character of their single position on the continuum in the matrix.

It would also be interesting to confront their views with that of other business professors, especially those in finance and the proponents of shareholder primacy of the Chicago school (Milton Friedman). Another interesting comparison could also be with the writings of authoritative academic thinkers in business and society issues, CSR, and business ethics (Howard Bowen, Archie Carroll, Donna Wood, etc.), or stakeholder management (Ed Freeman). Yet another interesting alternative could be a confrontation to the work of the experts in quality management Deming and Juran, whose work has been implemented overall in the world.

Management education has been developing in the last decades. The influence of business schools has increased all over the world. In this evolution, some management thinkers have gained the status of superstar, or have even been called "management guru." While this is not the case for all the 22 management thinkers, most business school professors, some of them entered the conference circuit and have gained this status of management guru. The temptation was to call them management gurus, but some major management gurus, are not academic management thinkers. In fact, some influential managers of corporations have also attained that status of management guru, even if they did not write as much as academic thinkers: Henry Ford, Alfred Sloan, Thomas Watson, Jack Welsh, Bill Gates. It would be interesting to see how those managerial "gurus" thought about business ethics and CSR. Besides them there are a series of practitioners in different areas of sustainability; some of them such as Anita Roddick have also attained great popularity and visibility, and have substantial impact on business.

Conclusion

The objective of the explorative study was to discuss the view on ethics and CSR of the major management thinkers of the twentieth century. On the basis of their major works and contribution to theory and through a search for citations of their work, their view on CSR and ethics was examined.

In fact, all major management thinkers are, if not explicitly, at least implicit supporters of the practice of CSR and ethics in companies. They find ethical relations in corporations essential for success. Even if their work had been before the concept of CSR has been launched, they acknowledge the importance of social responsibility. They argue to build good relations especially with employees and acknowledge the importance of a stakeholder approach to management. This view encompasses the foundations of the concept of business legitimacy in relation to the environment of the corporation.

While some management thinkers have a clear opinion on CSR and discuss the CSR measures explicitly, other management thinkers have an implicit support that can be deducted from their writings even if the term CSR had not been coined at the time of their writings. In fact, contrarily to the academic finance thinkers, the major management thinkers who have a broader strategic approach had integrated a CSR vision in their strategy, explicitly or implicitly. Business legitimacy is an essential condition for the strategic views of management thinkers.

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Legitimacy, Institutions, and Practical Responsibility

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Joachim Delventhal

Contents

Abstract

The rationality behind corporate responsibility must evolve for business to gain and retain legitimacy and to strengthen the institutional framework of global governance. Responsibility in practice as a means toward legitimacy is becoming more important for corporate actors in line with the growth of their influence in global governance and the external expectations connected to that. At the same time that the dynamics of governance and the role of business changes, the quality of governance issues has changed. With the emergence of universal and existential issues in a context of complexity and connectedness, business legitimacy faces growing scrutiny. The potential for a universal scope of responsibility for businesses due to their global influence in the context of various governance issues and with that a wide range of addressees, means that corporate actors need to meet the growing challenges of their legitimacy. This chapter suggests that a general structure for an approach that utilizes responsibility, as a means toward sustainable legitimacy, should incorporate at a minimum the three phases of critical reflection, prioritization, and collaboration. It is important to emphasize that a responsibility in practice needs to incorporate both the social and natural

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environment, as defined by Jonas. Additionally, it must build on prospective evaluation of expected consequences of business operations, despite apparent complexity. This chapter points toward teleological ethical considerations as opposed to established moral and legal norms to guide the approach toward consequence-based responsibility in practice and thereby sustainable business legitimacy.

Keywords

Business legitimacy · Existentiality · Global governance · Practical responsibility · Universality · Corporate responsibility · CSR

Introduction

The legitimacy of corporations is increasingly threatened. The last financial crisis and repeated corporate scandals over the last decade have contributed to increasing scrutiny of corporate activity (Basu and Palazzo 2008; Heidbrink 2016). There is a widespread consensus that the legitimacy of corporations is reaching historically low levels (Sethi 2002; Rendtorff 2009; Porter and Kramer 2011). Aside from corporate actions, two major developments cause threats to the legitimacy of corporations: changes in global governance dynamics, marked by the growth of power and influence of corporations, and the changes in the characteristics of global issues. This chapter highlights these developments in global governance and outlines an approach toward responsibility in practice, enabling corporate actors to secure sustainable legitimacy as a license to operate. The approach consists of three phases: critical reflection, prioritization, and coordination.

Legitimacy (For a more detailed review of different types of legitimacy, see Suchmann (1995). He presents a comprehensive overview of various forms of legitimacy and discusses how actors can engage with their surroundings to manage legitimation processes in order to gain or retain some degree of control over their relative freedom from regulation and control.) is important for corporate actors is to secure or gain operational freedom as they seek to reduce or avoid external pressures and control that would limit or harm their organizational aims. Simultaneously, legitimacy functions as a license to operate, particularly in arenas where they participate in global governance. Corporate actors lack democratic legitimacy, leading to critical views of their role as political actors (Buhmann 2010).

The structure of the chapter is as follows: section "Business Responsibility and Legitimacy" examines how the concepts of responsibility and legitimacy relate to each other and their significance for business. Section "Challenges to the Legitimacy of Corporate Actors in Global Governance" highlights the two significant developments influencing the development of legitimacy and responsibility of corporate actors: these actors' role in global governance and changing characteristics of global issues, such as universality, existentiality, complexity, and connectedness. Section "Considerations for Corporate Responsibility in Practice" builds on the previous sections and outlines an approach toward sustainable business legitimacy by means of critical reflection, prioritization, and coordination of corporate responsibility. Finally, section "Conclusions" concludes the chapter.

Business Responsibility and Legitimacy

Before engaging with the role of corporate actors in global governance and their interactions with governments and other nongovernmental actors, this section briefly defines the conceptual link between responsibility and legitimacy and its importance. This chapter defines business the legitimacy as the license to operate of corporate actors with a particular focus on their role on global governance (compare Rendtorff 2009, 154). Such a license provides an actor with the right to exert influence in a way that is acceptable for those under its influence and interested third parties. The aim of gaining, retaining, and repairing legitimacy for corporate actors is to secure or gain operational freedom as they seek to reduce or avoid external pressures and control that would limit or harm their organizational aims. Limitations to their freedom derive from a multitude of developments in global civil society, including certification pressures, soft law, movements such as sustainable investment (Rendtorff 2009). Additionally, legitimacy deficits pose a considerable risk for corporate actors as they become vulnerable to outside criticism (Buhmann 2010; Schneider and Scherer 2015).

Heidbrink (2017) describes the interconnection of legitimacy and responsibility, providing four principle definitions of responsibility: (1) as accountability and functional competence (Zustaendigkeit), (2) as a contextual reflection principle, (3) as a structure- and steering instrument, or (4) as a consequence-based legitimation principle. The fourth definition is most relevant for illustrating the conceptual link between legitimacy and responsibility. Theories of responsibility thereby evaluate acts not in view toward, but with point of departure from expectable consequences (Heidbrink 2017, 13). The consequence-based view of responsibility highlights that responsibility arises where actors exert or have the potential to exert influence on other actors and their environment. Responsibility is a means for the achievement of legitimacy. Corporate actors need to manage concerns about their legitimacy and can do so via engagement with their responsibility, often captured in the phenomenon of corporate social responsibility (CSR) (Ougaard 2012, 25).

Challenges to the Legitimacy of Corporate Actors in Global Governance

This section analyses how changes in global governance dynamics and in the characteristics of governance issues challenge business legitimacy and notions of corporate responsibility. Changes in governance dynamics marked by growing corporate influence alter the perception of the role of corporate actors in society. Expectations from the external environment of business evolve, including from the general public, civil society organizations, and states, all of whom qualify as major stakeholders of business. The increased scrutiny and critique of the legitimacy of business is not only a result of changing dynamics and influence. The 2008 financial crisis is an example of a global issue that led to a critical perception of an entire industry, that is, the finance sector. Evaluations of the role of financial actors in causing the crisis go as far as to assigning moral blindness (Rendtorff 2014). Furthermore, repeated corporate scandals over the last decade have also contributed to increasing scrutiny of corporate activity (Basu and Palazzo 2008; Heidbrink 2016). There is widespread consensus that the legitimacy of business is reaching historically low levels (Rendtorff 2014; Porter and Kramer 2011).

Investigating the governance dynamics in which questions of legitimacy and responsibility arise requires a review of the diverse literatures on business and global governance. It is a multifaceted area of research and theoretical variation and diversity are significant (Ougaard 2012, 26). From around the end of the Cold War, a transition began taking place whereby state-centered hierarchical governance is becoming "heterarchical and contextual" (see Heidbrink 2016). In the course of this transition, private actors gain significant power and influence across governance regimes (Cutler 1999; Haufler 2001). Here power shall mean the capacity to influence others, that is, potential influence (see also Falkner 2008). Corporate actors exert their influence through forms of self-regulation, lobbying, and a variety of private business practices. At the same time, a variety of factors draws corporate actors into more active governance participation, including the privatization of the provision of public goods or hard and soft law requirements toward reporting and codes of conduct (Buhmann 2010; Ougaard 2012). Corporate actors are thus becoming involved in addressing global governance issues are, for example, the dynamics around production practices and value chains in the context of sustainability and climate change (Humphreys et al. 2017), and financial regulation aiming to secure stability in the global and national economies (Moschella and Tsingou 2013; Ougaard 2012). Various forms of certifications and standards are gaining ground such as the UN Global Compact, various ISO standards, and a variety of value chain-related certifications for better human rights and sustainability.

Business contributes to the societal and environmental conditions that form its operational context and corporate actors need to reflect on their contributions, because they depend on stability and access to various forms of resources (Barney 2001; Kivleniece and Quelin 2012). In the post-Westphalian order, there are different types of responsibilities that arise for corporate actors. There is negative responsibility, that is, the avoidance of harm. It is clear that business is a major contributor to issues like pollution, resource exploitation, human rights violations, and others. Additionally, is positive responsibility, that is, contributing to the improvement of social and environmental aspects. At the heart of their positive responsibility is the contribution to the availability of public goods and to normative processes that formerly were the sole domain of states and intergovernmental organizations. Business (and other non-state) actors participate in what Pies and Koslowski (2011) call a new process of governance, whereby business becomes an active cocreator and implementer of regulations and underlying norms. This ordo-responsibility extends beyond the scope of business operations into the systemic societal conditions under which business operates (Heidbrink 2016).

Let us now examine the other major development, namely emerging characteristics of governance issues demand investigation. These include universality, existentiality, complexity, and connectedness. Universality of responsibility is both a crucial and highly contested notion and so this section commits more attention to it than the other three characteristics. Universality is crucial for the concept of corporate responsibility, because in the presence of universal issues the responsibilities of corporations and their shareholders become shared responsibilities. As Pava and Krausz (1997) illustrated in their model of legitimate CSR, there is always a trade-off between the responsibilities of a company toward those it exerts influence on and its shareholders. While, for example, the knowledge of a problem and its potential solutions are grounds for corporate responsibility, financial performance acts as a counterweight to it. Managers often try to mitigate the conflicts of interests between the potential ethical obligations of a company and its fiduciary obligations, that is, the financial interest of their shareholders, by integrating CSR measures into their commercial strategy. (For further reading on the theoretical landscape surrounding the emergence of strategic CSR, see Brown et al. (2010).) This is problematic, because financial interests often overrule ethical concerns (Freeman 1994). Shareholders, that is, principals, share the responsibility of corporations and their narrow financial interests must not overrule their responsibility, even if their investment in a company is at arm's length and lacks any practical involvement. The mere fact that they provide resources to and exert influence on a company establishes their sharing of responsibility.

For an issue to be universal, it needs to either affect all or the majority of the world population or be affected by a majority. There are different way that issues can be universal. For example, nuclear weapons and the related threats of nuclear destruction is an issue that potentially affects the whole world's population. It has been the most prominent issue in raising questions about universal responsibility (Gerhardt 2017; ICRC 2018 (https://www.icrc.org/en/document/nuclear-weapons); UN 2019 (http://www.un.org/en/sections/issues-depth/atomic-energy/)). While the issue potentially affects everyone, only few actors have direct influence over it. The issue is universal in the scope of its potential consequences for present and future generations. Other examples are anthropogenic climate change and antimicrobial resistance (AMR), which are also universal in scope, but differ from the previous example. Both issues affect populations globally, but all actors also have direct influence on how these issues develop. Universality of issues thereby indicates the potential set of actors with a responsibility for an issue.

Universal issues also differ according to their institutional governance context and thereby also in terms of the importance of business responsibility. While nuclear and health governance regimes have clear representation in the form of international organizations, climate change lacks such a centralized and formalized governance. The International Atomic Energy Agency (IAEA) and the World Health Organization offer forums for discussion and platforms for internationally binding and non-binding agreements. Corporate actors influence both organizations directly or indirectly and both are subject to a degree of unilateral interventions from powerful states. However, despite any critique of those organizations, they do represent the will and the ability of the international community to address major issues such as nuclear proliferation and AMR as a collective. That is quite different for climate change, which depends on voluntary and unilaterally reversible commitments from state and non-state actors. It is therefore an example of the importance of business responsibility, as corporate actors contribute to pollution, resource exploitation, and other aspects of climate change, while the institutional context is comparatively underdeveloped leading to a lack of binding regulations.

Despite a consensus that issues have become universal, the universality of responsibility is controversial. Historically, arguments for universal responsibility have been inherent in various religious traditions, but there is a significant variety of arguments beyond theology, including sociological, biological, and phenomenological. (The scope of this chapter allows only a narrow selection and brief presentation of relevant authors and ideas. A suggestion for further reading on the nature and reasoning for universal of responsibility with humanity as a frame of reference is available under the following link: https://plato.stanford.edu/entries/levinas/.) While a detailed discussion of all of these arguments is beyond the scope of this chapter, it is worth highlighting some of the most influential ones. Karl Jaspers (1957), a central figure for the conceptual thinking about responsibility in the twentieth century is Karl Jaspers (Gerhardt 2017), who provided the first comprehensive work on the potential influence of nuclear weapons for the future of humanity (Jaspers 1957). Not least through Jasper's work, universality becomes a central characteristic of contemporary issues for the conceptualization of responsibility in a global context.

Even prior to the nuclear threat, Dietrich Bonhoeffer (1966) argued that responsibility for others and ourselves is a natural state of all human beings, that is, it is universal. He agrees that there needs to be a differentiation between the concrete responsibilities (Verantwortlichkeiten) of each individual actor, but for Bonhoeffer this does not change the fact that responsibility as such is inherent to everyone. The basis of his argument is that everyone is first responsible toward herself or himself, because he or she is human (Bonhoeffer 1966, 240). Thus, Bonhoeffer makes two implicit claims. First, he claims that there is a connectedness between all individuals as humans and, second, that each human being has an inherent value or dignity providing a normative fundament for any universal responsibility claims. Although Bonhoeffer's Ethik (Ethics) builds on Christian notions that might not seem easily transferable to a global governance context, Joas (2011) shows that there are a number of secular institutional manifestations of the Judeo-Christian–inspired notion of value or dignity inherent to all human beings, also central to Bonhoeffer. These include The Universal Declaration of Human Rights, the Charta of Universal Rights, and the German Constitution (Grundgesetz). Joas argues that the rights granted in these documents, which in turn have become the basis for claims of responsibility (Moon 2013), do not intend to and in fact might not be able to prevail without reference to a superior authority and what he calls the sacredness of the person. (See also Chapter 5 of *The sacredness of the Person* by Hans Joas for a historic sociological analysis of the transformation from the concept of the soul to the self as an attempt to naturalize elements of religious tradition. Joas shows that historically the justification applied for universal human rights was the gift endowed to humans in the act of creation and that without these notions no evolution of relevant values is possible. As an example, he refers the famous phrase “all men are created equal” (p. 170).)

In Das Prinzip Verantwortung (The principle of responsibility), Hans Jonas argues, similar to Karl Jaspers (1957), that humanity has developed the capacity for self-destruction in the form of nuclear weapons and how this has far-reaching consequences for ethics in general and responsibility specifically. Jonas derives a duty for all actors, that is, universal, to engage with and reflect on their responsibility, because technology (techne) enables cumulative actions, which have consequences of unprecedented severity, reaching beyond the present into an “indefinite future” (Jonas 2017, 32). Jonas further argues that technological innovations not only have potentially existential influence on humanity, but that through technology, the very nature of human beings is subject to alterations that can be both severe and irreversible (ibid.). Since the works of Jonas and Jaspers, other issues have emerged with far-reaching and extreme consequences looming. Anthropogenic climate change, antimicrobial resistance, and gene selection and manipulations to name just a few. All of the above demand a responsibility that incorporates the future, an ex ante responsibility.

Jonas argues further that all ethics before the second half of the twentieth century has been anthropocentric. Ethics focused on the social environment (the “Stadt”) of humans rather than the natural environment. Nature as such was no object of ethics, except for notions of stewardship that date back to early religious traditions (Jonas 2017, 29). He explains the exclusion of nature as an object of responsibility in the perception that human efforts to cultivate the earth and the harvest of its resources remained largely superficial and depletion of resources or irreversible destruction of natural habitats were far removed from human experience. However, the increase in techne’s potential influence called for changes to the scope of ethics and thereby responsibility. Jonas argues that nature has to be an object of responsibility, because the collective and cumulative technology-enabled actions of human beings.

Even today, normative debates about the scope of actors’ responsibility feature positions along a spectrum from cosmopolitanism to particularism (Ainley 2017; Heidbrink et al. 2017). Four authors are representative of the various positions. Peter Singer (Benatar et al. 2003) represents the most cosmopolitan position and argues for influence as the decisive criteria, that is, he sees positive responsibility based on the mere ability to help. Thomas Pogge (2008) argues for the responsibility of those with relative abundance to share of their wealth and alleviate poverty globally and to help provide access to essential goods like medicines. His work refers to systemic and historical injustice that created and maintains an unjust status quo, that is, he sees a violation of moral responsibility in the active or passive act of profiting from injustice. David Miller (1993, 2007), representing a strict particularistic perspective, sees a quasi-natural limitation of the scope of responsibility based on a need for particular connectedness in the form of a nation. Iris M. Young (2011) acknowledges, in some ways, particularistic critiques of cosmopolitan notions of responsibility. Incorporating the positions of both Pogge and Miller, Young argues that given the structural and institutional connections, we live in a state of social connectedness and thus we are under a shared global political responsibility to revise any systemic injustice and share wealth globally. Notwithstanding the entrenched controversy about potentially universal responsibility, corporate actors, particularly those with global value chains, need to consider the scope of their responsibility as universal in geographical terms, extending into a more or less indefinite future and incorporating nature.

The next emerging characteristic of governance issues is existentiality. (It is possible to differentiate between existentiality in the sense of threats to survival from *ultimacy*, that is, the fact that resources are not just scarce in an economic sense, but also finite and potentially irreversibly lost. Ultimacy applies among other things to fossil fuels and biodiversity.) The fact that there are issues, which are both universal and existential in nature, is a phenomenon that only emerged in the latter half of the twentieth century and therefore the combination of those characteristics had not been part of ethical and responsibility considerations. Further, despite the emergence of issues that have both characteristics, there has not been sufficient adjustment of either norms or regulations. We do not see global institutions that have fully incorporated the need to rethink and redesign norms and institutions, in order to meet the challenges resulting from universal and existential issues. Morality and legal institutions grow over time and out of an interplay between experiences and expectations. Moral norms predominantly follow experience and grow out of a historical context. Unfortunately, there is a temporal disconnect between the causes and effects connected to universal and existential issues, so much so that, for example, carbon emissions continue to worsen the climate for several decades into the future. Experience cannot therefore be the source of moral norms, because actors need to change their behavior and the underlying norms and institutions prior to experiencing their consequences.

Conceptually, the third characteristic of governance issues, complexity, conflicts with universality in that it either limits or at least diffuses the set of potential subjects of responsibility. In essence, greater complexity means that fewer actors have the capacity to understand the ramifications of their influence on a given issue and thereby make reasoned judgments about a preferable course of action. Complexity thus provokes questions about the limitations of an actor's scope of responsibility. With the transition to modern and postmodern societies marked by social, economic, and political complexities, responsibility receives increased attention particularly in ethics (Bayertz and Beck 2017). In the second half of the twentieth century ethics and, along with it, responsibility spread from philosophy to other academic fields (Benatar et al. 2003). Sociological system theory emerges as one of the most influential and extreme interpretations of the set and scope of responsibility, with Nilklas Luhmann as a protagonist (Heidbrink 2017). The concept of system responsibility emerged from the doubt about actors' capability to have responsibility due to increasing complexity and systemic differentiation. Luhmann even goes as far to negate the ability of actors to have responsibility in the context of complex and differentiated systems and labelled increasing references to responsibility as an act of desperation (Tomaschek and Streinzer 2014). However, despite complexity, contemporary debates on system responsibility find actors to be indispensable as subjects of responsibility, appreciating that actors are the only ones that can intervene in systems and their inherent logics (Wilhelms 2017). Section "Considerations for Corporate Responsibility in Practice" returns to the debate on the nature and role of the subject of responsibility, but attention there shifts from external systemic circumstances to the collective nature of subjectivity.

Hans Jonas (2017) points toward the complexity of consequences in collective and cumulative actions, because rather than superficial and transient consequences of certain human action have become permanent and even irreversible. With that, knowledge receives an entirely new dimension. Knowledge, even for Aristotle was a necessary condition for responsibility. Due to cumulative technological developments, however, promoted through *homo faber* becoming the essence rather than an aspect of *Homo sapiens*, knowledge of consequences needs to incorporate not just the present but an indefinite future. This necessarily means that there is immense and overly high complexity. This dilemma, in time, where technological advance is no more a means to an end but an end in itself, actors need to incorporate these dynamics into their practical engagement with their responsibility. Toward the end of section "Considerations for Corporate Responsibility in Practice," the consequences for actors' approach to responsibility receive further attention.

The fourth and final characteristic is connectedness, marked by "immensely increased global economic interconnectedness represented by private business [being a] profound characteristic of the contemporary world order" (Ougaard and Leander 2012). Economic interconnectedness, however, is only one aspect of global connectedness. First, telecommunication via a host of technological solutions, support direct communication and interaction, such as VoIP. Second, the internet has become the dominant source of information and a medium for dissemination. Third, increased physical mobility of goods and people allows physical presence globally inside of 1–2 days and at unprecedentedly low cost. Finally, connectedness also exists in terms of isomorphic processes, whereby corporation adopt similar strategic trends and technological solutions. Culturally and politically, common institutions such as International Organizations, similar technologies, products, news, and entertainment and the spread of English as a lingua franca support connectedness across the globe. Even though divides and conflicts remain between certain nations and groups, subject to variations over time, the trend toward greater connectedness is apparent. With growing connectedness, emerge material consequences for the scope and potential set of subjects of responsibility.

Connectedness has conceptual and practical implications for actors in terms of their responsibility. Actors across the globe "can use the power of the internet to fight against [. . .] disinformation and improve the long-term prospects of their children and grandchildren [. . .]. They can demand action to reduce the existential threat of nuclear war and unchecked climate change." (Mecklin 2019, 8). This means that the great majority of people can influence even the most important issues in global governance. Moreover, contrary to, for example, democratic elections, the use of social media and other internet media as outlets for information allow even relatively powerless actors to multiply their views to convince and mobilize others around the globe, without needing immense resources. Both positive and negative responsibility follow as the power of the internet allows to work toward solutions of issues, but also to target the spread of disinformation to discourage others from taking action or even to incite hatred and violence. Aside from physical mobility and certain isomorphic cultural trends, the most influential developments lie in the rapid spread of virtual connectedness.

The possibilities that lie particularly in virtual connectedness lead to an explosion of the scope of potential responsibility. Not only do most actors have the opportunity to access information from around the world in near real time at the push of a few buttons, they also have far-extended capacities to act on that information. One example is the possibility to transfer money to alleviate poverty or finance social political action by donations to NGOs or directly to recipients in remote refugee camps. Given the extreme differences in wealth, many actors, particularly resource strong corporate actors but also individuals, can share their abundant resources and have immense impact without even parting with amounts that would reduce their wealth significantly. The fact that sharing a fraction of one actor's income can save the life of another demands attention and reflection of all actors who have more than enough to survive.

Connectedness in a world of extreme wealth differences and persistent injustice means that the scope of responsibility for many actors has grown near exponentially. A longstanding critique of universal responsibility is the notion of Ueberforderung, that is, the fact that actors cannot be responsible for all the issues in the world, because that is simply too much to demand. Later in this chapter is a description of how actors can manage their responsibility under such circumstances that have overgrown their capacities and resources, circumstances that make it difficult to assign particular responsibilities to respective actors. The decisive notion, also found in Bonhoeffer (1966), is that there is no reasonable basis for requiring more of an actor, than his capacity would allow.

To sum up this section, universality and existentiality have far-reaching consequences for the legitimacy of business. The way that business can regain, retain, and repair legitimacy is through living up to their responsibility in practice. The dominant positivist rationality that marks most of CSR rhetoric and measures will not lead to the kind of consequences that support corporate actors' license to operate, that is, their legitimacy. They much rather have to engage with their responsibility, allowing responsibility to be a material component of their rationality. They need to do so under conditions of complexity and connectedness. The following section outlines an approach for corporate actors to do so, following the steps of critical reflection, prioritization, and coordination.

Considerations for Corporate Responsibility in Practice

To illustrate the necessity of critical reflection on corporate responsibility, it is useful to start this section with a corporate sustainability initiative, which illustrates how current CSR norms might fall short of responsibility in practice. The example here is an announcement by a large toy producer that they will manufacture all parts resembling plants with plant-based material (polyethylene produced from sugar cane). In an announcement, the company states that 1–2% of their production will be made of the new plant-based material. Consequently, this means that they will still produce 98–99% of their products with regular plastic sourced from fossil raw materials.

An initial reaction to this initiative is that the company deserves praise for it. They invest into what appears to be sustainability and a reduction of plastic pollution without recognizable regulatory requirements to do so. They exceed what they have to do so they deserve praise from a moral standpoint. Utilizing the initiative for marketing purposes serves their business interests, arguably also building legitimacy for the corporation. However, nearly 99% of their production remains unchanged, so the initiative has a limited impact and a near unchanged negative contribution in terms of plastic pollution. The real impact is uncertain, because the announcement of the initiative might increase sales and thereby production, which in turn might mean even less positive or even increased negative impact, depending on whether they increase sales and overall production by more or less than the 1–2% that is to be produced with the plant-based material.

Viewing the initiative and its communication through the lens of what the company's impact is, invites a reflection that emphasizes facts over framing. This form of reflection coheres with the definition of responsibility as a result-based legitimation principle (Heidbrink 2017). The intention of the reflection is not to criticize the initiative itself, because it appears to be objectively better to change some of the production to plant-based sources than to change none of it, particularly since the company further intends to use only sustainable materials by 2030. The problem lies in the framing of the announcement and its potential side effects. While the announcement is transparent, technically speaking, concerning the facts about the impact of the initiative on production, it conveys that the initiative is a major improvement in terms of sustainability. Thereby, the framing diverts attention from the factual influence of company's production, namely, that it produces massive amounts of plastic waste.

As indicated, the company's initiative appears to be good from both a moral and an empirical point of view. It goes beyond the legal requirements and contributes to more sustainability of the present levels of production and consumption. The company assumes morally positive and prospective responsibility. They take a step in the right direction. However, pollution through plastic is a universal issue and the resources used for around 99% of their production are of fossil origin. Overall, the company has only potentially reduced their negative impact rather than to actually eliminate or even reverse it. For the company to implement holistic change in the issue of plastic pollution would actually at least require them to keep all plastic materials produced by the corporation from ever leaving the cycle of use and reuse, that is, reducing plastic pollution to zero. Only at that point does the company achieve a state of responsibility in practice regarding the issue of plastic pollution and thus sustainably secured effects on their legitimacy. Therefore, their initiative is only a step in the right direction both in terms of their need to protect their legitimacy and its impact needs multiplication in order to turn apparent assumption of moral responsibility into actual responsibility in practice.

With the proliferation of the use of the term responsibility in practice and across academic disciplines follows a lack of conceptual alignment and clarity, leading to contradictory conceptualizations and implications for practice (Bukovansky et al. 2012). Aside from a clear definition of the concept of responsibility, scholars and practitioners need to make clear distinctions between responsibility and similar concepts like accountability, duty, and obligation (Beck 2015; Vetterlein 2018). It is important to know the structure of the concept in order to assume and evaluate responsibility both in research and practice.

Responsibility in practice for the sake of this chapter is not a new concept. It is rather an expression of conceptual choices for how to prioritize between the dimensions of responsibility. With a focus on their influence on other actors (addressees) and their social and natural environment, corporate actors can take a first step toward directing the reflection on their respective responsibility beyond the expectations of third parties. This is a necessity for sustainable legitimacy, because acting in accordance with current norms, such as in the case above, does not lead to sufficient evaluation of the actual influence of a business actor. As long as the judgment of third parties evaluates their actions according to a moral perspective, incremental changes to their operations can suffice for the sake of retaining and even gaining legitimacy, but once the consequences of issues such as pollution have not actually reached a state, where the broader public has felt them directly. It is not clear where the threshold for changes in normative perspectives of the public are, but eventually corporate actors will face the results of the fact that they contribute to making global issues, such as climate change and pollution worse. Unless they have fully understood their influence in good time, dependence on moral and legal criteria of today is unlikely to be sufficient to protect their legitimacy tomorrow.

Responsibility exists irrespective of morality and legality as normative frames of reference. It arises where actors exert or have the potential to exert influence on other actors and their environment, that is, exert direct or indirect influence. Beck (2015) speaks of a relationship that emerges through the influence that actors exert on each other. Responsibility exists as an expression of such relationships. Its relational nature in turn carries the important normative dimension that all actors create relationships to other actors by means of their actions and need to manage those relationships to varying degrees. Mitchell et al. (1997) present a theory that differentiates between various types of stakeholders and their potential influence on the interests of a corporation. A crucial inference from their work is that there is reciprocity in relationships and that the influence that actors exert on others leads to varying degrees of reactions and among these are actively or passively formed opinions on the legitimacy of corporate actors. With that, legitimacy of business and responsibility are intimately related and interdependent. Corporate actors need to manage concerns about their legitimacy and can do so via engagement with their responsibility, captured in the phenomenon of corporate social responsibility (CSR) (Ougaard 2012, 25).

If corporate actors want to challenge norms and externally created demands on their organization in order to gain sustainable legitimacy, a useful starting point is to identify who their addressees are and which issues they exert actual or potential influence on. Once a business actor exerts influence on another actor, either directly or indirectly, a responsibility relationship arises, because such influence always has consequences (Heidbrink 2017). Direct influence is an alteration of another actor's attitudes, values, behaviors, or physical condition. Indirect influence is an alteration of another actor's social and/or natural environment. The fact that business exerts influence on a host of other actors creates responsibility relationships. These relationships between corporate actors and those they exert influence on can be one-directional or reciprocal, but they often display considerable imbalance of power in favor of corporate actors, where power is the capability to exert influence on other actors.

Influence displays similarities to causality as a source of responsibility, but the two demand careful differentiation. While causality has been part and parcel of deciding on who potential subjects were, it has a lesser standing than other sources of responsibility such as morality, legality, and ethics. Causality is limited in its temporal orientation, primarily directed at ex post responsibility, that is, retrospective. In line with the argumentation about how systemic differentiation and complexity in modern societies complicate clear identification of causal relationships (Banzhaf 2017), causality further loses potential to serve as a source of responsibility. Influence, however, differs from causality in that it allows for more open analyses incorporating notions of potentiality, indirectness, and thereby uncertainty. As such, an actor becomes a subject of responsibility already upon identification of potential or indirect influence, which is much harder to incorporate under the notion of causality. Additionally, influence indicates a focus on current and future developments and opens up for a prospective view of responsibility. Referring to the characteristics of contemporary and emerging global governance issues, influence provides a better analytical fundament than causality as it allows for uncertainty and complexity and a prospective orientation (see also Vetterlein 2018) (Fig. 1).

The subject and addressee are two of the so-called relata of responsibility. The subject of responsibility deserves particular attention. Even though CSR is an established field of practice and research, conceptual questions about who or what can be a subject of responsibility remain. The agency of corporate and collective actors is still not fully established across all disciplines; while the CSR literature and practice implicitly accept it, debate remains in international relations literatures (Erskine 2008). This chapter follows the line of argument developed by French (1979, 1996) that emphasizes the ability of corporations to have even moral agency by means of a Corporation's Internal Decision Structure (for further contemporary developments of corporate responsibility and adjacent concepts like collective responsibility see Held (1970), Miller (2006), and Isaacs (2014)). Consequently, in

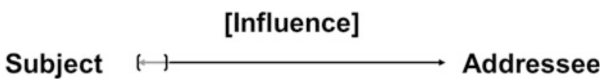


Fig. 1 Illustrates a responsibility relationship

this chapter the term actor will include both individual natural persons and corporate and organizational actors, that is, supra-personal actors with legal and moral rights and responsibilities sui generis.

The debate between various positions on the primacy of individual as opposed to some form of collective responsibility is ongoing and the scope of this chapter does not allow for a comprehensive representation. However, in refocusing on the specific role and responsibility of corporate actors, one can point out a way forward for the debate that allows corporate actors to engage with their responsibility. About the responsibility of corporate actors, Heidbrink (2016) proposes a combination of methodological individualism and methodological collectivism concerning the corporation as the scope of collectivity. He argues for a heuristics recognizing that the reality of corporations include both elements of collective intentionality and influence that one cannot reasonably reduce to any individual persons in the corporation. On the other hand, there are the actions and intentions of individuals that either shape or divert from the collective intentionality of their corporation and thus fall outside of the collective scope of responsibility.

While Heidbrink's methodological proposal allows for the conceptual work with collective responsibility within the scope of a corporation, corporate actors cannot neglect the work of Jonas prima facie. First, as shown in section "Challenges to the Legitimacy of Corporate Actors in Global Governance," there are global governance challenges that are universal, existential, complex and connected. Additionally, corporate actors qua their actual or potential influence, increasingly become involved in those issues leading to externally induced processes questioning their legitimacy. At the same time, they face capacity constraints, that is, Ueberforderung, and external limitations to act on their potential responsibilities. Under such circumstances, corporate actors need to follow an approach that consists of at least the following three steps: first, reflection, to identify the set of issues that they exert influence on and to identify the gaps in their knowledge vis-à-vis the consequences of their influence. Second, prioritization, aiming at the establishment of a hierarchy of issues that actors would like to engage with given the nature of issues and the actor's capacity and interest to work with the issue. Finally, coordination with other relevant actors, not least because of the need to have legitimacy, but also to address issues of interdependence and the fact that their capacity to solve issues is limited.

Apart from the subject, the other principal party to a responsibility relationship, next to the subject, is the addressee, or the actor(s) that a subject exerts influence on. This is similar to common notions of the stakeholder, but the conceptual scope of the addressee is broader. Some kind of economic reciprocity signifies stakeholder relationships. That is to say, corporate actors recognize and engage with those other actors that are likely to exert influence on them, that is, where there is reciprocity of influence. The problem with such a view is that it excludes a large number of actors, namely those that, for example, suffer from the effects of corporate pollution, insufficient controls of work conditions in value chains, or the consequences of climate change, all of which are issues that business contributes to and needs to reflect on in terms of its responsibility (Fig. 2).

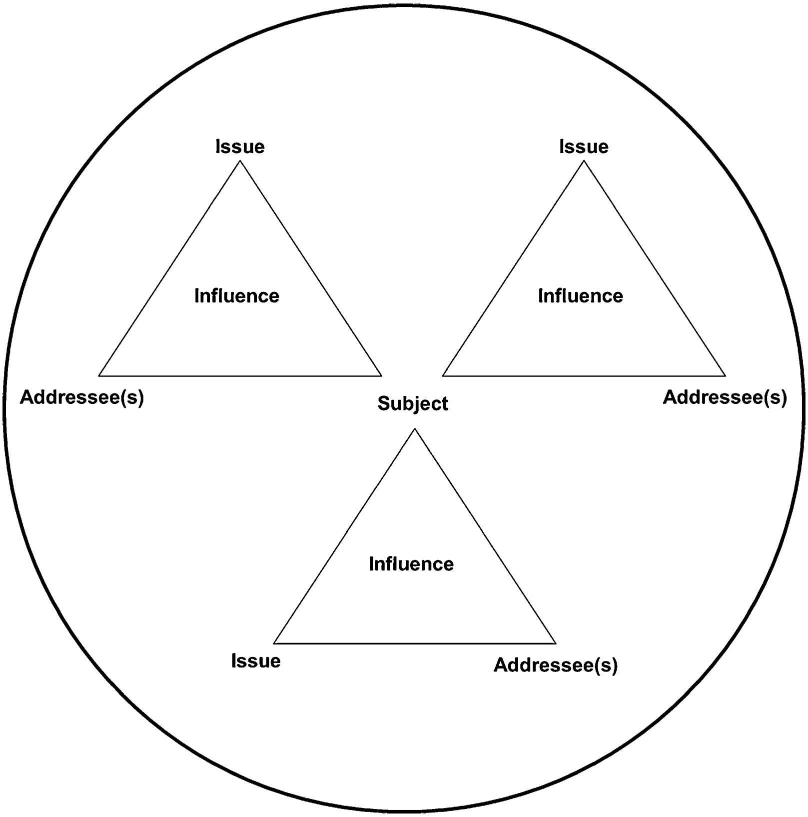


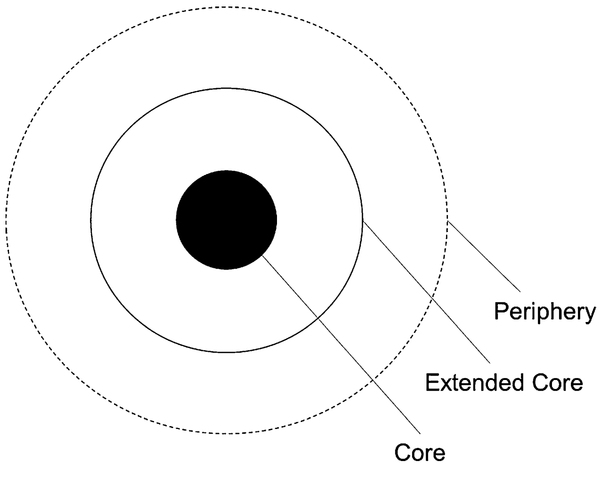
Fig. 2 Sphere of influence

To facilitate a systematic process of critical reflection on corporate actors' responsibility, this section develops the notion of the sphere of influence (SoI). The SoI provides the means to organize responsibility according to clearly definable sets of addressees connected to a respective issue. As described earlier, the subject's actual or potential influence connects it to any number of addressees related to a given issues. The subject, that is, an actor, is at the center of the SoI. A number of issue/addressee combinations surrounds it. It is possible that addressees are influenced in terms of several issues and vice versa. It is a matter of analytical perspective, whether one starts by identifying addressees and thereby concluding on the set of issues that the subject has influence on, or the other way around. Both approaches serve to establish who a subject is responsible toward (the addressee) and in terms of what (the issue or object). For example, a pharmaceutical corporation finds that it has an influence on patients who consume or need their drugs. The corporation also influences whoever finances the drugs, which maybe public institutions, insurances, or donors. Issues of access to medicines, quality, and affordability immediately arise. However, production and use of chemicals and energy also exert influence on other addressees, including the environment.

Critical reflection based on the SoI likely yields a large number of issue/addressee combinations. The mere identification of these combinations speaks to the specific structure of an actor's responsibility and indicates a set of potential responsibilities. There are however differences between the respective connection between the actor and those combinations. Therefore, one needs to differentiate between the modes of influence that the actor exerts on them. Influence can be direct or indirect, potential or actual. Additionally, an actor can exert it exclusively itself or through some form of intermediary. Figure 3 differentiates between three levels of influence, described as the core, extended core, and the periphery of the SoI. The core captures all those instances, where the actor exerts influence itself. The extended core includes instances where an actor exerts influence through an intermediary, but does so deliberately and with a relatively high degree of control. The periphery includes those instances, where an actor exerts influence, but does so in ways that it is either unaware of or has very limited control over.

Once a business actor has reflected on its sphere of influence and thereby established the scope of its potential responsibility, the second step is to prioritize issues and addressees. There is however, no norm system inherent in the concept of responsibility. In order for a concept of responsibility to be relevant for the practice of corporate actors in a global governance context, it needs to provide orientation regarding the desired outcomes of corporate involvement in governance. Engaging with concrete normative frameworks and their applicability in this context is beyond the scope of this chapter. However, from the perspective of teleological ethics, concrete moral or legal norms are not necessary for providing ethical orientation. Rather actors can refer to supra moral goods that they should attempt to achieve, that is, positive responsibility, and evils that they should try to avoid, that is, negative responsibilities (Steigleder 2017). Examples of such goods are life, dignity and

Fig. 3 Levels of influence



sustainability reaching into an indefinite future that surpasses the physical existence of any contemporary actor (Joas 2011; Jonas 2017).

Responsibility in practice, independent of the applicable norm system needs to have guiding principles that actors can apply across issues to achieve orientation, allow for prioritization of issues and to evaluate the expected influence that they exert in the present and future. With humanity and the environment, that is, the space and resources that sustain and provide for life, as the overall addressees of practical responsibility, human life is the first element that all positive and negative responsibility needs to incorporate. Life in and of itself does not incorporate notions of quality; dignity shall capture both the value, rights, and the environmental conditions necessary for a desirable quality of life. Finally, in order to incorporate the prospective nature of responsibility and the permanence of human influence across generations, potentially leading to existential threats, sustainability needs to be included as well. Therefore, this chapter suggests a baseline for responsibility is sustainable dignified life (SDL).

Aside from the ethical structuring of priorities, it is important to acknowledge the fact that prioritizing of responsibilities requires deselection of issues, because in the presence of universal issues and a global scope of responsibility, corporate actors are confronted with a set of issues that surpasses their capacity. This is commonly referred to as the problem of Ueberforderung, that is, accepting universal responsibility means that actors face more issues than they could possibly address. Also, some form of negotiation between corporate interests and external and ethical demands takes place. Pava and Krausz (1997) argue that “in those cases where the firm possesses knowledge about a specific problem and its solution, is directly responsible for causing harm, where a shared consensus among all relevant stakeholders exists, and financial performance will be enhanced, social responsibility projects are ideal (p. 338).” That is to say, they are ideal for managers, because it is very easy to handle both internal and external “stakeholders” in such a situation. In reality priorities are contested and business interests are naturally dominant, but as argued in this chapter, universality and existentiality of issues change the nature of responsibility for business and sustainable legitimacy demands an effective responsibility in practice. That means responsibility is insufficient as a means toward sustainable legitimacy unless business influence leads to consequences akin to the notion of SDL, while also avoiding negative consequences.

Therefore, the final phase of engaging with responsibility in practice for sustainable business legitimacy is coordination with other actors. This is an established element of legitimation processes and there is ample research on the importance of transparency and inclusiveness that includes the expectations and interests of all relevant stakeholders (Buhmann 2010). Following the argumentation in this chapter, the influence on addressees that are not within the scope of the common notion of stakeholders should also receive attention. Moreover, while corporate actors are free to choose priorities in terms of their responsibility, they are not free from the expectations of external actors and neither are they free from responsibility for issues that they do not choose to prioritize. In that, business and governments are increasingly in a similar position in needing to find ways to engage with other actors to ensure addressing issues within their sphere of influence. Means of coordination are partnerships, participation in regulatory processes, establishment of institutions geared toward certain issues, and financial contributions to the work of civil society or public engagements.

Conclusions

There is ample space for business to gain and retain legitimacy and to strengthen the institutional framework of global governance. Responsibility in practice as a means toward legitimacy is becoming more important for corporate actors in line with the growth of their influence in global governance and the external expectations connected to that. While the dynamics of governance and the role of business changes, the quality of governance issues has also changed. With the emergence of universal and existential issues in a context of complexity and connectedness, business legitimacy faces growing scrutiny. The potential for a universal scope of responsibility for businesses due to their global influence in the context of various governance issues and with that a wide range of addressees, means that corporate actors need to meet the growing challenges of their legitimacy. This chapter introduced an approach that utilizes responsibility as a means towards sustainable legitimacy, which incorporates the three phases of critical reflection, prioritization, and collaboration. It is important to emphasize that a responsibility in practice needs to incorporate both the social and natural environment, as defined by Jonas (2017). Additionally, it must build on prospective evaluation of expected consequences of business operations, despite apparent complexity. This chapter points toward teleological ethical considerations as opposed to established moral and legal norms to guide the approach toward consequence-based responsibility in practice and thereby sustainable business legitimacy.

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Corporate Social Responsibility (CSR) as Social Legitimacy Management

47

Siri Granum Carson

Contents

Abstract

This chapter defines corporate social responsibility (CSR) as the managing of social legitimacy, with basis in a normative social contract theory of the relationship between business and society. The chapter is a conceptual exploration of the relationship between corporate social responsibility and legitimacy, and argues (1) that the broad conception of the social role of corporations has changed as a consequence – or as part – of the emergence of a global, free market and (2) that this political and economic development may be conceptualized in terms of a redistribution of responsibility. However, this redistribution need not be understood as a development towards increasing political legitimacy for corporations, which would entail a fundamental challenge to democratic ideals. Rather, it makes sense to view it in light of an ethics of responsibility whereby, e.g., ecological problems must be addressed in terms of collective responsibility and collective agency.

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Organizational legitimacy · Social contract theory · Stakeholder theory · Political CSR · Ethics of responsibility

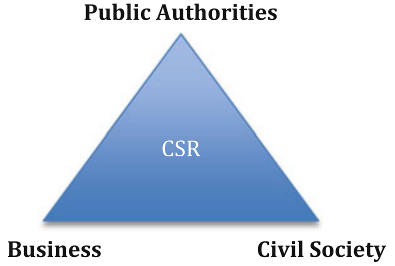
Introduction

Corporate social responsibility (CSR) is a concept suggesting that private companies have certain obligations towards society. Private companies do not exist in a vacuum – they are always an integrated part of a society. The relationship between companies and society is – or should be – one of mutual advantage: A company needs workers, customers, and access to raw material; it needs governmental support, for example, in the form of infrastructure and market regulation; and in general, it needs goodwill from its surroundings. In return, it provides employment, products, and services and may contribute to the general growth and prosperity of the society. The relationship can be illustrated in the form of a triangle, where business constitutes one of the corners, public authorities constitutes the second, and the third is constituted by civil society (cf. Carson and Skauge 2019, p. 167) The relationship between these three corners is one of negotiation and constant renegotiation, and changes over time. Thus, one could claim that the social responsibility of business at any given point in time is to answer to the legitimate demands or expectations from the other two corners of the triangle (Fig. 1).

While the relation between business and society has always been multifaceted and complex, the transition to a global, free market has made the relation even more complex by changing the basic condition for private companies. Companies today frequently operate within multiple legal and regulatory frameworks. In this situation, the nation states lose some of their authority and control, and corporations are expected to compensate for this regulatory gap by implementing self-regulation (cf. Vogel 2010; Matten and Crane 2005; Scherer and Palazzo 2011). This entails an expanded operating space and new opportunities for business but at the same time it constitutes a threat against the social legitimacy of the companies:

> *[O]rganizations as actors in the transnational realm face an increasing 'legitimacy gap'. They make decisions whose consequences transcend any particular time or place – and thereby the regulatory apparatus of the state.* (Beck and Holzer 2007, p. 4)

Fig. 1 The triangle of CSR



Some corporations seek to reestablish social legitimacy through various forms of institutionalization of CSR, e.g., sustainability reporting, stakeholder dialogues, or partnerships with nongovernmental and/or governmental organizations.

In line with a previous article (Carson 2019), the concept CSR is here understood in terms of a social contract theory, proposing that the responsibility of a corporation is the outcome of a negotiation – and constant renegotiation – between business and society. CSR thus consists in obligations emerging from the social contract between corporations and society in a given context at a given point in time. This normative social contract theory specifies the foundation of corporate obligations towards society. It is further explicated in terms of a corporate legitimacy theory, according to which social legitimacy is a measure of the how organizations successfully respond to the expectations from their surroundings. CSR thus consists in policies, actions, or other measures implemented by business organizations with the objective to gain, maintain, or regain social legitimacy.

This definition is normative to the extent that CSR is something corporations *have* as a result of a social contract and descriptive to the extent that CSR is something corporations *do* in response to expectations from society. Thus, a corporation may perform a number of actions, or implement a number of policies, designated "CSR," but still fail achieve the sought-for social legitimacy, if it is unable or unwilling to fulfil the obligations it *has* according to the social contract (cf. Carson 2019).

This chapter is organized as follows: In the section "The Social Contract Theory of the Corporation," this account of CSR as managing of social legitimacy is put in connection to the social contract theory of the corporation. In "CSR as the Managing of Social Legitimacy," the idea of CSR as managing of social legitimacy is specified on the basis of organizational legitimacy theory. In "Corporate Legitimacy Challenges: Social Versus Political," the idea of CSR as social legitimacy management is contrasted with a concept of political CSR understood as indicating the increasing political legitimacy of corporations. Section "Corporate Ethics of Responsibility" launches an alternative perspective of the increasing responsibility of corporations based on the ethics of responsibility, and section "Concluding Remarks" contains a synthesis of the main arguments of the chapter.

The Social Contract Theory of the Corporation

Business ethics theories based on the idea of a social contract go back at least to the early 1980s. Thomas Donaldson's *Corporations and Morality* (1982) was primarily based on the philosophical ideas of John Locke. Donaldson proposes the existence of an implicit social contract between business and society, that, if specified, would consist in certain indirect obligations that business organizations have towards society. Together with Thomas Dunfee, Donaldson later developed his idea further into the so-called "Integrative Social Contract Theory" (ISCT) (Donaldson and Dunfee 1994, 1999). According to ISCT, two kinds of contracts are relevant to consider as the basis of business ethics: firstly, a normative and hypothetical, "macro" social contract appealing to all economic participants and secondly, the real, "micro" social contracts existing between members of actual economic communities. The macrosocial contract provides some fundamental rules called "hypernorms," which take precedence over other contracts, and "are discernible in a convergence of religious, political and philosophical thought" (Donaldson and Dunfee 2000, p. 441). The microsocial contracts consist in explicit or implicit agreements that are binding within a specific community, whether an industry, a company, or an economic system. These contracts generate "authentic norms" based on the attitudes and behaviors of the members of the specific, norm-generating community. In order for these to be legitimate, they must be compatible with the hypernorms.

A motivation behind ISCT is to come up with a theory that overcomes the limitations of traditional business ethics theories, be they deontological or teleological, in the sense that these are too broad, too general, and too badly adapted to the specific traits of business as opposed to other areas of life. According to Donaldson and Dunfee (1994), business is different from other key social institutions (such as family or the village) in the sense that it has an "artificial" character, meaning that it is created for a specific purpose rather than something that arises "naturally." This implies that the rules and structure of business are arbitrary and may vary dramatically between different cultures, different industries, and different companies. By integrating two different kinds of contracts, ISCT aims for a theoretical basis allowing for "conditional" or "situational" morality – in other words, legitimate differences between various business communities and historical periods – while at the same time recognizing certain universal moral norms. In this way, the theory can account for the changing expectations when it comes to the social responsibilities of business but without compromising or relativizing basic moral principles such as "Don't lie" and "Be fair":

> *[A]s social contracts change, so too do the challenges for business. The ethical 'game' of business today is played by different rules and harbours different penalties and benefits than it did decades ago. Broad shifts of moral consensus have occurred. In subtle, far-reaching shifts, managers and members of the general public have gradually redefined their view of the underlying responsibilities of large corporations. Half a century ago, companies were basically expected to focus on producing goods and services at reasonable prices; today, corporations are held responsible for a variety of issues involving fairness and quality of life.* (Donaldson and Dunfee 2002, p. 1855)

ISCT sets out to integrate empirically based descriptions and explanations of ethical behavior in business – the "is" – with normative discussions about how business should be – the "ought." This creates an opportunity to explicate the (often implicit) ethical values of business and thereby to expose the unarticulated assumptions underlying the social expectations in different business contexts. While one might argue, against the quote above, that corporations have always had responsibilities with regards to fairness and quality of life (as part of the "hypernorms"), Donaldson and Dunfee's point is that the "authentic norms" change in line with shifts in economic and political power and this affects our social expectations. In the context of this article, ISCT provides the normative basis for the claim that the changes in expectations imply real changes in the social responsibility of corporations – to paraphrase Donaldson and Dunfee: As social contracts change, so too do the responsibilities of business.

CSR as the Managing of Social Legitimacy

The basic claim of this chapter is that CSR is a way by which corporations manage their social legitimacy. Legitimacy is fundamentally speaking a quality by which something or someone is accepted as right or proper in a certain manner and context. The term *social* legitimacy is here understood in accordance with Mark C. Suchman definition of organizational legitimacy as:

> *a generalized perception or assumption that organizational activities are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions.* (Suchman 1995, p. 577)

CSR may, from Suchman's approach, be considered as a "strategic approach to legitimacy." In contrast with this definition of social legitimacy, the term *political legitimacy* is generally understood as referring to the right and/or acceptance of a certain political authority, sanctioning, for example, a privileged right to use force. In *Stanford's Encyclopedia of Philosophy*, political legitimacy is defined as "a virtue of political institutions and of the decisions—about laws, policies, and candidates for political office—made within them" (Peter 2017), referring to a.o. Max Webers' theory about what makes a particular political regime legitimate.

Social legitimacy, on the other hand, is defined in line with organizational legitimacy theory, which is related to "new institutionalism" whereby organizational change comes as a result of the chase for social legitimacy (Powell and DiMaggio 2012). The concept of organizational legitimacy is by Dowling and Pfeffer (1975, p. 122) defined as:

> *a condition or status which exists when an entity's value system is congruent with the value system of the larger social system of which the entity is a part.*

According to legitimacy theory, organizations depend on legitimacy as a resource for their survival. Organizations therefore continually seek to align their operation to the bounds and norms of their respective societies. For example, if a company adopts a voluntary environmental reporting system, it typically does so because such an activity is expected by the community within which it operates (Deegan et al. 2002).

Legitimacy theory poses that organizations are accepted as part of a society based on an implied or perceived agreement that they overall make up a positive contribution to that society. In this sense, legitimacy theory relies on the idea of an expressed or implied "social contract" between a company and the society in which it operates, cf. Shocker and Sethi 1973, p. 67:

Any social institution – and business is no exception – operates in society via a social contract, expressed or implied, whereby its survival and growth are based on: (1) the delivery of some socially desirable ends to society in general; and (2) the distribution of economic, social or political benefits to groups from which it derives its power.

Matten and Moon claim that legitimacy is of vital importance since "organizational practices change and become institutionalized because they are considered legitimate" (Matten and Moon 2008, p. 411). They build on legitimacy theory and new institutionalism with their distinction between implicit and explicit CSR, separating between CSR in the form of explicitly formulated, corporate policies, and CSR in the form of implicitly assumed, collective values and norms. Adopting explicit CSR, i.e., becoming more expressive regarding social and environmental values, is a strategic move by which an organization can gain legitimacy.

Against this background, Matten and Moon explain the development from implicit to explicit CSR in the UK: "[C]oncerns about business's own legitimacy pushed corporations toward explicit CSR" (ibid., p. 415). They argue that the European companies, although they have traditionally kept a lower profile on the topic of CSR than American ones, cannot in general be seen to have acted in a less socially responsible manner. However, American companies have typically adopted explicit CSR, in other words company-specific and explicitly formulated policies regarding social and environmental responsibility. European companies, on the other hand, have traditionally rather implicitly assumed certain collective values and norms. These past couple of decades, explicit CSR is increasingly adopted by European companies, as a response to globalization processes and other changes of market and production conditions. Companies turn to explicit CSR in order to maintain or regain legitimacy, e.g., in situations where business operations are relocated from vulnerable local communities to low-cost regions abroad (cf. Carson et al. 2015).

Corporate Legitimacy Challenges: Social Versus Political

Is it reasonable to view corporations as legitimate political actors in society, in the sense that they should take part in the political decision-making processes of the society they are part of? Corporate managers are not democratically elected and have traditionally been seen to represent only the private interests of the owners of the corporation. Could it, however, be argued that, in light of the wide-reaching political and economic changes discussed above, corporations increase their political power and, *eo ipso*, their political responsibility? The basic claim of Swiss business ethicists Andreas Scherer and Guido Palazzo's approach to corporate social responsibility is that transnational corporations have become global political actors with significant economic and political power. Scherer and Palazzo define globalization as

the process of intensification of cross-area and cross-border social relations between actors from very distant locations, and of growing transnational interdependence of economic and social activities. Globalization processes can be viewed as ideological transitions, where

> *stakeholders and national legislation as well as international norms and initiatives creates new expectations towards business*. (Scherer and Palazzo 2008, p. 416)

Scherer and Palazzo's point of departure is the actual increasing political influence of corporations in a globalized economy. On this (descriptive) basis, they argue (normatively) that corporations *should* take on more extensive political responsibilities, specifically in the meeting with grand societal challenges such as the ecological crisis. In order to describe this new situation, they adopt the term "political CSR," suggesting:

> *an extended model of governance with business firms contributing to global regulation and providing public goods.* (Scherer and Palazzo 2011, p. 901)

Scherer and Palazzo suggest that the strict division of labor suggested by classic political theory does not hold any more under the condition of globalization, and in the face of grand challenges such as climate change (ibid. p. 899). To clarify how the concept of political CSR departs from other theories about the social responsibilities of corporations, they contrast it with stakeholder theory. They argue that, while both of these approaches imply that corporations have commitments towards society, the scope of these commitments differs significantly. Stakeholder theory specifies that the responsibilities of companies extend to anyone who can affect or are affected by the results of corporate activity (cf. Freeman 1984). Political CSR, on the other hand, argues that corporations have a general commitment beyond this, a commitment to promote social good. These extended commitments arise from the global nature of the challenges facing humanity:

> *In contrast to stakeholder management which deals with the idea of internalizing the demands, values, and interests of those actors that affect or are affected by corporate decision making, we argue that political CSR can be understood as a movement of the corporation into the political sphere in order to respond to environmental and social challenges such as human rights, global warming, or deforestation.* (Scherer and Palazzo 2011, p. 910)

Stakeholder theory is a diverse term, and given the broader conceptions one could argue that there is no practical difference between political CSR and stakeholder theory, as important decisions made by large corporations might directly or indirectly affect more or less the entire global society. The justification is different, however – while normative stakeholder theory (cf. Donaldson and Preston 1995) founds the moral commitments so to speak in the one-to-one relationship between a company and its stakeholders, political CSR poses a general corporate duty to promote common good, a duty based in the extensive political power of corporations.

Scherer and Palazzo's version of political CSR is based on a realization of the global challenges we face and on the argument that corporations must lead on in the meeting with these challenges simply because they are in the best position to do so – a kind of reversed Kantian argument where "can implies ought." They address how the growing engagement of business firms in public policy gives rise to a democratic deficit of (cf. e.g. Scherer and Palazzo 2011, p. 907) but claim that a new and more significant political role for corporations is nevertheless both unavoidable and desirable:

> *[I]n order to respond to the globalization phenomenon and the emerging post-national constellation, it is necessary to acknowledge a new political role of business that goes beyond mere compliance with legal standards and conformity with moral rules.* (ibid, 906)

While sympathizing with the pragmatic considerations concerning power and urgency, I argue that the ascription of increased political responsibility inevitably points in the direction of a strengthening of political rights (cf. Carson 2016). In line with the distinction between political and social legitimacy in the section above, I propose that the *social legitimacy* challenges that corporations face as a result of power and urgency shifts should not be confused with a demand for increased *political legitimacy* in the sense of accepting increasing political authority for corporations. While acknowledging a growing political influence for corporations, it is important to delineate legitimate versus illegitimate uses of this increased influence. Presumably, it is in the best interest of many corporations that such a line is drawn. In Carson 2015, I quote the following statement by a former vice president for international exploration and production in the (partly state-owned) Norwegian petroleum company Statoil (now Equinor): “The most important contribution in the countries where we operate is the value creation for which our investments lay the basis [. . .] I believe that doing business with the aim of changing the system of government in the countries where we operate falls beyond the scope of what a company legitimately can do.” (cf. Carson 2015. The quote is from 2005, by Peter Mellbye)). Arguable, modern political theory could gain from developing further ideas concerning how to promote socially responsible corporations within the limits of legitimate models of democracy and political authority.

Corporate Ethics of Responsibility

Above, it was argued that the concept of political CSR in Palazzo and Scherer’s version entails an implicit challenge to basic democratic ideals. At the same time, the increased political influence of corporations, as well as the global nature and urgency of some grand challenges such as climate change, should be acknowledged. In *Das Prinzip Verantwortung* (1979), Hans Jonas argues that we need a brand new ethics in the face of technological development and ecological crisis. The reason is that “old” ethical theories implicitly presume that the basic condition of humanity is constant, while the ecological crises of our time reveal that this is not the case. For the first time, humanity stands in danger of eradicating itself. Jonas addresses the issue by posing the ethical question: “What should be done?” He argues that while traditional ethical theory has addressed this question as one to be answered by individual subjects; this is no longer an option. The complexity of the ecological crises of today requires that many forms of expertise are brought together and thus implies a collective responsibility to act.

Jonas' theory is a form of technology ethics where the individual agent or the individual act is no longer in the center. Instead, collective agents, their collective acts, and the cumulative effects of these are the main addressees of moral obligation. This could represent another way towards establishing a normative reason for the increasing responsibility of corporations, seen as collective agents, for the grand societal challenges we traditionally have viewed as political responsibilities. Like Palazzo and Scherer, the argument entails a reverse Kantian "Du sollst, denn du kannst." But, as opposed to the theory of political CSR, this is a theory of moral responsibility and may as such offer the advantage of avoiding issues of political legitimacy.

Jonas' theory brings responsibility into the center of ethics, as an alternative to traditional basic concepts of ethics such as duty or utility. One advantage is that the concept of responsibility is more general in the sense that it does not presuppose a corresponding right or utility for anyone specific. However, the theory has been criticized for proposing an untenable moral imperative of "saving mankind at any price" (cf. Apel 1997). It may be argued that such an imperative in principle opens up for versions of "social Darwinism" where, for example, parts of humanity are sacrificed in order to save others. (While this is clearly not Jonas' intention, Apel's point is that a tenable ethical theory should in principle exclude such solutions, cs. Apel 1997. Apel argues, vs. Jonas, that we need an (implicit, regulative) idea of (technological and social) progress to save not only the *existence* but also the *dignity* of humanity.)

Concluding Remarks

In this chapter, the relationship between corporate social responsibility and legitimacy has been explored. Based on a social contract theory of the relationship between companies and society, CSR has been described as the managing of social legitimacy challenges. I have suggested a careful distinguishing of social versus political legitimacy in order to avoid misconceptions of the political role of corporations.

Arguments that corporations must take on increasing social responsibilities aim to avoid not only a "legitimacy gap" but also an "ethical vacuum." Hans Jonas' ethics of responsibility argues that collective agency and collective moral responsibility gain increasing importance in the meeting with complex, global challenges such as ecological crises. In this chapter, I have discussed how the idea of corporate social responsibility can and should be adapted to these changes.

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Transcending the Instrumental Logic of Social Responsibility: A Corporate Reputation Perspective

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Abosede Ijabadeniyi

Contents

Abstract

The urgency of the uptake of ethical business practices has popularized legitimacy-based research in the organizational studies and marketing fields. The limitations of compliance-based legitimation approaches have equally been reiterated in theory and practice. This chapter therefore offers a cognitively dominated corporate reputation approach to business ethics and legitimacy, which deepens understanding of firms' intrinsic morality beyond the instrumental logic of corporate social responsibility (CSR) practices. This chapter offers a synthesis of the stakeholder-contingent application of CSR and corporate reputation in the corporate marketing literature with the institutional-strategic understanding of legitimation in organizational studies. The chapter critically assesses how cognitively situated appraisal of corporate behavior can transcend compliance-based reputational outcomes. A framework is thereafter offered, which can serve

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as a guide for assessing the thresholds of stakeholder animosity toward organizational behavior. An overview of insights generated from the applied framework is thereafter presented, in the context of a company listed on the Financial Times Stock Exchange (FTSE)/Johannesburg Stock Exchange (JSE) responsible investment index. It is further explicated in the chapter how the appraisal of corporate behavior through the legal CSR lenses can erode strategic legitimation approaches. While espoused philanthropic practices can enhance perceptions of financial stability, perceived incompatibility of such practices with prevailing CSR standards can signal strategic attempts at cosmetically building reputation. The chapter concludes with an overview of the limitations of the instrumental logic of social responsibility and positions stakeholder perceptions of firms' intrinsic morality at the forefront of sustainable and legitimate business practices.

Keywords

Corporate social responsibility · Corporate reputation · Business ethics · Legitimacy · Social license to operate

Introduction

The legitimation of corporate social responsibility (CSR) practices has historically been controversial. Controversies often emanate from the implementation of and motivation for CSR (Okoye 2009), which are highly contingent on sociopolitical frameworks (Dartey-Baah and Amponsah-Tawiah 2011) and stakeholder pressures (Famiyeh et al. 2019). CSR's application is faced with situated complexities, especially in emerging economies for which CSR is still aspirational (Ramlall 2012). Complexities often emanate from coerced legislative requirements, which ironically encourage socially irresponsible behavior (Ndhlovu 2011). Stakeholder pressure is however mounting on socially irresponsible organizations, which often undermine the ability to acquire and/or maintain the social license to operate (Famiyeh et al. 2019). Ad hoc response to such pressures hampers the ethical positioning of CSR (Ijabadeniyi and Govender 2019), which is not often accounted for in third-party reputational outcomes and/or integrated reporting.

The practice of integrated reporting has equally been described as a symbolic attempt at acquiring organizational legitimacy (Haji and Anifowose 2016). Reliance on such symbolic compliance to legislative CSR requirements can hamper the sensemaking of legitimacy and the social license to operate (Elkington 2018). The ability to balance altruistic and profit-motivated CSR practices often poses a challenge to its legitimation (ibid.). It is on this account that this study draws on Parson's (1964) notion of organizational legitimacy which foregrounds the evaluation of legitimacy on the consistency of organizational values with those of the society. Parson's account of legitimation reveals the value of a stakeholder-contingent lens for assessing the threshold of such consistency. The consistency of organizational values with societal values in the context of this study constitutes the evaluative power of stakeholder expectations of CSR on reputational outcomes. As such, ethical organizational practices suggest legitimate cultural alignments and normative support (Scott 1995). This study signals the efficacy of stakeholder-contingent resources (Ferrell et al. 2010) to understand the nature and managerial implications of ethical organizational practices which transcend marketing gimmicks (Balmer et al. 2007).

This chapter explains how a cognitively oriented approach to stakeholder evaluation of organizational governance will not only be valuable for understanding prevailing notions of moral consciousness but also offer self-reflective approaches for balancing profitability goals with sustainable development. Following Smith et al. (2010), perceptions of CSR can be subject to a halo effect in which consumers are primed to subliminally gauge overall performance based on strategically communicated CSR activities and green marketing. To address such halo effect, this study offers an approach which helps to interrogate the efficacy of CSR's actual practices vis-à-vis consumers' expectations, in terms of its ability to stretch beyond the limits of mere adherence to national and/or global legislation on ethical corporate behavior. Based on this backdrop, this chapter concludes by explicating how a stakeholder-contingent approach to CSR and corporate reputation can transcend conventional market-based and third-party metrics for appraising business ethics and legitimacy.

Navigating CSR's Instrumental Logic

The relationship between corporate reputation, CSR, and legitimacy is highly contested. CSR communication strategies targeted at gaining reputational benefits (Pomering and Johnson 2009) have been reported as capable of diminishing the efficacy of a dialogical approach to legitimacy (Cornelissen 2014). The adoption of a stakeholder-contingent approach to the evaluation of corporate reputation therefore has implications for legitimacy since reputation is interconnected with corporate culture, strategy, communication, and brand experience (Abratt and Kleyn 2012).

CSR is the responsibility an organization has toward the society, as a result of its impacts on and activities in the society (King Committee on Corporate Governance 2009). The tenets of social responsibility require firms to be transparent and exhibit ethical behavior in accordance with the law and international standards in contributing to sustainable development and dealing with stakeholder legitimate interests and expectations. This notion is supported by Balmer (2013) who argues that CSR corporate strategy should foster ongoing and mutual positive stakeholder relationships. The UN Global Compact (2014) advances that the essence of CSR is to relationally create value to the stakeholder of the business, in a way which extends beyond legal compliance. Dartey-Baah and Amponsah-Tawiah (2011) also argue that CSR refers to organizational relationships with the society, cultivated with the aim of maintaining a balance between economic, environmental, and social responsibilities.

Nevertheless, the adoption of a nonobligatory approach to CSR is long overdue. While a predominantly strategic approach to CSR has gained widespread popularity both in theory and practice, its prevailing understanding is largely instrumental as it is often approached as a predictive variable (Aguinis and Glavas 2012). The capacity to adopt a nonobligatory approach to CSR is however faced with situated factors, given the diversity in historical and institutional frameworks and taken-for-granted CSR understanding (Hildebrand et al. 2010). In response to this diversity, a holistic and societal CSR focus has been advocated in the strategic marketing and management fields (Balmer 2013). Prevailing efforts have been devoted to investigating the instrumental capacity of CSR to enhance corporate reputation, with particular emphasis on the moderating role of demographics on customer awareness and perceptions of socially responsible corporate behavior (He and Lai 2014). A skewed focus on the instrumentality of CSR to foster affinity is however short-lived (Tilling 2004), not only because CSR communication is more effective when CSR claims are perceived as altruistic (Schmeltz 2012) but also for its deleterious effects on stakeholder trust (Balmer 2013) advocacy and legitimacy (Ijabadeniyi 2018).

Conversely, corporate reputation has been described as the degree to which stakeholder cognitive association of a firm can intrinsically predict the former's affinity and behavior (van Riel and Fombrun 2007). The concept comprises two major dimensions of corporate social performance (CSP): evaluation of firms' economic performance and socially responsible behavior, based on stakeholders' perceptual manifestation of past performance and future projections (Gotsi and Wilson 2001). Corporate reputation can uphold desired positioning as it is dynamic and enduring (Dowling 2008).

The evaluation of an organization's reputation goes through some psychological processes underpinned by cues acquired from personal experiences, reference groups, and the media (van Riel and Fombrun 2007). The corporate reputation literature has recorded notable controversies over its relationship with organizational performance. For example, Inglis et al. (2006) found no significant relationship between the concepts, which is inconsistent with Eberl and Schwaiger's (2005) study which identified a significant relationship between corporate reputation and organizational performance. Corporate reputation management has been reported to be largely influenced by CSR involvement (Komodromos and Melanthiou 2014), which is equally instrumental for gaining competitive advantage (Melo and Garrido-Morgado 2012).

Stakeholder Contingency and Legitimation

The stakeholder literature in marketing is predominantly underpinned by an overt cause and effect analysis of CSR and corporate social performance (CSP) (Park et al. 2014), which this study deviates from by advocating for more agreements between interdisciplinary schools of thoughts to arrive at a holistic understanding of organizational legitimacy. Corporate marketing is uniquely different from traditional marketing orientations in terms of its strategic identification with CSR and its focus on promoting mutually beneficial relationships with key stakeholder groups (Balmer 2013). This study is foregrounded on the theoretical framing of a stakeholder-contingent perspective to ethics and legitimation vis-à-vis the instrumental-strategic legitimation paradigms in organizational studies. The utility of this framing lies in Parson's (1964) core thesis of a nonobligatory societal dimension of legitimation, which provides a foundation for unraveling the efficacy of a stakeholder-contingent lens for understanding the trajectory of legitimacy crises. With respect to the emphasis on the societal dimension of legitimation, this chapter explores a cognitively dominated approach to legitimation, with implications for corporate reputation, building on the earlier works of Dutton et al. (1994), Bhattacharya and Sen (2003), and Bhattacharya et al. (2009) on consumer-company identification (C-C identification) as well as Till and Nowak (2000) on associative learning.

CSR, Stakeholder Theory, and Legitimacy: Implications for Corporate Reputation

CSR's unknown and uncharted territories, especially the untapped cognitive domain of the evaluation of corporate reputation (Smith et al. 2010), necessitate cross-fertilizations of consumer psychology intervention in the legitimation literature. C-C identification is principally informed by the degree of overlap between consumer values and perceptions of organizational values (Dutton et al. 1994). Following Sen and Bhattacharya (2001), the C-C identification with respect to CSR, congruence between a corporation's socially responsible behavior and consumer values, can lead to psychological attachment which informs identification with and favorable perceptions of CSR efforts. As an extension of the C-C identification, it is proposed that congruence between expectations of CSR and corporations' socially responsible behavior can be instrumental for not only assessing stakeholder affinity but also firms' perceived morality while taking cognizance of the moderating roles of the self-concept and possible demographic factors on such evaluation.

CSR is generally viewed by stakeholders as firms' commitment toward the improvement of community well-being through discretionary business practices and contributions of corporate resources (Kotler and Lee 2008). Conversely, legitimation in the context of organizations is the process through which firms justify their rights to existence to a peer or superordinate network (Maurer 1971). Suchman (1995:573) conceives legitimacy as "a generalised perception or assumption that the actions of an entity are desirable, proper or appropriate within some socially constructed system of norms, values, beliefs, and definitions." The notion of legitimacy is centered on respect, fairness, and trustworthiness as trust qualifies organizational practices as legitimate (Gladwell 2015). Organizational legitimacy has historically been premised on the compatibility between the organization and its cultural environment as well as the extent to which the collection of conventional cultural narratives justifies organizational existence (Scott and Meyer 1983). Legitimacy would therefore be largely determined by stakeholder perceptions of the contributions organizations make toward the improvement of living conditions and societal well-being (Lewis et al. 2001).

As advanced by Freeman et al. (2010a), any individual or group who can influence or is influenced by the actions, decisions, policies, practices, or goals of an organization is considered a stakeholder. Of particular importance is the need to balance stakeholder interest given the broad scope of the concept. Stakeholder groups have been categorized as either primary or secondary, internal or external, and normative or derivative (Carroll and Buchholtz 2012). In line with the notion of stakeholder contingency, Ferrell et al. (2010) argue that firms need to prioritize stakeholder group(s) with the most power, urgency, and legitimacy (Santana 2012). For example, normative stakeholders should be prioritized over derivative stakeholders. However, the ability to balance stakeholder interest has been criticized given the complexities the theory attracts (Ali et al. 2015). More importantly, awareness of the need to prioritize the adoption of effective approaches to the evaluation of legitimate stakeholder groups (Abratt and Kleyn 2012) have hampered mutually beneficial stakeholder relationships.

Stakeholder theory is underpinned by the three stakeholder attributes of power, urgency and legitimacy. The ability to understand the relationship between these attributes is critical for identifying stakeholder interests and saliency (Carroll and Buchholtz 2012) and also for understanding the interconnectedness between CSR, profitability (Freeman et al. 2010a), and corporate marketing strategies (Maignan and Ferrell 2004). A stakeholder culture plays a central role in the corporate marketing philosophy. Such culture encompasses the beliefs, values, and practices that organizations employ in addressing stakeholder issues (Balmer 2013). Effective stakeholder management demands senior managers' active involvement and commitment across all levels of the organization. Such an approach maximizes stakeholder engagement practices, which enhances CSR's strategic decision-making and provides a platform for supporting the CSR vision of the organization. Stakeholder engagement, fairness, and thinking and the cultivation of a stakeholder culture are central to the sustainability of CSR (Idowu and Leal Filho 2009). CSR is maximized when corporate rhetoric and stakeholder dialogue match corporate behavior (Bernstein 2009) and is underpinned by leveraging stakeholder collaboration as a strategic thrust to enhance corporate sustainability, cost reduction, sustained customer and employee loyalty, and consequently, favorable corporate reputation (Sarstedt et al. 2013).

Organizational behavior toward customers and employees exerts the most influence on the overall performance of the organization. The importance of identifying and understanding salient stakeholder interests cannot be emphasized enough. Stakeholder power, legitimacy, and urgency of issues are the three crucial elements of evaluating stakeholder influence (Leap and Loughry 2004). Santana (2012) takes the discussion further by contending that stakeholder power and urgency, without legitimacy, are insufficient in deriving stakeholder saliency. The author contends that stakeholder saliency constitutes how the focal organization manages stakeholder legitimacy as an entity, stakeholder claim and behavior, while taking cognizance of potential mismatch between organizational and stakeholder perceptions of legitimacy.

Legitimacy is socially constructed, so is perception (Harvey and Schaefer 2001). Legitimacy is underpinned by a sensemaking and sense-giving approach to individual and collective interpretations (Weick et al. 2005). Santana (2012) argues that factors such as societal norms, behavior, organizational principles, values, structure, and strategies influence the priority accorded to stakeholder legitimacy. Stakeholder legitimacy plays a central role in stakeholder theory and has been advocated as a key element in the determination of stakeholder influence (Phillips 2003). While the influence which stakeholders can exert on business operations differs across stakeholder groups, the degree of stake and power a stakeholder group possesses at any given time would determine the urgency of such an influence (Freeman et al. 2010b). Situated factors would therefore moderate the urgency of stakeholder influence, which points to the need to prioritize stakeholder collaboration in the stakeholder management process (Cornelissen 2014).

While legitimacy is acquired objectively, it can equally be created subjectively. Weber's theory of organizational legitimacy stresses that organizations acquire legitimacy by conforming with rational prescriptions and legal frameworks (Weber 1968). Parson's contribution to the organizational legitimacy literature exemplifies that organizational goals must be consistent with societal values to earn legitimacy (Parsons 1964). The prescriptive undertone of Weber's framework suggests a stringent and obligatory stance toward organizational legitimacy, which makes it inappropriate for unraveling firms' intrinsic morality. While Parson's ideology of legitimacy leans on organizational compliance with societal values, it can however deepen understanding of stakeholder evaluation of firms' intrinsic morality since societal values are contextualized and shared among communal groups (Hofstede and Minkov 2010).

Taking a cue from Parson's stance of organizational legitimacy, the consistency of organizational values with societal values in the context of this study then constitutes taking cognizance of the predictive power of CSR expectations on reputational outcomes. "Legitimacy is therefore not a commodity to be possessed or exchanged but a condition reflecting cultural alignments and normative support" (Scott 1995), contextual conformity, and coherent implementation of reputational strategies (Czinkota et al. 2014). In a similar vein, a morally conscious interplay between the approaches to legitimacy proposed by Suchman (1995), namely, strategic legitimacy and institutional legitimacy, discreetly operationalizes Parson's notion of legitimacy.

The strategic approach to legitimacy, which Tilling (2004) refers to as the "organisational level" of legitimacy, is based on the notion that organizations competitively extract legitimacy by conscientiously acting in ways which conform to prevailing social norms, industry charters, and reporting requirements (Smit 2010), in the pursuit of survival. The strategic approach to legitimacy has a managerial undertone, and it is within the control of the organization (Suchman 1995); as such, it is the process through which organizations strategically seek legitimacy (Oliver 1996). Proponents of strategic legitimacy, such as Dowling and Pfeffer (1975) and Ashforth and Gibbs (1990), conceive legitimacy as an operational resource to the organization. However, in the words of Suchman (1995), the outcome of strategic legitimation is usually symbolic. The institutional approach to legitimacy, also known as the macro theory of legitimacy (Tilling 2004), is based on the ability of organizational practices to earn legitimacy by default (DiMaggio and Powell 1983); (Meyer and Rowan 1991); (Meyer and Scott 1992), which, as a consequence, yields a substantial outcome. For example, the use of halo-removed reputational surveys to the measure of CSP can signal institutional legitimacy (Brown and Perry 1994), given that such an approach can reveal stakeholders' perceptions of firms' intrinsic morality (Jones and Wick 1999).

Suchman (1995) proposes the hybridization of the two approaches, since organizations face both strategic and institutional pressures, with particular emphasis on the mindfulness and authenticity of the hybrid. Nevertheless, increasing globalization and associated market turbulence can exacerbate the tendency to gravitate toward acquiring legitimacy strategically. Of paramount importance is grounding organizational identity on mutual trust. Besides, deeply situated forms of legitimation have instrumental capabilities. Legitimacy should therefore not be used as a deliberate strategic tool, given that the instrumentality of legitimacy is consequential.

The socially constructed nature of the legitimation process makes a responsive communicative approach particularly essential for acquiring and/or maintaining legitimacy (Deegan 2002). A further justification for a communicative approach to legitimacy is proposed from a political connotation of corporate citizenship as presented by Matten et al. (2003), on the grounds that the standpoint of the political connotation qualifies the organization to engage in public deliberations, also taking into account that the concept of communication and citizenship is dynamic.

Earlier conceptualizations of corporate citizenship are categorized as the limited and equivalent views of corporate citizenship (Crane and Matten 2008). The limited view is criticized for rationalizing corporate citizenship to social investing (Waddock 2001) given that it has a strategic focus which tends toward corporate philanthropy (Carroll 1991); the equivalent view, as championed by Carroll (1999) and Maignan (2001) coined from Carroll, is criticized for its performance-based connotation of CSR. The authors propose an extended view of corporate citizenship building on the works of Logsdon and Wood (2002) by illuminating the already political role organizations play in the society, being political actors which engage in decision-making on ethically contested issues such as fair trade, global warming, social and political struggles of recognition, as well as redistribution of claims (Crane and Matten 2008).

Corporate citizenship is therefore premised on the key role corporates play in societal governance. Paraphrasing Crane and Matten (2008), corporations are active players in a dynamic landscape of citizenship institutions, as they play a role in determining the configurations of corporate citizenship, which extends beyond the legal status (Isin and Turner 2002). It follows then that corporate responsibilities in the field of citizenship are inherently contestable, hence the need for a communicative approach to legitimacy, which incorporates the dynamism in the configurations of societal governance. In addition, a focused strategy to the identification of specific stakeholder issues (Kleyn et al. 2012) is equally instrumental for sustaining a communicative approach to legitimacy.

Conceptualizing the Corporate Reputation Construct

The corporate reputation scholarship has attracted significant attention across various fields; the contributions of Fombrun and Shanley (1990), Fombrun and Rindova (2000), and Fombrun and van Riel (1997) have been pivotal in marshalling further contributions to the measurement of the construct (Balmer 2009). However, an increasing interest in corporate reputation management, given its saliency in leveraging competitive advantage coupled with globalizing markets, has attracted unprecedented research in corporate reputation measurement approaches (Lee and Roh 2012). This is evidenced by the well-substantiated scales developed to measure the construct (Sarstedt et al. 2013), such as Schwaiger's dimensions of corporate reputation (Schwaiger 2004), the reputation quotient (RQ) (Fombrun et al. 2000), customer-based corporate reputation (CBR) (Walsh et al. 2009), and Helm's formative measure for corporate reputation (Helm et al. 2010).

Corporate reputation can be approached from an evaluative, impressional, or relational perspective (Chun 2005). The evaluative school is premised on the assessment of corporate reputation from a financial value and/or performance viewpoint, while the impressional and relational notions of corporate reputation are based on affective associations made with the organization from the perspectives of a single stakeholder and multiple stakeholder groups, respectively (ibid.). CSR-based approach to corporate reputation in marketing management has been predominantly impressional, although premised on instrumental evaluation of organizational CSR activities, which aims at fostering affinity to and alignment with societal interests and acquiring trust (Park et al. 2014). Studies which stem from the three schools have also been reported in the marketing literature. For example, corporate reputation has been assessed based on financial performance parameters (Stanaland et al. 2011), consumer brand image, equity (Saeidi et al. 2015) and loyalty (He and Lai 2014), third-party market indices (van Riel and Fombrun 2007), and multiple stakeholder perspectives (Helm 2007). The mediating roles of the congruence between consumers' characteristics and those of the corporation also known as the consumer-company identification (C-C identification) (Bhattacharya and Sen 2003) have equally been used to determine the influences of CSR activities on consumers' behavioral outcomes. Corporate reputation has historically been operationalized as a one-dimensional construct approached as either an affective construct (Fombrun and Rindova 2000) or a cognitive construct (Gray and Balmer 1998).

Dimensions of Corporate Reputation

Building on earlier works of Hall (1992) which proposed that corporate reputation consists the knowledge and emotions people conceive of a company, Schwaiger (2004) established that corporate reputation is a two-dimensional attitudinal construct comprising both the affective (sympathy) and cognitive (competence) dimensions, further subdivided into quality, performance, responsibility, and attractiveness. Performance is reported to have negative effects on sympathy, positive influence on competence, and vice versa for responsibility, while both quality and attractiveness positively relate to sympathy and competence, but a stronger positive relationship was found between quality and competence and between attractiveness and sympathy (ibid.). This study is premised on the quality, performance, and responsibility dimensions considering the relatively higher level of familiarity and identification consumers require to assess the attractiveness dimension.

Evaluation of product attractiveness (Sen and Bhattacharya 2001), financial performance (Saeidi et al. 2015), and social responsibility (Becker-Olsen et al. 2006) could be influenced by the congruence between relevant company CSR activities and consumers' CSR-related beliefs, which is also reported to be a self-definitional source (Sen and Bhattacharya 2001). Companies have been criticized for a lack of altruistic motive toward CSR initiatives (Pasolini 2015) on the account that approaches to CSR communication are perceived as targeted at conscientious and strategic legitimation (Suchman 1995), which has aggravated skeptic responses to CSR.

Psychological factors such as consumer values are instrumental determinants of altruistic corporate reputation, for which halo-removed techniques serve a strategic purpose. This notion can be traced back to the seminal contributions of Forsyth (1980) on ethical ideology, a set of values, attitudes, and beliefs which serve as a frame of reference and guide evaluation of ethics and behavior. Consumers with high idealism tend to consider positive CSR images to be good for the society (Forsyth 1980). In line with ethical ideology, people with high relativistic dispositions to CSR are easily convinced and tend to evaluate CSR images based on personal feelings as opposed to standardized principles. The reverse is true for consumers with low relativistic disposition to CSR as their evaluations of CSR images are based on premeditated stimuli. As such, the interplay between CSR images and consumer-company identification for consumers with low relativistic dispositions tends to be stronger (Chang and Chien 2013). Similarly, people with high collectivistic tendencies process information differently to individualistic and conservative consumers, although collectivistic dispositions were not found to significantly influence perceptions of CSR (Pérez and Rodríguez del Bosque 2014).

Conceptualizing the CSR Construct

There have been notable controversies over the application of and motivation for CSR (Okoye 2009). Controversies predominantly stem from CSR's motivation being contingent on sociopolitical frameworks (Dartey-Baah and Amponsah-Tawiah 2011) and stakeholder pressures (Famiyeh et al. 2019). This notion is evident in the obligatory versus relational undertone of prevailing conceptualizations of CSR. The CSR discourse was initiated in the early 1930s by Berle and Means (1932); seminal contribution dates back to the 1950s in the works of Abrams (1951), Management's Responsibilities in a Complex World, and Bowen (1953), Social Responsibilities of the Businessman, which inspired later conceptualizations by McGuire (1963), Davis (1973), and Brown and Dacin

(1997). Bowen (1953) conceptualizes CSR as organizations' obligations to demonstrate its allegiance to the society by pursuing activities which conform to societal values and expectations.

CSR in its antecedent stage emerged as spontaneous responses to social and environmental matters detrimental to the business community. The second era of CSR is characterized by more obligations to ethical conducts and improved commitments to goals, global reporting, and accountability to stakeholders. The third and present era of CSR integrates sustainable development practices into business policies and fosters sustainable businesses that benefit the business, people, and the environment. A UN Global Compact and Accenture survey reveals that 93% of CEOs, globally, were of the opinion that sustainability issues will be critical to the success of business in the future. The figures were higher for Asia Pacific and Africa which stood at 98% and 97%, respectively (Forstater et al. 2010). Underpinning CSR practices from a corporate marketing perspective is the challenge of the strategic positioning of the concept due to widespread shareholder-centric culture as opposed to a multi-stakeholder management culture (Hildebrand et al. 2010), which minimizes the long-term sustainability of CSR and the potential to create shared value across the triple bottom line: people, planet, and profit (Savitz and Weber 2014).

The CSR concept has been conceptualized in many ways, some of which are controversial (Freeman et al. 2010a) and can be skewed toward national priorities. The controversy surrounding the conceptualization of CSR emanated from two main schools of thought: the traditional and the emerging schools (Adeyeye 2012). The traditional school, as propounded by Milton Friedman, maintains that the only form of responsibility a company has toward the society is to maximize profit and prioritize the interest of its shareholders (Friedman 2007). However, proponents of the emerging school of thought, Edward Freeman and William Evan among others, opine that the responsibility of a company goes beyond profit maximization and safeguarding shareholders' interest. This school of thought argues that the concept extends to protecting the interests of its shareholders and stakeholders and promoting social and ecological sustainability, considering the impact of business operations on the environment (Mukusha 2012).

The emerging school of thought has gained widespread popularity over the past decade due to globalization and its effect on the move toward standardizing business ethics. The concept of CSR has therefore been elaborated to account for changing priorities in societies. Holistically, CSR is concerned with the entire relationship between global corporations, government, and the general public. Precisely, CSR centers on the relationship between an organization and its stakeholders (Crowther and Aras 2008) and comprises four fundamental components such as economic, legal, ethical, and philanthropic responsibilities (Carroll and Buchholtz 2012). There are a number of generally acceptable principles associated with CSR in today's modern business landscape, one of which highlights that CSR initiatives reflect innate organizational ethical conducts. CSR advocates that organizations adopt an organizational culture that treats the environment with dignity and adheres to strict corporate governance practices. Such culture is evidenced by initiatives that promote respect for civil and human rights, safety of lives and property, careful selection of supply chain, anti-corrupt practices, and community development.

One of the popular frameworks for implementing CSR and sustainable development in the marketing and organizational study literature is Carroll's (1991) CSR pyramid. Carroll's CSR pyramid is underpinned by philanthropic, ethical, legal, and economic dimensions of CSR and predominantly referred to as a performance-based connotation of CSR. Crane and Matten (2008) categorized Carroll's typology of CSR under the equivalent view and later conceptualizations of CSR championed by Waddock (2001) as the limited view. While Waddock's (2001) work was considered an attempt at reducing corporate citizenship to social investing, Crane and Matten (2008) offered a notion of corporate citizenship which is premised on the key role corporations play in societal governance, building on the works of Logsdon and Wood (2002).

Paraphrasing Crane and Matten (2008), corporations are active players in a dynamic landscape of citizenship institutions, as they play a role in determining the configurations of corporate citizenship, which extends beyond the legal status (Isin and Turner 2002). While this notion of CSR is pivotal for amplifying social leadership, Carroll offers a framework which explicates how expectations of CSR can intrinsically signal and be influenced by organizational activities in practice. To understand the mechanisms of organizational activities such as CSR and its potential to drive sustainable development, there is need to assess institutional embeddedness (Whittington 2010) in relation to stakeholder expectations.

The four-phased appraisal of CSR, viz., economic, legal, ethical, and philanthropic responsibilities, first appeared in the work of Carroll (1979) and was thereafter operationalized as CSR expectations scale (Aupperle et al. 1985), which (Carroll 1991) developed into a pyramid. Carroll's CSR pyramid demonstrates the efficacy and centrality of the economic dimension, being the foundation upon which the legal, ethical, and philanthropic dimensions are built. Taken together, the pyramid showcases how profitability, adherence to legal requirements and ethical codes, as well as discretionary responsibilities are the main channels through which firms show allegiance to the society (Carroll 1991).

Carroll's operational definition offers a holistic framework for measuring stakeholder expectations of CSR (Carroll 1991), although later conceptualizations of CSR emphasized the contextual undertone of the concept, its root in socially constructed standards, and the implications of these for business practitioners and stakeholder engagement (Dahlsrud 2008). Marketing management scholars such as Maignan (2001) and Podnar and Golob (2007) have operationalized Carroll's CSR pyramid in relation to consumers' expectations and appraisal of corporate behavior in the context of US, French, and German consumers as well as Slovene consumers, respectively. While Carroll's notion of CSR has also been replicated in countries such as Malaysia (Rahim et al. 2011) and Korea (Han 2015), prevailing claims of Carroll's CSR pyramid in Africa, following Visser (2006) and Dartey-Baah and Amponsah-Tawiah (2011), are predominantly conceptual, with the exception of Lindgreen et al. (2009) and Fadun (2014) from a stakeholder and organizational perspective, respectively.

Lindgreen et al. (2009) found that organizations in Botswana and Malawi did not deviate from Carroll's (1991) CSR pyramid, in a study based on a sample of 84 companies across both countries. Consumers were also reported to rank economic, legal, and ethical responsibilities higher than philanthropic responsibilities in the Nigerian context (Fadun 2014). A popular conceptual study proposed that Carroll's CSR pyramid be reordered as economic, philanthropic, legal, and ethical responsibilities in Africa (Visser 2006). Nevertheless, Dartey-Baah and Amponsah-Tawiah (2011) reckon that such reordering would be unfounded given the role of underlying African cultural values of sharing and communal harmony (Ubuntu) on behavior. While acknowledging Visser's proposal, it is of particular importance how expectations of CSR can showcase consumers' situated notion of firm's morality.

Philanthropic CSR

Philanthropic CSR, as conceived by Carroll (1991), is largely discretionary in nature and often given the least priority as it is placed on the last level of the CSR pyramid (Matten and Crane 2005). Philanthropic responsibilities comprise CSR activities which promote societal well-being. These activities include corporate charitable support/giving and cause-related marketing initiatives (Morris et al. 2013). Corporate philanthropy means different things to different people on the account that culture (Maignan 2001) and other country-specific factors such as the antecedents of the political and economic structures (Rahim et al. 2011) determine its perceptions and expectations. Consumers often associate with socially responsible companies and exhibit positive attitudes toward them (Mohr et al. 2001). Espoused corporate philanthropic activities can therefore enhance reputation and image. Although philanthropic CSR is normatively desirable, consumers have historically ranked the dimension low. For example, Maignan (2001) and Podnar and Golob (2007) report that philanthropic CSR was ranked the third most important dimension. Conversely, Rahim et al. (2011) found that philanthropic CSR was ranked the second most important dimension. Albeit, corporate philanthropy, as opposed to customer-centric community volunteering initiatives, was perceived to significantly influence attitudinal and behavioral outcomes toward brand image (Hinson and Ndhlovu 2011). These findings provide evidence which suggest the potential influence of contextualized factors on consumers' reactions to philanthropic CSR.

Ethical CSR

Ethical CSR embodies societal standards, norms, and expectations which extend beyond codified law (Carroll 1991). Ethical responsibilities can be likened to what DiMaggio and Powell (1991) refer to as the "taken-for-granted societal frameworks" which stipulate what society conceives as fair, just, and appropriate corporate behavior. The ethical dimension of CSR exemplifies the social embeddedness of CSR as it largely relies on socially constructed standards which define appropriate corporate behavior (Dartey-Baah and Amponsah-Tawiah 2011). Ethical CSR has predominantly received less priority, which could be due in part to the subjectivity of the concept. For example, the ethical and philanthropic dimensions were merged to form one dimension: ethical-philanthropic CSR due to the nonperformance of the two dimensions in a study conducted among Slovene consumers (Podnar and Golob 2007). The authors justify the merger of the dimensions given that both dimensions relate to societal obligations which extend beyond legal requirements (Bloom and Gundlach 2001). Rahim et al. (2011) found that the preference of Malaysian consumers for ethical CSR is consistent with the CSR pyramid proposed by Carroll (1991), on the account that the dimension was ranked the third most important. Conversely, Maignan (2001) found that ethical CSR was ranked the second most important dimension among French and US consumers, with the exception of German consumers who ranked both legal and ethical dimensions as the most important. From an African corporate governance perspective, Visser (2006) proposes that the ethical dimension may be the least important. Since ethical CSR is largely uncodified and socially constructed (Carroll 1991), it follows that historical and sociopolitical frameworks could have patterned effects on consumers' expectations of ethical CSR.

Legal CSR

Societal expectations, norms, and values all serve as a framework which informs the federal, state, and local government laws and regulations that set the rules under which business must operate. Legal responsibilities predominantly relate to societal expectations of business in meeting its economic duties within legal requirements (Carroll 1999). Consumers have been reported to have a high preference for legal CSR. This notion is supported by Podnar and Golob (2007) who found that Slovene consumers ranked the legal CSR higher than the other CSR dimensions. German and French consumers in another study also perceived the legal dimension of CSR as the most important (Maignan 2001). The tenets of predominant CSR reporting standards and industry chapters would equally play a role in the uptake and application of legal CSR.

Economic CSR

Economic CSR is premised on the maximization shareholder value and profit (Maignan and Ferrell 2004) and hence the raison d'être of business, given its accorded priority in the CSR pyramid (Carroll 1991). The fulfilment of economic CSR is paramount not only for survival of business but also for the fulfilment of the other CSR responsibilities. There is no consensus on consumers' preference for economic CSR. Maignan (2001) established that consumers consider economic CSR as the least important CSR dimension, with the exception of US consumers. This notion is supported by Podnar and Golob (2007) who claim that the economic dimension is perceived as the least important among Slovene customers. A similar finding was reported in Malaysia where consumers accorded the highest priority to the economic dimension (Rahim et al. 2011). Although Visser (2006) proposes the economic dimension to be the most important dimension, this proposal is not backed up by empirical evidence. In addition, the study was conceptualized predominantly from a corporate governance perspective. More so, Turker (2008) conceives the economic CSR as mandatory and hence not an aspirational dimension of CSR for external stakeholders.

A Halo-Removed Framework for CSR and Corporate Reputation

Marketing management literature has historically been associated with meeting and exceeding stakeholder expectations (Sweeney 1972) and, in particular, the consumer stakeholder (He and Lai 2014), especially from a CSR viewpoint (Maignan et al. 2005). Since it has been established that CSR is a socially constructed concept (Dartey-Baah and Amponsah-Tawiah 2011), it follows that consumers' expectations of CSR are contingent on the social context. In line with the conceptual framing of this study, a stakeholder-contingent notion of legitimacy and the extended notion of the C-C identification are equally socially constructed. The framework of this study therefore offers a tool for predicting the extent to which congruence between consumers' expectations of CSR and firms' socially responsible behaviour can evaluate firms' intrinsic morality, as explicated by the corporate reputation construct.

The framework was applied in the context of a Financial Times Stock Exchange (FTSE)/Johannesburg Stock Exchange (JSE) responsible investment index listed company, based on a survey of 291 consumers recruited across 5 shopping malls in South Africa, in line with standardized ethical research practices. A 24-item survey instrument was adapted from the standardized scale and literature on Carroll's four dimensions of CSR expectations and Schwaiger's three dimensions of corporate reputation, which was aimed at investigating the predictive outcomes of CSR expectations on the corporate reputation. Responses provided were based on consumers' familiarity and identification with the company, which were analyzed using path analysis in structural equation modelling (SEM). Composite reliability and Cronbach's alpha were above 0.7, to indicate that all factors have good reliability (Bagozzi and Yi 2012). The model validity demonstrates the consistency of the measuring instrument to its objectives. This was measured by the estimate of convergent validity and discriminant validity (Raykov 2011). Convergent validity was assessed using three tests, namely, composite reliability of constructs, reliability of questions, and variance extracted by constructs. Convergent validity assesses the extent to which items of a specific factor represent the same factor and is measured using a standardized factor loading, which should be above 0.5 (Fornell and Larcker 1981).

Fifty-seven percent of respondents were males, while 43% were females. Thirty-seven percent of the sample population were aged between 18 and 24 years, with 30%, 14%, 12%, 4%, and 3% being between the ages of 25–34, 35–44, 45–54, 55–64, and 65 years and above, respectively. Sixty percent of respondents were Africans; 7%, 6%, and 27% were Indians, Whites, and mixed race, respectively. The results as shown in Fig. 1 reveal that CSR expectations have a significant influence on the company's corporate reputation. The weakest link was found between legal CSR and the performance dimension of corporate reputation ($\beta = 0.03$, $p = 0.31$) which makes the link the least unsupported on the nomological net for the company. The strongest link was found between philanthropic CSR and the performance dimension of corporate reputation ($\beta = 0.33$) with a p value of less than 0.01 which makes the link the most supported. Results also show that the paths between ethical CSR ($\beta = 0.22$; $p < 0.01$) to quality, ethical CSR ($\beta = 0.23$;

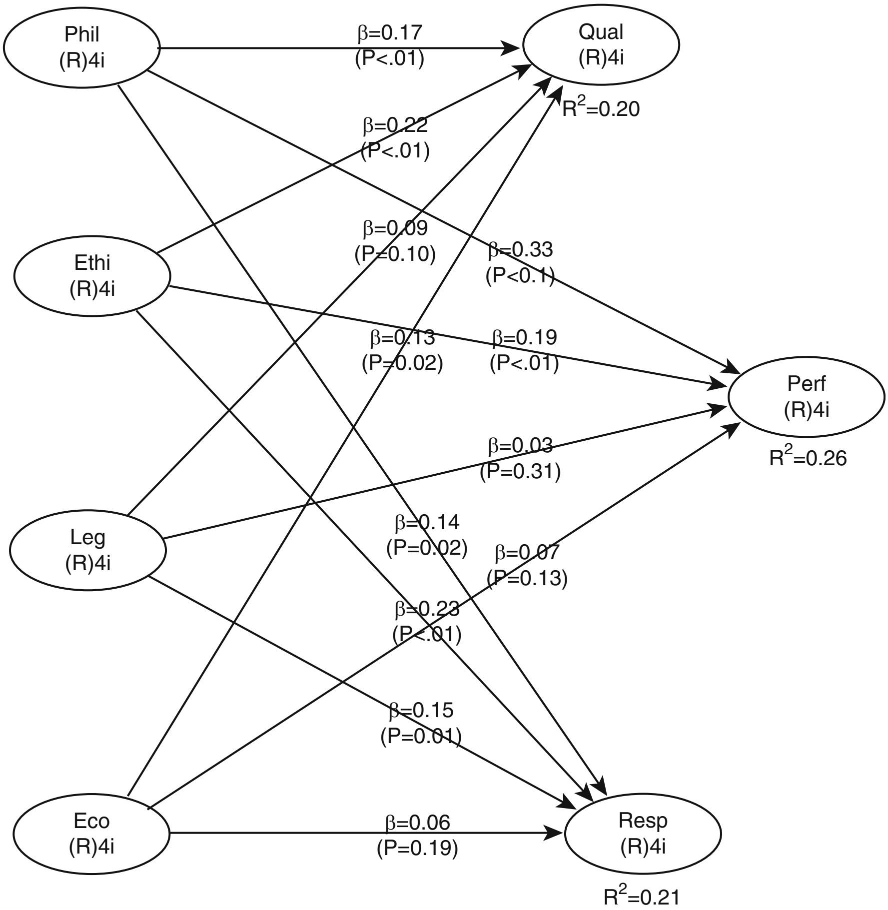

Fig. 1 A halo-removed framework for CSR and corporate reputation

$p < 0.01$) to responsibility, ethical CSR ($\beta = 0.19$; $p < 0.01$) to performance, and philanthropic CSR ($\beta = 0.17$; $p < 0.01$) to quality yielded significant contributions to the model. It can be inferred that a total number of five paths yielded positive contributions, while seven paths yielded negative contributions to the model. The result reveals that the fulfilment of philanthropic, ethical, and economic CSR expectations has the strongest influence and predictive relevance on the company's corporate reputation. The positive explanatory power of R^2 for (quality = 0.20), (performance 0.26), and (responsibility = 0.21) reveals the strength of the variance explained for the model, which further demonstrates the extent to which the exogenous constructs (philanthropic, ethical, legal, and economic CSR) have predictive relevance on the endogenous constructs (quality, performance, and responsibility dimensions of corporate reputation).

Findings reveal that philanthropic CSR had the most significant predictive outcome on the performance dimension of the company's reputation. This finding further establishes that the fulfilment of consumers' philanthropic expectations is associated with consumers' evaluation of financial performance. It can therefore be inferred that consumers' perceptions of corporate philanthropy are associated with financial stability, which is not unfounded following the proposition that economic prosperity is a catalyst for social responsibility (Carroll 2016).

Ethical CSR had the most significant predictive outcome on the social responsibility dimension of corporate reputation, showing that the fulfilment of consumers' expectations of ethical corporate behavior positively enhances perceptions of the company's socially responsible behavior. Conversely, results also show that legal CSR had the weakest predictive outcome on the performance dimension of corporate reputation. The predominance of the company's reputation for financial performance is also revealed in the highest explanatory power yielded for the dimension. The high priority given to legal CSR in a developing country such as South Africa (Dartey-Baah and Amponsah-Tawiah 2011) suggests that the weak predictive outcome of legal CSR on the performance dimension of the company's reputation could be an indication of consumers' skeptical disposition toward the company's financial performance.

Discussion

Stereotypic CSR engagements which are aimed at building corporate reputation are a fallacy. Consumer trust is pivotal for enhancing institutional legitimacy on the account that prevailing strategic legitimacy is socially coerced. The legitimacy of CSR is therefore contingent on its ability to demonstrate goodwill. Consumers' perceptions of financial viability could be enhanced by engaging in philanthropic CSR. The ethicality of business practices could also result in favorable perceptions of product quality and social responsibility. The adaptability of business practices to prevailing legal frameworks will further enhance consumers' perceptions of companies' reputation for social responsibility.

Ethics are uncodified and based on prevailing institutional and cultural frameworks, whereas legal frameworks are prescriptive. The predominance of the ethical and legal notions of CSR in this study showcases that companies should engage in CSR based on moral conscience as the ethical-legal divide cannot be leveraged with a stereotypical CSR approach. While a tick-box approach to CSR could appease political and institutional pressures in the short term, such an approach does not demonstrate good corporate citizenship and governance. A tick-box approach to CSR has social consequences and undermines authenticity. In addition, while such an approach could portray adherence to legal frameworks, it may fall short of acceptable ethical practices on the account that ethics are evolving and are socially constructed. It therefore takes a morally conscious corporate citizen to interpret implicit socially shared values.

The longevity of organizations which adopt a passive CSR business model is therefore questionable given increasing stakeholder expectations of CSR (KPMG 2013). While increasingly socially oriented markets and global regulations such as Global Reporting Initiative (GRI), International Organization for Standardization (ISO), and the Global Compact (GC) are gradually converging organizational norms and values (White 2008), innovative and dynamic entrenchment of prevailing CSR ideologies into business models will be key indicators of corporate sustainability in the future (Carroll 2015). Entrenched CSR corporate identity has to be sufficiently tangible in order to meet and exceed stakeholder expectations of CSR (Kleyn et al. 2012). As noted by Goutzamani (2007), what organizational insiders perceive as their core identity usually varies significantly with its external overall evaluation, which creates a divide between internal and external perceptions of the organization.

Similarly, consumers' expectations have historically been proposed as antecedents of trust (Barber 1983) on the account that trust is the result of fulfilled expectations. McKnight et al. (2002) reiterate that trust is a consequence of a strong belief that the trustee is reliable, honest, and benevolent. Hosmer (1995) offers a conceptualization of trust which overlaps with the legitimacy of CSR claims. Trust is the trustee's fulfilment of expectations which are grounded on ethically justifiable behavior, morally conscious decisions, and practices based on ethical principles of analysis between social actors who engage on the basis of an economic exchange (ibid.).

From a consumer perspective, trust is conceived as a strong belief that an organization will act in ways consistent with expectations, expertise, integrity, and reputation (Park et al. 2014). The notion of reputation which maintains that reputation is an amorphous concept which an organization cannot influence (Argenti and Druckenmiller 2004) resonates with the ideology of cognitive legitimacy, which is pivotal for gaining institutional legitimacy (Suchman 1995). It is therefore apparent that the predictive power of consumers' CSR expectations on corporate reputation can serve as a platform for assessing institutional legitimacy. In other words, an empirical validation of the propensity of consumers' CSR expectations to predict corporate reputation as shown in Fig. 1 can open up new insights for deepening our understanding of the role of trust in the evaluation of business ethics and legitimacy.

Conclusion

The commentaries presented in this chapter have established that there is need for a new common understanding of the notion of embedded CSR interests. The conceptualization of morality is determined by the capacity of social forces at work to define the parameters of corporate governance. The core legitimacy issues this chapter addresses are shaped by the antecedents of sociopolitical frameworks. The instrumental use of CSR distracts attention from the real issues that must be addressed. There is need for wisdom to resist this growing trend, especially when it attacks social structures such as ethics and legitimacy.

The ability to understand the role of consumer psychology on CSR-related consumer behavioral outcomes has unique implications for institutional legitimacy. The divide between the ideologies espoused by companies and stakeholders can only be bridged by earning stakeholder trust. In other words, morally conscious organizational behavior toward CSR enhances stakeholder trust on the account that the latter inadvertently leverages institutional legitimacy. Espoused CSR practices are largely a reflection of the moral consciousness of management, which is passed down through corporate values, vision, and mission and reinforced by an inside-out approach to CSR communication.

Emerging trends in literature reveal that prevailing approaches to CSR are underpinned by what can be categorized as a tick-box or compliance-based approach. While such an approach may appease regulatory pressures to gain strategic legitimacy in the short term, its sustainability is questionable given the inadaptability of business models to proliferating global and industry charters and stakeholder expectations. CSR practices grounded on moral consciousness can therefore gravitate toward institutional legitimacy. In particular, the understanding of contextualized and/or ideal CSR practices is pivotal for legitimation. While the notion of an ideal situation is subjective and largely determined by organizational antecedents, institutional and cultural frameworks, contextualized ideologies, and expectations of CSR could serve as a guide for linking strategy to legitimate CSR outcomes.

Extant literature has revealed that the diversity and instrumentality of CSR-related consumer behavior are best understood from a consumer psychology perspective. Country-specific factors and cultural diversity are predominantly responsible for the lack of consensus on the mediating and moderating effects of CSR on consumer behavioral outcomes. These factors include preference for specific CSR domains, loyalty to socially responsible companies, and purchase intentions. In spite of this, emerging trends reveal that antecedents such as awareness of CSR and perceived authenticity, which are driven by consumer values, serve as factors predicting consumer behavioral outcomes. In addition, current thinking in stakeholder evaluation of corporate reputation gravitates toward a hybrid of affective, behavioral, and cognitive connotation of stakeholder behavior. It cannot be emphasized enough that stakeholder trust will play a crucial role in the legitimation of corporate citizenship practices, which transcend mere ad hoc manipulation of CSR for reputational outcomes.

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Part XIII

Accounting, Accountability, Stakeholders, and Business Legitimacy

Stakeholder Theory, Accounting, and Business Legitimacy

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Gianfranco Rusconi and Massimo Contrafatto

Contents

Abstract

More recently business and corporations have been strongly criticized for not always being able to conduct their commercial and operational activities in an ethical and socially responsible way. Criticisms have also involved the capability of the current accountability and control systems to provide adequate information to account for and report on these practices. In particular, accounting and

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accountability systems have been challenged for not serving the interest of the public, that is, to act for society's wider interests. In the accounting/accountability literature, in particular, calls have been made for envisaging "innovative" accounting and accountability systems which act as social means for promoting society's main interests. Such forms of accounting and accountability are conceptualized as means for activating some form of emancipatory change, in the relationships between business, society and the environment. In order words, this debate has called for the need to reconsider the "ethical" foundations of accounting and accountability systems and practices. This chapter contributes to this debate by proposing a conceptual model which could help to illuminate some of the complexities of the relationship between accounting/accountability and business ethics. This model, which is based on a "metaphorical merger" between ethical firm system theory and stakeholder management theory (Rusconi, Eur Manag Rev 1–20, 2018), is able to highlight the ethical responsibilities of the management of the firm system, the rights and duties of every stakeholder and to identify the dialectic nature between "pure" or "instrumental/strategic" ethical legitimacy. The implications of such a model for improving the process of ethical and social legitimacy of the various accounting and accountability practices are then addressed.

Keywords

Social Accountability · Stakeholder Theory · Business Ethics · Legitimacy and Legitimation · Public Interest

Introduction

Increasingly over the past years, business and corporations have been criticized for not always being able to ensure to act and conduct their commercial and operational activities in an ethical and socially responsible way. For example, events such as those related to Enron and/or Parmalat at the beginning of the 2000s, the credit crunch at the end of 2008, and/or more recently those related to the unethical behavior of the so-called dieselgate, which has involved companies such as Volkswagen, have dramatically impacted on the institutional environment within which corporations and business conduct their activities. These events have affected the stability of the global business market (e.g., financial) by generating in the public the idea of lack of trustworthiness and weakness of the current governance systems to *ex ante* prevent and subsequently deal with these unethical and irresponsible practices. Criticisms have also regarded the capability of the current accountability and control systems to provide adequate information to account for and report on these practices. In particular, accounting and accountability systems have been challenged for not always being able to serve the interest of the public, in other words, for deviating from societies' wider interests. In the accounting and accountability literature, in particular, calls have been made for envisaging, designing, and implementing "innovative" accounting and accountability systems which act as social means for promoting society's main interests (Gray 2002). Such forms of accounting and accountability have been conceptualized as able to activate emancipatory forms of change (Gray 2002; Contrafatto 2004, 2009). These accounting and accountability systems, which are mechanisms for promoting emancipatory change in the form of understanding the relationships between business, society and environment, should be able to gather and provide information for preventing or reducing the risk of unethical and irresponsible behaviors. In other words, this debate has called for the need to reconsider the "ethical" foundations of accounting and accountability systems, which are really for the interests of society and stakeholders. This essay contributes to this debate by proposing a conceptual model which could help to illuminate some of the complexities of the relationship between accounting/accountability and business ethics. In particular, the aim of this chapter is to apply a conceptual model to accounting/accountability, which is the result of a *metaphorical merger* between a specific version of stakeholder theory and a systemic view of business ethics. Such a model, it is argued, would be able to contribute to address some of issues related to the relationships between accounting, accountability and business ethics. The implications of such a model for improving the process of ethical and social legitimacy of the various accounting and accountability practices are then discussed. In particular, these aspects are discussed with reference to two interrelated forms of accounting: management accounting and external accounting. As widely understood, management accounting is seen as a set of practices and documents which are mainly used to support the decision-making process of the management. The second, on the other hand, represents the set of practices and documents which are instead produced, published and presented externally to all interested stakeholders and are regulated by law and accounting principles (very often indirectly empowered by law). The accounting information that is produced by accounting systems is fundamental for the process of accountability. In the literature, accountability is conceptualized as a multiple responsibilities-based framework which provides the rights and duties in the relationship between two subjects: the principal and the agent (Gray et al. 1996; Contrafatto 2009). On the one hand, the principal is the subject that holds the rights and the resources for "instructing" what is required and/or expected from the agent. On the other hand, the agent is the subject (individual or collective) who has the "duty" to act on behalf and for the benefits of the principal. As explained by Contrafatto (2004, 2009), at the core of the accountability framework, therefore, there is the idea of the "ability" to provide "accounts" for the actions, and results, by the agent. It is clear that at the center of this framework, there is a need to provide appropriate accounting-based information. Without such information, the accountability mechanisms would not be possible. In the accountability literature, such information should be neutral, complete, transparent, correct and fair. It seems evident that the accountability mechanisms, and the role of information within them, will manifest in different ways in relation to the different "types" of accounting (Gray 2004): the accounting for internal managerial purposes and accounting for external disclosure (this will be discussed in the following section).

The accomplishment of the accountability duties to provide and disclose information is relevant not only from a strict business ethics point of view but also from a legitimacy-based perspective.

Clearly, the legitimacy-related issues are much more relevant for the external forms of accountability documents, such as those related to the financial and social (sustainability) accounts and reports. In this context, the correctness, neutrality, completeness and fairness of these documents, and related information, are an essential component of the accountability mechanisms which link the relationships between principal and agent. But what is legitimacy? As explained by Suchman (1995), legitimacy is:

> a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions. (Suchman 1995, p. 574, about legitimacy see also Shocker and Sethi 1974; and Patten 1992)

Suchman (1995) emphasizes that:

> The analysis identifies three primary forms of legitimacy: pragmatic, based on audience self-interest; moral, based on normative approval; and cognitive, based on comprehensibility and taken-for-grantedness. (Suchman 1995, p. 571)

The author, in the same article, examines several legitimacy strategies which can be used for gaining, maintaining and repairing legitimacy understood in its three different forms (pragmatic, moral and cognitive). At the outset, it could be observed that, from a strict business ethics point of view, the moral form of legitimacy is a logical coherence. However, it is important to emphasize that not all the ethical legitimation practices are strictly connected with a real ethical view of managers and accountants, because these can be done for instrumental compliance only at times. What seems important, in this context, is to identify how both these compliance mechanisms with ethics work in the accountability processes and what the effects on the legitimacy processes are. As mentioned above, in this chapter we introduce a conceptual model, based on a "metaphorical merger" between ethical firm system theory and stakeholder management theory (Rusconi 2018), that is able to combine the ethical responsibilities of the management of the firm system, the rights and duties of every stakeholder, and to identify the dialectic nature between "pure" and instrumental/strategic ethical legitimacy. In particular, it is argued that the application of this model would have implications in terms of business ethics and legitimacy, in the context of three forms of accounting:

(a) Management accounting;
(b) Financial accounting, where strong law and principles, like "true and fair view" or "neutrality," exist along with spaces for discretional power;
(c) Social accounting, where the multidimensional and different kind of documents that exist could give more space for manipulation/instrumental ethics and legitimacy.

The remainder of the chapter is organized as follows. In the next section, we address the issues related to the interlink between accounting ethics and legitimacy. The third section discusses the concepts of legitimacy and legitimation in the context of ethics accounting. In the fourth section, we introduce and describe the heuristic model. In the final section, some final remarks are reported.

Accounting Ethics and Legitimacy: Preliminary Considerations

In this section we will address the issues of the relationships between accounting and ethics, with reference to the three forms of accounting mentioned above: management accounting, financial accounting and social accounting.

Ethics in Management Accounting

Management accounting is described as the branch of accounting which focuses in particular on the process through which accounting-based information is produced to support the managerial decision-making process. As emphasized by Drury (2008), management accounting information is mainly produced for internal users (i.e., managers), who need this information for deciding the most effective and efficient allocation of resources for achieving the operational, tactical and strategic objectives. Therefore, management accounting could be seen as a sort of "free-zone from any ethics" (see Gauthier 1986 regarding free-zone from ethics in economics and business) considerations. Indeed, any misuse or wrong "calculation" seems to be inconceivable, because these misuses, wrong or unethical actions would produce damage for the management. However, we argue that such superficial analysis would require further and deeper considerations. Since management accounting information can strongly influence the behavior and the focus of managers in their relationships with other stakeholders, we argue that it is possible to see a space for ethical considerations. There are, indeed, several situations where the decisions taken by managers, drawing on information generated by management accounting systems, will have an impact on other relevant stakeholders, for example, employees and investors. For instance, in situations of "make or buy," i.e., where assessment of whether it is more convenient and/or efficient to outsource part of the production process, the information generated by management accounting systems will be pivotal. If the management accounting practices are not carried out in a responsible, rigorous and ethical way, these will generate "disguising" information, which, in turn, will lead to "erroneous" decisions that potentially affect other stakeholders, such as, in the above example, employees. From this perspective, it seems important to talk about "ethical principles" in the way in which management accounting systems and practices are designed and implemented. These ethical principles should be able to guide the controller in the implementation of a system that is managed in a correct, transparent and responsible way. In addition, the same principles should be applied to guide the management accountant in the decision-making process, which should be undertaken in a responsible way. This implies that the management accountant, in deciding whether or not to undertake a certain action, should ensure that the decision is grounded on a transparent, fair and responsible set of managerial considerations. In other words, these ethical principles, therefore, should be seen as guiding principles not only in the designing and implementation stages of the management accounting systems but also in the subsequent process of decision-making. As a result, these principles will contribute to make the management accounting systems, processes and procedures more legitimate. In this sense, legitimacy should be seen in the form of trust, reliability and plausibility of the entire management accounting-related processes.

Ethics in Financial Accounting

Financial accounting, which is the oldest and still most diffused accounting practice, assumes that managers are responsible for providing an annual account about the costs and revenues of the closing financial year and the assets, liabilities, and equity at the end of the same year to several interested stakeholders. The historical development of financial accounting shows a continuous increasing set of regulations that have been adopted to avoid abuse, fraud and non transparent practices. National and supranational laws and regulations frame a detailed set of regulations that could be seen as the best way towards social legitimacy and ethics:

> Our understanding of the nature of accounting information has been influenced by professionally entrenched ideals about its qualitative characteristics (Hines 1991). These have been explicated in the Statement of Financial Accounting Concepts No, 8 (2010), issued by the Financial Accounting Standard Board (FASB) in the US. This statement enshrines the characteristic of faithful representation [nda: True and fair in various legislations and accounting principles] (FASB 2010, p. 17). There should be a correspondence between accounting information and the economic phenomena that it purports to represent (p. 17). Representational faithfulness entails three qualities: completeness, neutrality and freedom from error. (Andon et al. 2015, p. 989)

From this perspective, any space for ethics, which goes beyond the law and rules, seems to be quite limited, because the rejection of any incomplete, not neutral and erroneous financial accounts could be pursued only by respecting law and regulations; the true and fair view is required by law and accounting principles and not by an ethical volunteerism. On the other hand, however, the existing regulatory framework, which regulates firms' operations, leaves room for subjective evaluations of some accounting items, e.g., for possible lobbying of accounting principles and for other issues that affect the ethics of firms. For instance, avoiding bias in the accounting evaluations of certain items (e.g., goodwill, stock, etc.) does not imply trying to avoid loss. In this sense, discretionary accounting politics and evaluations should not be intended for fraudulent and/or opportunistic behaviors. Although the law and accounting principles are continuously trying to prevent and reduce the risks of instrumental manipulations and biases, these are sometimes unable to fully prevent such opportunistic behaviors, which may occur regardless of a formal compliance. Therefore, in order to better clarify the ethics aspects in the context of financial accounting, we should consider:

(a) The so-called earnings management as a key issue also for exploring the overlap between ethics and regulations;
(b) Lobbying of accounting principles and regulations.

Earnings management (hereafter EM) has been widely examined, particularly in connection with the effects of the cost of capital and/or economic resources allocation (Merchant and Rockness 1994; Healy and Wahlen 1999; Zahra et al. 2005; Martinez-Ferrero et al. 2016) and in connection with the positive accounting research (Watts and Zimmernan 1978, 1986).

EM practices occur when “management’s use of judgement also create opportunities for ‘earnings management’, in which managers choose reporting methods and estimates that do not accurately reflect their firm’s underlying economics” (Healy and Wahlen 1999, p. 366).

Although, EM practices are always not fully coherent with the true and fair view, these may not be able to be discovered, because these are undertaken by exploiting the discretionary valuations of some accounting items. With regard to this, we could distinguish between three different situations:

1. Clearly aggressive and not fully legal accounting politics (e.g., to present a real annual expense as capital expenditure): in this case, compliance could be done simply for avoiding penalties and criminal issues and not for ethical considerations. This is what happened with the “creative accounting” practices which emerged in various famous scandals such as Enron and Parmalat.
2. Voluntary but evident bias when accounting principles leave a discretional power to the firm in accounting valuation: this creates space for ethics.
3. Avoiding bias only for avoiding the risk to be punished and for pursuing an instrumental legitimacy rather than for a real ethical awareness.

Finally, EM practice could also be mentioned as a form of “micromanipulation” (Gowthorpe and Amat 2005), because there is “macro-manipulation”:

> The term ‘macro-manipulation’ is used to describe the lobbying of regulators to persuade them to produce regulation that is more favorable to the interests of preparers. (Gowthorpe and Amat 2005, p. 55)

In this case, there is an issue of ethical misusing of lobbying power by companies or associations of firms or professionals, which could foster official legitimacy by the public, but in the cases of evident bad results of this macro-manipulation, it could risk a big decline of public trust in the whole system of accounting regulations.

Ethics in Social (Sustainability) Accounting

Social (sustainability) accounting has been described as the part of accounting which is involved in producing information about the social, environmental and ethical impacts of the economic and operational activities undertaken by organizations (Hibbit 2004). As explained by Gray (2004, p. 80), social accounting represents therefore "*the universe of all possible accountings.[. . .]. social accounting covers an enormous range of issues- not just all of accounting and finance but labour law, ecology, carbon trading, theories of justice. [. . .]. The issues we are concerned with are exceptionally complex- the relationships between human culture, information, economics, business, morality, the planet and society.*" At the root of social accounting, as it has been described here, there is the normative framework of social accountability. It is through the preparation of social accounts and the disclosure of social and environmental information that the several stakeholders are potentially able to assess and evaluate the actions and initiatives that are (are not) undertaken by organizations in their commercial and operational undertakings. From these preliminary considerations, what seems to emerge is how the issues of ethics play an even more important role in the context of social accounting. The substantial lack of an overall and encompassing regulatory framework implies that there is the need to ensure that in all stages of the social accounting process (design, preparation, diffusion and auditing), there are always clear and transparent procedures, rules and frameworks which have been followed. In particular, it would be essential to avoid misuses of social accounting reports and processes, which, instead of being used for genuine forms of accountability, become tools which are instrumentally used by organizations and/or managers (Owen et al. 2000) to manipulate the impressions of several stakeholders (e.g., through forms of impression management) and/or image re-lifting. Hence, social accounting documents (e.g., sustainability reports, ethical documents, etc.) are required to be prepared and disclosed in a responsible way, i.e., they need to be prepared and used as genuine documents of accountability, rather than as instrumental documents for some opportunistic interests of managers and organizations.

In this section, we have briefly discussed issues of the relationships between accounting (in its several forms) and ethics. We have also seen how these different forms of accounting have implications for legitimacy. In the following we introduce and conceptualize the concepts of legitimacy and legitimation.

Legitimacy in the Ethics of Accounting

Lindblom (1994) explains that "legitimacy is a condition or status which exists when an entity's value system is congruent with the value system of the larger social system of which the entity is a part. When a disparity, actual or potential, exists between the two value systems, there is a threat to the entity's legitimacy" (p. 111). In other words, legitimacy is a situation which is achieved when the set of values of an organization is coherent with the values, expectations and requirements of the wider social context in which the organization operates (Buhr 2002). From this perspective, therefore, legitimacy is a "measure" of the "social acceptance" of the society with regard to the organizational activities (Neu et al. 1998). In this sense, the legitimacy is a critical element for the survival, prospect and future of any organization. It is for these reasons that organizations often adopt specific initiatives for gaining, repairing, or acquiring an acceptable level/status of legitimacy, so as to avoid negative consequences, which could potentially impact the existence of the organization itself. The legitimacy is acquired through a process of legitimation, which indicates the ways (i.e., the "how") in which organizational entities act toward the achievement of a desired state of legitimacy. In the process of legitimation, organizations could adopt different strategies (i.e., legitimacy strategies) through which to affect the perceptions, views, and expectations of the several stakeholders. At the core of the legitimacy theory, there is the idea of the existence of a social contract between the organization and society. The social contract (Suchman 1995) represents an informal contract between the organization and its stakeholders within society. How wide this range of stakeholders is depends upon the position on the continuum between a strategic/managerial attitude and orientation and a holistic/ethical one. From this perspective, organizations can be regarded as existing in a web of societal contracts. Some of these will be formal (legal) contracts, which set out the legally enforceable rights and responsibilities of each party to the contract. Others will be a broader generally applicable sets of rights and responsibilities established in regulations and legislation. Finally, there will be other forms that are informal sets of nonlegally enforceable expectations, which stakeholders have with regard to the rights and responsibilities of an organization. When there is a perception that there is variance between the actions and initiatives undertaken by an organization and the expectations/requirements of its social contract a *legitimacy gap* will emerge. This legitimacy gap will be addressed through a process of legitimation and by adopting specific strategies through which to acquire, maintain, regain, and increase the level of legitimacy. Among this process of legitimation and strategies that could be adopted by an organization, an essential role could be played by the different accounting and accountability documents which we have described above. As we mentioned in the introduction section, there are different types of legitimacy. For example, Suchman (1995) distinguishes between three forms: (a) pragmatic, which is based on audience self-interest; (b) moral, based on normative approval; and (c) cognitive which is based on comprehensibility and taken for grantedness. In the following, we will discuss how these legitimacy-related issues could be addressed from the perspective of the conceptual model which has been proposed in this paper. We argue that this stakeholder-based model could provide a strong contribution to this debate. The proposed model has two aims:

1. Firstly, it emphasizes that the complex and articulate relationships among all different stakeholders (top management included) always imply a very open approach toward the accountability legitimacy processes by and among all stakeholders.
2. Secondly, it points out that the "dialectic" relation between "strategic" and "pure" ethics may help to pursue a "moral legitimacy."

A Stakeholder-Based Model: What About Ethics and Legitimacy of Accounting Practices?

The stakeholder perspective developed from the work of some precursors (various precursors are indicated in Freeman and Reed 1983; Freeman 1984), who anticipated some partial aspects of this perspective. Originating from the strategic disciplines (Freeman and Reed 1983; Freeman 1984), stakeholder management theory (hereafter SMT) has widely diffused since the 1990s to impact on other related disciplines, for instance, business ethics, marketing and accounting (Freeman et al. 2010). SMT was applied, more or less consistently, to disparate fields of knowledge, from sociology to public management and politics (Phillips et al. 2003).

At the outset it should be noted that SMT should be understood as a "good useful idea" (Freeman 2005, p. 423) that forms a genre of theories (Freeman 1994; Freeman and Phillips 2002), which draw on six main theoretical concepts/principles. These will be discussed below.

> SMT1) a stakeholder can be defined as 'any group or individual who is affected by or can affect the achievement of an organisation's objectives' (Freeman and McVea 2001, p. 189);
>
> SMT2) a company can be described as a system of stakeholders and their relationships;
>
> SMT3) a top manager, acting in compliance with the stakeholder management approach and theory, works out strategies that take their consequences into account, not only for the stakeholder 'shareholder', but all the stakeholders;
>
> SMT4) top managers (stakeholders too) maximizing the well-being of every stakeholder, and, in this way, the shareholders' interests too;
>
> SMT5) a business operation without ethical aspects does not exist;
>
> SMT6) SMT is neither a socio-economic or political theory nor a comprehensive ethical theory. The need to refer to a specific 'normative core', therefore, follows (Signori and Rusconi (2009, p. 305)).

SMT1. . .SMT6 have a sound foundation in the pivotal paper and books about stakeholder view (Freeman and Reed 1983; Freeman 1984, 1994; Wicks 1996; Freeman et al. 2010).

SMT has been widely discussed, applied and debated in extensive literature in management fields. In particular, several critical questions about the ethics of business legitimacy have been posed (Rusconi 2009, 2018). The most important (and arguably the key issue for SMT) is understanding the connection between ethics and business; therefore the strict connection represents a useful key aspect for this analysis. In this chapter, we focus on the ethics/business relationship from the perspective of accounting ethics' legitimacy.

If we consider the work of Suchman and his classification of the forms/types of legitimacy, it could be observed that, unlike the pragmatic legitimacy, the moral form of legitimacy is "sociotropic," that is, it does not draw on the judgments about whether a given activity benefits the evaluator but rather on the judgments about whether the activity is "the right thing to do" (Suchman 1995, p. 579). As explained by Suchman (1995), the moral legitimacy *"may involve either affirmative backing for an organization or mere acceptance of the* *organization as necessary or inevitable, based on some taken-for-granted cultural account"* (Suchman 1995, p. 583).

Hence, the pursuit of social-public legitimacy is not necessarily seen as an ethically grounded behavior, because the respect of rules, law and ethical-accepted customs could not be ethically justified. On the other hand, the fact that SMT considers the conformity to ethical principles not only as an external limitation but also as an opportunity for implementing a sustainable business implies that the different ways of achieving legitimacy (in particular the instrumental and moral ones) could be indistinct. In this case, it would be possible to achieve a moral legitimacy by behaving ethically because ethics and sustainable business are seen in this situation as synergic aspects.

In addressing the aspects related to ethics, accounting, and legitimacy, two interconnected issues/questions emerge:

(a) How is ethical behavior related to accounting involved in the legitimacy pursuit process?
(b) Is it possible to achieve a real ethical and not only pragmatic/instrumental legitimacy? How is this research relevant both for business and ethics?

In order to address these interconnected issues/questions, a conceptual model is proposed that is the result of a "metaphorical merger" between an application of the so-called ethical firm system theory (Rusconi 1997, hereafter EFST) and SMT (see Rusconi 2018 for this merger). It is argued that these two theoretical perspectives are complementary, because both view ethics and business from a synergic positive relationship, and they reject any kind of separation thesis (Freeman 1994; Wicks 1996) and reduction of ethics only as an external constraint.

This conceptual model (EFST-SMT) is based on four principles:

1. The firm is a stakeholder system.
2. Each stakeholder "draws up" his own specific stakeholder "map."
3. All stakeholders tend to seek to achieve a reciprocal, dynamic equilibrium based upon "minimal mutual acknowledgement (hereafter MMA)."
4. While respecting MMA and inviolable ethical constraints, each stakeholder is involved in a negotiation in order to reach the strategic equilibrium most favorable to his/her own legitimate interests (Rusconi 2018, pp. 10–12)

Each of these principles is discussed below in more detail. A firm is conceived as a unitary system of stakeholders (top management and entrepreneurs included) and could be thought as ethically responsible, especially for their "deciders" (usually top management), and this responsibility is also connected with their legitimacy toward all stakeholders (principle 1).

Each stakeholder group identifies/constructs (almost implicitly) maps about their relationships with other members of the firm system (principle 2).

A stakeholder management approach must aim to find an equilibrium based on a "minimal mutual acknowledgment" (hereafter MMA), regarding at least a satisfactory well-being for all stakeholders (principle3). Not respecting MMA towards some stakeholders could put the legitimacy and the sustainability of the firm at stake, so that managers have to follow the fundamental synergy between ethics and business which is the key point of SMT.

With regard to principle 4, this is not relevant for financial and social accounting, because the principle concerns management and business decisions and not transparency, trustfulness and neutrality in complying with accountability duties toward all interested stakeholders.

SMT (see SMT1. . .SMT6) is not an ethical theory but originates from externally different ethical principles (Phillips et al. 2003). This could be seen as a good idea (Freeman 2005) for building a synergic cooperation between ethics and business, which, especially in the long term, is important for a sustainable business. For the business ethics point of view, it is nevertheless important to avoid an ingenuous view of a simple "a priori" easy convergence of ethics and business (see also Rusconi (2009)). As explained by Rusconi (2018):

> From a theoretical point of view, the refusal of an ingenuous *a priori* win-win is, first of all, connected with the fact that SMT is not a 'comprehensive ethical theory' (Phillips et al. 2003) and, secondly, that the 'genre' of SMT theories may be based on various ethical positions (Freeman 1994; Wicks et al. 1994; Freeman and Phillips 2002; Phillips et al. 2003). It is logically inconsistent to maintain that all the best decisions on profit-making for shareholders are always acceptable from any potential normative core. It is also inconsistent to think that all religions and philosophies always have the same ethical implications not for the majority, but for all potential economic decisions. From a practical point of view, let us consider the context of a degraded socio-economic-civil environment in which ethics plays a negligible role and where there may even be widespread disregard for the law itself, leading to advantages for dishonest citizens and firms. In this sense, we could easily refer to illegal (also often underpaid) labor, tax evasion and corruption, when they are systematic and go unpunished. (Rusconi 2018, p. 15)

So the EFST model proposes to insert a distinction between "strategic" and "pure" ethics, where the latter comes from the ethical point of view of stakeholders:

> 1. strategic ethics . . . consider that 'all the moral choices are made so as to safeguard the long-term equilibrium of the business system; here especially the aim is to avoid behavior in which the need to maximize profits is acted upon by a shortsighted management' (Rusconi 1997, p. 154); and
> 2. Absolute or pure ethics – concern the moral principles to be dealt with by the individual, or group of individuals, involved with business decision-making. In certain instances (which are rare if the viewpoint is not too narrow-minded), such principles could possibly conflict with the development of a success strategy, in which case a suboptimal ethical strategy might be developed (Rusconi 2018, p. 6).

The possibility of suboptimal decisions is nevertheless reduced as far as top managers and entrepreneurs are creative and aware of the future consequences for the firm of their politics (e.g., in absence of strong environmental regulations), but its possibility cannot be excluded, though could be a stimulus to be increasingly more proactive and enlightened. But what are the implications of this model for the relationships between accounting/accountability, business ethics, and legitimacy?

Clearly, the ethics of accounting/accountability involves all the subjects who are responsible for the preparation of these accounts: the auditors, the standard setters, and the national and supranational (e.g., European Union) governments. However, in this chapter we will focus on top management, entrepreneurs, and the firm's chief accountants: how and to what extent is the EFST-SMT perspective relevant? In the following we provide some reflections about how the proposed model could be adopted to avoid unethical behavior and improve the ethics of accounting/accountability processes.

As far as regards management accounting practices and documents, these are not connected to accountability. Managers and entrepreneurs, as seen above, have to take account of some cases in which decisions about "measurements" can, though indirectly, impact on their legitimacy and ethics toward stakeholders. This is, however, not a question of accountability, so these situations are not discussed further here.

Turning back to the context of financial accounting, one of the most important issues for ethics and legitimacy is connected with earnings management (hereafter EM), which is now considered not only in compliance with the law and accounting principles but, as we have seen before, can be covered in some cases, because of the subjective and discretionary politics of how to treat the accounting process. Excluding the situations of evident misrepresentations and fraud (such as Enron, Parmalat, or WorldCom), which are clearly very dangerous for the individual company and business, we focus on the manipulative use of the discretionary power of accountants. Managers and accountants can in some cases generate some estimated subjective advantage for the firm by adopting a moderate EM. Our proposed conceptual model, which draws upon a holistic view of the stakeholder idea, is a deterrent to EM because, in the respect of principle 3 (MMA), management should act by taking into account stakeholders (more or less implicit) mapping and decisions-making, by avoiding forms of manipulation for self-interested concerns. Some authors emphasize that EM does not represent transparent discretionary practices, because these "affect investors, employees, customers and the local communities, which is eventually reflected in corporate reputation and, hence, the market value" (Martinez-Ferrero et al. 2016, p. 305, who refer to Zahra et al. 2005). In particular, the authors sustain that "accounting practices could affect the value of companies, their stakeholder relationships, reputation and corporate image (Fombrun et al. 2000; Roychowdhury 2006)" (Martinez-Ferrero et al. 2016, p. 305).

Therefore, the application of a more holistic view of stakeholders could help to prevent some ethical short-sightedness of accountants and managers and to avoid practices that could jeopardize the legitimacy of their role and the accounting practices adopted and/or implemented.

Some firms practice another managerial behavior that is not compliant with ethics, though not easily seen by the general public: the so-called macro-manipulation, opposed to *micromanipulation* like EM (Gowthorpe and Amat 2005). This practice is clearly against the principles of neutrality and completeness.

Lobbying accounting principles jeopardize a possible pursuing of pragmatic legitimacy only if it can be clearly discovered, especially if the lobbied principles come from law or professional regulations. In any case it has a consequence on the unfair and unequal position among stakeholders, so that, sooner or later, if discovered can delegitimize firms and even accounting practices.

The EFST-SMT perspective, like with the EM case, can therefore contribute to prevent this risk of future delegitimizing.

The remaining issues of whether the dialectic between strategic and pure ethics, which is introduced by this stakeholder view of the EFST model, can help to shed light on the different forms of legitimacy, i.e. particularly pragmatic and/or moral (Suchman 1995). Though we assume that stakeholder approach can stimulate firms to reduce and/or avoid micro and macro-manipulation and to increase their legitimacy, there is still a need to consider whether this behavior is only a pragmatic (Suchman) means towards reducing the cost of capital, or it is related to moral consciousness: with regard to this, the strategic/pure dialectic EFST-SMT's point of view is useful.

An important and fruitful application of EFST-SMT could be a stimulus by "pure" ethics to a strategically instrumental one to be more ethically sound, because of its direct connection with "pure" ethics not with only pragmatic principles: this soundness could help to achieve a wider long-term perspective of the firm's management.

Turning back to social/sustainability accounting (hereafter SA), this has quite developed over the last two decades. Several important standards, though very often voluntarily, have been proposed. Ethics/legitimacy of SA needs more ethical focus than in the case of financial accounting. Although publishing this document could be seen as ethical and responsible *per se*, the multidimensional nature of these documents could favor micro- and macro-manipulation, even more than in financial accounting, that has for a long time been ruled by laws and accounting principles. Various principles and accounting/reporting standards have widely diffused, especially the Global Reporting Initiative (GRI (2018)) and Accountability 1000 (ISEA) process standard, whose aim is to be accountable to all stakeholders about the general impact of firms to them: economic-financial, social and environmental.

In any case, following an ethical/legitimacy point of view, essential principles are completeness, no material errors, and neutrality (like in financial accounting), but inclusion has to be emphasized also. Inclusion is important because of the multidimensionality of social (sustainability) accounting, by using not only financial quantities but also narratives and other qualitative types of information. This approach makes the manipulation of data and information easier. This unethical behavior can, sooner or later, jeopardize legitimacy. Even if official laws or rules do not exist, discovering not neutral or not inclusive social reports could delegitimize the firm and even (like in financial accounting) all the credibility of the reporting process. With regard to the macro-manipulation, similar reflections, like those related to financial accounting, could be done.

In conclusion, like in the case of financial accounting, EFST-SMT can:

(a) Defend ethical legitimacy by preventing some myopic social accounting process by taking account of principles 2 (taking into account the mapping by stakeholders) and 3 (pursuing a MMA condition).
(b) The strategic/pure ethics dialectics shed lights on the nature of pursued legitimacy; if it is moral or pragmatic, the second is less ethically sound in the case of less estimated risk of unethical behavior toward stakeholders.
(c) Put "pure" and "strategic" ethics in a positive and fruitful synergic relation, especially taking account of the multidimensional character of SA.

Concluding Remarks

In this chapter, we have addressed the issues related to the "ethical" foundations of accounting and accountability practices, for the purpose of envisaging accounting/accountability practices which are really for the interests of society and stakeholders. In particular, we have contributed to this debate by introducing a conceptual model that is able to illuminate some of the complexities of the relationship between accounting/accountability and business ethics. In particular, the model, which is the result of a *metaphorical merger* between a specific version of stakeholder theory and a systemic view of business ethics, is able to provide insights for improving the ethical foundations of accounting/accountability processes and to ensure their legitimacy.

The most important consequences of applying EFST-SMT to accounting ethical legitimacy are:

(a) It emphasizes that firm's accountants are in a system, where other stakeholders "make their accounts," so that legitimacy, of both a single firm or the whole business, should be always considered at risk of not legitimate, both with clearly aggressive and smoothing accounting manipulations.
(b) The legitimacy of firm's accounting practices is fostered by the awareness of the dialectic "pure"/strategic ethics, in order to provide an instrument for better understanding the difference between pragmatic and moral compliance. This helps accountants to open their minds, because of the stimulus of "pure" ethics to look for satisfactory and creative ethical solutions and, on the other hand, to let ethics experts be aware of real questions in accounting practices.

So in conclusion, speaking about ethics of accounting is at the same time simple and complex. It depends on the degree of the depth in which such issues are addressed. In a very simple way, it could be thought that being ethical and legitimate means only respecting laws and accounting regulations. On the other hand, considering the discretionary margins pose much more problems both for ethics and genuine accounting legitimacy. The proposed model, first emphasizes the dialectic synergy between ethics and strategy, in connection with the SMT's idea of synergy between ethics and business (Freeman 1994). This supports managers to take into account several subjects who are involved in the financial and social accounting, as an ethical disincentive against hidden frauds or window dressing. Second, the model incentivises scholars and practitioners to look for situations where ethical compliance could not be real moral legitimacy, but it is only the way to pursue pragmatic legitimacy. This chapter calls for future research to study, where and when, in accounting, it is possible to distinguish the different accounting practices toward legitimacy.

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Corporate Governance, Social Network Analysis, and Business Legitimacy

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Slobodan Kacanski

Contents

Abstract

This chapter aims at contributing to the section of accounting, financial reporting, and business legitimacy of the Handbook of business legitimacy as it unfolds a discussion about how social processes that exist at socially constructed relations within business context could be understood. In particular, the chapter challenges the arguments behind three main concepts and puts them under the same umbrella in order to enrich the already existing and open for further discussions about relations between corporate governance, social network analysis, and business legitimacy. More specifically, the idea behind this discussion is to encourage researchers to utilize the social network analysis methodology as an engine as it enables to opening alternative perspectives of looking into discussions on business

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legitimacy in corporate governance and accounting contexts. In addition, the aim is to contribute to the field of public relations and philosophy of management by emphasizing the possibility of looking into the notion of legitimacy through networks, which are accounted as to be responsible for formulating of an interplay between business sector and society.

Keywords

legitimacy · Corporate governance · Accounting · Social network analysis · ERGMs

Introduction

This chapter aims at opening and broadening a discussion about the specific facets of a corporate governance world. In particular, one of the most prevalent issues that takes over an attention of researchers within the field of corporate governance is how a process of selection of board members, including both executive and non-executives, is undergone in practice. From a theoretical point of view, researchers have so far been interested in understanding of a such problemacy both from macro- and microeconomic perspective. Studies have centralized the problem either at a company level or at the national level. The focus of the company level research was to primarily discuss what are the consequences of the new board member selection on the efficiency and quality of corporate boards. Whereas, at the broader (national) level, studies are mainly focused on identifying the reasons and rationals for establishing of interlocking directorships.

For theory building incentives, it is noticeable that various aspects and theoretical concepts have been implemented to discuss the problemacy of selection process under the corporate governance umbrella – such as social, economic, political, managerial, etc. However, it is conspicuous that literature has omitted to discuss the construct of a selection process at its broader perspective and in relation to the concept of legitimacy in terms of how within and cross-company selection of board members is socially perceived to be legitimate. Albeit studies have directed attention and elaborated some other perspectives of relations between the concepts of corporate governance and legitimacy, that discussion has mainly been pointed to state governance, public governance, and the problem of power. In order to further broaden the discussion and emphasize the necessity of understanding the consequences and idea of social legitimation of social selection processes within the corporate governance context, this is found relevant to turn to the question of legitimacy in relation to the executive and non-executive director selection mechanism. Therefore, this chapter aims at shedding light to the importance of understanding the existence of social selection processes and the need to legitimation of those. Also, the chapter pursues that in order to better understand how social processes are legitimate during the selection, it is important to integrate the social network analysis.

Corporate Governance, Relations, and Networks

The Cadbury report defines the concept of corporate governance "as a system by which companies are directed and controlled" (Cadbury 1992). OECD extends the previous definition by integrating the concept of "relationship" where it states that corporate governance, besides of its genuine idea to direct and control the action, also includes set of relationships between company's management, board, shareholders, and other stakeholders.

One of the very first incentives toward integrating relationships has been found in Pattigrew' work (1992). In his review, Pattigrew (1992) was interested in developing the study where he will put the focus on inter- and intra-board processes while looking at the issues of power and influence. In a subsequent piece, he repeated the claim that any data on the close operation of boards in action is sparse. His work also argued that the research in corporate governance should emphasize actual behavior of board members and boards as units and not to only accounting for the presence of the members. Following this argument, the aim of the forthcoming chapter is to set an argument that, in order to understand corporate strategies, it is important to understand behavior of board representatives. Also, to better grasp how processes at the boards are socially legitimized, it is crucial to identify and analyze relations that unfold between the present actors.

OECD pointed out that relationships are fundamental for understanding the manner in which the objectives of the company are strategized (OECD 2009). This initiates the idea that relational ties that exist between social actors might reveal relatively more information about business strategies, than what individuals representing boards hold in regard to the strategy. By recognizing the magnitude of information held in ties, OECD incorporated the term of "relationship" within the definition in order to emphasize the importance of accounting for structures on acquiring understanding of the corporate governance. Forbes and Milliken (1999) argued that studying about the roles of board processes can help in clarifying the complexity of board design and, as a result, may induce boards to consider adopting process-related interventions to enhance board effectiveness. Such an argument has resulted in a long tradition of the research on corporate governance.

Relationships help to understand means of attaining companies' strategies and business objectives but also performance monitoring. Pointing to the fact that relationship between stakeholders in corporate boards is what brings the autonomy, sovereignty, and consistency, the research seems to be putting limited effort to understand business through relations. Some important efforts are apparent, but the literature has ended up discussing relationships by debating about incentives for establishing collaborative ties through interlocking directorships across multiple boards. So far, research has pointed out few incentives including allocation of capital, business control, generation of an interdependence between companies that bring interlocks to emerge, achievement of cohesion at the upper level social class (Mizruchi and Stearns 1988; Pfeffer 1972; Allen 1978; Allen 1974; Stokman et al. 1985; Zeitlin 1974; Pfeffer and Salancik 1978), etc. while omitting to discuss the structural appearance of network relations through an elaboration of more complex network configurations and how such incentives for interlock emergence are legitimate.

In this chapter, main interested is to further broaden the discussion of relevance for accounting on social relations to better understand strategies of corporate governance. In particular to emphasize how the use of social network methodology may be implemented as a sufficient statistical tool to identify network configurations that tend to emerge within the corporate governance context. Also, once the configurations are identified, they should serve as an evidence to explicating characteristics of the governance network as regards the identification of legitimacy of business strategy.

How Does that Link with Legitimacy?

Studies of neo-institutional tradition primarily understand the concept of legitimacy as a static unidimensional phenomenon that is dichotomous in nature and which separates the outcome on whether a firm possesses it or not (Pfeffer and Salancik 1978). In order to move from this static unidimensional phenomenon toward a more dynamic understanding of legitimacy, it is crucial to introduce some other concepts through which legitimacy will be contextualized and observed. In this regard, the concepts of corporate governance and relations are introduced. This does not imply that the central concept of legitimacy will cease within discussion related to an interplay between the other two concepts, but those two aim at enriching the understanding and broadening perspectives on how legitimacy may be alternatively understood. Thus, the aim of this chapter is to centralize discussion of the concept of legitimacy in the context of corporate governance that is observed through relational lenses. Therefore, in order to establish the base for problem comprehension, it is relevant to define the scope at which the suggested approach will be contextualized.

The concept of a business legitimacy is not new. Several conceptual discussions have been developed in regard to how different forms of political and governmental legitimacies have been attempted to be followed by corporations. Also, how such forms, if applied inside different contexts, appear to be legitimized by society (Coglianese 2007). Though the correspondence among corporate and governmental legitimacies has not been apparent in earlier days, nowadays they are more conspicuous. Particular similarities are apparent in institutional mechanisms that drive reforms of companies' systems of corporate governance, particularly in relation to membership structures at corporate boards.

Inside the governmental context, legitimacy is traditionally distinguished between (1) procedural legitimacy and (2) substantive legitimacy. According to Coglianese (2007), procedural legitimacy is defined as a democratic accountability, where elections are recognized as its dominant component. Also procedural legitimacy is defined in terms of institutional arrangements as the separation of power, transparency, and the rule of law that intend to combat abuses of power. On the other hand, substantive legitimacy represents rights, particularly those rights that are enshrined within constitution that makes certain actions off limits even to an otherwise procedurally legitimate legislature (Nozick 1974).

Based on this, a clear parallel could be drawn between government and corporate institutions. Corporate governance, generally, refers to appointment of two different elements – separation of powers across management, shareholders, and boards of directors, which is preceded by the procedures for selection and removing of board representatives. Following distinctions, it is apparent that the clear parallel between government legitimacy and corporate/business legitimacy exists on the level of procedural legitimacy, though not even at the substantive legitimacy level the parallel is missing.

The question of selection and removing/dismissing the board representatives has been of an interest to researchers for a long time. Studies within this field have also changed and enlarged the scale and the scope. It is apparent that the research field was initiated by the business entity scale (inter-board) and due to an interest to understand reasons for interlocking directorships extended discussion outside the scope of one company (intra-board). As a result, the reason for extending the scope of the corporate governance context is an omnipresent deficiency of a discussion on procedural legitimacy. Therefore, emerging validity and reliability problems stimulated extension of the research scope, which, on contrary, further limited the ability to approach to discussion of legitimacy at the broader empirical scale.

Turning back to the earlier introduced concept of relations and the characteristics of procedural governance, the question of how selection procedure of board members is legitimate to some extent tends to be lacking the answer. In particular, what both practitioners and researchers are lacking of to understand is how board member selection process is legitimate when the extent of the research surpasses a business entity level. The problem is found to be rather methodological, as the power of traditional research methods is limited, thus unable to capture structures through which the legitimacy could be observed. The question itself is legitimate as mechanisms that boards utilize to select board members may be rational and in compliance with regulations, while on a wider extent the existing relations between board members across different boards could condition a new ones to appear.

In extension to a Granovetter's (1985) argument, this chapter aims at pointing out the capacity of a social network analysis methodology for the research in business legitimacy at the corporate governance context. In particular, to identify how social selection processes are socially legitimate. The necessity for raising this question is legitimate itself as the selection process might be more complex if is observed across multiple boards due to a possible conglomerate of intertwined relationships that need to be understood.

During the past three decades, government regulations have introduced constraints to delimit how companies should be acting. The regulations and acts have significantly altered corporate behavior by making it less liberate and more limited. As to the response to a few well-known scandals (Enron, WorldCom, etc.), some necessary changes in a corporate world were in demand (Coglianese 2007). This has resulted with an introduction of Sarbanes-Oxley law of 2002 (SOX 2002), which was supplemented with the rules issued by regulators such as SEC, and stock exchanges. All those put together produced more procedurally constrained and less dissimilar corporate governance institutional structures in regard to those procedural devices imposed to government (Seligman 2005). There are four institutional features specific for corporate governance: separation of powers between executive and non-executive directors, transparency, code of ethics, and elections. *Separation of powers* with its incentive to counteract ambitions across structures breaks down the responsibility for leadership in two branches while employing the CEO who runs the company. In comparison to the separation of powers in governmental institutions, board members and corporate management have never been entirely separated (Coglianese 2007). Exactly such a continued permeation creates the blurred line of power separation between delegated groups and urges for utilization of alternative methodological tools to better understand how a requirement for legitimacy is fulfilled in, on a first glance, structured power delegation. The problem of blurriness has yet been discussed to some extent, but from the perspective of conflicts of interests which were results of collaborative relations developed across different corporate governance levels.

Another key feature of procedural legitimacy that represents the institutional feature is *transparency*. This aspect resembles to what the concept represents within the government context. In particular, it is expected that laws are made in open, and disclosure of information has to be public. In the business context, companies have, as a result of well-noted crashes, been a subject to a variety of different disclosure requirements that aim to create transparency (Seligman 1983), and SOX has made a significant effort to enable transparency.

Code of ethics to a corporate context is adopted by SOX to expand its use (SOX 2002). It calls for the SEC to engage corporate lawyers to report to higher instances on the evidence of security law violation. Finally, *elections* or selection procedures are major feature of procedural legitimacy for governments but also corporations. In the corporate governance context, it is noticeable that corporate management becomes more electorally accountable to shareholders, while shareholders lose a part of their rights to select board members as the choice of candidates is not their responsibility. In practice, shareholders vote on members of the board of directors, but they typically vote based on the list of those that are nominated by the existing board (Bainbridge 2002).

What the main interest of this chapter is to emphasize that current conflicts of interests within assembled corporate governance structures are sown already during the process of selection of board representatives. Also, structures of the corporate governance assemblage, in fact, might reveal more information on how the conducts of actions are socially legitimized than pure business strategy analysis. Thus, the chapter here tries to accentuate that understanding of how relational structures unfold is equally important for understanding legitimacy and recognizing if the legitimate actions are notable in relational structures or are a part of manipulative actions toward public eyes. Therefore, to be able to recognize existence of issues on a wider scale, in the forthcoming part of the chapter, the capacities of the methodology of social network analysis are shortly discussed.

Social Network Analysis as a Methodological Tool Suitable for Research in Corporate Governance Legitimacy

Social network analysis (SNA) has been developed as a method and a tool to interpret the world from relational perspective. It is, in fact, understood as a set of tools that can serve as an engine to understand the research problem by replacing the focus from focal actors, such as individuals, organizations, or institutions, to relationships that exist between multiple objects of a kind (Wasserman and Faust 1994).

Social networks are defined as sets of ties that connect nodes (Robins 2015), where networks do not represent graphs – which are mathematical conceptualizations of network. The term "social network" dates from Moreno and Jennings (1938) who invented sociogram and named their approach *sociometry* (Wasserman and Faust 1994). Unlike any other actor-oriented methodological approach, social network studies advocate actors' actions through relations they establish with the others (Kacanski and Lusher 2017). Relations might differ in direction, strength, and content that is exchanged (purpose), which further defines the nature of the network. Relations might both be directed and undirected (Wasserman and Faust 1994) and might carry different contents. Apart from the fact that content may both be positive (e.g., friendship, trust, collaboration) and negative (e.g., anger and conflict), the strength of the tie can also be weighted (e.g., if some relations are repeated over the observed period).

The methodology acknowledges the existence of three network types: (a) unipartite, (b) bipartite, and (c) multilevel networks (Robins 2015). Unipartite networks are assembled of a one type of nodes (actors) and one type of ties connecting them, while bipartite networks are those assembled of two actor types, while relations exist only between those actors of a different kind. The most complex structures are those between two groups of actors and three types of ties, both between each of the level and across the network levels. Besides of the sociocentric networks, this methodology also recognizes egocentric networks or egonets (Robins 2015).

A very few studies have had a substantial role on developing of social network analysis methodology, such as Granovetter (1985) study on economic behavior been underpinned in social relationships. In this study he has introduced the concept of network *embeddedness*, which has further found its position in SNA. Besides, a phenomenon of a *small-world* (Watts 1999), cognitive social structures (Krackhardt 1987), and network emergence (Stuart and Sorenson 2007) are concepts that have found their position in the theory of SNA as they have contributed to developing of it.

Besides of theoretical concepts that have brought SNA to develop, there is also a group of concepts that serve as a methodological tool that are suitable for implementation into research. Concepts such as degree, density, homophily, reciprocity, transitivity, cohesive subgroups, centrality, structural equivalence, structural holes, bridges, and network brokerage are considered as core concepts for the SNA methodology. Each of these concepts has been developed apart from an incentive to prosper an additional methodological tool, but their joint capacity has been recognized as to stand upon the same argument – which is that any social setting is attributed by complex relational structures. *Degree* is the simplest and primary concept in SNA and provides with an information about the number of ties between a single node and all the other nodes. In directed networks, indegree and outdegree are particularly differentiated. *Density* presents a general level of linking between nodes in a graph. Mathematically, it represents the proportion of present relative to all possible network ties (Scott and Carrington 2011). Even though the concept seems obvious and simple, it provides with crucial understanding of general network properties. *Homophily* is the principle according to which networks emerge. The principle states that ties tend to emerge between those two nodes that are similar to each other (Freeman 2008; McPherson et al. 2001) and usually refers to the observation that *birds of feather flock together*. Such a principle creates niches by localizing positions of vast majority of social differences that are present across society and which can be classified as status or value homophily (McPherson et al. 2001). With the use of an SNA tool, it is possible to identify those regularities that exist in a particular social setting, which potentiate identification of actors' attributes that play a role in establishing relational ties (Lusher et al. 2013). *Reciprocity* is the concept specific for directed networks and represents the tendencies toward mutuality of relationships, as an exchange is considered as fundamental social process (Robins 2015). Reciprocity is connected to the involvement of positive emotions, while in contexts which involve formal hierarchies, the presence of an effect is uncommon. *Transitivity* is in the social network context also known as triangulation, as it represents the process of establishing triads (network configuration assembled of three nodes with ties between them) (Cartwright and Harary 1956). Transitivity is in lay terms best depicted as "a friend of a friend is a friend" and results with clustering or network cohesion. With the development of network studies, triads have become a main network configuration, which are seen as building block of many social networks. *Cohesive subgroups* are subsets of nodes within an observed network representing social actors with substantially greater density compared to the rest of the network (Robins 2015). Clique is the most common form of cohesive subgroup and represents a complete subgraph where all possible ties between nodes are present. Since cliques may overlap across the groups of nodes within the network, and the lack of a single tie means that clique is not present, some relaxed criteria are introduced, and new forms of cohesive subgroups are k-plex, k-cores, and n-cliques (Robins 2015; Scott 2013). *Centrality* reflects the prominence of a social actor or a node within the observed network (Robins 2015; Lusher et al. 2013). The concept originates from the sociometric concept of the star (Scott 2013). Besides that the literature outlined nine different centrality measures (Freeman 1979), according to Robins (2015), there are five types of centrality for undirected graphs, which from degree centrality is the most widely used. It is an intuitive notion of a single node activity, as it measures local centrality by isolating the most active and the most popular node in the network. *Structural equivalence* is a network concept that implies that equivalent social actors tend to establish equivalent relational ties. The concept of a block implies grouping actors into groups such as teams, departments, etc. which is defined as a set of structurally equivalent actors with respect to other such sets that lead to development of blockmodels (White et al. 1976). They have interpreted the blockmodel as an abstract pattern among few aggregate units that characterize more detailed interactions between larger populations of individuals. *Structural hole* is a concept developed by Burt (1992) who argued that individuals standing between two groups might yield multiple benefits. These are considered as actors or nodes that stand between at least two social groups. At an individual level, those actors by bridging regions are in the position to benefit by brokering between two isolated structures (Robins 2015). Those actors are critical for network cohesiveness, while their removal from the network ruins it (de Nooy et al. 2011). Burt (1992) suggests that the opportunity to yield benefits is in individuals' capacity to identify not yet bridged subgroups, and this may yield to better ideas (Burt 2004).

Social network studies have during the time of development of the methodology mainly used linear regression to account for tendencies toward network tie emergence. As regression requires categorization of variables on dependent and independent, an ultimate condition for network emergence is not fulfilled. The problem of a classical dependent-independent condition has found its long way toward the inclusion and adaptation to its statistical form of the concept of *interdependency*. This concept implies that both endogenous and exogenous variables have simultaneous impact on an interplay of social relations that emerge at a particular setting. Therefore, it is not possible to distinguish them between the two elements of a classical condition. In this regard, a new class of statistical modelling has been developed to account for the presence and the absence of relational ties, named *exponential random graph models* (Robins et al. 2009; Robins et al. 1999; Robins et al. 2007; Wang et al. 2013). ERGMs are defined as tie-based statistical models for network structure that permit inferences about how and why network ties emerge (Lusher et al. 2013:9). Instead of observing tendencies toward tie emergence, the idea of ERGMs is to look at the presence of specific network configurations assembled of multiple ties. Configurations are representations of small local subgraphs. As a result, ERGMs work as pattern recognition device that estimates parameter values for a combination of configurations that are introduced into the model. The output of statistical estimations provides with the parameter values, which are further used for theoretical inferences (Lusher et al. 2013). Most importantly, ERGMs hold for the most important theoretical feature of social networks, which is that ties are dependent on each other. This assumes that the presence or the absence of a particular tie may have an influence on emergence or an absence of another tie in the network. The aim of the ERGMs is not to predict social actors' outcome in the network, which is called *social diffusion* or *social influence*, but to detect patterns and inform about network formation processes. Theory recognizes three tie formation processes: (1) network self-organization, (2) attribute-based processes, and (3) dyadic covariates. The first assumes that ties influence the other ties to emerge, while the second encourages the use of actor attributes to further explain network tie emergence, while the last one ties hold for special characteristics that further have an impact on other ties. Modelling in ERGMs is expected to be conducted in a manner that researcher should select those configurations that resemble the social processes that might characterize the social processes within that network, with the condition to simultaneously include all relevant network parameter. That is a crucial condition because social relations in empirical sense develop as a reaction to multiple processes, actors, and social variables that determine the emergence of social networks.

As an addition to this section, several network configurations that belong to the social circuit model are introduced, which is developed as an extension to the previous Markov model. Previous models have in SNA methodology found to be rigid, which caused degeneration problem-related modelling of relational parameters. Therefore, the introduction of a social circuit model has enabled to model tendencies for tie emergence through more complex network structures, rather than triangles only.

A Step Toward a Discussion of Corporate Legitimacy in Corporate Governance Context Through SNA Lenses

The question of “do we?” and if so “how?” do we understand corporate strategies and how business strategies find their way to be publicly legitimate is yet open for discussion. The incentives toward a better understanding of business strategies by public eyes have resulted with that companies publicly, and to some reasonable extent, present their business strategies. Such a public presentation aims at enriching social acceptance of corporate practice, which further results with achieving a level of legitimacy to those present and future actions.

What certainly has become an emerging issue in regard to the development of business strategies is the question of who develops them and in collaboration with who. Accounting for the concepts of power and influence on business strategy development, the argument that society can better understand business strategies and corporate incentives through understanding behavior of board representatives, it was immanent to propose alternative angles toward understanding the issue. As gaining access to observe corporative boards during the process of establishing business strategies might seem to be relatively difficult task, revealing alternative approaches to understand business strategy has been necessary. An emerging issue that prevented society from legitimizing publicly revealed business strategies, as previously mentioned, has been caused by different corporate scandals, so OECD (2009) argued that relations reveal more about corporate strategies, than the strategy itself. In particular collaborative relations that are established both within and between companies and other organizations and institutions might reveal more details about the strategy. This complies with the power of a theory of social networks that relations between actors might carry more information about actors than actors themselves.

The combination of corporate strategy and social relations holds for the capacity to give dynamics to the concept of legitimacy. Transformation of the concept from politics to the context of business has enabled to introduce and emphasize the relevance for social justification of corporate activities. However, social relations that are argued to hold for the capacity to reveal more information are of a special complexity to identify and approach. Since of the interest here is to observe one out of previously defined four institutional features of procedural legitimacy, *election*, the continuation of a discussion refers to that part of the concept comprehension.

By arguing that corporate strategy is dependent on those board members that assemble particular board, the selection of board members and relations established between them may reveal what the business strategy is. Such a revealing of business strategy through social relations enables putting the business entity's legitimacy to a test, since relational angle provides with the capacity to conduct comparison between promoted and actual corporate strategy. The board selection process plays an important role in the process of generating corporate strategy, as personal and professional attributes in the form of attitudes, experiences, education, interests, and knowledge may play a role in redirecting corporate incentives. Therefore, what is potentially found to be important is the reason behind the selection, and how and why relations tend to come about, and not the board assemblage itself. The reason for that is the possibility that board members establish relations with those they know or a similar to them (homophily), with who they might share common interests, which might be in the opposition with the overall business strategy.

Contrary to that, without analyzing relations, it is not possible to identify structuring principles behind board formations. Such complies with the argument that shareholders have only passive role in board member selection, as the election works on a principle of voting for pre-selected candidates. To this extent, it is relevant to add that even further complexity to the network study could be given if besides to board selection, also the selection of executive directors is introduced to the network. Such an idea may be utilized to identify tendencies for board and executive selection in order to analyze and understand business strategies at the corporate level utilizing two-mode network methodology.

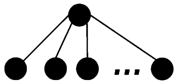
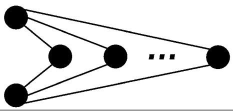
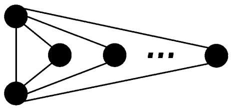
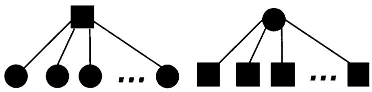
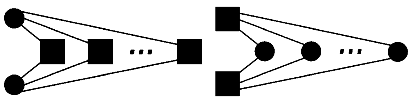
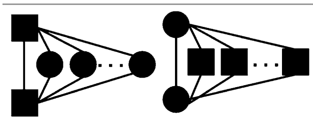
In the following table, a limited number of network configuration are provided for the sake of giving the idea about the capacity of ERGMs and software, named MPNet (Wang et al. 2013), which in this regard may be utilized to model social processes within selected network. It is important to draw the attention that network configurations are open for interpretation, but the interpretation made based on their visual substance should be developed with care, in order to resemble the theoretical arguments introduced from different theories (Table 1).

The previous table gives suggestions on the use of a methodological tool of social network analysis to the research of business legitimacy in corporate governance. The structure and combination of parameters are not predetermined and final. The selection of network configuration will depend on development of hypotheses and theoretically driven arguments and in context to this book chapter should be serving only for an inspiration.

Conclusion

As a contribution to the Handbook of business legitimacy, this book chapter aimed at opening future discussions about triangulation between legitimacy, social networks, and corporate governance. The idea of triangulation is settled in the emerging

Table 1 Outline of few ERGM network configurations that may be utilized for estimation of parameters of corporate governance networks

Network configuration	Possible interpretation
	*One-mode popularity effect* – Parameter indicates presence of highly central actors. The significance of this parameter shows that network is characterized by board members that are popular in an observed corporate governance network
	*One-mode clustering effect* – This is an opposite effect from closure and indicates transitive collaborative relations at the governance level, where tie between central actors misses
	*One-mode closure effect* – Indicative of triadic clustering between actors. Shows if collaborative relation between two board members influences the selection of the same other board members
	*Two-mode popularity effect* – Parameter is used to estimate tendencies toward the presence of highly central actors that have ties established with nodes of a different group but the one the node belongs to. Parameter may be used when relations between executive and non-executive board members matter for analysis
	*Two-mode clustering effect* – Indicative for relations between different node types, where central actors do not have a tie between them. That is a transitive configuration where, e.g., non-executive boards might select those executives that have no collaborative relations between them
	*Two-mode closure effect* – It is indicative of triadic clustering across levels that include within-level closure. Such configuration may be used to identify, e.g., whether a collaborative relation between non-executive directors impacts the selection of same other executives for the board

problem of witnessing various corporate scandals of those companies that have already had legitimated practices. Arguing that publicly revealed business strategies might potentially counter to what corporate practice is, it has been emphasized that understanding relations within and across boards might reveal more information about the strategy than what public announcements on corporate strategy do. Besides, the chapter here introduced the concept of relations and the methodology of social network analysis together with providing input on the capacity of exponential random graph models for the analysis of corporate strategies and business legitimacy, to better understand the strategy and identify potential misalignments between the two. Lastly, the chapter briefly outlines several network configurations that belong to the social circuit model, which might be utilized to estimate parameters for network tie emergence. Finally, this chapter aims at informing future researchers about the capacity of the social network analysis and ERGMs as a cutting-edge statistical methodology for the research in the context of corporate governance for investigation of the problem of business legitimacy.

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Social Accounting and Business Legitimacy 51

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Contents

Abstract

The monetization of social value of organizations has been questioned but also positively defended during the last decade. After a review of different methods, this chapter argues that social accounting (monetizing the social value) can make a positive contribution to legitimacy if it is well-designed, extended, and internalized in the organization. Having used practicing theory for 10 years, as more than 100 companies have applied social accounting, we have made an exploratory analysis to detect and describe the main reasons for businesses to use this method for monetizing social value. The findings show that legitimacy is the most

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important reason for using this method; however, legitimacy to society is more important for businesses than legitimacy to public administration. Results also suggest that there is a change, at least in those companies, as their purpose is more social than economic, as they do not only worry about generating economical value but also, or even more importantly, about creating social value to society. It implies the beginning of a reinvention of the economy based on companies with social purpose.

Keywords

Social accounting · Monetize social value · Legitimacy · Social purpose

Introduction

Currently, social accounting has become a growing area in the field of business ethics (Gray et al. 1995; Gilbert and Rasche 2008; Retolaza et al. 2016). Particularly, society does not trust exclusively financial indicators, such as EBIT or EBITDA, or GDP from a general view. Then, the perspective that we have assumed is that we will need other social measurements to legitimate companies in society. In the era of triple bottom line (Elkington 1998) and sustainability (Dyllick and Hockerts 2002; Rendtorff 2016, 2017), financial analysis is not sufficient, because it only covers the financial performance and financial purpose of companies, but if we assume that financial performance is not the main purpose of companies, then a social measurement is needed (Retolaza et al. 2016). In this case, experts, such as N. Craig Smith in *The Wall Street Journal*, have also shown that "there's no question that there is growing awareness that the integration of environmental, social and governance factors into business practice is vital to managing risk and creating long-term value for the company." Then, the social accounting could give us the option to develop a complete social view of business that could generate a system to show the social purpose of the companies (Rendtorff 2017). With this aim, many forms of systematic measurement show the social contribution to the society by companies, legitimating them and arguing different reasons for their existence. Furthermore, many tools and principles' systems have been developed for this purpose, and almost 40 different measurements have been identified by Gilbert and Rasche (2008): UN Global Compact, Common Good Matrix, ISO 14001, Global Reporting Initiative, or Social Accountability 8000 (SA 8000), among others.

In this chapter, firstly we will show the meaning of business legitimacy and its importance and secondly a review of different methods to show the social value that a company is generating or could generate. Then, after describing different systems, we will present the utility of social accounting from a practical point of view using the results of a questionnaire with some companies that have already applied social accounting. One of the clearest results is that the first reason for using social accounting is reputational; however, when the process has been applied, organizations notice the other benefits of social accounting, that is, they do not only understand what type of company they are, but they also manage the company to a more social purposed company. Then, social accounting is useful for legitimating the businesses, not only from a reputational view but from a strategic one as well.

Indeed, we should change the prism that we use to understand companies, not only from a theoretical point of view by using Sustainable Development Goals (www.un.org/sustainabledevelopment/sustainable-development-goals/) that could change our society to a more sustainable world but also by employing some tools and measurements in order to understand in a quantitative way the actions that each business conducts. We have listened more than once that "the essential is invisible to eyes" (the tale of the little prince); and it is the basis of our argument; there are many things that companies make without a financial purpose, just with the aim to contribute to the wellbeing or a better feeling of stakeholders. In general, society has managed the economy and business exclusively in a quantitative form and using money as the basic element, as the financial perspective is unique for legitimating. Nevertheless, it is not the most essential point of business; there is a more important element, like the social purpose, relationships, and actions for humans that need to be reinforced and measured to show that businesses are managed based on social aspects too. Then, with this challenge, the discipline of social accounting has developed in different ways and aspects, and one of those is the social accounting based on GEAccounting experiences (see www.geaccounting.org) that we will use as the empirical root in this chapter to show the importance that social accounting bears for legitimating a company.

Business Legitimacy: From the Concept to Reporting

Traditionally, it has been considered that businesses are social creations and that their existence depends on the willingness of society to continue to allow them to operate (O'Donovan 2002). Legitimacy theory has its roots in the idea of a social contract between the corporation and society. A company's survival and growth depend on its ability to deliver desirable ends and to distribute economic, social, or political benefits to the groups from which it derives its power (Magness 2006). According to Suchman (1995), legitimacy could be defined as: "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions" (p. 574).

Another noteworthy definition of legitimacy was proposed in the work of Deephouse and Suchman (2008), where they noted: "organizational legitimacy refers to the degree of cultural support for an organization – the extent to which the array of established cultural accounts provide explanations for its existence, functioning, and jurisdiction, and lack or deny alternatives. In such an instance, legitimacy mainly refers to the adequacy of an organization as theory. A completely legitimate organization would be one about which no question could be raised (every goal, mean, resource, and control system is necessary, specified, complete and without alternative). Perfect legitimation is perfect theory, complete (i.e. without uncertainty) and confronted by no alternatives" (pp. 50–51). "Contrary to the economic postulates that circumscribe the role of the associated companies exclusively to obtain the maximum benefit for the shareholder, there is a doctrine that envisages an alternative vision: they operate in society by virtue of a social contract" (Pahlen et al. 2014, p. 10). Then, companies must respond to the needs of society.

In this sense, the previous idea of an intangible social agreement or contract between business and society has served as a theoretical linchpin for many other theories, like stakeholder theory (Clarke 1998; Freeman 1984; Mitchell et al. 1997), legitimacy theory (Guthrie and Parker 1989; Patten 1992), accountability theory (Gray et al. 1995; Rendtorff 2016, 2017), and political economy theory (Buhr 1998), which have been developed in an attempt to explain various aspects of corporate social behavior (O'Donovan 2002). In this regard, the previous legitimacy theory rests on the assumption that an organization has no inherent right to exist. This right is conferred by society, but only when the company's value system is perceived to be congruent with that of the society in which it operates (Magness 2006).

According to Tornikoski and Newbert (2007), in order for new organizations to survive, they must be perceived as legitimate in both a cognitive sense, that is, they must be accepted by all of those groups who might be inclined to engage in resource exchanges with them, such as customers, suppliers, potential employees, and the like, and a sociopolitical sense, that is, they must be perceived as engaging in appropriate activities. Since legitimacy theory is based on perception, any response by management must be accompanied by disclosure, for actions which are not publicized will not be effective in changing external parties' views of the organization (Cormier and Gordon 2001; Magness 2006). If companies do not make use of appropriate disclosure, the intended audience will be unaware of what the company is doing or trying to achieve, and legitimacy will be problematic (O'Donovan 2002).

Concerning the issue of disclosure, it should be noted that disclosure in annual reports was primarily identified for creditors and shareholders and designed to discharge stewardship obligations so as to ensure ongoing access to financial markets (Gray et al. 1995). Over time, the concept expanded to include communities, consumer associations, regulators, environmental groups, and the media, plus others (Magness 2006). The objective of accounting expanded to include the provision of information to help stakeholders estimate the amount, timing, and uncertainty of future cash flows (Magness 2006), as well as to satisfy future interests (Gray et al. 1995).

Hence, in accordance with the previous viewpoints, creating a perception of attractiveness, credibility, or legitimacy is important in that legitimate organizations are considered to be more meaningful, more predictable, and more trustworthy (Suchman 1995; Tornikoski and Newbert 2007). Understandably, an organization must often "create an impression of viability and legitimacy before it will receive support" (Tornikoski and Newbert 2007, p. 314). Thus, "the company can be analyzed under the legitimacy taking into account the information that it transmits such as financial-accounting information or social reporting" (Retolaza et al. 2018, p. 162). By gaining legitimacy, a nascent organization should find it easier to successfully attract customers (Wiewel and Hunter 1985), recruit employees (Williamson 2000), and gain access to other critical resources (Baum and Oliver 1991). In short, legitimacy can provide the means by which a nascent organization becomes an operational organization (Tornikoski and Newbert 2007).

Quantification of Social Value Models: An Overview

In recent decades, the conception about businesses as generators of purely economic value has been modified, in favor of a more holistic approach that considers them as economic social systems that carry out their activities within a social system with which they interact. Firms distribute value widely across their stakeholder networks by means of higher wages or better benefits for employees or managers, better terms to suppliers, community programs, better customer services, or lower prices (Harrison et al. 2010). In this regard, social accounting relates to the social and environmental effects that are not reflected in traditional financial accounting practice, since the latter has traditionally been linked only to financial and economic magnitudes.

More precisely, social accounting could be defined as "the process of communicating the social and environmental effects of organizations´ economic actions to particular interest groups within societies and to societies at large" (Mathews 1997, p. 483). However, one of the main pitfalls of this discipline is that, in comparison to financial accounting, there is no universally recognized framework for social accounting. Therefore, the social accounting models chosen do fulfil the following conditions: firstly, they are applicable to any kind of businesses, for-profit or nonprofit. Secondly, they are models that can lead to the self-assessment of businesses. Finally, the information about them is publicly accessible (Tuan 2008).

The following points will describe these models and evaluate them according to different dimensions, like level of application, stakeholders' participation, metrics generated, data requirements, and effort required.

The Economy of Common Good

The Economy for the Common Good (ECG) is a comprehensive and coherent economic model and is practiced in hundreds of businesses, universities, municipalities, and local chapters across Europe and South America. It represents an alternative to both capitalism and communism, as it emerges out of a holistic worldview and is based on "sovereign democracy," a stronger democracy than exists today (Felber and Habelberg 2017).

The Matrix of Common Good intertwines fundamental values – human dignity, cooperation and solidarity, ecologic sustainability, social justice and democratic co-determination, and transparency – with the main stakeholders of the business: suppliers, financers, ecologic sustainability, customers, and social and natural environment. The assessment follows a punctuation scale in terms of percentages from 0% to 100% and is divided in diverse development measures. Each one of the 17 criteria is assigned a maximum punctuation (between 30 and 90 points), and there are even negative criteria concerning detrimental behaviors for the common good, which add up to a number between 100 and 200 negative points for each criteria selected. Overall, business could obtain up to 1000 points (Ayuso 2018; Felber and Habelberg 2017).

B Impact Assessment

B Impact Assessment is a tool developed by B Lab organization to assess the social and environmental performance of a business (Ayuso 2018). B Lab is a nonprofit organization that has promoted the B Corporation model, which refers to businesses that meet the highest standards of verified social and environmental performance, public transparency, and legal accountability to balance profit and purpose. B Corps are accelerating a global culture shift to redefine success in business and build a more inclusive and sustainable economy (www.bcorporation.eu/about-b-corps).

The B Impact Assessment (BIA) is a free, comprehensive, and industry-specific tool designed to measure the social and environmental impacts of a company. Taking the BIA will let see where the company could improve across five aspects, called "impact areas": Governance, Workers, Community, Environment and Customers. To progress with B Corp Certification, the company must reach, in the approximately 100 questions of the questionnaire, a total verified score of at least 80 points out of 200 available on the BIA (Ayuso 2018; www.bimpactassessment.net/).

After completing the BIA, B Lab will verify the score to determine if the company meets the 80-point bar for certification. Then, business representatives that have completed the BIA will meet virtually with B Lab staff to review the completed BIA and submit confidential documentation to validate the responses. To maintain certification, B Corps update their BIA and verify their updated score every 3 years.

Social Return on Investment (SROI)

SROI is a term originating from return on investment (ROI) used by traditional investors. It describes the social impact of a business or nonprofits' operations in dollar or euro terms, relative to the investment required to create an impact and irrespective of its financial return to investors. It is based on the net present value of these nonmarket impacts in dollar terms (Lingane and Olsen 2004).

In fact, it tells the story of how change is created by measuring social, environmental, and economic outcomes, using monetary values to represent them. This represents a ratio of benefits to costs. For instance, a ratio of 3:1 indicates that an investment of 1 € delivers 3 € of social value (Nicholls et al. 2009). The SROI measures the value of social benefits created by an organization, in relation to the relative cost of achieving those benefits, as illustrated below (Rotheroe and Richards 2007):

$$\text{SROI} = (\text{Net Present Value}/\text{Net Present Value of Investment})$$

Moreover, SROI explicitly involves stakeholders at every stage, from deciding what indicators to use to putting financial values on outcomes (New Philanthropy Capital 2010).

Global Reporting Initiative (GRI)

GRI has developed sustainability reporting since 1997. It is a project created by the collaboration between UNEP (United Nations Environment Programme) and CERES (Coalition for Environmentally Responsible Economies). In fact, most of the largest corporations report on their sustainability performance using this type of reporting. It is based on the triple bottom line in order to disclose economic, social, and environmental issues of an organization in a standardized way. It helps to detect risks and to show where opportunities to improve the impacts to the society are. It is based on everyday activities and to report the organization's values and governance model. This type of report quantifies, but does not monetize social impacts, and although "expectations have grown up that GRI may be a step towards standardization in regard to accounting, the truth is that so far no regulations have been established in regard to monetizing indicators, and given that GRI is being developed as a framework for presentation rather than valuation such regulations are unlikely to be created" (Retolaza et al. 2016, p. 7).

The main purpose of GRI is general, and basically it is about reporting for understanding the sustainable development while establishing how to improve it. However, something this reporting has considered as a systematic system that shows basic information about the indicators, but they are not enough to enable new accountability relationships.

The GRI calculates social impact of economic activity using adapted cash value added statement, arguing that a part of the social impact comes from economical transactions. It is based on retrospective data, and it has made an effort to improve during the last years; however, there are some lacking points such as an explicit, geographically based, and scale-based theoretical framework. In this line, we should highlight its lack of usage for strategic decisions, as its focus is mostly on communicating. See www.globalreporting.org for a more exhaustive practical explanation.

Monetization of Social Value (SPOLY Methodology)

The SPOLY methodology, better known as the "polyhedral model," is a social value monetization model that was coined by the ECRI Research Group of the University of the Basque Country and the University of Deusto (Basque Country, Spain). The findings obtained have enabled an integrated accounting model where the social and economic value generated by the organizations for their stakeholders as a whole can be considered jointly. Nowadays, an economic interest group, called

GEAccounting (www.geaccounting), which paradoxically has no profit purpose, exploited it. This organization consists of the grouping of university, companies that have applied the social accounting, and consultants who help companies implement the social accounting system. In this regard, the SPOLY methodology rests on four basic assumptions:

- Stakeholder theory: This theory posits that the firm needs to satisfy stakeholder interests, and this satisfaction enables the firm to create value to stakeholders. It has been argued that "the primary responsibility of the (business) executive is to create value for stakeholders" (Freeman et al. 2010, p. 28). Creating value requires a joint effort by all stakeholders with implicit knowledge that their stakes are multifaceted and interconnected (Garriga 2014).
- Phenomenological paradigm, as the aim of interpretative phenomenological analysis, is to explore in detail how participants are making sense of their personal and social world. The main currency for this study is the meaning that particular experiences, events, and states hold for participants (Grocke 1999).
- Action research, defined as: "a participatory, democratic process concerned with developing practical knowing in the pursuit of worthwhile human purposes, grounded in a participatory worldview. It seeks to reconnect action and reflection, theory and practice, in participation with others, in the pursuit of practical solutions of issues of pressing concern to people. More generally it grows out of a concern for the flourishing of individual persons and their communities" (Bradbury and Reason 2003, p. 156).
- Finally, another vital principle of this methodology is that of fuzzy logic. In contrast to two-valued logical systems, where a certain proposition is true or false, in fuzzy logic a proposition may be true or false or have an intermediate truth value (Zadeh 1988). This logic is adequate in the process of social value quantification, where there is difficulty in assigning a range of value to a certain output due to the range of variability of upper and lower bounds, in comparison to classic financial accounting, where the range of variability is more reduced (Retolaza et al. 2016).

The development process of SPOLY methodology follows five phases: creation of a timetable for the process, identification of stakeholders and sketch of a stakeholder map, identification of value variables by means of interviews with stakeholders, monetization of outputs, and calculation of the social value. Even if the duration of the monetization process may vary from one company to another, it is believed that the average duration ranges from 6 months to 1 year. In this regard, the execution of interviews with stakeholders tends to be the main reason why the project can be delayed (Retolaza et al. 2016).

In this respect, it should be mentioned that this methodology has been applied successfully in different organizations, like Euskaltel and Gamesa, or nonprofit companies like Lantegi Batuak and Formació i Treball (organizations that strive to give a job to disabled people) or the mining museum of the Basque Country. The results have been encouraging, and it is expected that the methodology will increase its practical application.

Once the chosen social accounting models have been explained, Table 1 will sum up the main characteristics of the different models.

Table 1 Overview of social value assessment models

Social accounting systems	Economy of common good	B impact	Social return on investment (SROI)	Global Reporting Initiative (GRI)	Social accounting (SPOLY)
Objective	Establish a rating in relation to the value that companies bring to the stakeholders	Establish a rating in relation to the value that companies bring to the stakeholders	Evaluate investment Analyze internal efficiency	Report on the impact that the organization has on the relevant variables for its stakeholders	Measure generated social value of an organization during a period Analyze relative social efficiency
Analysis level	Business activity	Business activity	Social project	Triple bottom line: economic, social, and environmental	Business activity
Quantification of values	Points-based analysis (positive and negative)	Points-based analysis	Monetary value-based analysis	They are quantified but not monetized	Monetary value-based analysis
Benefits	They are defined deductively, standardized, and weighted for each company. It's not clear how they look	They go beyond profit, they consist of a range of indicators that the promoter group considers to contribute to the social good	Consider all kinds of impacts (social, economic, and environmental) Identifies the potential negative effects of the intervention Use financial proxies to estimate the value of profits that are not easily monetized	Inform the stakeholders about social and environmental risks, as well as the value generated in these areas. It allows comparative monitoring in relation to previous years and companies in the same sector	It incorporates the entire socioeconomic impact Report social benefit as monetary value It uses financial proxies to estimate the value of the total profit
Application level	Organizations	Organizations	Projects, programs, and policies	Organization and value chain	Organizational and strategic policies
Temporal perspective	Retrospective	Prospective	Prospective	Retrospective	Retrospective
Discount of flows	No. Points-based analysis	No. Points-based analysis	No	No	No; past value is used

(continued)

Table 1 (continued)

Social accounting systems	Economy of common good	B impact	Social return on investment (SROI)	Global Reporting Initiative (GRI)	Social accounting (SPOLY)
Dialogue with stakeholders	No	No	Yes	Yes	Yes
Main utility	Orientation to public intervention (incentive, limits)	Facilitate business transformation Orientation to public intervention	Establish priorities for investment decisions	Fundamentally communication and, to a lesser extent, review of the strategy	Understand the social value generated by exploitation of the company in a period Options to include in strategy and advanced management purposes

There are different methods for describing the social value of an organization. However, we have considered that it is necessary to get a comparable system not only in a unique moment but also during different years. Using this commitment as the basic norm, money is one of the best systems to establish comparability among organizations. The utilization of money has been generalized during decades, and it is used around the entire world. Then, it could permit the comparability in similar conditions between different companies around the world. Moreover, the SPOLY method that we have chosen is useful not only for taking decisions in a certain moment to determine, probably, which type of social project will be useful but also for analyzing if the whole running of the company in a period is efficient socially or not. Then, it is a retrospective analysis, similar to traditional accounting. Finally, another reason for the previous choice is because this method groups all the actions of the company, and not only part of them; then, the social accounting monetizing social value is the unique that includes all these previous queries.

Other methods are useful, of course, and we will use them in a complementary way. They are used for different purposes; for example, economy of common good is useful for a more qualitative analysis orientated to public intervention based on standardized aspects to analyze, B impact uses point-based analysis and then encourages the transformation of the company to the previously established social rules, and social return on investment is a very generalized system that is used to evaluate a social project. However, by using social accounting, it is possible to calculate the SROI ratio, as well. GRI is used in a standardized form, and after some reviews it seems that nowadays it is used not only with respect to classify the level of implication of activities with social impact but also to monetize some of them.

Understanding the Use of Social Accounting from a Legitimacy View

When speaking about methods and methodological approaches, one should first clarify what is meant by method. Method is the procedure of connecting propositions about causes with propositions about effects. It is the shortest way of finding out effects by their own causes, or causes by their own effects. In this regard, it is common to all sorts of methods to proceed from known things to unknown (Talaska 1988). The function of a method is twofold: discovery or invention and demonstration or manifestation of connectedness between conclusion and first principles; it can also be said that it is a means of proceeding in order to arrive at new knowledge and a means of teaching. Among the many different methods that are adopted with the aim of conducting research, we can find analytic-synthetic and hypothetic-deductive ones (Talaska 1988).

To start with, we should take a look at the different components of the previous methods. Concerning the analytic method, it has its roots in the world analysis. According to Diderot and D'Alembert (1751), analysis is the method to be followed in order to discover the truth, also called the method of resolution. By means of this method, one gets from the composite to the simplest, whereas synthesis leads from the simplest to the complex. Analysis consists in returning to the origin of our ideas, developing their order, decomposing and composing them in a variety of ways, comparing them from all points of view, and making apparent their mutual interrelations. In searching for truth, analysis is an enemy of vague principles and of every aspect that could be contrary to the accuracy and precision (Diderot and D'Alembert 1751).

In contrast, the synthetic method is a method used to find out the truth by means of already demonstrated principles and propositions that we have already proved, with the objective of getting to the conclusion by a sequence of well-known and already demonstrated truths. This method is also called the method of composition, and it is the method that has been used in the majority of mathematic demonstrations in the past, where the usage of definitions and axioms is customary in order to get to the solution of propositions and problems (Diderot and D'Alembert 1751).

When putting together both methods, we can arrive at the analytic-synthetic method, which consists of splitting a problem into its elementary component parts, analyzing them separately, and then integrating them into a relational model (Retolaza et al. 2016). This is particularly true in areas like philosophy, where the most general procedure is to start with knowledge of the most universal things and their causes and to proceed synthetically by deduction to explain less universal things. But to get to the knowledge of universal aspects and their causes, we should take into account that the knowledge of universal things that are contained in the nature of singular things is to be acquired by resolution or by analysis (Talaska 1988).

We will explore the reasons to apply the social accounting (SPOLY) using different secondary data. Our evidences are generated based on those companies (half hundred in 2018) that apply this method with the purpose of monetizing social value. Then, by applying the evidence that comes for applying practicing theory perspective (Feldman and Orlikowski 2011), we will show what the most important reasons for using social accounting are.

We got the answer of almost half of companies that started the social accounting method for monetizing social value of organizations during 2017.

Firstly, we show that most of companies answer 4 or 5 in a Likert scale of 5 points (see Fig. 1); then as we could expect, the companies apply social accounting method because it is quite or very interesting for their companies in a general view.

Then, the results show that monetizing the social value of organizations with the aim to show what they are doing apart from the economic activity is a subject of interest for all the organizations analyzed. However, in this chapter we want to show not only the positive side of applying social accounting for all the organizations that use it but more importantly the reasons for using the system for organizations in general. In this regard, in the next figure (see Fig. 1), we have shown the mean value using a Likert scale for evaluating the level of importance of each statement in relation to legitimacy, communication, and knowledge.

In this line, other studies, such as the study carried out by Lazkano and Beraza (2019), have shown that one of the most important reasons is the "need to justify subsidies received from Public Administrations" (Lazkano and Beraza 2019, p. 7). They suggest that it is also very important the mission and the use of social accounting to measure its veracity and impact into society. Then, the purposes of applying a social acounting system are based on legitimacy, and there are evidences that show this (Lazkano and Beraza 2019). Then, in general the studies show that legitimacy to society is more important than legitimacy to public administration. In the second level the reasons are based on social value creation knowledge, increasing the social value for society with a 4.17 and knowledge of the own organization with a 4.13 points. Finally, the reasons are based on communication aspects with a mean value of 3.7 because there is a huge difference between the intentions to

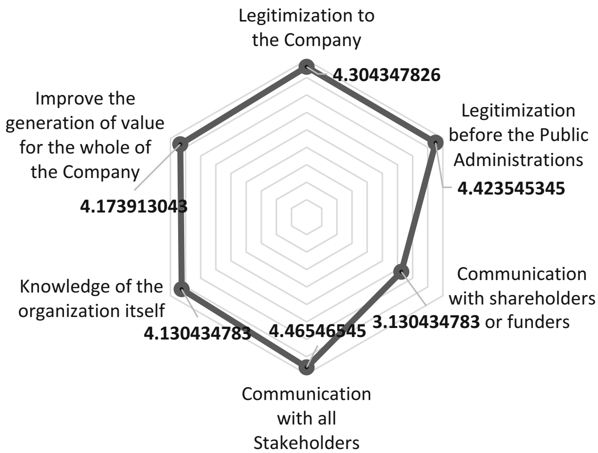

Fig. 1 Importance level of the reasons for applying social accounting in order to monetize social value (note that the values from 1 to 5 point to the importance of a list of statements based on Naranjo-Gil and Hartmann 2006)

communicate with stakeholders that are valued with 4.3 points and communication with shareholders with only 3.1 points. One of the first findings is related to the importance of using the social accounting for legitimacy purposes but also understanding that the company is important and the communication with others that are not shareholders or financiers is vital too.

Also, it is shown in San-Jose et al. (2020) that there is an option to apply the social accounting data as an efficient ratio. For this purpose, it has been applied the social accounting to health system, a hospital concretely; and it is useful to establish if the public financing is used with social purpose. Then, social accounting is not only a communication system but also is strategically possible to develop, legitimating this information system not only to communicate to society and public administration but also to monitor the results and improve the quality of them.

Concluding Remarks

Businesses are social creations, and their existence depends on the willingness of society to continue to allow them to operate, and for that to happen, they should be legitimated for this purpose. There are many different methods that help in this process because the methods show the results of the established purpose of companies. When we assume that companies should give back to the society a value, we need to establish this value not only with economic measures, because classic value measures are only using the economic transactions and in a business there are other different aspects that are more relational or, at least, they are not linked to a money transaction. Then, it is important to review different methods with this purpose, and therefore after the comparison between different methods that we have made, we have chosen the social accounting that monetizes the social value to show three aspects of companies that have already applied it: level of interest, importance, and utility. We have used an online questionnaire to get information about these issues based on a pre-evaluated questionnaire during 2018.

It is expected that the results of this chapter will have made a threefold contribution. Firstly, we have shown that the social accounting system based on monetizing social value is possible to use (we show another evidence for practicing theory), and at least almost half of the businesses analyzed are happy and value positively the utility of the method. Secondly, the most important reason for using this method is legitimacy to society; then it is important not only to know and improve the social aspects of organizations, as they give them the validity in front of society to explain and argue what they are contributing to the society and why. Then, it is shown that there are some important reasons based on legitimacy but also other aspects that go beyond permitting to organizations to include as an important strategic key the social purpose objective. Thirdly, the social values are important, and even more important than economic results for some companies, so we have perceived the beginning a reinvented economy based on companies with social purpose.

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Part XIV

Legitimation Strategies for Business Corporations

Business Legitimacy and the Variety of Normative Contexts

52

Magnus Frostenson

Contents

Abstract

Legitimacy research suggests that companies obtain moral legitimacy when acting in accordance with commonly held norms and values of the social system. In recent years, more attention has been paid to the fact that such systems are heterogeneous. Assumptions about what is morally right and wrong differ, not only between normative contexts but also within them. For that reason, the issue of moral legitimation becomes complex. The focus of the chapter is on the nature of the normative contexts in which companies attain legitimacy. Light is shed on the variety of normative contexts and the way that companies relate to these. It is argued that normative contexts differ with regard to both the number of competing normative ideas and the strength of these ideas. In addition, multinational companies face a multitude of social systems in which moral legitimation takes place. The chapter provides a model for understanding various normative contexts. It is argued that depending on the nature of the contexts, moral legitimation will operate differently.

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Heterogeneity · Legitimacy · Moral legitimacy · Normative context

Introduction

Business legitimacy is a concept that has gained much attention in recent years. It has been studied from institutional and strategic aspects (see, among many, Aldrich and Fiol 1994; Suchman 1995). Today, we know much about the basis and the nature of legitimacy and about corporate strategies to gain, maintain, or restore legitimacy (Aerts and Cormier 2009).

Legitimacy is frequently understood as either moral, pragmatic, or cognitive (Suchman 1995). It has been defined as a “generalized perception or assumption that organizational activities are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions” (Suchman 1995, 577). Legitimacy, thus, is contextual and is granted by a collective audience relevant to the company.

These audiences, however, are not easily defined as uniform clearly situated collectives. Contemporary businesses often face legitimation problems relating to the fact that they do not only encounter a variety of audiences but they also operate within complex and varying systems of norms, values, and beliefs.

The fact that legitimation in general, and perhaps moral legitimation in particular, has become more complex in recent decades can been explained by two overarching forces: first *individualization* and second *globalization* (including migration). Various scholars have discussed legitimacy and legitimation against this background. Scherer and Palazzo (2006), for example, point to the ongoing process of individualization that fragmentizes the once more or less homogeneous cultural understandings of societies (see also Scherer and Palazzo 2011). In modern cultures, values, interests, goals, and lifestyles flourish alongside each other, sometimes causing conflict, but at the very least increased complexity and heterogeneity. Globalization, furthermore, brings worlds together and, accordingly, also various cultural and existential understandings that used to be separated by borders and distance. Legitimation, for these reasons, becomes a much more complex process that what can be assumed in uniform and homogeneous environments.

It is a well-known fact that companies, in particular multinationals, navigate between different expectations and requirements in the varying contexts where they operate. Being, for example, a multinational enterprise (MNE) involves legitimation complexities both externally – through operations in different countries with varying normative assumptions and perceptions – and internally, where various subunits may strive for legitimacy within the firm (Kostova and Zaheer 1999). Due to lack of uniformity within and between social systems (Child and Rodrigues 2011), companies face simultaneous and conflicting moral legitimation and delegitimation. An implication of this is that most, if not all, companies live in a state of legitimation ambiguity. In the case of the MNE, this relates to dealing with more specific practices (cf. Donaldson 1989), as well as more general normative requirements that the normative contexts prescribe.

For corporations seeking legitimacy, the issue is problematic for at least three reasons. *First*, the company may operate within different social systems, with a multiplicity of requirements from both a legal and moral perspective (Scherer and Palazzo 2006), resulting in conflicting and contradictory legitimation processes (and strategies). *Second*, even within the same social system, it is likely that generalization is complex due to conflicting norms, values, and beliefs (Child and Rodrigues 2011). *Third*, due to the complexity of legitimacy itself, and its different variants, even within the same social system, some form of legitimacy may be present while others are not.

However, despite the fact that legitimacy has been seen as a complex phenomenon due to heterogeneous normative contexts (Kostova and Zaheer 1999; Scherer and Palazzo 2006), relatively little focus has been on *how* these contexts are heterogeneous from a normative and a moral point of view and in which way this matters to corporate moral legitimacy. Thus, the chapter focuses less on specific strategic approaches of companies given heterogeneous normative environments (cf. Pache and Santos 2010; Lamin and Zaheer 2012; Reast et al. 2013; Scherer et al. 2013) but more on the contexts themselves and the predicament facing businesses given that they operate within or between them.

More specifically, the research question of the chapter is: In which way are normative contexts varying, and what is the significance of varying normative contexts for business legitimation? The chapter will give an answer in terms of discriminating between (a) the "number" of competing ideas within a particular context and (b) the relative strength of the normative ideas within the context. In doing so it also takes into account (c) the predicament of business organizations situated in separate normative contexts.

The chapter is structured as follows: First, the corporate need for moral legitimacy is discussed. Then, the variety of normative contexts in which moral legitimation takes place is highlighted and analyzed. Next, the nature of heterogeneous normative contexts is treated through an analytical lens. Finally, conclusions are drawn.

Moral Legitimacy

Legitimacy has been the topic of business studies for at least four decades. Starting with a more general interest in the institutional conditions of the company (Parsons 1956; Meyer and Rowan 1977), and how they explain organizational phenomena (DiMaggio and Powell 1983), scholars have paid attention to the strategic aspects of legitimacy (Suchman 1995), seeing it as a resource necessary to obtain, maintain, and retain depending on the circumstances (Pfeffer 1978).

Commonly, legitimacy has been understood as either pragmatic, moral, or cognitive (Suchman 1995), that is, building on self-interest, values and norms, and meaningfulness, respectively. Legitimacy, in general, is "a condition reflecting cultural alignment, normative support, or consonance with relevant rules or laws"

(Scott 1995, 45). According to this view, legitimacy is not a commodity that an organization owns or exchanges. Normative and cognitive forces condition legitimacy in the sense that they constrain, construct, and empower organizational actors (Scott 1995, see also Deephouse and Suchman 2008). Legitimacy can never be owned; it is, rather, a construct of the social system in which the company is situated. Legitimacy may relate to law, being sociopolitical in the words of Aldrich and Fiol (1994), but it is not reducible to legal compliance. Rather, it depends upon cognitive and normative recognition of corporate activities. Thus, the bases on which legitimacy is constructed differ.

Whatever form of legitimacy that is referred to, external constituents' understandings of the procedures, operations, goals, and structural forms of the organization condition legitimacy for the specific company or its particular operations. The construction of legitimacy is essentially provided by a collective audience which is, usually, not clearly demarcated and defined as a group, such as specific stakeholders (cf. Mitchell et al. 1997). Legitimacy, although aspired for through managerial activities and strategies, should not be conflated with acceptance by stakeholders (cf. Deephouse and Carter 2005). Being a macro-level concept, it is not to be equated with corporate attention to the stakes of individual stakeholders.

Legitimacy, rather, presupposes some form of generalized assumption or perception that the specific activities, actions, or organizations in general are desirable, proper, or appropriate (Suchman 1995). Evaluation is at the heart of the legitimation process (Dowling and Pfeffer 1975). Its basis – against which evaluation takes place – may vary. *Moral legitimacy* specifically relates to societal norms, beliefs, and values, understood in ethical terms. In particular within the business ethics literature, moral legitimacy has attracted particular interest. This may, on the one hand, be easily explainable through the fact that it is an ethically relevant analytical concept. But notably, explaining its analytical popularity, moral legitimacy has also developed into the core source of societal acceptance, as argued by Palazzo and Scherer (2006; see also Roloff 2008; Scherer and Palazzo 2011). Thus, one could argue that moral legitimacy tends to be seen as more decisive and conspicuous in contexts where other forms of legitimacy also exist. For that reason it is singled out as the most distinguished and meaningful form of legitimacy used for analytical purposes (see, e.g., Baur and Palazzo 2011).

Along with other forms of legitimacy, moral legitimacy is granted in social contexts, in which a collective audience defines the normative frames constraining and conditioning corporate action. Focusing specifically on moral legitimacy, it follows from normative correspondence, implying congruence between the behaviors of the organization and the shared beliefs of some relevant social group (Parsons 1956; Dowling and Pfeffer 1975; Suchman 1995). Moral legitimacy "reflects the consistency of organizational action with social norms and values" (Deephouse and Carter 2005, 339). This also relates to how moral legitimacy functions. A central aspect is the moral evaluation made by a social audience by reference to specific value systems resulting in the granting of legitimacy (Parsons 1956; Dowling and Pfeffer 1975; Vaara and Tienari 2008). Roloff (2008, 244) claims moral legitimacy to be "a result from a conscious moral judgement that is based on giving and considering reasons to justify corporate strategies and practices." Understood in this way, moral legitimacy is much about a condition following justification, which takes place against a backdrop of norms and values of a collective audience relevant to the company. It is also necessary for the societal "license to operate" that the company aspires to obtain (De Geer 2002). Specifically, the moral dimension of legitimacy contains normative assessments of rightness regardless of costs or benefits for the legitimating audience (cf. Thomas and Lamm 2012).

For Suchman (1995), moral legitimacy comes in different forms. It relates to consequences, procedures, persons, or structures of the organization. Moral legitimacy, sometimes referred to as normative legitimacy, presupposes congruence with norms shared by people, groups, organizations, and social systems (Dowling and Pfeffer 1975; Deephouse and Suchman 2008). Such norms frame apprehensions and assessments of what is good, bad, desired, or seen as right or wrong. Increasingly, moral evaluation is channeled through the media (Deephouse and Carter 2005; Aerts and Cormier 2009), and the relevance of social media for legitimation is steadily rising (Castelló et al. 2016).

The issue of generalization is important to understand, in particular, when it comes to moral legitimacy. As Suchman (1995, 589f) argues: "Because moral legitimacy reflects more generalized cultural concerns than does pragmatic legitimacy, organizations are somewhat more limited in their choice of moral standards than in their choice of exchange partners. Nonetheless, the range of moral criteria remains quite broad, and the relative weighting of various desiderata depends largely on the goals that the organization sets for itself and on the domain of activity that those goals imply." From a more strategic vantage point, companies, thus, select between moral criteria by adjusting organizational goals. Criticizing such instrumental approaches, Scherer and Palazzo (2007, 1100) argue, "In the canon of conflicting expectations, the morality of the mighty is accepted by a company's top management as a calculable means of its own continued existence," and suggest a more deliberative approach to moral legitimation.

Even though it is commonly acknowledged that legitimacy is granted in a social context, few would argue that this context is simple and uniform. As Deephouse and Suchman (2008) note when talking about the source of legitimacy, it can be "some" socially constructed system of norms, etc. (cf. Suchman 1995). This rather indefinite formulation also implies, Deephouse and Suchman (2008, 55) argue, that "a central issue of legitimacy research is identifying who has collective authority over legitimation in any given setting." This acknowledgment, however, claims but does not show that someone actually has unquestionable authority of legitimation in a specific setting. Most likely, if someone had such specific authority, in particular of the normative context, it would not be an expression of a social system but rather of an institutionalized, perhaps legally enforced, idea of desirable corporate behavior.

What this acknowledgement suggests, however, is the lack of uniformity of the social collective granting legitimacy. Suchman (1995) recognizes that individuals' values may differ from the more generalized opinions within the social system. What such an idea presupposes, however, is the existence of a strong "mainstream" opinion that forms the generalized perception of the public. Strongly polarized or fragmented social systems do not fit the description that Suchman (1995) provides. As Child and Rodrigues (2011, 805) note: “the treatment of ‘the environment’ as a system can easily ignore its differentiation into a plurality of not necessarily co-ordinated social institutions and other units.” This insight has gained a foothold within organizational research in recent years. Thus, Deephouse et al. (2017, 33) acknowledge “the presence of active disagreement within the social system, often among different stakeholders or between dissident stakeholder and the organization.”

Furthermore, the discussion has also gained from the realization of the predicament of the MNE and its dependency on legitimacy stemming from various and sometimes conflicting normative contexts. Thus, and specifically tied to moral legitimacy, legitimacy and legitimation seem to be complex issues for two reasons: first, international larger companies pursue simultaneous operations in various social systems with essentially differing normative preferences and, second, even internally, within the MNE, conflicting normative contexts may exist that complicate internal legitimation.

Varieties of Normative Contexts

That companies are situated in a conflicting normative context or within a variety of normative contexts has been established in the literature for decades. Norms do not only change over time, they can be – and are – contradictory (Dowling and Pfeffer 1975). Within organization theory, one perspective that takes this complexity into account relates it to diverging and conflicting institutional logics, stemming from institutional complexity (see, e.g., Pache and Santos 2010; Greenwood et al. 2011). This literature, however, has less interest in the institutions and normative contexts per se and emphasizes to a higher degree the institutional logics of professionals within the organizational settings (McPherson and Sauder 2013) or the strategic approaches of the organizations situated within institutional complexity (Pache and Santos 2010). Instead, heterogeneous moral contexts are touched upon in two related but still distinct literatures, the business ethics and management literature and the international business literature.

In the *business ethics and management literature*, Scherer and Palazzo (2007, 1099) write that “modern societies exhibit a plurality of particular and conflicting moralities. What can be a justified social claim in the eyes of a social interest group may be different from the moral ideas of managers, suppliers, customers, or other interest groups.” Likewise, Scherer et al. (2013) talk about complex environments with heterogeneous sustainability demands on corporations. Although institutional factors have brought about homogeneity in rules, values, and practices, a coexisting reality increased cultural heterogeneity within society, traceable to individualization and migration. With regard to legitimation, the normative context in which moral legitimation takes place is not differing across borders but also within cultural communities. Not least MNEs face conditions of complexity and end up in dilemmas acting upon heterogeneous expectations from societal and institutional environments in which they are active (Scherer et al. 2013). In such cases, adhering to some normative expectations while disregarding others that are in conflict is a high strategic risk when it comes to legitimation.

More normative approaches to the legitimation problems of heterogeneous societies have suggested that legitimacy should be understood more discursively and that the basis of legitimacy should be active justifications in relation to society rather than responding to its demands (Scherer and Palazzo 2006).

Within the *international business literature*, specific focus has been on MNEs operating in different and sometimes conflicting normative contexts. Kostova and Zaheer (1999) point to the legitimacy of the MNE as a whole and that of its parts, that is, a situation where issues of both internal and external legitimacy are of relevance. In their analysis, the company is first and foremost understood as situated within fragmented institutional environments, the domains of which reflect different types of institutions, of regulatory, cognitive, and normative kind. Since MNEs operate in many countries, they are exposed to a multiple and fragmented institutional pressures.

Clearly, challenges of legitimacy exist, pertaining to the cognitive and normative domains of the varying institutional environments. If the institutional distance is high compared to home country standards, the issue of legitimacy becomes harder. Not least since the MNE must develop and adapt organizational practices. Such difficulties are multiplied if the MNE operates in many countries, although competence to deal with legitimacy issues may be generated within the MNE. When operating in a local context, a subunit also has to deal with internal legitimacy within the MNE, apart from conforming to the local regulative, cognitive, and normative context. In pointing this out, Kostova and Zaheer (1999) also bring up the issue of how organizational structure relates to legitimacy. A more complex structure, for example, stretching over national and cultural borders and possibly involving various and ambiguous corporate activities, also complicates (moral) legitimation.

To Kostova and Zaheer (1999), the normative context and, accordingly, the moral expectations on companies are seen as contained within an environmental complexity. To this, organizational complexity, relating to corporate structure, and the complexity of the legitimation process are other aspects of relevance when it comes to the legitimation of the MNE and its operations. Related to the moral sphere, Kostova and Zaheer (1999) propose that the cognitive and normative domains of the institutional environment in which the MNE subunits are situated will challenge the legitimacy of these units to a higher degree compared to regulatory requirements.

The literature, thus, points to institutional complexity, heterogeneous moral contexts, and complicated organizational structures in need of legitimacy. As a consequence, some knowledge exists regarding the problems with and nature of legitimation in complex contexts. However, knowing that the normative contexts are heterogeneous does not itself tell us how they are and which significance the nature of these contexts have on moral legitimation. From an analytical perspective, this issue will be dealt with in the next section.

The Nature of Heterogeneous Normative Contexts

The fact that normative contexts are complex does not tell us in which way they are and the implications for moral legitimacy. Accounting for heterogeneity within social systems calls for further analyses. Even though heterogeneity has been dealt with in earlier approaches, for example, cognitive and relational heterogeneity (Child and Rodrigues 2011), the specifically moral heterogeneity deserves further attention. In the following, an understanding of the normative context will be developed along two dimensions. First, it will be argued that the “number” of (conflicting) normative positions characterizes the social system. Second, it will be posited that even if the number of normative positions characterizing a social system matters, the strength of these positions, in the sense of high or low moral significance to the audiences holding them, will also matter. In Fig. 1, a tentative understanding is depicted that will be elaborated on in this section.

Referring to Fig. 1, the first dimension to take into account when trying to understand the nature of normative contexts is the *number* of (conflicting) normative ideas within a specific context. This, of course, should not be seen as a specific count of ideas but as an indication of the existence of actual disagreement in moral issues within a social system. For example, within a context, certain moral issues may require disagreement in many aspects, whereas others are more uniformly adopted and accepted.

The second dimension of the normative context relates to the *strength* of normative ideas. Strength, in this case, should be seen as the intensity through which a certain belief is held by a collective audience. There is in this case an obvious link to Mitchell et al. (1997) and the criterion of urgency for discriminating strategically between stakeholders. Here, strength is used purely descriptively. In a context of strong moral convictions, moral legitimation becomes more important than in a context of weak convictions. That is, it matters to audiences whether companies or the business sector in general live up to the requirements of morality.

Companies, thus, face different situations when striving for moral legitimacy due to the nature of the normative context. In a situation where disagreement about moral issues is high, and the intensity of beliefs in the issue is also high, they face *moral competition*. When disagreement is low within the social system, but the intensity of the moral conviction is high, they encounter *moral dominance*. Low intensity in moral convictions and high number of normative ideas result in *moral indifference*, whereas low intensity and a low number of normative ideas entail *moral paucity.*

If the normative context is shaped differently, according to these dimensions, the fundamental preconditions for moral legitimation will differ. Without

Existence of conflicting normative ideas	**Strength of normative ideas**	
	High	**Low**
High	Moral competition	Moral indifference
Low	Moral dominance	Moral paucity

Fig. 1 An understanding of the nature of normative contexts

problematizing the heterogeneous character normative contexts, we easily end up in an understanding of moral legitimation as in the scenario of *moral dominance*, according to the terminology used above. That is, normative correspondence is relatively easily understandable and identifiable. The company must understand and relate its operations to shared norms and values of the normative context.

More complicated – and perhaps more interesting – is moral legitimation in contexts characterized by *moral competition*. The moral convictions of the collective audience are strong and heterogeneous, which means that correspondence with one system of beliefs may imply conflict with another. Examples could be industries in controversial sectors (weapons, alcoholic beverages, to mention some) or company operations in relation to typical lifestyle issues. Other examples include private business active in the welfare sector of welfare states (De Geer et al. 2009), where the moral (and political) discussion is strongly polarized with regard to the reasonability of profiting from taxpayers' money within, for example, the school or healthcare system. In such cases, moral legitimacy is strongly contested within society itself. A certain audience may welcome corporate operations, whereas another one completely rejects it. In such cases, moral legitimacy will be conditioned by the relative practical significance of the audiences in question. Seen from a resource perspective, whether moral legitimacy is granted from (parts of) the social system, it may be enough to generate other resources that the company needs (Dowling and Pfeffer 1975; Pfeffer 1978). However, the company and its operations will act in a state of *legitimation ambiguity*, where it is seen as both morally legitimate and illegitimate depending on whom you ask. This also follows from the fact that various constituents usually do not have the power (or the legitimacy themselves) to define normativity on a worldwide scale – and not even locally.

In cases where the intensity of moral convictions is lower, the very issue of moral legitimation becomes less decisive, even though it exists. *Moral indifference* exists when disagreement in terms of the number of existing ideas is high, even though the intensity of the held beliefs is low. This makes moral legitimacy somewhat less relevant, possibly leaving way for other forms of legitimacy to become more relevant. When normative ideas are weaker, although many ideas circulate (representative of moral indifference), another aspect is that the organization, its procedures or actions, are not easily attributable to specific ideas. The issue of what it takes to make operations legitimate is more difficult to establish in the sense that it is not easy to link congruence to specific ideas. In the case of fewer ideas, it is simpler, but *moral paucity* prevails, since the ideas of right and wrong are significantly weaker even though they are more easily identified. Seen strategically, managers have more freedom in adjusting organizational goals selectively among available alternative moral criteria (Suchman 1995). The difference between moral indifference and moral paucity is that, in the latter case, the potential aspects of disagreement are fewer whereas intensity is low. Morality is less heterogeneous in the case of moral paucity, and it matters little with regard to the specific issue that is legitimated. Other forms of legitimacy may matter more.

In the case of the MNE, it operates within different normative contexts that may be understood and analyzed according to the matrix (Fig. 1). This complicates the picture even more. Depending on whether normative systems can be seen as separate or not, one could argue either that different cultural norms exist within one overarching worldwide system (moral competition) or that the MNE is actually part of different systems and, for that reason, normative contexts. In the latter case, even though two contexts have the same character, for example, moral dominance, this does not mean, of course, that the same moral convictions dominate the two different contexts. If so, the MNE goes, at an aggregate level, from a situation of moral dominance to one of moral competition.

Conclusion

As shown, the normative justification of business is complex. One feature of such complexity is the normative struggle of various constituents of a specific context to define the normative "correctness" from which corporate moral legitimacy stems. One could even argue, somewhat controversially, that the customary reference to the corporate license to operate builds on a specific understanding of the normative context as one that this chapter has described as a state of "moral dominance," that is, when a specific moral idea is strongly pervading the normative context in which legitimation takes place. One way of expressing the focus of this chapter is to see it as an enquiry into the nature of the interface between the company and the normative context(s) where it operates. Understanding this is a clue to how moral legitimation takes place in modern societies.

Summing up the argument, the nature of the normative context highly conditions what moral legitimacy – and legitimation – turns out to be for a company in the end phase of legitimation. In summing up the argument, one may reflect on what the issue of ambiguous normative contexts leaves us. From corporate perspective, the issue becomes one of *relevance* and *choice*. First, depending on the nature of the normative context, the issue of moral legitimation should be reflected against the strength of the normative ideas. To put it straightforwardly, if collective audiences do not care much about the moral issues at hand, moral legitimation becomes less relevant from a practical point of view. However, and more interesting, when moral disagreement exists within collective audiences, and the normative ideas are strongly held, moral competition exists. In such cases, moral legitimation presupposes some kind of choice in the very general sense of the word. Whose ethics should the company adopt, and which ethics could the company stand for? In particular when the setting is characterized by moral competition, companies have the tendency of choosing sides in the societal debate. This leaves them with controversial decisions and positions. They turn not only political (cf. Scherer and Palazzo 2011) but also ideological.

Considering the ever-increasing importance of moral legitimacy, and the fragmented and heterogeneous environments that constitute the normative contexts, the state of moral competition is steadily present. What companies must do in this state is to understand ethics and also to choose. The basic question given moral legitimation becomes *which company we want to be*. Unanimous consent by a collective audience is usually not possible. However, just reducing the issue to moral choice reflects a simplistic understanding of a scenario of binary character presupposing well-defined conflicting moral alternatives. The ambiguity of legitimation also means ongoing moral challenges to the company given the flux of normative ideas in society. Suggestions to deal with this have been articulated, mainly relating to the processual aspects of moral legitimation. Examples include an open and deliberative approach to moral legitimation (Palazzo and Scherer 2006; Seele and Lock 2015) and, from a more practical point of view, legitimacy seeking through co-construction of agendas, networking, and participation in open platforms of non-hierarchical kind (Castelló et al. 2016; see also Scherer and Palazzo 2011). In cases of uncertainty, or even ignorance about morality in a certain context, organizational learning about alternative options through collaboration has been put forward as an option (Child and Rodrigues 2011).

What is important to note, however, is that a more deliberative and co-creative approach is not just a means toward reaching more informed moral choices but possibly also a necessity because of the fragmented nature of normative contexts. Furthermore, it also necessitates that companies, in their active choices and dialogues, *co-construct the moral discourse* in which they are active. The consequences for moral legitimation are obvious. It is, to a much higher degree than the traditional literature within organization theory has spelled out, *mutually* constructed and ambiguous. Unlike more idealistic approaches to deliberation, one has to bear in mind that despite this mutual construction, ambiguity still prevails. Not everyone will be convinced by the moral approaches that companies choose. At least in contexts characterized by moral competition, moral legitimation will most likely be partial for companies, whether or not they are actively and consciously seeking it or not.

A consequence of the heterogeneous normative contexts is that there are reasons to problematize the *idea of generalization* of the often diverging and conflicting normative contexts that companies are active within. To put it simply, what is desirable, proper, or appropriate within the socially constructed system of norms, values, beliefs, and definitions is not easily generalized (cf. Suchman 1995). The reason for this is, of course, that norms, values, etc., may clash or conflict and vary between contexts. Put differently, legitimation of business or organizational activities between different socially constructed systems can be complicated, which is also the case within one system. Generalization, yes, but how, by whom, and on the basis of what, are relevant questions. As argued, since the nature of normative context is varying, and companies must in many cases relate to this, the generalized belief is to a high degree a mutually constructed belief in the primacy of a certain moral understanding.

This should also be taken into account in research, in particular in studies focusing on the legitimacy-seeking activities of companies. Such activities should not be automatically assumed to correspond to the dominant ideas of the moral context (moral domination, according to the terminology of this chapter). If companies actually contribute to shaping the moral context given the predicament of choice in heterogeneous contexts, one can seriously question the use of moral legitimacy as an independent variable in extant studies (cf. Edelman and Suchman 1997). Companies do not just reflect or respond to moral standards to get legitimacy, they also try to sustain those moral standards according to their own held ideals and in order to perpetuate their own status as legitimate companies. More specific work needs to be done empirically on differing and varying normative contexts, and corporate interaction with those contexts and their ability to affect them deserve being taken into account. Also, when it comes to moral legitimation and generalization, one should not forget what soft regulation (standards, certifications, etc.) brings about. Soft regulation tends to institutionalize norms at a wider level (see, e.g., Vogel 2010; Engwall 2018), creating frames for morality at a worldwide scale. A consequence of this is that moral institutionalization through other means than laws (cf. Aldrich and Fiol 1994) deserve being taken into account in research on moral legitimation. Furthermore, ambiguity due to heterogeneous normative contexts merits further studies. Companies may be seen as morally legitimate and illegitimate – simultaneously. What that means to companies remains to be shown.

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Legitimizing Catchwords of Service Marketing: The Role of Academia

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Anne Vorre Hansen

Contents

Abstract

Concepts such as value co-creation and value propositions are buzzwords of current business lingo and of the academic discipline of service marketing. The focus on value creation, and how to support value creation to occur, is linked to an increased focus on not only the customer but on the sphere or lifeworld of the customer. In academia this is theorized as a shift from value-in-the exchange, over value-in-use, to value-in-(social) context. A vast amount of literature focuses on these conceptualizations, but few seems to challenge the apparent taken-for-grantedness of the customer as willing to co-create the generic nature of applied concepts and the idea that customer orientation in itself leads to innovation. Furthermore the language, despite adopting phenomenological and hermeneutic

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terms relative to this claimed customer focus, obscures that companies are driven by economic value based on a market logic.

This chapter argues that a dual move of legitimization is happening; businesses legitimize their pursuit of economic value through the lingo of value co-creation, and academia, as an authoritative social entity, further legitimizes this by giving concepts that are uncritically derived from empirical phenomena analytical authority – partly based on pragmatic legitimacy – i.e., to own interests of keeping a research domain alive. The implication might be that the terminology of marketing, in both practice and academia, becomes detached from the empirical reality of the customer that the concepts are meant to mirror and hence only serve an academic purpose, but less a practical one.

Keywords

Value co-creation · Service marketing · Conceptual legitimacy

Introduction

The field of service research is basically concerned with the concepts of the customer (Alam and Perry 2002), (value) co-creation (Grönroos 2008; Helkkula et al. 2012), and service innovation (Hasu et al. 2015; Miles 2005; Toivonen 2010). Service is perceived to be processual and interactional, which is why the field from the very beginning has been concerned with the company-customer relationship. Nevertheless, context has more recently come to the front alongside a more profound change in perspective from company to customer (Heinonen et al. 2013; Prahalad and Ramaswamy 2000; Vargo 2008). This change in focus is primarily driven by the field of service marketing and especially the American service-dominant logic (S-D logic) and the Nordic service logic (SL) and customer-dominant logic (C-D logic) perspectives (Lusch and Vargo 2014; Grönroos et al. 2015; Heinonen and Strandvik 2015). In these research streams, context is seen as a door into the locus of customer value creation, but the view that customer value is created in a specific setting and hence is situated is also perceived hard to assess (Matthing et al. 2004; Wäger et al. 2012).

Nevertheless value co-creation as concept is perceived a trigger for a new business paradigm, framing the service relationship, the role of the customer, and the way innovation is to be understood. Within service marketing, innovation is thus seen as a way to manage or facilitate the customer's process of value co-creation or as a way to engage in concrete collaborations with customers that might or might not lead to increased value for the customer. The innovation lingo of these research approaches is depicted by terms such as value propositions (Helkkula and Kelleher 2010; Skålén et al. 2015), value promises (Grönroos and Voima 2013; Heinonen et al. 2013), and integration of resources (Lusch and Vargo 2014). That value co-creation is perceived a certain aspect of service innovation (Edvardsson et al. 2012) highlights that the two concepts are deeply interwoven – since the reason to explore and understand the sphere of the customer is to refine the service offering and/or to ensure a qualitative service relationship (Maglio and Spohrer 2008; Skålén et al. 2015). Despite slight differences in underlying assumptions, neither of the research streams discuss what the analytical and practical implications are of applying concepts such as value co-creation, value propositions, and the notion of resource integration – e.g., "what are the implications to the market?", "what are the implications to the company-customer relationship?", and, lastly, "what room for thinking does these concepts leave us?". As such relevant questions regarding the legitimacy of the concepts and the role of academic knowledge, production in this regard are missed out.

It is widely recognized that research on legitimacy draws upon the work of Max Weber and his notion of validity, that is, how/when a social order is perceived valid (Suchman 1995; Tost 2011). The main research perspectives on legitimacy have subsequently been developed within institutional theory and social psychology, respectively. Across perspectives literature is concerned with how legitimacy is defined and managed and how processes of legitimacy are enacted (Tost 2011). Despite different levels relative to the unit of analyses, the focus is either on organizational legitimacy or on individual value judgments and how these come about. Thus, legitimacy is approached as a phenomenon to be analyzed from the academic outside, and less focus is put on the role of academia in processes of legitimizing the domains under study.

Based on current discussions of the role of the customer in service research, especially concerning value as created in context as well as the understanding of service innovation as the creation of new value propositions depending on relations and interactions (Lusch and Vargo 2014; Miles 2005; Skålén et al. 2015), the chapter sets out to analyze what the implications of these understandings are to both practice and academia. In the discussion the notions of cognitive and pragmatic legitimacy will be applied to better understand the duality of academic legitimacy, that is, giving exogenous legitimacy to a certain practice (the right to govern/operate in specific ways) while at the same time obtaining and maintaining endogenous legitimacy simply by having the authoritative power to normatively evaluate and discuss practice.

Structure

The chapter begins by setting the scene relative to prevalent perceptions of legitimacy, with a specific focus on the understandings that will be drawn into the discussion. This is followed by a short tour de force of the service research field to frame a presentation of service marketing and the main concepts to be discussed: value co-creation and value proposition as a take on innovation. Having the key concepts in place, the subsequent discussion will be structured around different forms of legitimacy in regard to conceptual usage, and finally the implications in regard to academic knowledge production/legitimacy will be assessed. To round off the chapter, concluding remarks will be given, and future (or further) debates are outlined.

Since the chapter is essayistic in nature, there is room for drawing main points and claims a bit sharper than in a journal article format. Hopefully this will provoke new ideas and arguments or at least give food for thought.

Setting the Legitimacy Scene

In the following a short account of the concept of legitimacy, mainly from an institutional theory point of view, is given. The aim is to ensure conceptual clarification before presenting the field of critical marketing and its take on legitimacy in a business context.

The concept of legitimacy is both founded in political science and political philosophy. Political science has been concerned with how legitimacy of an authority is obtained and maintained through systems of governance and self-governance. In political philosophy, political/democratic legitimation and legitimacy of the law, or rights such as human rights, are debated. These debates relate the concept of legitimacy closely to a notion of normative validity (Habermas 1998; Fraser 2008). Despite differences legitimacy is thus understood as based on and related to social contexts – be that at an individual or at a system level. To bridge these levels, Tost (2011) sets out to integrate perceptions of legitimacy from both institutional theory and social psychology. Referring Suchman (1995), legitimacy is, in organizational theory lenses, defined as "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions" (Suchman 1995:574). These entities, here understood as organizations, are thus judged legitimate if they are appropriate within the social context in which they operate. From a social psychology perspective, legitimacy is rather related to actors and group procedures and hence based on subjective evaluation of socially distributed outcomes (Johnson et al. 2006; Tost 2011). The implication is a more explicit focus on power structures of what is judged to be fair and just.

Digging further into the concept, there is in literature a shared differentiation between types of legitimacy: pragmatic legitimacy based on self-interests, moral legitimacy based on a normative evaluation of what is perceived right, and cognitive legitimacy primarily based on taken-for-granted assumptions and accounts (Suchman 1995; Tost 2011). As Suchman underscores, all three types of legitimacy rest on the idea that the activities of an organization are proper within socially constructed systems of norms and prevalent beliefs (Suchman 1995:577). Thus, the difference mainly rely on diverse behavioral processes; pragmatic legitimacy is related to the nearest audience's consequence calculation of organizational policy, i.e., what's in it for me, moral legitimacy rests on a positive judgment of what seems normatively right to do based on the audience's value systems, and cognitive legitimacy refers to the audience's passive acceptance or active backing for an organization based on the stand that seems inevitable, or taken for granted, to do so. These takes on legitimacy stress the interrelatedness between processes of gaining and upholding legitimacy within either defined groups, organizations, or systems. Thus to sum up, organizational legitimacy is a generalized perception based on subjective "reactions of observers to the organization as they see it" (Suchman 1995:574).

The debate on legitimacy is also found within the field of marketing, both implicitly and explicitly. There is a vast amount of literature that discusses marketing from a critical theory stand, mainly based on Marxist or Foucauldian analyses (Cova et al. 2015; Skålén et al. 2006). The main critique is centered around the objectification of the customer and the discourse of the marketing field (Cova et al. 2011; Skålén 2010). Furthermore the moral, or more precisely the immoral, aspects of marketing have both been put forward as criticism from the outside and as an internal debate of how to respond to this (Stoeckl and Luedicke 2015). However, a more explicit articulated focus on marketing legitimacy and legitimization is introduced by Marion (2006). Marion argues that marketing as discipline is a performative science since it concurrently describes and constructs the subject matter under study (Marion 2006:247). This entails the following three layers: marketing as a practice, marketing as a knowledge base consisting of tools and certain principles, and marketing as an ideology. The layers underscore the intertwined relation between doing and thinking marketing. According to Marion, the issue at stake is that when turned into an ideology, marketing terminology and metaphors permeate action and lingo in a diverse range of contexts – hence producing and withholding legitimacy both in- and outside the marketing domain.

Marketing legitimacy is, according to Marion, defined as "the generalized assumption that marketing actions are desirable and appropriate within the market economy. This legitimacy reflects the congruence between the behaviour of marketers and the shared beliefs of customers/consumers within the system of norms, values and definitions provided by the market economy" (Marion 2006:249). To exemplify, the notion of the customer as "king" implies that the customer comes first and hence that the interests of customer and company are basically aligned – since the perception is that the customer's actions and decision-making processes are based on a rationalistic market logic. In this manner legitimacy judgments are not anchored in moral concerns but simply based on the logic of the market, deeply grounded in pragmatic legitimacy. But as Marion stresses, this cost-benefit understanding of the customer is based on a short-term maximizing rationality (Marion 2006:257) that forgets how people constantly move between different logics and domains: market, family, collectivity, individuality, etc. Furthermore, the challenge of marketing criticism is that marketing ideology incorporates the critique itself by adapting current metaphors in new "analytical grids" (Marion 2006:259). Thus, Marion calls for renewed criticism to challenge the taken-for-grantedness of marketing doctrine.

In the context of this chapter especially, the understanding of pragmatic and cognitive legitimacy is applied as basis for looking into the interplay between practice and academia in legitimizing a certain terminology and hence opens for a new sort of marketing critique: the role of academia in reproducing certain belief systems and ways of looking at the world.

Service (Marketing) Research

The field of service research is rooted in business administration and has developed since the 1970s (De Jong and Vermeulen 2003; Edvardsson et al. 2005). It was founded on the underlying assumption that services have specific characteristics that differ from products and manufacturing. In the early days of the research field, the definition of services was therefore based on how service, as opposed to goods, is characterized by intangibility, heterogeneity, perishability, and simultaneity (Lovelock and Gummesson 2004; Zeithaml et al. 1985). Thus the aspect that services are simultaneously perceived, produced, and consumed has historically been an indicator for a fundamental customer centricity embedded in service research. Nevertheless, the aspect of simultaneity has since been widely challenged, especially due to the emergence of information technology-based services (Sandström et al. 2008). The shared perception of service, across research streams within the service field, is now that service is processes, deeds, and performances (Bitner and Brown 2008) where actors integrate resources to the benefit of another party (Lusch and Vargo 2014). In this sense service is fundamentally process-oriented and relational, which is why the interplay with customers as a service characteristic is still understood as key (Alam and Perry 2002). Despite the move from products/manufacturing to service, and hence a move from the company sphere to that of the customer, a discussion of the relation between marketing practice and academic theorizing on service marketing has not emerged. The role of service marketing as academic discipline still seems to be that of either describing marketing practices or developing models to practice. The consequence is a shared application of terminology that, as also stressed by Marion, leads to a blurred boundary between marketing as practice and as theoretical field.

Bringing the Customer to the Fore: Value Co-creation

In early perceptions of value creation, the process was related to the service exchange between company and customer, referred to as value-in-exchange (Vargo 2008). In line with the focus on establishing service research as a research field with specific characteristics apart from manufacturing, scholars began emphasizing that value-in-exchange in a service perspective does not grasp the relational character of service (Prahalad and Ramaswamy 2000). The service-dominant logic perspective (Vargo 2008; Vargo and Lusch 2004) and the service logic perspective (Grönroos 2008; Grönroos and Voima 2013) explicated this viewpoint by a change in focus from the exchange situation to the use situation (value-in-use). Recently value-in-use has been supplemented with a shared focus on the customer sphere or the network of the customer. In service-dominant logic terms, this is referred to as value-in-context (Edvardsson et al. 2005; Lusch and Vargo 2014) and in service logic as value-in-experience (Heinonen et al. 2013). Where value-in-context still is concerned with a specific point in time, the experiential approach to a larger degree adds temporal and social aspects to value creation. Gummerus (2013) argues that value creation is deeply embedded in the past and the present and frames future expectations. Thus it becomes vital to understand the sphere of the customer in a broad, holistic sense (Voima et al. 2010; Gummerus 2013). Accordingly the shift in focus from the goods/services divide to company-customer relations leads to an understanding of value co-creation as a phenomenological structure determined by the beneficiary and not only related to systems, products, or services per se (Lusch and Vargo 2014). Therefore, if value is defined in the sphere of the customer, companies can only offer value propositions (Grönroos and Voima 2013; Lusch and Vargo 2014). This has implications for the distribution of roles between companies and customers and hence for the process of innovation.

Service Innovation

The interest for and research in service innovation is relatively new, compared to the wider field of innovation studies – the majority of research literature on service innovation is from the mid-1990s onward (De Jong and Vermeulen 2003; Miles 2005; Toivonen 2010). In recent years, service innovation has received increasing attention as both service companies and manufacturing companies become aware of the importance of innovation of services as a crucial factor for business development (Bitner and Brown 2008; Drejer 2004; Gallouj and Savona 2010). Furthermore the process view of service research, alongside the distinct customer focus, has initiated a change in the perception of innovation as something more and different from systematic processes in research and development (R&D) departments (Droege et al. 2009). For example, the service take on innovation has opened the notion of ad hoc innovation, which denotes that innovation might occur as changes in daily organizational practices (Sundbo and Toivonen 2011), for an explicit focus on the role of employees in development (Umashankar et al. 2011), and for the point that innovation processes first might be considered innovation in retrospect (Toivonen 2010:232).

The service marketing perception of innovation more recently has become a perspective on service innovation. This stream of research maintains the notion of the customer because of the view on innovation as integration of resources (Vargo and Lusch 2016:18) that is based on an ongoing debate on the locus of value creation – which is in general perceived more broadly than the mere use situation. In this perspective user experience becomes the platform for value co-creation (Gummerus 2013; Rihova et al. 2013) and eventually for innovation. Consequently value co-creation becomes an aspect of service innovation (Edvardsson et al. 2011; Payne et al. 2008; Perks et al. 2012).

Value Co-creation as an Aspect of Innovation

As mentioned in the section on service innovation, the service marketing perspective on innovation has come to the discussion quite late. It seems as if the focus on value co-creation, and this specific way of understanding and writing about the company-customer relationship, triggered the emergence of new service development (Matthing et al. 2004). As such the term value co-creation is transferred to the field of innovation, which is why value co-creation becomes a certain way of understanding and approaching, not only service but also service innovation (Edvardsson et al. 2012). Some researchers highlight that value co-creation is the foundation for creating new value propositions or value promises (Grönroos and Voima 2013; Lusch and Vargo 2014) and others that innovation is an ongoing process of value co-creation (Helkkula et al. 2012; Russo-Spena and Mele 2012), whereas a third stream applies a combinatory perspective emphasizing both the management of value promises and the way they are facilitated and co-created with customers (Hasu et al. 2015; Skålén et al. 2015).

In the S-D logic and service logic perspectives, co-creation is understood as the foundation for developing the service offering. Since value is determined in the sphere of the customer/beneficiary, the company can either offer value propositions (Lusch and Vargo 2014), facilitate where value might occur (Voima et al. 2010), or actively engage in co-creation with customers (Grönroos and Voima 2013). Thus the objective of co-creation is to develop competitive value propositions, implicating a wider perspective on user involvement than merely identifying user needs. Since the process of co-creation, in regard to service innovation, is founded on interactions or interplay with customers (Perks et al. 2012), the relation is reciprocal and not unidirectional (Edvardsson et al. 2012; Ford et al. 2012). In the combinatory perspective, Skålén et al. (2015) more explicitly argue that the focus should be on *managing* what kind of value a value proposition offers along with how this might be co-created with customers (Skålén et al. 2015). This is based on two processes within the company: the process of acquiring the resources needed and aligning them with the requirements of the customer and the process of developing relevant practices to engage in co-creation. The microlevel perspective is also applied in the other streams of research, which see value co-creation, and thus innovation, as an ongoing process. Here the focus is on different stages of innovation and hence a shift in focus from outcome to process (Russo-Spena and Mele 2012:528). The implication is that innovation is seen as different co-creation practices, which are, through actions and interactions, part of everyday life.

The Role of the Customer

Across perspectives presented, innovation becomes the way a company, in practice, manages co-creation, understood as the integration of both company and customer resources. Drawing value co-creation into the field of service innovation is therefore also related to the increased focus on the role of the customer in innovation processes (Edvardsson et al. 2012), which is illustrated by the change from an approach to innovation as an internal process going on inside the company to an open process, where contributions from customers, suppliers, and stakeholders are integrated in development (Hennala et al. 2011; Sørensen et al. 2010). The explicit acknowledgment of the importance of inviting customers into development also implies that the view on the customer frames the understanding of the innovation process itself. In the following, this will briefly be related to the perception of the customer, in the presented views on value co-creation, to the understanding of innovation processes.

Regarding innovation, the customer-dominant logic research stream claims that the explicit focus on the sphere of the customer addresses both service strategy and service innovation (Heinonen et al. 2013; Helkkula and Kelleher 2010). The argument is that companies need to become aware of the potential of both present practices of the customer and the customer's imaginary experiences, i.e., customer's ability to envisage how a future value proposition might be (Helkkula and Kelleher 2010:69). Similarly, Voima et al. (2010) argue that the focus on customers' lifeworlds, including mental state of mind and physical surroundings, supports a segmentation of the customer base, thus making room for facilitating the customer's process of value formation (Voima et al. 2010:12). Nevertheless, in these views it is not exactly clear what the perception of service innovation is and how value creation, or formation, is linked to the company's development or whether the mere focus on lifeworlds is development in itself.

To sum up, it can be argued that different schools, to position themselves, apply slightly different concepts to explain and theorize on the same phenomena, instead of using the same concepts to understand something better and deeper or to go beyond existing knowledge. As such service marketing research seems to be trapped in between an expectation of empirical sensitivity and an academic urge to show innovativeness and originality by introducing new concepts to the field. Even though the research community, as mentioned, acknowledges this conceptual obscurity, this has not yet led to a critique of how concepts legitimize certain practices – be that outside or inside academia. The self-critique of mainstream service marketing research is mainly centered round the lack of empirical studies based on the mentioned theoretical frameworks, and the critical marketing stream of research mainly highlights the power structures of the prevalent terminology but does not engage in a debate of academia's role in language usage or development.

Critical Comments

In the following the duality of service marketing research legitimacy, i.e., exogenous and endogenous legitimacy, is illustrated. This will form basis for a critical discussion of academic knowledge production, as part of both constructing and describing marketing, by unfolding the notion of conceptual legitimacy.

Exogenous and Endogenous Legitimacy

The concepts of value-in-use, value-in-context, and value-in-experience imply a shift in the understanding of innovation, from an internal to an external locus of innovation (Frow et al. 2015:466). However, there are still different perceptions of those engaging in the innovation process and how they engage. Service logic maintains a company focus and therefore has a firm-centric view on innovation, C-D logic is customer-centric preserving a profound focus on the customer, and the S-D logic perspective, by more broadly focusing on open innovation, is network-centric. Nevertheless, as mentioned, the marketing understanding of innovation is quite vague since there is no clear definition of innovation and more importantly no explicit focus on what the incentive for innovation is (Drejer 2004). The discussion on innovation ends up being centered around the notion of value co-creation and the role of the customer and company herein. Therefore, it seems as if the concepts of value co-creation and innovation can replace each other without analytical consequences. In this manner, the economic aspect of innovation slides into the background due to a dislocation of the concept of value. Despite differences in foci, the terminology of value co-creation, value propositions, and value facilitation is depicted by positive connotations, e.g., the understanding of value as a benefit or something that supports something beneficial to occur making something or somebody better off. Since the academic field of service marketing does not challenge the implication of this, in either practice or academia, the concepts become a special sort of given truth, or taken-for-grantedness, about the service relationship between company and customer, a truth that legitimizes the way marketers operate in the market.

This aspect is also illustrated in the perception that service is an overall way to approach life in general – to exemplify, some researchers have emphasized the transformative potential of service innovation with the claim that service innovation supports making the world a better place. These claims are articulated by innovation assisting the process of "making people better off" and "improving quality of life through service" (Bitner and Brown 2008:44) or "...actors, often unaware of each other, that contribute to each other's wellbeing" (Vargo and Lusch 2016:9). Service innovation in these macro-level approaches ends up as a service philosophy, or a service sociology, where it becomes difficult to see what exactly the unit of analysis is, besides the whole system or the entire process of... hmm, what? In contrast, the combinatory approach to innovation, anchored in micro-studies (Skålén et al. 2015), maintains that in service innovation the relational aspect of service is key, since the overall aim is to find ways to develop better service relationships. But, across macro- and microlevel perspectives, innovation is defined as an ongoing process of creating or facilitating value propositions and/or service offerings (Grönroos and Ravald 2011; Skålén et al. 2015; Lusch and Vargo 2014) – sort of downplaying the economic heritage of the innovation concept (Drejer 2004).

However, what is again left out is a discussion of what the implications are for the understanding of innovation when the customer contributes to value creation. For example, does the role of the customer as value producer lead to a competitive advantage; does this customer role do something to the market or to society? If value is something solely related to the customer sphere or the mental state of the customer (Gummerus 2013; Heinonen et al. 2013), it becomes somehow detached from the market and the perception of innovation as something, which makes an economic difference in this market (Drejer 2004). As such the stance on service innovation from service marketing focuses on who is part of the innovation process, but the question of what innovation is the answer to is not addressed. This key question fades away since the objective of innovation is downplayed by positioning value outside the domain of the company. Consequently it becomes ambiguous why there is a need to be concerned with value in the first place. This furthermore makes it difficult to distinguish innovation from service strategy and to explain why some companies are better at meeting the needs of their customers than others. Also it is taken for granted that the customer actually wants to engage in resource integration and that this process of integration happens on equal terms. In this manner the boundary between company and customer is almost theoretically erased – a condition that can lead to further outdistancing because the customer might end up feeling exploited instead (Cova and Dalli 2009:334). In literature it is recognized that a fruitful company-customer relation is based on trust (Greer et al. 2016), but still the question of how the customer reacts to the marketing terminology of customers as co-creators and actors on the market is not contested and discussed in the prevalent research streams. In this manner academia gives exogenous legitimacy to the main actors of the market, simply by reproducing existing underlying assumptions and logics. And at the same time, by applying concepts and metaphors that support this sort of cognitive legitimacy, academics are ensuring endogenous legitimacy – based on the sustained authority to discuss the very same practice and the urge to position themselves in the research domain itself.

Conceptual Legitimacy

The close relation between service marketing research and marketing practice might explain that within the prevailing research streams, it is not clear whether value co-creation, and herein innovation, is applied as empirically derived concepts or as analytically derived concepts. Based on the literature presented, it seems that value co-creation is, within service research, rather the answer and not the question. For example, if value co-creation is an aspect of innovation, then value co-creation might be a desirable goal itself. The same occurs for value co-creation referring to the service relationship – it denotes a desirable process by the use of a positive concept. Turning to value-in-context and hence the sphere of the customer, value co-creation is again perceived as a positive process instead of a neutral process of valuation. In this manner, academia's role in knowledge production encompasses processes of pragmatic and cognitive legitimacy by giving conceptual legitimacy to both the theoretical and the practical field. But the question is: Can academia set out to explore the sphere of the customer with a concept, which at the same time is believed to be the solution for the benefit of companies?

What service research might gain from is therefore a debate about the objective of the research itself: is it solely to support and understand business related processes, or is it also to reveal and understand underlying assumptions and taken-for-grantedness? Ideally it is both, since the problem is dual: if the research fields get detached from practice, it might end up becoming conceptually self-referential (Said

1995) and as such irrelevant for practitioners, and, on the other hand, if a research field grounded in an instrumental business logic overlooks the logic of the private domain, it might support reducing the customer sphere to a subsystem. As such academia's passive acceptance of a specific value system sustains and withholds cognitive legitimacy not only to marketing as practices and tools but also to marketing as ideology. Furthermore, it becomes difficult to analytically move beyond existing understandings and engage in theorizing on the subject matter in ways not perceived terminological legitimate. If language frames present understandings and is constitutive for future action, it is key that academia dare to critically asses its own role in concept development and usage.

Concluding Remarks

To sum up, the main issue at stake in the conceptual usage of service marketing in both practice and academia is that the presented systems of norms, beliefs, and definitions do not necessarily reach out of the domain itself. The implication is a lingo that risks becoming detached from the people from whom legitimacy is hoped to be given (the customers), since in the domain of service marketing legitimacy only refers back to the one who seeks legitimacy (the companies and academia) – with the danger of becoming a self-referential system where the ones who seeks legitimacy are the ones who gives legitimacy, i.e., the value that is articulated as value to the customer is basically value to the companies (despite their claim to facilitate customer value creation and formation). Backed up by academia, this is cognitively legitimized besides being based on a pragmatic calculation of how marketing knowledge production can legitimize service marketing as a research field. In this manner the foundation for legitimacy is not linked to societal norms and cultural rules but only to the norms or rules of the private sector and academia itself. A circumstance mirroring Edwards Said's seminal work Orientalism (1976), which revealed how the domain of Orientalism only existed in the dialogue and work of Orientalists and did not refer back to an empirical reality. In the case of service marketing, there sure is an empirical reality but mainly as a specific business practice that operates on a market logic. Nevertheless the empirical reality of the ones that this practice seeks to target and understand, the customers, is constructed in a manner depicted by catchwords and smart metaphors that are given legitimacy by the authoritative power of academia.

The discussion of this chapter can therefore also be applied to new buzzwords of service research, such as transformative service and well-being (Anderson et al. 2013; Blocker and Barrios 2015; Hennala et al. 2011). If once again these concepts are uncritically applied, the service marketing field might end up in the same conceptual trap, whereby well-being is a goal to achieve and not a concept that enables a deeper understanding of the processes under study. Across the different concepts, the exploration of the processes of value creation, well-being, and transformation is done for a reason – a reason which is embedded in the sphere of the company and hence based on a systems logic of purpose. Even though some researchers acknowledge that the customer and the company might have different goals (Grönroos 2017), the criticism would be that the research streams presented still fail to fully acknowledge that there are different logics at play in different domains of society. And since marketing researchers do not add these nuances to the field because they constantly develop new concepts that mainly reproduce the logic of the market, academia further legitimizes both research and practice.

Johnson et al. (2006) ask*: Does a social object need to be replaced by a new social object for it to become delegitimized? For example, must new organizational forms and practices be created and legitimated for old forms and practices to fall out of favour? Or can a social object lose widespread acceptance by an audience even though nothing is there to replace it?* (Johnson et al. 2006:73).

The answer is hopefully not! A continuous debate regarding academic knowledge production and its role in producing conceptual legitimacy might ensure that taken-for-granted assumptions about the social world, if detached from an empirical reality, can be phased out. Moreover, this opens up for a nuanced understanding of how different forms of legitimacy frame what is possible to think – making room for challenging cognitive straitjackets of marketing practice and pragmatic concerns for academic career building.

Note The chapter is partly based on the author's PhD dissertation: What's at stake? Critically exploring the concept of value co-creation in service research – *Or an anthropologist going na(rra) tive within business administration.* Roskilde University, 2016

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Deficit of Legitimacy in Startups: Main Consequences and Strategic Solutions

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Jørn Kjølseth Møller

Contents

Abstract

The purpose of this study is to identify and discuss consequences and solutions related to the phenomenon of "liability of newness" among startups causing a deficit of legitimacy among new ventures. In the literature, the "liability of newness" or lack of legitimacy is related to three legitimation mechanisms: identity, associative, and organizational mechanisms. They account each for various consequences of a deficit of legitimacy among startups. In the literature on evolutionary theories, there are different opinions about how new ventures can solve this lack of legitimacy – the institutional position claims that new venture enhances their legitimation by activities that make them more reliable and

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accountable. The social relationship position argues that developing relationships with stakeholders represent a better way to increase the legitimacy of new ventures – lastly, the Schumpeterian position claims that new venture survivals depend on obtaining control over and recombining resources in a way superior to that of established organizations. With the aim of investigating the identified consequences of the legitimation mechanisms and strategic solutions discussed in the literature empirically, this study builds on findings from a survey conducted in late 2016 among 300 startups. All startups were part of a growth-enhancing incubation program in the region of Zealand, Denmark, and the data collected and methodology used in this survey form the background for analyzing evidence supporting the various position in the literature. The findings show that, in the short run, the entrepreneurs can compensate their deficit of legitimacy by relying on local networks and resources close to them, but in the longer term, they need to solve the lack of organizational legitimacy vis-à-vis established organizations and their surroundings to survive and achieve the necessary economic growth.

Keywords

Organizational Legitimacy · Liability of Newness · Trust · Mechanisms of Legitimacy · Entrepreneurial Leadership · Survey · Social Network Analysis and Strategic Solutions

Introduction

The widespread tendency to a deficit of legitimacy among startups represents an obstacle for many entrepreneurs to grow and develop or even survive in the long run as an operating enterprise. As new ventures, this perceived lack of organizational legitimacy is a critical issue for entrepreneurs and managers to address. It is also a complicated issue because there are many different kinds of legitimacy issues depending on relationships, resources, type of startups, etc., to address.

New ventures face many challenges especially associated with their organizational age, such as a lack of management structure and specific role definition, a small or non-existent customer base, and much dependence on decision-making and performance of the founder (Stinchcombe 1965 m.fl.).

This new and untested situation for many startups has since the groundbreaking article by Stinchcombe in 1965 been described as the problem of "liability of newness," which is a perceived lack of legitimacy (Freeman et al. 1983). When a new idea or opportunity occurs, its legitimacy is typically low because it is unknown. The challenge of the entrepreneur is therefore to find an audience that will listen to the idea and support with, among other things, resources. It requires legitimacy that others accept it as a substantial opportunity in a market context.

Without legitimacy, the idea is not a real opportunity, because you cannot realize it. The legitimization process is fundamentally a social process in which the entrepreneur, through interaction with the market, achieves an impression of whether the idea represents a real opportunity or not. Something is legitimate if it complies with the norms, values, beliefs, practices, and procedures accepted by a particular social group or audience (Johnson et al. 2006). According to Suchman (1995), something is legitimate when there is "a generalized perception or assumption that the action of an entity is desirable, proper, appropriate, within some socially constructed system of norms, values, beliefs, and definitions."

It follows then that the entrepreneur's idea or created opportunity is a legitimate option when the economic, social, and political surroundings accept its existence as a valid part of the market. Without the necessary legitimacy, the entrepreneur will have difficulty in raising the necessary capital, recruiting employees, getting customers, etc. An empirical study of a large number of organizations in their early years (startups) confirms that the ability to survive depends on the ability to achieve legitimacy (Delmar and Shane 2004).

Johnson et al. (2006) indicate the process by which new objects – such as a new idea – gain legitimacy and thus evaluated as a real possibility. The process consists of four phases: (1) innovation, (2) "local" validation, (3) diffusion, and (4) general validation. As a result, of this process of diffusion, the new idea is, over time, more widely accepted as a natural part of the environment and business community. Therefore, the legitimacy process looks like "ripples that spread across the water and eventually disappear completely and become an integral part of a larger sea" (Fisher et al. 2017).

To solve this problem for legitimacy, the entrepreneur got different strategies for building legitimacy and *solutions* to address the lack of legitimacy and thereby to cope with the *consequences* of the deficit of legitimacy. Research projects (Überbacher 2014) have indicated various deliberate actions that the entrepreneur may take to convince the environment regarding the idea's relevance and legitimacy. For example, the entrepreneur may imitate other organizations already accepted by the surroundings or may seek to obtain official certificates to emphasize that the idea makes sense in the light of the existing opportunities exploited (Shane 2003).

Furthermore, it may be appropriate for entrepreneurs to cooperate with others to gain legitimacy in society, for example, through a new trade organization or a new network, rather than seek legitimacy separately. Another strategy for building legitimacy is to focus on creating trust among key stakeholders that will provide the entrepreneur with access to knowledge, resources, etc. Trust is important because it is fundamental to all types of interaction between people. The entrepreneur has various opportunities to build trust. For example, he or she can convince others that the option makes sense, by acting "as if" the activity were a reality – producing and directing great theater, as it were, may convince others of the tangible reality of the new business (Aldrich and Fiol 1994).

Many other approaches used to promote legitimacy include practical/symbolic actions such as producing a business card, letterhead, and a website. The entrepreneur can also obtain legitimacy by drawing on people who have high legitimacy within a particular business area, for example, by using a mentor or by putting together a management and advisory board. Finally, contact with an existing organization that has legitimacy can provide a route to greater legitimacy. If an entrepreneur can write "trusted by" a well-known organization on the business card, it helps to overcome his or her "liability of newness."

The chapter contains four main sections. *Firstly*, the relevant literature regarding "liability of newness" and organizational legitimacy is reviewed and discussed to highlight how a deficit of legitimacy occurs due to organizational age, resources, audience, relations, and type of startups. *Secondly*, some findings from a study of 300 startups in a growth-promoting incubation program in the region of Zealand, Denmark, are analyzed to identify connections between the consequences of "liability of newness," on the one side, and organizational age, resources, audience, relations (networks), and type or area for startups. *Thirdly*, various strategies for building legitimacy or solving the legitimacy problem identified in the study of 300 startups are discussed. *Finally*, the conclusion summarizes the findings and recommends further avenues of research.

The Concept of "Liability of Newness" and Organizational Legitimacy

The challenge upon entering a new line of activity in existent organizations or a new organization, where few precedents exist in the society, is the task of winning acceptance, either for the action in general or for the validity of their practitioners (Suchman 1995, 586). The problem is in general that a higher proportion of new organizations fail than old. It is particularly true of new organizational forms such as startups. They involve new roles, which have to be occupied and learned by the entrepreneurs behind startups. Often the entrepreneurs exploiting new opportunities in new organizational settings have to use generalized skills produced outside the organization or have to invest in education in employees and accept the cost of inefficiency until people have learned their new roles.

This "liability of newness" (Stinchcombe 1965, 148) has at least two aspects. Firstly, when new operations are technically problematic or poorly institutionalized, early entrants – for example, entrepreneurs – must devote a substantial amount of energy to create a kind of "sector" or "industry building," that is, to create a sense of feeling that the new endeavors will define an industry that exists independent of particular incumbents. Secondly, the challenge of legitimacy building applies with equal force both to new industries and to new entrants into old sectors or industries.

However, the entrepreneurs do not create new firms from one day to the next, but create them through a series of actions – obtaining inputs, conducting product development, hiring employees, seeking funds, and gathering information from customers undertake it to different degrees, in different order, and at different points in time, by different partners (Gartner 1988). That gives different opinions about the survival of new ventures:

1. The *institutional* theoretical position of evolutionary theory which argues that venture survival is enhanced by activities to make new ventures appear reliable and accountable, thereby increasing the legitimacy of the organizing effort (Hannan and Freeman 1983; Meyer and Rowan 1977)
2. The *social relationship* school of evolutionary theory which argues that new venture survival is enhanced by activities to establish relationships with external stakeholders, thereby overcoming the liability of weak social ties between new ventures and their external stakeholders (Stinchcombe 1965; Stuart et al. 1999)
3. The *Schumpeterian* position of evolutionary theory which argues that new venture survival is enhanced by obtaining control over and recombining resources in a way superior to that of established organizations (Nelson and Winter 1982; Schumpeter 1934)

Especially the time dimension of organizing is essential because new ventures are initially disadvantaged relative to established organizations in three fundamental ways (Schumpeter 1934; Stinchcombe 1965): *Firstly*, new organizations lack the legitimacy – or taken for grantedness – that established firms typically possess (Hannan and Freeman 1983). New ventures or startups often do not appear as accountable and reliable as existing organizations. Therefore they need to create the external perception that they are legitimate to garner resources and survive competition about established firms.

Secondly, new firms lack the same relationships with customers and suppliers possessed by established firms (Stinchcombe 1965) because social ties are an essential lubricant to all economic transactions (Arrow 1974), which make those actors with social relations advantaged in the marketplace (Granovetter 1973). New ventures, therefore, need to establish social ties to external stakeholders that are functionally equivalent to those of established organizations to garner resources and survive competition with these established organizations (Aldrich and Zimmer 1986; Stinchcombe 1965).

Thirdly, ventures, by being new, lack the productive routines and experience that established firms have for transforming resources into products and services (Schumpeter 1934; Nelson and Winter 1982). New firms must, to survive competition with established firms, obtain the resources that they will transform, develop a set of routines for doing so, and market the output of that transformation on the market.

To solve the lack of legitimacy in new ventures, the literature has identified some mechanisms that may be employed by entrepreneurs to establish or manage the deficit of legitimacy of the startups. Fisher et al. (2017) identified and categorized based on a review of around 70 articles in the literature of new venture legitimation the following 3 broad categories of mechanisms of legitimacy:

1. *Identity mechanisms* account for an entrepreneur's strategic use of social tools and identity claims such as images, symbols, and language to enhance and manage new venture legitimacy (Swidler 1986; Weber and Dacin

2011). They account for the explicit and implicit claims and impressions an entrepreneur portrays about a venture to align it with an audience's identity expectations.
2. *Associative mechanisms* account for the relationships and connections that entrepreneurs and their ventures forge to establish and manage their legitimacy. A contact with other powerful and recognizable actors in a field (e.g., with corporate elites, organizations, high-profile investors, etc.) signals to different audiences that the new venture has achieved evaluative approval and as such should be accepted as legitimate because others have already done so (Rindova et al. 2007).
3. *Organizational mechanisms* are the third category of devices or mechanisms for establishing and managing new venture legitimacy related to the organization and structure of a new venture and achievement of success measures by that venture. According to institutional theory, a new venture is perceived as legitimate if it engages in "standard" or "normal" organizational behavior within a given field of activity (cf. Meyer and Rowan 1977) or if it achieves certain levels of performance and professionalization based on the standard expectations of those within the field (cf. DiMaggio and Powell 1983). Hence, organizational mechanisms – including the implementation of the expected organizational structures and the attainment of corporate achievements – might facilitate new venture legitimacy. This might also happen when the right profile person is chosen for a leadership position (e.g., Cohen and Dean 2005; Tornikowski and Newbert 2007) or when achieving specific organizational outcomes or milestones such as a product launch and company registration or certification (Choi and Shepherd 2005; Delmar and Shane 2004; Khaire 2010; Kistruck et al. 2015; Rao 1994).

Using the perspectives on new venture legitimation identified by Überbacher (2014), the new venture legitimation mechanism is described by looking at the audiences, purpose, consequences, control level, and dimension of the mechanism. Especially the consequences of new legitimation mechanism are discussed in the following, and it contains "benefits" or beneficial consequences such as the *creation of opportunities*, *evolution*, *initial public offerings*, *growth,* and *survival.*

Entrepreneurial Leadership and Management of Organizational Legitimacy

Following the view of organizational institutionalism, one of the central corporate mechanisms of legitimacy is when the entrepreneur or the person in the leadership position of a startup has the right profile and mindset, showing entrepreneurial leadership and how to exploit and use an entrepreneurial mindset in practice. An entrepreneurial mindset is both an individual and a collective phenomenon that is important for entrepreneurs, managers, leaders, and employees. It is how leaders and entrepreneurs must think about their new venture business focusing on the benefits occurring from newness and uncertainty, capturing opportunities as a result, and thereby contributing to an organization's competitive advantage (Miles et al. 2000; Fernald et al. 2005) and in the end creating the necessary organizational legitimacy of the new venture.

In defining the role of an entrepreneurial leader, Burns points out that "vision is the cornerstone of the entrepreneurial architecture" (Burns 2005), i.e., the entrepreneurial leaders need an ability to define and communicate a shared vision for an organization. They are strategic thinkers and effective communicators, also being able to monitor and control performance, and above all, they create the appropriate culture within the organization to reflect their priorities. Put together Burns (2013) defines leaders by the following five elements:

- Having a *vision* for the organization (clear focus and direction)
- Being able to develop *a strategy* (a strategic framework)
- Being able to *communicate* effectively – particularly the vision (making sense)
- Creating an appropriate *culture* in the organization (the glue that binds it together)
- Managing and monitoring *performance* (balancing between freedom and control and managing risk)

The main aim of the entrepreneurial leader is always to build an *entrepreneurial architecture* for the organization so that it can efficiently operate on its own, without them, but also to signal that the new venture is legitimate because it engages in "standard" or "normal" organizational behavior within a given field of activity (cf. Meyer and Rowan 1977). However, becoming an entrepreneurial leader also requires other qualities and depends on the context and situation. Certain types of leadership theory, therefore, seem to be more conducive to entrepreneurial settings and a natural starting point for establishing relevance for entrepreneurial leadership education (Møller 2018).

Besides being a visionary leader and strategic thinker able to communicate efficiently and aware of the role of leading a learning organization requiring specific leadership skills and abilities, the entrepreneurial leader also needs to possess some personal attributes. Attributes, which signal *authentic leadership,* incorporate, for example, emotional intelligence, self-awareness, self-management, ability to follow principles, values, and beliefs, which in the end strengthen the trustworthiness of the person in command and promote the organizational legitimacy of the new venture.

However, effective entrepreneurial leadership is not just about the leader's characteristics or traits. It is complicated, because of "the interaction and interconnections between the leader, the task, and the group led by the leader and the situation or context, and therefore the appropriate leadership style depends upon how these factors interact" (Burns 2013). Following situational or contingency theory, many different leadership styles may be useful, with various tasks, groups, and contexts. Thereby, situation and context become important in teaching leadership which increases the trustworthiness of entrepreneurial leaders, because leaders, as well as entrepreneurs, are often facing uncertainty, rapid change, and risk-taking.

A part of the leadership literature gives some further insights into how to lead organizations through periods of change. Bass (1985), for example, contrasts what he calls "transactional" leadership with "transformational" leadership, where the first is about efficiency and incremental change reinforcing organizational learning and the last is about inspiration, excitement, and intellectual stimulation. Entrepreneurial leaders are therefore builders of organizations that are both visionary and transformational (Burns 2013). However, entrepreneurial leaders are also drawing on models of distributed and team-oriented leadership that focus leadership across all levels and in different forms (Gupta et al. 2004; Mintzberg 2009).

Lastly, entrepreneurial leaders have to act on the challenges of the time, where leaders and organizations currently are facing an increasing dependence on context, complexity, and connectedness (Gitsham et al. 2011). During a lifetime of an entrepreneurial business, the challenges to entrepreneurial leadership will change dramatically from startup to running an established company. Survival of new ventures is how the operation of the enterprise can grow and become legitimate in the eyes of the stakeholders and surroundings in general.

Altogether, the literature on leadership theory and specifically research on entrepreneurial leadership give some indication of essential themes and "inputs" to entrepreneurial leadership development. With a focus on innovation and entrepreneurship, it is vital that entrepreneurial leaders focus on leading the creation or discovering, evaluation, and organizing of opportunities in a strategical way with the aim of creating a learning organization that meets some of the challenges and build on mechanisms that increase the legitimacy of the new venture. That is done when the entrepreneur or the leading people is communicating the vision and strategic intent to stakeholders efficiently and making use of appropriate leadership styles depending on tasks, groups of employees, and context (Sarasvathy 2008). The source to create an effective entrepreneurial leadership must rely on a combination of inherent personality traits, environmental influences, and learned behaviors. The crucial point is how to acquire the entrepreneurial leadership behavior either by education or afterward in practice, due to a model of work-based learning (e.g., Raelin 1997).

Experiences from an Incubation Program of Startups

The effect of founders' actions on the survival of new ventures has often been problematic to evaluate empirically because reliable evidence is difficult to gather (Katz and Gartner 1988). Archival sources generally do not record the existence of new ventures that fail very early in their life, biasing the efforts to identify new ventures from lists of new firms (Aldrich et al. 1989; Katz and Gartner 1988). Consequently, most researchers begin their investigation of new ventures at the point at which new organizations initiate production or are legally established and have ignored what has happened to new ventures before that point in time (Aldrich and Wiedenmayer 1993; Carroll and Hannan 2000; Katz and Gartner 1988).

Public records, therefore, miss many of the firms that fail before they reach their first birthday (Aldrich et al. 1989). Thus, not only does focusing on recorded organizations hamper our understanding of essential activities that occur before firms become formally filed (Katz and Gartner 1988); also the selection processes might make new ventures that survive long enough to become documented organizations systematically different from the population of all new ventures (Aldrich and Wiedenmayer 1993).

In this chapter, we have chosen to build on experience from 300 startups (existed less than 3 years) participating in a growth-enhancing incubation program for small- and medium-sized enterprises in the region of Zealand (Denmark). A program is running from 2014 to 2016. The research project collected data through a survey (questionnaire) conducted among the 300 participating startups at the end of 2016. The results from the study published in a report to Væksthus Sjælland and EU in 2017 (Møller and Grünbaum 2017).

As mentioned earlier, the participants in the study represent companies that have existed for less than 3 years. Some of the companies were even established relatively shortly (few days or months) before they answered the questionnaire in the survey, and some have participated less than a month in the incubation program while others for 2 years or more. Thus, there is a large spread in the experiences and age among the participants in the study.

The original aim of the study did not focus on organizational legitimacy and the “liability of newness,” but other issues related to the experiences of the 300 startups in their early life of entrepreneurship. Some of these issues are as it is shown in the following of course intimately related to the consequences and solutions to the phenomenon of the “liabilities of newness” and topics related to managing legitimacy in new small- and medium-sized ventures.

The process of the incubation program, financed by the Social Fund of EU, lasted for each venture typically 1–1.5 year and had the following competence-developing elements:

- Workshops in business development
- Growth vocational training with an overarching management module
- Milestone conversations with project manager/subproject leader
- Innovation processes for production companies
- Mentor progress/advisory board

The incubation process also included practical tools, necessary follow-up, and milestones, each of which supporting the incubation program’s goal of contributing to the company’s growth and survival.

In addition to the above activities, the project management and daily managers of the incubation program continuously facilitated the social and professional networking among the participating entrepreneurs in the project.

The aim of the present research project had thus to examine the informal interaction and learnings among the participants in the incubation program mentioned above. Also, the functioning of the social networks facilitated during the process of the formal incubation program was studied as well as some other matters of importance to the participating entrepreneurs.

The present study is therefore not a study of the formal part of the incubation process, but rather an examination of what spontaneously came out of the interaction and knowledge sharing between the participating entrepreneurs. The official part was evaluated by a private consultant firm (Cowi 2016). Therefore, it can't directly be attributed to the planned competence-developing elements of the program. On the other hand, it has examined some of the related business activities that have an impact on the legitimacy of the startups.

The underlying assumption in the survey has been that there are a lot of informal knowledge sharing and learnings among participants in a formal education that is not immediately subject to the planned competence development activity. It represents a vital learning component of the participants in the further educational process and a crucial source to the creation and development of legitimacy in their startups and venture activities.

The study, thereby, focuses on the experiences of the participating entrepreneurs in the completed incubation program with a focus on informal knowledge sharing and learning. It builds partly on the use of social network analysis (SNA) and knowledge from entrepreneurship research in general. It relies on an expectation that the study can gain experience and produce analytical results that are of interest in a broader circle than the participating entrepreneurs, at the same time as the findings of course also affect Væksthus Sjælland's evaluation of the overall impact of the incubation program on the participating entrepreneurs.

Knowledge sharing and learning among small- and medium-sized enterprises in informal social networks have proved to be of great importance for exploiting their business potential, legitimacy, and further development.

Knowledge sharing and learning among small- and medium-sized enterprises in informal social networks have also proved to be of great importance to their potential for innovating and overcoming barriers to growth and development, which is documented in other studies; see below. A social network analysis helps to identify the extent and presence of interaction and trust among a group of entrepreneurs, as well as the type of knowledge sharing and learning that is particularly useful to the individual entrepreneur in the network.

This insight also affects authorities and decision-makers when planning and deciding on new growth and development activities among the small- and medium-sized group – including startups and entrepreneurs.

In entrepreneurship research, it is an established empirical finding that entrepreneurs participating in social networks have better chances of exploiting opportunities for business success because of better access to resources through networks (Jenssen and Koenig 2002). Research has also documented that the strength of entrepreneurial relations with others in the network system has an impact on what kind of resources it can gain access to, which can increase their organizational legitimacy. According to Kanter (1983), the resources contain three broad areas: (1) information and knowledge, (2) motivational resources, and (3) material resources.

In particular, access to "information and knowledge" is considered critical to newly established entrepreneurs, as the startup of entrepreneurship can be viewed as a process of learning, of overcoming the liabilities of newness tough information acquisition (Cooper et al. 1995, p 108). Also, the focus has been on the importance of weak ties "(Granovetter 1973) for entrepreneurs" access to information and knowledge so that "weak ties" often give greater access to information and knowledge than "strong ties" often leads to conformity.

On the other hand, strong ties often provide better access to motivation by others and access to financial resources. Thus, the entrepreneur's weak and strong links to others in a social network have a positive effect on startup entrepreneurs, because they provide information, motivation, and financial resources (Aldrich and Zimmer 1986).

In this study, the participant's relationships and ties – including experience-gaining access to information and knowledge – to other participants in the social network established during the incubation process were investigated by using a survey among participants in the incubation program. The survey method based on the distribution of a questionnaire to all course participants with questions that all focus on the scope (strength), but also on the nature (content) of the interaction between the members of the above social networks. The survey was conducted as an online survey in the last part of 2016, where the participants – 284 in total – received an email with access to the questionnaire in SurveyXact. The answers in the survey were afterward analyzed by use of the UCINET analysis program (Borgatti et al 2002), developed specifically for social network analysis.

The survey was completed over a period from August 2016 through December 2016 (year-end 2016/2017) and immediately followed by an analysis phase in January 2017. The results of the study were submitted in a separate report to Væksthus Sjælland, and the participants in the study received a summary of the most important empirical findings from the survey itself.

As part of the analysis of the data from the survey, a dropout analysis has been carried out on the submitted responses to the questionnaire in the study. It shows that out of 304 potential respondents that received the online survey, which constitute the group of registered participants in the incubation program during the 3 years of existence, 20 respondents returned the emails (wrong email address), and 284 potential respondents, therefore, received the survey questions.

In total, 98 of the above group of respondents answered the questionnaire. It gives a response rate of 34.5%, which is satisfactory because online distributed surveys usually give a response rate between 30% and 40%.

Regarding the answers to the questionnaire, 68 respondents out of that 98 rementioned above answered the entire inquiry, while 30 respondents only answered part of the survey. Thus, there is a partial deletion of some questions in the investigation. Typically, some issues were not required for the respondents to answer (e.g., relationships up to five other in informal networks) or they represented options in an item (e.g., membership of different types of associations).

It is thus the overall assessment of the dropout analysis that there has been no systematic elimination of respondents, which has affected the overall result in a particular one-sided direction, and that no specified groups of respondents have systematically failed to answer the whole or part of the questionnaire.

Data Collected from a Survey

This research is based on a survey, which has, as its primary focus, the gathering of knowledge about how and the extent to which startup entrepreneurs utilize informal networks to gain access to knowledge, resources, and legitimacy. Either through their identification with another kind of ventures or expectations from the environment, associative initiatives to create relationships and connections or organizational activities that are perceived as legitimate, because the startup thereby is engaged in "standard" or "normal" organizational behavior.

The findings from the survey among startups in the incubation program (region of Zealand, Denmark) are presented under the following headlines: Identity Mechanism, Associate Mechanism, and Organizational Mechanism.

Identity Mechanism

Many startup entrepreneurs make use of support and counseling from people in their immediate social circle already in the process of starting and establishing their businesses, and it takes a lot of time to seek out and utilize these personal contacts. The family and closest acquaintance circle thus constitute a substantial base and resource when starting up their own business, but also as a primary ground for identification and as an identity mechanism. It is thereby their primary source of legitimacy.

As the company evolves, consolidates, and enters a stable operating phase, a shift occurs in types of personal relationships that are of importance to counseling, support, and identification. Now the entrepreneur's business partner is gaining influence as the identity mechanism of the entrepreneur and startups. It is an exciting finding that in this sense, the more professional counselors such as the bank and the auditor, according to the entrepreneurs themselves, play a relatively minor role in all phases from the start, establishment, and operation of business than other types of relationships such as family, social, and professional relations in the social networks. Professional organizations such as banks, auditors, and other licensed counselors usually are the organizations or institutions which in the literature (Rindova et al. 2007) give legitimacy to startups and new ventures and help them to overcome their "liability of newness." In this study, they are used to a much lesser extent by the startups in the region of Zealand (Denmark), and they don't play the critical role as the "associative mechanism" for the startup, which is evident from the distribution of the answers from the entrepreneurs in Table 1.

As such, the entrepreneurs (startups) are not using professional organizations to overcome "liability of newness," but they rely on their close social networks, business partners, and informal social network.

Table 1 *I have discussed my* **business startup** *with the following type of persons or enterprises,* the percentage distribution in %

Assessment:	Type: Professional counselor (bank, auditor, etc.)	Family	Work colleague	Business partner	Person from informal network	Other things
Strongly agree	14,0	43,0	12,9	28,0	26,9	15,2
Agree	30,1	41,9	30,1	21,5	40,9	23,9
Neither agree nor disagree	17,2	9,7	24,7	18,3	22,6	40,2
Disagree	15,1	2,2	9,7	9,7	4,3	4,3
Strongly disagree	23,7	3,2	22,6	22,6	5,4	17,4
Total (N)	93	93	93	93	93	93

Associate Mechanism

When the entrepreneur enters a more permanent operational phase, there is a shift in the relationships and the use of sparring partners from their social and professional network. The entrepreneurs reduce the importance of the family and give the business partner a more prominent position as the entrepreneur's sparring partner. Almost 40% of the respondents now indicate to "strongly agree" with the statement that business operation is discussed with the business partners, compared to 28% in the startup phase of the business. The professional advisors, such as the bank and the accountant, have somewhat unchanged importance, whereas people in informal networks have slightly reduced their significance. So business partners and organizations close to the entrepreneur become even more important as part of the "associative mechanism" of legitimacy. The importance of the business partner is shown in Table 2.

When entrepreneurs get the opportunity to enter into informal networks, as it has been during the participation of the growth-enhancing incubation process, it is characteristic that the strength of the relationship between entrepreneurs and other participants in the network structure is decreasing as the number of network relationships increases. It is not perceived as an actual good of the entrepreneurs to have many networking contacts. Instead, it is "close" and "intense" relations in the networking contacts that affect the entrepreneurs – having an impact on their legitimacy. Social and professional network thereby becomes an essential part of the "associative mechanism" of legitimation. Relationships in the network that are "close" and "intense" give access to "information and knowledge." That is considered critical to the entrepreneurs because the startup can be viewed as a process of learning, of overcoming the challenge of "liability of newness" through information acquisition (Cooper et al. 1995) and motivation by others in the same position as the entrepreneur (Aldrich and Zimmer 1986).

Table 2 I have discussed the business operation with the following types of persons or enterprises, the percentage distribution

Assessment:	Type: Professional counselor (bank, auditor, etc.)	Family	Work colleagues	Business partner	A person from an informal	Other things
Strongly agree	13,5	32,6	14,6	39,3	27,0	12,4
Agree	29,2	38,2	21,3	21,3	34,8	15,7
Neither agree nor disagree	28,1	19,1	31,5	18,0	23,6	48,3
Disagree	7,9	7,9	10,1	4,5	4,5	4,5
Strongly disagree	29,2	6,7	25,8	20,2	13,5	20,2
Total (N)	89	89	89	89	89	89

It also applies to the degree of trust in other network participants, as confidence is falling with an increasing number of network connections. The mutual knowledge sharing also takes place best among a limited number of participants, and therefore the expansion of network connections does not necessarily contribute to an increased knowledge sharing and legitimacy, which again gives an insight into essential *dimensions* of the venture mechanism legitimation (Überbacher 2014).

In an overall assessment of the usefulness of participation in informal networks, it is easy to see that entrepreneurs benefit from participating in networks, for example, knowledge and insight into other entrepreneurs' business operations and development, greater confidence in their forces and abilities (motivation), new ideas for business development, as well as improved implementation of knowledge acquired in the formal courses of the incubation process. They are all representing examples of *associative mechanisms*, and it means that associative relations and mechanisms are the most important in the effort of startups to reduce their "liability of newness" and therefore to increase their organizational legitimacy.

On the other hand, neither increased sales nor better earnings are by any entrepreneurs endorsed as a central statement about the benefits of the informal networks, which usually is critically for the survival of new ventures. It is generally the point that the value of participating in the informal network among entrepreneurs primarily has been "informative" (information and knowledge) and "motivational" (support and motivation) rather than of a "material" kind (economic exchange and resources), i.e., social value not economic value. This conclusion is clear from looking at Diagram 1 beneath.

Although most of the entrepreneurs have a rather low rating of the economic effect of participating in an informal network of entrepreneurs, 54.4% of the entrepreneurs indicate that they have experienced a positive development in the company's economic activity, and thus, there has been an increase in revenue, gross

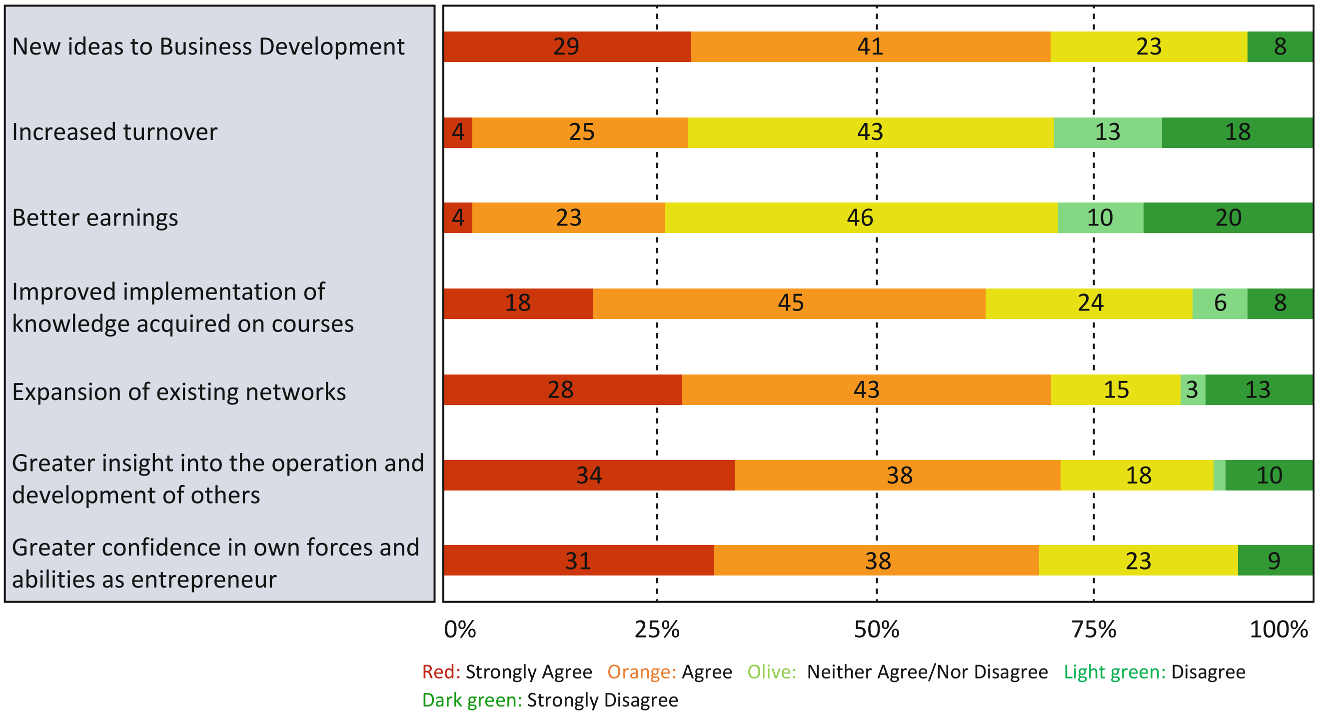

Diagram 1 *Overall, what has been the effect of participating in an informal network in the incubation process (taking into account statements about the impact of network participation)*, the percentage distribution

profit, and profit for the last year. The latter is particularly positive as one could expect that increasing revenue risk being eaten by various costs in an establishment and economic-expansion phase. It should be noted that increasing revenue can also be expected, starting from a low starting point, which is likely for a startup business. Also, about 39.7% of entrepreneurs have indicated that revenue, gross profit, and profit for the year have remained at a constant level. That may suggest that many startups have difficulties in expanding business activity and increase employment. Finally, a smaller proportion of entrepreneurs, i.e., 7.4% of respondents, have experienced a decreasing activity level.

However, about entrepreneurs' expectations for future economic activity development, it looks otherwise positive. Here, almost 80% of entrepreneurs expect an increase in both revenues, gross profit, and profit for the year. This result regarding expectations for the companies' future economic development is more positive than a similar investigation for companies throughout the Zealand region showed earlier (Center for VækstAnalyse 2015).

Organizational Mechanisms

The survey also looked at some specific relationships related to the entrepreneur himself and their business. Thus, participants in the incubation process generally have a higher education level than what is the case for entrepreneurs in the region of Zealand as a whole. The group of people with higher education is therefore overrepresented relative to the average for the area as such (58.7% in the survey and 19.3% in the region as a whole), and the group of persons with vocational education is similarly underrepresented (16.2% in the study and 41.2% in the region as a whole), cf. the Regional Statistics Bank of the Danish Business Administration, 2017. There is thus a central target group for the incubation process, which has indicated that they, to a lesser extent, have wished to make use of the offer to be part of a growth-promoting incubation process.

The majority of entrepreneurs (59.5%) have grown up in the region of Zealand, and, in line with other studies, they reproduce their parents' employment background, with 20.3% coming from families where one of the parents (typically the father) was self-employed. They have a strong identification in being an entrepreneur and self-employed, which goes hand in hand with other dimensions in the "identity mechanism."

This tendency for entrepreneurs to be affected by their parents' employment background has also been found in previous studies, among other things, research conducted by researchers at the University of Copenhagen in 2013. More specifically, 20.3% of the fathers and 13.9% of the mothers of entrepreneurs were self-employed. Table 3 gives a more detailed picture of this reproduction of social identity.

Financing of startups is a frequently discussed topic in the public debate and often related to the discussion of "liability of newness" because difficulties in getting finance from banks and financial institutions are caused by lack of organizational legitimacy to be unknown in the financial world. It is also typically argued that this

Table 3 Parents' socioeconomic status, absolute numbers, and percentage distribution

Employment:	Number of respondents	Percentage distribution (Father)	Number of respondents	Percentage distribution (Mother)
Self-employed	16	20,3	11	13,9
Cooperative spouse	1	1,3	7	8,9
Top manager (executive)	6	7,1	2	2,5
Highest-level wage earner	10	12,7	1	1,3
Middle-level wage earner	27	34,2	20	25,3
Basic-level wage earner	15	19,0	23	29,1
Other wage earner	1	1,3	2	2,5
Non-occupational	3	3,8	13	16,5
Total, absolute, and percentage ($N = 158$)	79	100,0	79	100,0

is a sub-prioritized area that has significant consequences for entrepreneurs as well as for society as a whole.

However, in this study, a different pattern is drawn. Thus, 51.5% of the entrepreneurs in the survey strongly agree or agree that it has been easy to finance their startup. Only 11.4% of respondents found it very difficult. The same pattern applies to the financing of operations, where 50.0% agree, strongly agree or agree, that it has been easy to obtain funding for the operation of their new business. 55.7% of the entrepreneurs say that the financing of activities is of importance, while 34.3% are neutral regarding this statement. However, there are also some concerns about the operation in the future, with 44.8% strongly agree or agree that they worry about the future financing of their business. Table 4 gives a more detailed insight into the response distributions of the entrepreneurs on this item.

The survey shows that the vast majority of funding for startup and operation of companies comes from the personal savings of the entrepreneur or their close family. Thus, 63.2% mention that the funding is through personal savings, and only 25% mention that they have used other sources for their financing. Also, a substantial part of the financing after the establishment comes through the profit realized by the company. The latter thus indicates that entrepreneurs do not significantly withdraw capital from the company regarding dividends, but reinvest the earnings in the company's continued development. More traditional types of financing sources, e.g., mortgage lending, the growth fund, business Angels, venture capital, and the like, are hardly used. Only bank financing can show a particular share, more precisely 14.7%, which have the consequence that startups don't lose the necessary funding due to lack of legitimacy but find alternative solutions by using other sources of finance (Møller and Grünbaum 2017).

Table 4 Experience with financing your business

	Experience:			
	It has been easy to finance my startup	It has been easy to finance operations	Financing of the continued operation has the highest priority	I am very concerned about the future financing
Assessment:	(Percentage distribution and absolute numbers)			
Strongly agree	28,6 (20)	22,9 (16)	30,0 (21)	15,9 (11)
Agree	22,9 (16)	27,1 (19)	25,7 (18)	28,9 (20)
Neither agree nor disagree	30,0 (21)	30,0 (21)	34,3 (24)	30,4 (21)
Disagree	7,1 (5)	10,0 (7)	4,3 (3)	5,8 (4)
Strongly disagree	11,4 (8)	10,0 (7)	5,7 (4)	18,8 (13)
Total in percentage (N)	100,0 (70)	100,0 (70)	100,0 (70)	100,0 (69)

It is a paradox when we know from many studies and reports (Erhvervsfremmestyrelsen 2017) that half of all startups after 5 years survive and that it is only a small number of these that become large companies and that the startups don't need funding from outside. One can, therefore, ask why there is this pattern as regards the financing of the startups and operation of the newly established companies when we know that finance and funding from outside are vital and "normal" behavior if you want to survive and expand your operation as a new venture.

According to institutional theory, a new venture is in fact perceived as legitimate if it engages in "standard" or "normal" organizational behavior within a given field of activity (Meyer and Rowan 1977) or if it achieves certain levels of performance and professionalization based on the standard expectations of those within the field (cf. DiMaggio and Powell 1983). That means either have a normal behavior as new venture vis-à-vis use of external funding or achieve a certain level of performance by growing its business. None of this kind of organizational mechanisms for legitimation is present among the startups represented in the survey. On the other hand, the entrepreneurs have achieved some legitimacy by participating in the incubation program receiving formal education in business development, sale, and marketing, business administration, and economics, together with training and couching in social networking. They have as such improved their position as professional and legitimate leaders of new ventures and startups being able to meet what Suchman (1995) describes as an "expectation or assumption that the action of an entity (the 'new venture') is desirable, proper, appropriate, within some socially constructed system of norms, values, beliefs, and definitions."

Strategic Solutions to Lack of Legitimacy

Related to the consequences or impact of the 3 mechanisms of legitimation (identity, associative, and organizational) on new ventures creating a deficit or lack of legitimacy among many startups, the present study of 300 startups in the region Zealand (Denmark) shows that:

> Many small new ventures or startups compensate their deficit of legitimacy by getting support from close networks such as family and business partners (use of associative mechanisms), where they can find support and have their identity and benefit from "closeness" as a kind of identity mechanism (building on identity as a mechanism of legitimacy).
> By changing their educational profile through participating in the leadership courses in the incubation program and also by being active in creating informal networks of entrepreneurs (associative mechanism of legitimacy), they increase their legitimacy as entrepreneurial leaders of new ventures by developing a more legitimate business profile (increase their organizational legitimacy).
> Last, but not least, many entrepreneurs accept the condition that they can't grow their business by external funding and have to rely on their sources (equity or earnings), which of course has the consequence that they retain their deficit of legitimacy because they can't grow as fast as needed. In the end, they risk being forced to close their business after a few years.

Knowledge Sharing and Learning in Social Networks

In this study of the "liability of newness" and the problems of the legitimacy of new ventures, the topic has been examined on the base of data collected through a survey about the informal knowledge sharing and learning among the participants in a formal incubation program and informal network of entrepreneurs.

The assumption in the survey has been that there is a lot of informal knowledge sharing and learning between participants in a formal education course that is not immediately subject to the planned competence development activity. It represents an essential learning component of the participants in the education process and a source of increased self-efficacy and legitimacy of the entrepreneurs because it motivates the entrepreneurs for further development and growth.

The analysis builds on the use of the social networking analysis (SNA) and knowledge from entrepreneurship research in general, as well as an expectation that the study can gain experience and produce analytical results that are also of interest in a broader circle, beyond that of the participating entrepreneurs.

Knowledge sharing and learning among small- and medium-sized enterprises in informal social networks have proved to be of great importance to their potential for innovating and overcoming barriers to growth and development in some other studies and even for the survival of many startups in the longer run. It is, thereby, related to investigations of organizational legitimacy of startups in general.

This insight also affects authorities and decision-makers when planning and deciding new growth and development activities about the small- and medium-sized group – including startups and entrepreneurs.

In entrepreneurship research, it is also an established empirical finding that entrepreneurs' participation in social networks influences their opportunities for business success by giving them access to resources (Jenssen and Koenig 2002). The strength of entrepreneurial relations with others in a social network has thereby an impact on what resources it can gain access to, but can even become a reliable alternative resource, to achieve organizational legitimacy in a public sphere.

According to Kanter (1983), she divides resources for startups into three broad areas: (1) information and knowledge, (2) motivational resources, and (3) material resources. In particular, access to "information and knowledge" is considered critical to newly established entrepreneurs, as startup processes can be viewed as a process of learning, of overcoming the liabilities of newness through information acquisition (Cooper et al. 1995, p 108).

Also, the focus has been on the importance of "weak" and "strong" ties "(Granovetter 1973) for entrepreneurs" access to information and knowledge, so that "weak ties" often give greater access to information and knowledge because "strong ties" often lead to conformity. On the other hand, "strong" ties often provide better access to motivation by others and access to financial resources. Thus, it is assumed that the entrepreneur's weak and strong links to others in a social network have a positive effect for startup entrepreneurs because they provide information, motivation, and financial resources (Aldrich and Zimmer 1986).

This study has, first of all, focused on the *consequences* of lack of legitimacy among startups and not directly on the legitimation mechanism of the new venture, which could have produced valuable insights into relevant strategic solutions solving the lack of legitimacy of new ventures. However, it has given some indication of how startups and entrepreneurs can compensate the lack of organizational legitimation by relying on, e.g., close and local social networks and business partners, instead of seeking legitimacy in public in general. Thus, it gives some resemblance to Johannisson's concept of the 'social entrepreneur' with close relationships to the local community (Johannisson 1988). On the other hand it also means that one of the barriers preventing startups and new ventures from solving their deficit of legitimacy is caused by the fact that many entrepreneurs don't want to be involved with professional organizations such as banks and financial institutions, because they are afraid of losing their independence. Even though banks and financial institutions can reduce their deficit of legitimacy and secure their organizational legitimacy by the external approval of the business activity of their new venture (Rindova et al. 2007).

Conclusion

In conclusion, the framework and empirical findings presented here provide some insights into how startups can handle their deficit of legitimacy by focusing on legitimation mechanism, such as identity, associative, and organizational, especially the consequences of these three mechanisms for startups and relevant solutions to solve the problem of a deficit of legitimacy. Although startups are dependent of the assessment of their stakeholders and surroundings, the study has shown that to certain extent entrepreneurs and startups, in the short run, can compensate for the deficit of legitimacy on the market or in public in general by relying on networks and resources close to them. Although they, in the long term, risk their survival because lack of legitimacy means obstacles and deteriorated conditions for economic growth and survival in the future, time and timing are therefore of great importance for solving the deficit of new venture legitimacy.

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From Cooperation to Competition: Changing Dominant Logics and Legitimization in Liberalizing Industries

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Kristian J. Sund

Contents

Abstract

This paper explores the transition from logics of cooperation to logics of competition within strategic groups in liberalizing industries. The notion of dominant logic, usually associated with studies of institutional fields, can usefully be applied to the study of interorganizational cognition and legitimacy in the formation of strategic groups in liberalizing industries. Over time, a group dominant logic emerges because of observations and interactions between executives across organizations in the group. These processes serve to maintain the dominant logic of competition in strategic groups over longer periods, until external environmental changes lead to a sufficiently large disconnect between the new reality and the old logic, prompting the emergence of a new logic.

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As an illustration, within the Nordic postal industry, until the end of the 1990s, cooperation was maintained and competition avoided. However, the subsequent transformation from government agency to government-owned corporations, as well as the gradual liberalization of the European postal market, initiated a transition from logics of cooperation to logics of competition within the strategic group. Then, in 2007, the logic of cooperation within the group was permanently disrupted by the unexpected merger of the Swedish and Danish posts, leading to the creation of a new company, PostNord. This legitimized competition and a new logic focusing on competition in the group emerged during the 2000s and entirely replaced the logics of cooperation in the aftermath of the merger.

Keywords

Dominant Logic · Liberalization · Legitimacy · Institutional theory · Postal sector

Introduction

Studies of managerial and organizational cognition continue to be popular in the business and management literatures, not least thanks to a renewed interest in the micro-foundations of strategy and organizational behavior (Teece 2007). Interpretation theories dominated early studies, while more recently theories of sense-making, identity, and institutions appear to have come to the forefront (Hodgkinson et al. 2017; Huff et al. 2016; Sund et al. 2016). The individual manager has thus been referred to as an information worker, and organization has been seen as a mechanism by which people collectively make sense of the world around them and act on their interpretations (Sund 2015; Weick 1995). Over time this sense-making leads in the organizational context to the construction of shared mental maps of the environment and a joint understanding of cause-effect relationships linked to organizational action, or what is now commonly by institutionalists called logics of action (DiMaggio 1997).

Over the last few decades, there have been attempts to study how organizational cognition may explain the creation and adaptation of shared mental models across different organizations competing in the same environment, i.e., not within organizations but *between* organizations. Early studies on such interorganizational cognition suggested the importance of cognition in terms of defining strategic groups (Reger and Huff 1993) and hinted that groupthink among organizations may explain why such groups collectively fail, particularly in the face of competition external to the group, or in the face of major environmental change (Porac et al. 1989).

A complementary yet slightly different direction has been taken by institutional theorists. Institutional theory suggests the existence of interorganizational fields, defined as groups of organizations that are similar, share common practices, and have a common focus of attention and a shared definition of market (Anand and Peterson 2000). Work in this area therefore points to the emergence of a collective (cognitive) steady state, or what Prahalad and Bettis (1986) at the organizational level refer to as a dominant logic. In this paper I explore the emergence of, and the transition between, such dominant logics at the interorganizational level, in particular in strategic groups. What happens to the dominant logic when the institutional environment legitimizes, or even demands new types of actions?

To illustrate the emergence and transition in logics in such a context, I trace the recent history of a group of organizations composed of the national Nordic postal operators, as they have had to develop strategies to deal with a rapidly changing environment. These posts were all incorporated (i.e., became government-owned independent companies) during the 1990s, in preparation for future privatization. The 1990s and 2000s saw the gradual liberalization of the market for letters and parcels across the European Union, and since the early 2000s, the market for letters has started to decline as a result of digital substitution effects. The context of my illustration is therefore one of the combinations of large former monopolies, with a mature and subsequently declining core product, in a destabilizing environment. During this period, the organizations in this group gradually moved from a state of national monopoly, in which they saw each other more as partners with whom cooperation and joint ventures were common, toward a state of competition. There was, in other words, a transition in the dominant logic, from logics of cooperation to logics of competition.

The largest shock to the group came in 2007 when two of the four members of this group were merged by their owners (the Danish and Swedish governments). This came as a surprise to both the Norwegian and Finnish Posts, which, I will argue, perfectly illustrates the kind of dissonance between the strategic group dominant logic and the evolving organizational logics of action that has commonly occurred as these organizations have moved from one set of institutionalized practices to another (Bacharach et al. 1996). The dissonance served as a sense-making catalyst among group members as they scrambled to redefine their strategic position within and outside the strategic group. Threat interpretations for both the Norwegian and Finnish Posts definitively changed their strategic stance and led to a new dominant logic of competition. Formerly, cooperation was legitimized and endorsed through formal interorganizational relationships in the group (Galaskiewicz 1985; Singh et al. 1986). Now, with the breakdown of these interorganizational relationships, competition became legitimate, and the dominant logic shifted.

Strategic Groups as Cognitive Communities

Hunt (1972) first introduced the concept of strategic groups through his unpublished dissertation study of the home appliance industry (Hoskisson et al. 1999). The early conceptualization of such groups of organizations focused on measurable objective qualities that linked the organizations, such as similarity of products, distribution channels, or customers. For example, Hatten and Schendel (1977) and Hatten et al. (1978) study the strategic groups within the brewing industry. They use variables such as firm size, concentration ratio, manufacturing, marketing, and financials to determine the basis for the formation of a strategic group (Hatten and Schendel 1977;

Hatten et al. 1978; Hoskisson et al. 1999). Hatten et al. (1978) focus on business strategies specifically. According to them, business strategy "defines how the firm will deploy its resources in a given product/market area," and similarity in business strategy indicates strategic group membership.

Porter (1980) defines a strategic group as a "group of firms in an industry following the same or a similar strategy along the strategic dimensions." He argues that once strategic groups have formed within an industry, the firms in each strategic group resemble each other in many ways besides their strategy. Firstly, they "tend to have similar market shares" and secondly "respond similarly to external events or competitive moves in the industry because of their similar strategies." Belonging to a particular strategic group, when the groups are defined by adherence to a particular generic strategy, has in some studies been shown to have implications for performance, such that some groups are more successful than others (Dess and Davis 1984; Leask and Parker 2007). Caves and Porter (1977) further examine the notion of strategic group but connect it with mobility barriers. "The hypothesis of group structures generates strong implications for the theory of barriers to entry. Each of the standard sources of entry barriers can vary with the characteristics that define industry groups" (Caves and Porter 1977, p. 252). Mobility barriers isolate firms within a strategic group and disables firms from other strategic groups to enter through means such as scale economics, product differentiation, or distribution network (Caves and Porter 1977; Hoskisson et al. 1999).

What is less clear from this line of research is whether these studies collectively simply prove that having a clear differentiation strategy (low cost, differentiation, or niche (Porter 1980)) is better than being "stuck in the middle," rather than proving the existence of any particular subgroups recognized by the management of these organizations. The term is therefore not without critique. According to Barney and Hoskisson (1990), there are two untested assertions in strategic group theory: (1) whether strategic groups actually exist beyond the definition of the researcher and (2) whether a firm's performance depends on strategic group membership. They argue that the existence of strategic groups in an industry rests largely on the researcher's presumption that strategic groups actually exist (Barney and Hoskisson 1990; Hoskisson et al. 1999).

Cognitive Perspectives on Strategic Groups

One way to overcome this critique is to consider strategic groups not as objectively measurable by the outside researcher but rather as subjectively perceived by managers inside the group. Reger and Huff (1993) offer such a perspective on strategic groups, defining these in cognitive terms and focusing on the subjective nature of strategic groups. They suggest that strategic groups exist through "the way strategists organise and make sense of their competitive environment." In other words, organizations are grouped by virtue of the fact that their executives perceive each other to be in a group, typically because they directly compete against each other. Decision-makers' perceptions and cognitions of the market are in fact constantly creating and confirming the existence of strategic groups (Reger and Huff 1993). These perceptions and cognitions of similarities and differences among competitors subsequently influence strategic decision-making (Reger and Huff 1993).

Porac et al.'s (1989) classic study of the Scottish knitwear industry supports Reger and Huff's (1993) reasoning. They argue that market boundaries are socially constructed around a collective cognitive model that summarizes typical organizational forms within an industry (Porac et al. 1995). Firms observe each other's actions and use this information to define unique product positions in relation to each other. Their study suggests that the variables size, technology, product style, and geographic location affect the perceptions of the competitors (Porac et al. 1995). The mechanism they offer for the emergence of group-level shared cognitions is linked to what they call indirect and direct imitation, where "indirect imitation occurs because strategists from different firms face similar technical/material problems with a finite number of solutions. Belief similarity develops as a result of interpreting the same cues and solving the same problems. Direct imitation occurs because of both formal and informal communications among the set of competitors" (p. 270).

Institutional Theory and Legitimacy

Recent work in institutional theory complements the cognitive perspective by examining a different category of relations than the strategic group – namely, institutions. Where strategic groups can simply be defined as groups of organizations where managers perceive each other as direct competitors, institutions are defined, perhaps more intricately, as "social structures composed of cognitive elements that provide stability and meaning to social life in a normative and regulative fashion" (Scott 2001). Institutional theory contains the notion of organizational field, defined as a group of organizations that constitute a recognized area of institutional life, such that they are structured into a field, through competition, the state, or the professions (DiMaggio and Powell 1983). The structuration of such a field "consists of four parts: an increase in the extent of interaction among organizations in the field; the emergence of sharply defined inter-organizational structures of domination and patterns of coalition; an increase of the information load with which organizations in a field must contend; and the development of mutual awareness among participants in a set of organizations that they are involved in a common enterprise" (DiMaggio and Powell 1983, p. 148). A key question in institutional theory is why do we see a degree of isomorphism among organizations in a field?

The notions of field and strategic group in fact refer to different categories of interorganizational relationships but share many of the same underlying socio-cognitive processes. The notion of strategic group makes it relatively easy for the researcher to define the margins of group belonging. Executives can be asked to identify their main competitors, who are then asked the same question, and the answers can be used to define which organizations are core to the strategic group, and which are peripheral, or secondary (Reger and Huff 1993). Strategic groups over time develop a group identity, defined as a “set of mutual understandings, among members of a cognitive intra-industry group, regarding the central, enduring, and distinctive characteristics of the group” (Peteraf and Shanley 1997). It is precisely the fact that these characteristics are identifiable for executives that make it possible for them to describe what organizations belong or do not belong to the group.

The study of institutional belonging is somewhat more complicated. First and foremost, recent research shows how at both the individual actor level and field level multiple identities and logics are at play simultaneously, making it more complicated for the researcher to completely map this level of analysis. At the individual actor level, one person may belong to several fields (e.g., a professional field, such as engineering, but also an industrial field, such as the construction industry, and a functional field, such as design), each with its own set of logics, which the person uses interchangeably in their daily activities (McPherson and Sauder 2013). At the organizational level, one organization may contain a number of subdivisions and subcultures, each with their own logics, such that it becomes difficult to link large organizations to only one institution or organizational field (Besharov and Smith 2014; Purdy and Gray 2009; DiMaggio 1997).

Linking institutions to the issue of legitimacy to some extent helps us clarify organizational belonging. Legitimation is the process whereby an organization justifies its existence and actions to a wider set of actors (Pfeffer 1981; Suchman 1995) but also clarifies such actions to key stakeholders (DiMaggio and Powell 1991). Such justification is necessary in order to ensure the continual support of key stakeholders (such as owners) in providing the resources necessary for the organization to function (Suchman 1995, p. 574). This legitimation is typically carried out by top management, or board members, as they are the ones vested with the power to define the purpose of the organization. Thus, although larger organizations may see a number of subcultures emerge, with some degree of belonging to specific fields, top management will typically identify explicitly with one or few institutional fields, for the purpose of legitimizing and explaining the logic by which they operate.

Logics of Action

At least in contexts where competition is present, organizational fields are created as groups of actors develop and share information about the market in which they compete (Anand and Peterson 2000). This information is structured and interpreted into cause-effect relationships that inform actions undertaken by the organization. Some scholars have labelled such knowledge content as schema (Weick 1979; DiMaggio 1997), while others prefer the term logics of action, emphasizing the type of schema directly linked to the actions of the organization. A shared logic of action can thus be defined more precisely as a set of shared and regular ways of thinking and acting that include a delimitation of such elements as domain, unit, dimension, quality, and behavior (Dequech 2008). Logics of action are just one type of institutional logic, specific to the means-end relationship that individuals and groups bring to an exchange (Bacharach et al. 1996).

Logics of action exist as a cognitive frame at the level of the individual actor, but logics become shared through socialization processes and daily action within the organization or across organizations. Logics of action mostly operate in a taken-for-granted fashion but critically manifest themselves when individuals have to explain and justify their actions (Bacharach et al. 1996). This point is critical, as it forms a basic assumption for the analysis in this paper, like in much of the research on such logics. I assume that actors are able to recollect and verbalize the logics of action underlying key strategic decisions of the past.

Bettis and Prahalad (1995) suggest that what focuses attention at the strategic level in the organization is a dominant logic. This dominant logic results in a consistency of action over time, despite a changing environment (Reger and Huff 1993). It is known, for example, that people are more likely to perceive information that is compatible with existing schema (Von Hippel et al. 1993) and recall such information more rapidly and accurately (DiMaggio 1997). In fact, small changes in the environment will not upset the dominant logic, which in the thinking of Bettis and Prahalad (1995) acts as a type of magnet, or funnel, eliminating or distorting environmental information to fit with the existing logic. Logics of action at various levels of the organization must fit within the dominant logic. Only large environmental disturbances have the potential to create a mismatch between the dominant logic and the external reality. While Bettis and Prahalad (1995) are unclear on the cognitive underpinnings of such a mismatch, Bacharach et al. (1996) suggest that the effects of such a mismatch inside the organization result in a feeling of cognitive dissonance in organizational members. Parties seek to avoid such dissonance, or contradictory cognitions, in the social context and will seek to reduce the dissonance through changed behavior, through reevaluation of the importance of the cognition, or by seeking new cognitions (Bacharach et al. 1996; Festinger 1962).

The concept of logics of action can be useful in explaining cognitions underpinning the existence of a strategic group. At the level of a strategic group, executives from different members of the group will commonly interact with each other at both formal and informal gatherings, such as conferences, conventions, trade fairs, and so forth. Similarly, they share information through communication channels such as trade publications or actors such as trade associations, research institutions, or consultants. They are thus likely to share cognitions, which may include at least elements of a dominant logic (Reger and Huff 1993), as well as some logics of action.

To illustrate, I will take inspiration from the strategic group, as well as the institutional theory literatures, in particular Reger and Huff (1993), Porac et al. (1989, 1995), and Bacharach et al. (1996), as I portray the evolution of the Nordic postal industry, as a strategic group, over the past 20 years. A key difference to the studies discussed above is that I suggest that strategic groups share elements of a dominant logic, which constrains the action of each group member, effectively limiting their repertoire of actions. This dominant logic is maintained through a process of collective sense-making across organizations in the group which reinforces perceptions and means-ends logics. Executives seek to maintain consistency of logics not just within their own organization but also across organizations in the strategic group. It is only larger environmental changes that have the potential to create a sufficient mismatch between the group dominant logic and the external reality, such that contradictory environmental information can no longer simply be distorted or ignored. The organizations within the strategic group must under these conditions transition to a new dominant logic to accommodate for the environmental change and to regain external legitimacy (Deephouse et al. 2017). It is this transition which will be the focal point of the next sections, where I examine the evolution of the Nordic postal operators as they transition between cooperative and competitive logics of action.

An Illustration

Industry Background

Up until around 20 years ago, the typical European postal operator was a government agency, with no shareholders to satisfy, no market shares to defend, and little freedom of action for management (Sund and Osborn 2010). Today the picture is very different, and strategy has become a crucial consideration. The European postal industry has been undergoing rapid transformation over the past two decades (Sund 2011). The main drivers of this transformation include the growth of the Internet, which has resulted in digital substitution for many applications of letter mail. On the other hand, e-commerce has resulted in substantial growth in the parcel delivery business. Further drivers have been the gradual liberalization of the industry by national governments and the European Union alike, as well as moves toward privatization in some countries. For example, the United Kingdom's Royal Mail and Portugal's CTT Correios were both privatized in 2013. Figure 1 illustrates some of the effects of this transformation in terms of (1) a move from physical to digital mail processing, (2) a move from private mail items toward mainly business mail items, and (3) a move from monopoly positions toward increased competition (Bogers et al. 2015).

National postal operators have responded in a variety of different ways to these changes. Some have, for example, diversified their national business, while others

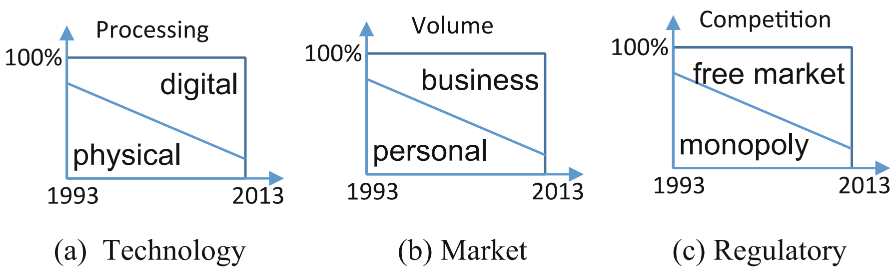

Fig. 1 Changing landscape exerting pressure on the postal industry

have internationalized their activities (Dietl and Jaag 2011). Where before these operators held national monopolies and cooperated in cross-border activities, they now compete much more directly with each other than ever before. This is as true for the Nordic countries as it is for the rest of Europe (Sund and Osborn 2010).

The analysis will follow the evolution of the strategic group composed of the Nordic postal operators of Finland, Sweden, Norway, and Denmark and to some extent the wider European postal market, from the late 1990s until today. A particular focal point will be the periods before and after the declared merger between the Swedish Post and the Danish Post, in 2008, which, I will show, came as a complete surprise to the other actors in the market because such a merger had never before been attempted and did not form a part of the action repertoire of the posts in question. The development will be described and commented upon mainly from the perspectives of Norway Post and Itella (Finland Post). The aim is to understand the events in the development, the drivers leading up to them, and how this influenced on and possibly changed the perception of the strategic landscape, the perception of how the other players might act and react, and their perception of threats and opportunities on behalf of their own company. In other words, how the logics of action changed in response to the wider changes in the environment.

Finland Post was in 2007 rebranded to Itella Corporation (an acronym for "intelligent logistics"). In order to ease the understanding, this company will henceforth be referred to as Itella throughout this chapter. The merged postal companies in Sweden and Denmark are referred to as PostNord after the declaration of the merger on April 1, 2008 but as Swedish Post and Danish Post before this date (It should be noted that although announced on April 1, 2008, the merger only came into effect a year later, on June 24, 2009). Table 1 presents an overview of demographic information concerning the Nordic Posts from 2000 to 2013.

Table 1 Core firms in the Nordic postal strategic group

	Norway Post	Finnish Post (Itella)	Swedish Post	Danish Post
Total turnover (2000)	NOK 13,659 mio	€ 1,069 mio	SEK 24,508 mio	Dkr 10,936 mio
Total turnover (2013)	NOK 23,557 mio	€ 1,977 mio	SEK 39,766 mio	
Turnover from mail % (2000)	ca. 72%	ca. 73%	ca 62%	ca. 90%
Turnover from mail % (2013)	ca. 54%	ca 59%	ca 61%	
Employees (2000)	26,822 FTE	24,763	41,522	ca. 30,000
Employees (2013)	19,022 FTE	27,253	39,305	
Mail items handled (2000)	ca 2,500 mio	ca 2,600 mio	5,717 mio	1,444 mio
Mail items handled (2013)	2,074 mio	ca 3,000 mio	5,900 mio	
Corporatization year	1996	1994	1994	1995

Changing Strategies and Logics of the Nordic Posts

Pre-2000s: The Logic of Cooperation

Although the exchange of documents and parcels obviously dates back much further, the postal industry as we know it today can in the Nordic region trace its history back to the creation of the Danish Post by King Christian IV in 1624, which following a period in private hands was nationalized in 1711. Kungliga Postverket (The Royal Postal Agency) followed in Sweden in 1636, established by the Lord High Chancellor of Sweden, Axel Oxenstierna. By 1638 this post covered Finland as well (then a part of the Swedish Kingdom). Finally came the creation of the privately owned Postvesenet in Norway in 1647, which was eventually nationalized by the Danish-Norwegian government in 1719. For almost four centuries, these organizations functioned as government agencies, gradually building up a universal service enabling citizens in all parts of their respective countries to exchange letters and parcels with each other and across borders. Especially in the area of cross-border exchange, the Nordic posts would cooperate, guaranteeing a seamless delivery of mail and small parcels from citizens, businesses or governments from one country to another (Only interrupted by the occasional conflicts between these neighboring countries).

For most of the twentieth century, the Nordic posts experienced a steady development of mail and parcel traffic as the economy grew. Simply put, more industrial and service sector output led to more pieces of mail traveling through the postal system (Ansón et al. 2006). The same was true for the telecommunication sector, which had become the twin sibling of the post. The 1990s saw the first major signs of change. Market-oriented reforms were gradually introduced by all four Nordic governments, resulting in perceived environmental instability for the postal organizations (Oliva and Suarez 2007). The telecommunication arms of all Nordic posts were divested, liberalized, and privatized. This showed the posts which way their sector was likely to go, but all the way up through the 1990s, the Nordic posts continued to see each other more as partners than competitors. Before, and in a period of some years after, the first postal directive, all the postal companies would cooperate in the letter distribution. If a customer sent a letter from Norway to Sweden, it was natural for the two national posts to cooperate in getting the letter across the border and to the mailbox of the recipient.

The dominant logic of cooperation allowed for a number of strategic actions during the 1990s. Firstly, all posts focused internally on increasing the efficiency of their own operations, through investments in automation equipment and the reduction of the workforce. Secondly, the Nordic posts all invested resources in experimenting with new digital technologies as a way of diversifying their businesses. Thirdly, they continued to seek cooperation opportunities with each other, for example, through the creation of joint ventures. None of these strategic actions contradicted the historical logic of cooperation, since they did not result in head-on competition with each other.

The organizations were all incorporated around the same time in the mid-1990s, ahead of the gradual liberalization of the postal market by national governments and the European Union. The expectation was that the posts should become profitable in preparation for a later possible sale by government, which pushed these posts to seek to improve efficiency. Investments into automation became important. However, one of the things causing most concern to the management in the mid-1990s was the developments in the information technology sector. They saw new communication technologies emerging and wondered how this would affect the letter volumes in the future. In 1996 Norway Post decided to invest in the IT business and bought an IT company called ErgoGroup. The purpose was to learn about the new technology and its implications. One idea was to develop hybrid products by combining mail products with new technology. For example, business customers could now send a digital copy of their mail to Norway Post, who would print the mail, put it in envelopes, and ship it. The combined efforts of Norway Post and ErgoGroup resulted in innovation of a lot of products in the late 1990s, but they were not a huge success.

Itella in Finland started investing in IT slightly earlier than their Norwegian counterparts. Already in the mid-1990s, Itella prepared for the future by reducing the number of post offices and by innovating new hybrid mail solutions.

The investments into hybrid mail were a success, and Itella at that time considered themselves one of the leading European companies within this business segment. It is evident that both companies came close to the same conclusions at almost the same time regarding the importance of information technologies. Although there was an imminent threat that new technologies would replace letter mail over time, both companies also saw opportunities arising with the new technology. This led to investments into the adjacent IT segment with the main purpose to protect the mail volumes by developing hybrid mail services and thereby extend the life cycle of mail. There appears to have been shared logics of action driving these decisions, which remained compatible with the dominant logic of cooperation within the group.

Early 2000s: Liberalization and the Emerging Logics of Competition

The first EU Postal directive was introduced in 1997, opening up the market for domestic and cross-border letters weighing over 350 g. A second directive in 2002 prepared the opening of the market for letters over 100 g and for letters over 50 g in 2006. A final directive led to the complete liberalization of the European postal market in 2013. The original intention of the European Union was to open the market earlier, but several national governments managed to postpone the opening for a few years. The impending deregulation of the postal market forced the national postal companies to prepare for competition and optimize their operations.

In 1999 Norway Post hired a new CEO, Kaare Frydenberg, who begun a process of improvement. The new CEO launched a comprehensive turnaround process cutting cost, reviewing operations and service quality, and redesigning the operational and administrative processes in the company. One of the major initiatives he launched was to reduce the number of post offices and transform them into a “shop in shop” solution. The “shop in shop” is a franchise system where external retail chains run a “post office” integrated within their grocery store. This transition led to substantial downsizing over the following years.

In this same period, Norway Post also prepared a plan to restructure and streamline the entire national mail distribution network and infrastructure. Substantial cost reductions and quality improvements were achieved by reducing the number of terminals and making the distribution routes more efficient. This period was thus primarily characterized by internal processes to professionalize and streamline the company. This internal focus did not yet clash with the dominant logic of cooperation in the strategic group. The specter of competition was already there, and the intention of becoming competitive was there as well, but interestingly there was a reluctance to publicly name the other Nordic posts as potential competitors. In official documents, such as the annual report, future competitors were by Norway Post defined as being “major international logistics and communications companies” (Norway Post 2000 Annual Report, p. 8).

Jukka Alho was hired as new CEO at Itella in 2000. Already from the beginning, he started to renew the strategy process. For the first time, the company began to systematically map the market structures and trends, identifying and understanding possible customer segments and selecting product lines to focus on and invest in. Itella was convinced that within 10–15 years, letter volumes would only decline, and competition would grow. That year, in their annual report, similarly to Norway Post, Itella named several other posts as potential competitors, none of which were their Nordic neighbors.

In its further business development, Itella decided to investigate the value chain of its customers and try to find ways to offer and deliver “total packages” which would provide added customer value. Such a package could include IT services, hybrid mail products, printing, invoicing, and general logistics. Itella was by now already present in the Nordics but decided to expand the geographic footprint and move more eastward, especially to Russia and the Baltic rim.

In June of 2007, the former Finland Post (Posti in Finnish) rebranded the corporation to the new name Itella. The rationale behind the rebranding was to establish and build a strong Nordic and Baltic brand name around what was perceived as the new core business, namely, intelligent logistics, combining the traditional capabilities in the movement, sorting, and storage of mail, parcels, and goods, with the more recently developed know-how in IT (Pääkkönen 2014). Itella decided to keep the Posti brand, although renewed in style and logotype, as the brand for the postal consumer market in Finland. Unlike Norway Post, Itella did not expand its letter business outside Finland.

Based on common beliefs in a strong growth in international e-commerce leading to a big increase in imported parcel volumes to the Nordic countries, and this flow potentially being dominated by the big global logistics players, the four Nordic postal companies in 1999 decided to join forces (one last time), in the international parcel distribution segment. They created a joint venture company, PNL (Pan Nordic Logistics), where each Nordic postal company would have a 25% ownership. The plan was to jointly capture the European and global inbound volumes to the Nordics and that each postal operator would be the network and distributor on behalf of PNL in their respective country. At this time and in this segment (inbound international parcel distribution), the Nordic postal companies still saw each other as partners, rather than competitors. Instead, they defined the large global logistics companies (such as UPS, TNT, DHL, and DB Schenker) as their main and common competitors. But then something changed.

At this point, everybody believed all markets were to be deregulated by January 1, 2007 (As previously indicated, it eventually took longer, full liberalization being completed only in 2013). However, several other and equally important factors and development drivers became evident in the early 2000s, such as globalization and industry consolidation. One of the effects of the globalization was that international corporations were increasingly defining the Nordic region as a single market. The Nordic postal companies almost simultaneously came to the same insight: if your customer defines the Nordic region as one region, you must also define it as such. This influenced the strategic thinking and drove the postal companies to develop their own pan Nordic solutions. First Itella decided to withdraw from the joint venture and instead cooperate with DHL. Itella could not see the rationale behind PNL and was concerned that conflicting strategies between the owners could be a problem in the future.

In 2001 Swedish Post also left the PNL joint venture to undertake a Nordic franchise for the DPD parcel system (owned by the French Post), one of PNL's main competitors. The main argument from the Swedes for this surprising move was that the EU postal directive would eventually force the Nordic postal companies to become competitors. At this time the trust and relationship between Norway Post and Swedish Post was starting to deteriorate. Itella and the Swedish Post maybe left PNL for different reasons, but it appears that they based their decisions on the same emerging perceptions of future competition. The believed implications of the liberalization of the letter market changed the former perceptions about the market conditions, and as a result the relationships deteriorated between the Nordic postal companies. Norway Post and Danish Post remained as 50/50 owners of PNL. This joint venture continued until 2008 when the Swedish and Danish Post declared their merger, effectively forcing a definitive stop to the joint venture.

Around this time, in its strategy work, Norway Post started to paint a scenario whereby a competitor could penetrate their domestic market and steal a substantial market share. The assumption was that a challenger could cherry-pick the market, by only operating in the high-density and high-volume part of the country, such as the capital Oslo. Such a challenger could create a business model not hampered by the universal service obligations of Norway Post, who are obliged to deliver mail to all citizens 6 days a week. The challenger could focus on large business customers, i.e., industrial mail, conducting a 3-day a week distribution model, thereby gaining a substantial cost advantage and undercutting Norway Post on price. This threat interpretation of the effects of the impending market liberalization for the first time truly opened up the possibility of a new type of dominant logic in the Nordic market, based on direct competition with the other Nordic operators, rather than collaboration.

Based on this rationale, Norway Post in 2002 expanded its letter business into Sweden by acquiring an entrepreneurial venture named Citymail. This was the beginning of building a new business model as challenger to the incumbent player in the traditional core letter mail market in Sweden. Norway Post's strategic intent in this period was to establish a market leader position in the Nordic letter mail market with distribution networks in all the Scandinavian countries. Based on this strategy, Norway Post also decided to expand the mail business into Denmark by creating a new company, Bring Citymail Denmark. Based on the assumption that there could only be one surviving challenger in each market, winning the challenger position in Sweden and Denmark early would make Norway Post the only player with letter distribution in three out of the four Nordic countries. Through this strategy Norway Post hoped to control the Nordic letter market and thus defend its own home market in Norway. However, there were no plans to expand into Finland, who was still seen more as a potential cooperation partner.

At the end of this period, Norway Post also expanded their logistics operations, mainly into adjacent product segments in its home country, such as cargo transportation, container trekking, and warehousing. The rationale behind those investments was Norway Post recognizing that their core capability distributing letters really is a logistics operation and that many business customers didn't recognize the differentiation made by the postal companies between parcels, packages, and so on. The customer simply had a need to send goods of various types and sizes from one location to another. In order to succeed within the parcel distribution segment, the postal company also had to be able to offer various cargo transportation and even storage services. In 2004 the Norwegian cargo transportation company Nor-Cargo was acquired as a foundation for building a comprehensive logistics business model and operations.

In the early 2000s, cooperation was still the dominant logic within the group, and at least publicly the four Nordic posts refused to identify each other as direct competitors, including in newspaper interviews. However, by the middle of the 2000s, all four posts had improved their operations; identified similar market opportunities in parcels, IT, and the wider logistics market; and developed a shared perception that they would ultimately be competing with each other directly in most of their service areas. The dominant logic of cooperation was contradicted directly when the PNL joint venture started to fall apart and was further tested by the competitive moves of Norway Post into Sweden. The final major disruption that resulted in a permanent transition away from the original logics of cooperation was the unexpected merger of the Danish and Swedish Posts, announced on April 1, 2008.

Late 2000s Onward: The Merger of the Swedish and Danish Posts and the End of the Logics of Collaboration

On April 1, 2008, April Fool's Day, the Swedish and the Danish Post declared a merger of the two companies, forming a new and massive player in the most populated and central part of the Nordics. The new entity was named PostNord. This merger came very unexpectedly for Norway Post and Itella and was a clean break with the existing logics of action. The merger was a first globally (no other cross-border merger of incumbent postal operators had occurred until then). The option of such a merger was therefore not in the repertoire of strategic actions available to Norway Post or Itella. The immediate reaction of top management in those companies was one of disbelief. In fact, it is reported that as the merger was announced on April 1, April Fool's Day, top management in Norway actually believed for several hours that the announcement was a joke.

Nor did it seem a legitimate action. Both Norway Post and Itella feared that the merged company (PostNord) would become too dominant a player in the Nordic market, especially in parcel distribution and perhaps in the wider logistics market. Both Swedish Post and Danish Post were already very strong within parcel distribution in their respective domestic markets, which were the two biggest markets in the Nordics. By acquiring or building distribution networks also in Finland and Norway, PostNord could become by far the most dominating player in the entire Nordic region. Norway Post and Itella both appealed to the European Commission in Brussels fearing that this dominant player would change the market conditions and competition in the Nordics.

The appeal to the EU commission was unsuccessful. In reality, the market was, and still is, characterized by sufficient competition for the merger not to result in excessive market power. Before the merger, the main concern to both Norway Post and Itella was that Swedish Post would expand its letter business into their respective domestic market. It would seem naturally that the merger would reinforce this concern. However, retrospectively we see that this expected move did not happen. Letter volumes by now were steadily declining, even showing an increasing pace. This, and the fact that there are very limited synergies in cross-border mail consolidation in the Nordics, made an international expansion unattractive. Norway Post realized this fact after the failed attempt to become a pan Nordic player in the letter market. They eventually gave up their operations in Denmark and have now defined their letter operations in Sweden (Bring Citymail) as a standalone business.

On the other hand, PostNord posed a very clear threat in the growing logistics market. PostNord had the advantage of dominating the two biggest and most attractive markets in the Nordics. The strength of this position is enhanced as many Nordic and international corporations are consolidating their Nordic operations and in most cases situating their Nordic headquarters in Stockholm and their logistics operations in the south of Sweden.

After the merger, there were now three Nordic postal companies all competing in the logistics segment and growing their market presence through strategic acquisitions, but not, as expected for almost 10 years, competing very much in the mail segment. By the early 2010s, all three operators (PostNord, Norway Post, and Itella) explicitly identified each other as direct competitors. For example, PostNord in their 2013 annual report indicate "national postal operators in Norway and Finland" as direct competitors in the area of logistics. From a past as national mail monopolies, this group of organizations have transitioned together to form a new strategic group in the regional logistics market, under a dominant logic of competition.

Discussion and Conclusion

Through a detailed narrative of the recent history of a specific group of newly liberalized organizations, this paper traces the transition from one dominant logic to another, in the context of major environmental change. I started this paper by discussing the importance of cognitive perspectives in explaining the emergence and persistence of strategic groups but also pointed to the lack of theory and evidence about the actual transition between shared cognitions in such groups. The intention in this paper has been to suggest that a shared dominant logic forms an important part of the identity of a strategic group (Peteraf and Shanley 1997). This higher-level dominant logic acts as a constraint on the actions available to each member. It is therefore my suggestion that multiple logics of action develop, evolve, and coexist within any organization (Besharov and Smith 2014), which collectively define the organization's repertoire of actions, and that membership of a strategic group will create a higher level of shared dominant logic, with which each member's logics of action must then be compatible. This is the condition of equilibrium to which Bettis and Prahalad (1995) refer and which they suggest can only be disrupted by major changes to the external environment.

In my example of the Nordic postal sector, such major changes are present. However, the dominant logic is disrupted not by the environmental changes per se, but when one organization in the group engages in actions inconsistent with the dominant logic, thus opening up the possibility of legitimizing possible new actions. Norway Post and Itella react to the surprise merger by complaining to the European Union, effectively challenging a change of logics that has already occurred (Bacharach et al. 1996). These two organizations can be seen to challenge and test the legitimacy of the merger. Once the merger is deemed to be legitimate by the European Union, this opens up the possibility of new strategic actions, compatible with a new logic of competition.

Crucially, the final effect of the dissonance experienced at various stages throughout the 2000s is not in this case to create any form of negotiation or attempt to return to the old logic but to abandon those old logics of action and seek new ones that are compatible with the new emergent dominant logic of competition (Bacharach et al. 1996). Competition has now been legitimized by the environment (Suchman 1995). The new dominant logic of competition in logistics emerges through this exploration for new actions. The transition from logics of cooperation to logics of competition is thus gradual in nature and is fuelled from within the members of the strategic group, as they cope with a changing environment by exploring new logics of action.

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Part XV

Organizational Identity, HRM, Employee Motivation, and Business Legitimacy

Organizational Identity and Corporate Social Responsibility (CSR) Legitimation

56

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Contents

Abstract

This chapter addresses the relationship between corporate social responsibility (CSR) legitimation and organizational identity. The purpose is to examine through the lens of organizational identity the tendency for modern organizations to seek legitimacy as socially and environmentally responsible actors and become associated with values such as sustainability and altruism. Specifically, the chapter highlights the CSR legitimation implications of the tendencies for business organizations to seek a normative organizational identity despite having a predominantly utilitarian identity and government organizations to seek a utilitarian identity despite having a predominantly normative identity. These identity category dynamics, it is argued here, shed light on why organizations promote themselves as socially and environmentally responsible in order to

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acquire and maintain legitimacy. The argument is that CSR legitimation should not be seen in isolation from important identity questions such as "what are we" and "what do we want to be."

Keywords

Legitimacy · CSR legitimation · Utilitarian organizational identity · Normative organizational identity

Introduction

This chapter addresses the relationship between corporate social responsibility (CSR) legitimation and organizational identity. The purpose is to examine through the lens of organizational identity the tendency for modern organizations to seek legitimacy as socially and environmentally responsible actors and become associated with values such as sustainability and altruism. Specifically, the chapter highlights the CSR legitimation implications of the tendencies for business organizations to seek a normative organizational identity despite having a predominantly utilitarian identity and government organizations to seek a utilitarian identity despite having a predominantly normative identity. These identity category dynamics, it is argued here, shed light on why organizations promote themselves as socially and environmentally responsible in order to acquire and maintain legitimacy. The argument is that CSR legitimation should not be seen in isolation from important identity questions such as "what are we" and "what do we want to be."

In this chapter, CSR legitimation is defined as the process of acquiring legitimacy as a socially and environmentally responsible organization. The definition is inspired by Matten and Moon's (2008, p. 405) understanding of CSR as "clearly articulated and communicated policies and practices of corporations that reflect business responsibility for some of the wider societal good." The focus is on what government and business organizations say about their CSR activities (how they seek to "look good"), and the identity dynamics underlying such CSR legitimation, rather than what they actually do to be socially and environmentally responsible (how they seek to "be good"). The propagation of CSR is considered a strategic matter aimed at providing legitimacy benefits, for which both government and business organizations are assumed to have a clearly felt need.

Organizational legitimacy can be defined as "the perceived appropriateness of an organization to a social system in terms of rules, values, norms, and definitions" (Deephouse et al. 2017, p. 32). The basis for legitimacy results from the overall benefit of the organization to the individual evaluator, generating *pragmatic* legitimacy, or to the society as a whole, producing *moral* legitimacy (Bitektine 2011). In this chapter, these forms of legitimacy are assessed with respect to government and business organizations. Their basic features are well-known: Government organizations have *normative* identities, meant to protect and promote the public interest (thereby generating moral legitimacy), whereas business organizations are *utilitarian*, designed to pursue the interests of their owners (thereby generating pragmatic legitimacy). A central argument of this chapter is that these category differences have blurred and that government and business organizations have answers to their identity questions that differ from what their respective category identities would suggest. More importantly, these answers have implications for their legitimation strategies, including CSR legitimation. The chapter proceeds by distinguishing between these different identities and legitimation strategies and explores the blurring of the category boundaries that adds to our understanding of CSR legitimation.

Organizational Identity

Organizational identity are "those features of an organization that in the eyes of its members are central to the organization' character or 'self-image', make the organization distinctive from other similar organizations, and are viewed as having continuity over time" (Gioia et al. 2013, p. 125). By providing answers to questions such as "who are we," "what are we," "what do we stand for," and "what do we want to be," organizations define and express their central, distinctive, and continuous features, which in turn provide a platform for actions and decisions. They also define their social identities in the sense that they signal membership in a social category of organizations. The answer to the question "who are we" typically involves features that are shared with other organizations in addition to those that are unique. By declaring membership in social identity categories, organizations signal who they are similar to and who they are different from (Albert and Whetten 1985).

A central argument in organizational identity theory is that identity categories matter for legitimacy. This point of view is particularly significant in the social actor perspective on organizational identity (King and Whetten 2008; Whetten et al. 2014; Whetten and Mackey 2002), but also in strategy research on categories (Navis and Glynn 2010; Zuckerman 1999) and in organizational legitimacy literatures (Bitektine 2011). According to King and Whetten (2008, p. 195), being recognized as a member of a known category of organization is "the principal means whereby organizations gain legitimacy." Having a specific identity type as an organization signals what stakeholders can expect from it in terms of behavior and thus the standards by which to hold it accountable. Members of the same category are subject to the same expectations and are evaluated on the basis of the same metrics. Organizations whose category identity is unknown or uncertain will face difficulties acquiring and maintaining legitimacy as well as attracting the resources they need to survive (Zuckerman 1999). Moreover, organizations whose actions and behavior do not correspond to stakeholders' expectations of them based on the category to which they belong are likely to face legitimacy issues. It follows that category membership allows stakeholders to observe, evaluate, and understand organizations and to derive expectations of their behavior.

If we accept that identity category matters for legitimacy, then the strategic decisions made at the beginning of an organization's life cycle will influence this organization's chances of acquiring and maintaining legitimacy over time. Strategic decisions involving a movement toward a different identity category at a later stage in the life cycle will also influence the organization's legitimacy. Every identity category comes with a certain set of values and features that members "inherit" and become associated with (cf. Barnett and Hoffmann 2008; King et al. 2002). This spillover effect from the category to the individual organization could be a blessing and a curse depending on the legitimacy of the category. As a result, different categories of organizational identity could have different needs for legitimation.

Normative and Utilitarian Identities

Organizations can be sorted into one or several overarching ideal-typical categories associated with a specific set of core characteristics and values: business, government, and charity (Bromley and Meyer 2017). Within the limited space of this chapter, the focus is on the identities of business and government organizations, their blurring, and the implications of this blurring for CSR legitimation.

As an ideal-typical category, business organizations have utilitarian organizational identities emphasizing economic production, individuality, profit, and efficiency (Albert and Whetten 1985; Parsons 1960). They pursue their own interests and behave in a way that benefits their owners and customers. The interests of the larger society, underprivileged individuals, or specific local communities are not intended to be prioritized domains. This fundamental aspect of business organizing was described by Milton Friedman (2007, p. 178) in the following way: "There is one and only one social responsibility of business–to use its resources and engage in activities designed to increase its profits." His viewpoint is controversial today and refuted by many who argue that businesses can create value for the society while at the same time creating value for themselves (Kleine and von Hauff 2009; Porter and Kramer 2011). However, others have advocated Friedman's view (Peter Drucker, quoted in Bakan 2004; Henderson 2001; Karnani 2010).

In the case of business organizations, the relationship between organizational identity and legitimacy is relatively straightforward: The utilitarian organizational identity mainly generates *pragmatic* legitimacy. By responding to the needs of "their most immediate audiences," (Suchman 1995, p. 578) business organizations seek legitimacy based on the "self-interested calculations" of these audiences" (ibid.). In contrast, government organizations have normative identities emphasizing cultural aspects, collective welfare, and moral values (cf. Albert and Whetten 1985). They are not created to pursue their own or their owners' interests. Rather, they exist to serve the public interest and promote societal welfare. Their missions manifest themselves through the provision of intangible services and goods from which it is difficult or impossible to generate profits, including the handling of societal challenges and issues such as unemployment, pollution, national security, and social problems, which require national regulation, taxation, funding, and legislation.

Thus, in contrast to business organizations, government organizations in Western liberal democracies have a strong built-in responsibility for social and/or environmental issues. This is a central part of their *raison d'être* and an important basis of what they are and what they do – their identity. It primarily generates moral legitimacy in the sense that their existence is based on their ability to effectively promote societal welfare (Bitektine 2011; Suchman 1995). However, these are arguments from an ideal-typical point of view. The differences are blurred for various reasons in practice, including the tendency for utilitarian organizations to adopt features of the normative identity and vice versa.

Legitimacy and Legitimation

Scholars agree that legitimacy is a requirement for organizational survival. This is a fundamental insight in all organizational and management research, applicable to all kinds of formal organizations including business organizations. Organizations are social institutions, generally dependent on their stakeholders having favorable perceptions of them, in which case they receive support and better access to human, financial, and physical resources.

Many organizations have experienced, and continue to experience, a need to bolster their legitimacy. Scholars have noted that acquiring and maintaining legitimacy are "chronic difficulties" (Elsbach and Sutton 1992, p. 700) and "always problematic" (Ashforth and Gibbs 1990, p. 177). Empirical research has identified legitimacy problems arising from unethical behavior, greenwashing attempts, and various scandals and corporate irresponsibility committed by business organizations. These problems have led to a loss of support from key constituents, forcing these companies to defend their legitimacy and implement legitimacy-restoring strategies of both the substantive and symbolic type. Similarly, government organizations in Western democracies have faced legitimacy issues arising from perceived lack of transparency, corruption, and bad quality of services (Rothstein 2011), leading to bureaucracy-bashing and the image of government being surrounded by a "pessimistic fog of distrust, cynicism, and contempt" (Farnswarth 2003, pp. 2–3).

The active process of acquiring and maintaining organizational legitimacy is legitimation. This is a strategic process that involves justifying one's "right to exist to a peer or superordinate system" (Maurer 1991, cited in Suchman 1995, p. 573). According to Ashforth and Gibbs (1990), legitimation encompasses substantive or symbolic approaches. When pursuing substantive legitimation strategies, an organization makes real change in its practices, goals, structures, processes, and priorities in order to conform to the expectations of its constituents. When pursuing symbolic legitimation strategies, an organization designs its communication and description of its practices, goals, structures, processes, and priorities so that external constituencies *believe* that the organization is behaving in accordance with the rules, values, norms, and definitions of the larger system. CSR legitimation could be both substantive and symbolic.

CSR Legitimation in the Business Sector

To acquire and maintain legitimacy, companies increasingly "adopt the language and practice of CSR" (Matten and Moon 2008, p. 404) by engaging in legitimation activities involving both substantive and symbolic approaches to CSR (Schons and Steinmeier 2016). The aim of CSR legitimation is to justify one's right to exist as an organization on the basis of its commitment to CSR.

A wide range of substantive approaches have been observed in empirical studies of business organizations such as, for example, reducing waste and pollution, recycling, trading CO_2 quotas, donating money to charities and other social purposes, and having employees volunteer for social enterprises and in local communities. As noted earlier, however, the focus here is mainly on the symbolic aspects of CSR legitimation because substantive change often offers less direct legitimacy benefits. Recent studies have found that stakeholder awareness of organizations' CSR activities is low (Bhattacharya et al. 2008; Du et al. 2007; Sen et al. 2006). Unless legitimacy-granting audiences are aware of the socially and environmentally responsible actions, companies are unlikely to obtain legitimacy benefits from them. As a result, companies want to not only "be good" but also "look good" (Perez-Batres et al. 2012), leading to the proliferation of a range of symbolic approaches involving the direct communication of companies' CSR commitment and "green" legitimation (Wæraas and Ihlen 2009). Examples from business organizations include CSR reporting; CSR communication strategies; strategic philanthropy; CSR branding through core values, mission statements, and visual designs promoting CSR; and other symbolic and sensory means of expressing CSR commitment.

A number of scholars have argued that symbolic CSR involves ceremonial conformity with stakeholder expectations (Boiral 2007; Schons and Steinmeier 2016; Weaver et al. 1999). The argument is that symbolic CSR legitimation involves insincere CSR claims, taking advantage of the fact that stakeholders have little awareness of actual CSR performance. This can, of course, be the case if symbolic approaches are not matched with corresponding substantive CSR actions. Such ceremonial conformity could encompass activities described as window-dressing (Weaver et al. 1999), greenwashing (Marquis et al. 2016), bluewashing (Bigge 2004), green spin (Alves 2009), and CSR-washing (Pope and Wæraas 2016). However, symbolic CSR legitimation is not necessarily insincere or completely decoupled from realities. It could be a relevant strategy for informing or reminding stakeholders about non-visible CSR activities, especially for government organizations that typically are associated with negative perceptions despite having users or clients with positive perceptions.

CSR Legitimation in the Public Sector

CSR legitimation strategies are equally available to all kinds of organizations from a theoretical point of view. However, with some exceptions (Abdelmotaleb and Saha 2019; Bennett 2011; Hawrysz and Foltys 2016; Ogarcă and Puiu 2017), CSR has typically not been studied in the context of government organizations. Studies tend to examine the role of governments in promoting CSR in the business sector rather than how government organizations undertake CSR initiatives or promote themselves as CSR-oriented. As a result, mapping the CSR legitimation strategies of government organizations is trickier compared to business organizations.

Still, it is possible to argue that CSR has become a relevant legitimation strategy for government organizations (cf. Gjølberg 2010, p. 203). Consider, for example, the following statements made publicly by local governments in Norway (translated by the author).

The above statements can be understood as legitimation efforts aimed at becoming associated with altruistic values and characteristics relating to social and environmental responsibility. As such, they are legitimacy-*restoring* responses to critical claims pointing to the inability of government organizations to successfully address their own social and environmental responsibility (Lanested 2019; Mandag Morgen 2007). They could also be seen as legitimacy-*enhancing* initiatives creating conformity with business organizations, which generally are considered more "complete" organizations (Brunsson and Sahlin-Andersson 2000) and have a more comprehensive focus on CSR.

Regardless of the underlying reason, the statements are arguably examples of symbolic legitimation approaches to CSR. The listed municipalities in Table 1 formulate their missions, priorities, guidelines, values, and functions using well-known and already institutionalized CSR concepts such as social responsibility, ecological balance, climate challenges, sustainability, and reducing environmental footprint. The mere fact that they use the word social responsibility the same way as business organizations suggests that it is not sufficient simply to "do good" for government organizations, but they must also convince stakeholders by communicating about their values and priorities in order to "look good."

It follows that the social and environmental responsibility of government organizations can be described as having two aspects. The first is strictly connected to the ability of government entities to substantively fulfill their institutional mission of generating some form of societal benefit. The second is the symbolic aspect of CSR legitimation, associated with government organizations' ability to gain legitimacy benefits from propagating their CSR values, principles, intentions, internal regulations, and involvement in areas that may or may not be directly related to their institutional mission.

Organizational Identity Dynamics and CSR Legitimation

The dramatic increase in CSR initiatives in the private sectors of the Western world observed by a number of scholars seems to be a paradox. Substantive CSR activities are, at least strictly speaking, not consistent with the utilitarian organizational identity of these organizations. CSR could only be seen as consistent with the utilitarian identity if it is a means to an end, that is, if it is carried out as a symbolic legitimation strategy and/or contributes to the maximization of profit.

Table 1 CSR statements retrieved from Norwegian local governments

Municipality	Statements
Moss	"Moss Municipality shall emphasize social responsibility when carrying out procurements." (Moss Municipality 2019)
Lier	"An open, values-driven, and socially responsible municipality." (overall objective) (Lier Municipality 2011)
Bergen	"Bergen Municipality shall be a frontrunner regarding the environment, sustainable development, and adaptation to climate change. Environmental concern shall be an overarching principle in all our business and planning." (press release) (Bergen Municipality 2016)
Sandefjord	"Sandefjord Municipality is an inclusive working life organization (IA company) as of January 2017... The overarching goals of the IA-agreement is to improve the work climate, strengthen turnout, prevent and reduce absence, and prevent rejection and abandonment." (Sandefjord Municipality 2016)
Nesodden	"Ecological balance. Nesodden Municipality is aware of the global environmental and climate challenges and we are proactive in reducing the environmental footprint of our own activities and from the municipality in general. The environmental perspective is clear in the attitudes and actions of the municipality." (Core value statement) (Nesodden Municipality 2019)
Molde	"Employees and politicians shall be aware that they manage the common resources of society on behalf of all citizens of the municipality. Everyone is required to protect the municipality's resources financially and rationally in sustainable manner, and should not misuse or waste the municipality's resources." (Molde Municipality 2019)
Asker	"The new Asker Municipality is built on the UN sustainability goals" (Asker Municipality 2018)
Lørenskog	"Lørenskog Municipality shall be a healthy, green, and diverse municipality" (job advertisement) (Lørenskog Municipality 2019)
Haugesund	"Haugesund Municipality is an I-A company, which means that the municipality is aiming for an inclusive working life. It means to include everyone who can and wants to work." (Haugesund Municipality 2019)
Porsgrunn	"Porsgrunn Municipality is an IA-organization." (Porsgrunn Municipality 2008)

For government organizations, a different paradox emerges with respect to CSR legitimation. Substantive CSR legitimation is consistent with their normative organizational identity because social and environmental responsibilities are central aspects of what they are and do. However, symbolic legitimation is arguably at odds with the normative identity because it does not directly benefit societal welfare or the public interest. Rather, it benefits the interests of the relevant government agency because it positively influences stakeholder perceptions. Moreover, symbolic CSR legitimation could involve exaggerated claims and the projection of an image that does not correspond to actual realities. Undertaking additional CSR that does not directly fall within the institutional or social mission of these organizations is also a paradox, especially when such activities are conveyed strategically in social media, websites, campaigns, and other means of communication.

How can these legitimation paradoxes be understood and explained from organizational identity theory? The remainder of the chapter describes important dynamics of organizational identity categories and discusses how they add to our understanding of CSR legitimation.

Identity Category Dynamics

The dynamics of organizational identity categories of interest here can be summed up in the following way: Business organizations have generally moved toward normative identities, whereas government organizations have moved in the opposite direction by adopting aspects of the utilitarian identity.

Business Organizations' Quest for Normative Identities

Given that organizational identity constitutes a platform for actions and decisions, new actions often emerge from a revised identity or have the potential to change identity over time. Accordingly, CSR legitimation in the business sector can be understood in light of a desire to transition from utilitarian to normative organizational identities.

The normative identity is expressed in multiple types of identity claims. Companies of any size, industry, and geographical location tend to have core value statements, vision and mission statements, codes of conduct, company philosophies and credos, and so on, expressing central, continuing, and unique organizational characteristics. These statements are not necessarily direct reflections of member understandings of the organization, as they more often are the result of top management's internal sense-giving attempts (cf. Ravasi and Schultz 2006). They are also typically meant to generate a favorable impression of the company among external stakeholders and can be important components of corporate branding strategies. Consider, for example, the statements made by these companies (Table 2).

The companies are the ten mostly highly ranked on the 2019 Fortune Global 500 index. They are the most profitable, powerful, and successful companies in the world. They have not become profitable, powerful, and successful by being socially and environmentally responsible, i.e., by pursuing a substantive CSR legitimation strategy. In fact, the self-interested pursuit of profit and wealth for themselves and their shareholders has brought them to commit intentional acts of fraud, bribery, pollution, the mistreatment and discrimination of workers, and the violation of human rights. These incidents become "scandals" when they are uncovered (although many continue to deny any wrongdoing), many of which having significant legal and financial ramifications. For example, in the recent "Dieselgate" scandal, Volkswagen pleaded guilty and accepted to pay $4.3 billion in penalties in the USA (The New York Times 2017), and Volkswagen-owned Audi division accepted to pay a fine of €800 million in Germany in connection with the same scandal (The New York Times 2018). In June 2019, Walmart was ordered to pay

Table 2 Identity statements retrieved from Fortune Global 500 top ten companies

Company	Statements
Walmart	"To save people money so they can live better" (mission statement) (Walmart 2019b) "Service to the customer," "respect for the individual," "strive for excellence," "act with integrity" (core values) (Walmart 2019a)
Sinopec	"Fueling beautiful life" (mission statement) (Sinpoec 2017) "People," "responsibility," "integrity," "precision," "innovation," and "win-win" (values) (Sinpoec 2017)
Royal Dutch Shell	"Honesty," "integrity," "respect for people" (core values) (Shell 2019)
China National Petroleum	"Caring for Energy," "Caring for You," "Energize," "Harmonize," "Realize" (mission statement) (China National Petroleum 2019a) "Dynamic," "loyal," "honest," "committed," "Achieving excellence through innovation and integrity" (core values) (China National Petroleum 2019b)
State Grid Corp. of China	"Promoting re-electrification, building energy intergrid, meeting power demand with clean and green alternatives" (mission statement) (State Grid Corporation of China 2019) "Customer-oriented," "professional and dedicated," "ever-improving" (core values) (State Grid Corporation of China 2019)
Saudi Aramco	"Excellence," "safety," "integrity," "citizenship," "accountability" (core values) (Saudi Aramco 2019)
BP	"Safety," "respect," "excellence," "courage," "one team" (core values) (BP 2019)
Exxon Mobil	"Finding safe, efficient and responsible ways to bring affordable energy to a global market" (core values) (Exxon Mobil 2019)
Volkswagen	"Shaping mobility – for generations to come" (vision statement) (Volkswagen 2019b) "Responsibility," "honesty," "bravery," "diversity," "pride," "solidarity," "reliability" (core values) (Volkswagen 2019a)
Toyota	"Contribute to making the earth a better place to live, enrich lifestyles, and promote a compassionate society by supporting industrial and social infrastructure around the world through the continuous supply of products/services that anticipate customers' needs" (vision statement) (Toyota 2019b) "Respect for the law," "respect for others," "respect for the natural environment," "respect for customers," "respect for employees" (company principles) (Toyota 2019a)

$282 million to settle a bribery investigation concerning payments made to Mexican and Chinese officials (Forbes 2019).

These incidents are arguably the result of a very strong utilitarian organizational identity. However, paradoxically, the utilitarian identity is not the most dominant in these companies' mission statements and core values. By claiming to stand for a large number of values expressing a normative identity such as service, respect, integrity, people, honesty, caring, loyal, commitment, citizenship, solidarity, pride, and bravery, the companies want their employees to act in accordance with a normative identity and their external stakeholders to perceive them as having “soft” identity characteristics emphasizing relational and people-oriented values. Walmart expresses its normative identity through its mission to make people “save money” so they can “live better.” Volkswagen elaborates its core value “responsibility” by saying that “We are part of society. We take on social responsibility. We pay attention to the environmental compatibility of our products and processes, and improve them, every day.” Shell claims to stand for “integrity,” “honesty,” and “respect for people.” Toyota wants to “make the earth a better place to live” and “promote a compassionate society.” Very few values in Table 2 express a utilitarian identity. Typical utilitarian values such as performance and profit orientation, which could be very helpful for business organizations, are actually not mentioned at all.

The above examples are consistent with a longitudinal study of company self-presentations in employment advertisements (Wæraas 2020). The study showed a clear tendency for business organizations to present themselves as “leading,” “competitive,” “better than others,” “hardworking,” “hands-on,” “growing,” “producing good results,” and “world-class” in the 1980s and 1990s. Toward and after the 2000s, however, characteristics emphasizing a normative identity gradually took over and dominated the identity statements.

Thus, the tendency for business organizations to seek legitimacy on the basis of CSR is increasingly coupled with what they *are* and *stand for*. They redefine their activities in the language of CSR by communicating identity labels that emphasize normative rather than utilitarian identities, promoting moral rather than pragmatic legitimacy. The normative identity enables considerations of the society, people, the environment, and local communities. In turn, such considerations are more likely to entail CSR commitment than utilitarian identities (cf. Bingham et al. 2011; Wickert et al. 2017). The more company statements reflect a normative identity, the more understandable these companies’ CSR activities become.

Government Organizations’ Quest for a Utilitarian Identity

With the blurring of the boundaries between businesses and government organizations, a need arises to reexamine the role and significance of social and environmental responsibility legitimation in the public sector domain. The adoption of business identity characteristics manifests itself in two ways for government organizations:

First, large-scale reforms (known as New Public Management) in many public sectors of the Western world have enabled the “liberation” of public organizations (Light 1995) by giving them increased autonomy and/or by turning them into single-purpose agencies with distinct identities (Verhoest et al. 2012). Whereas traditional, monolithic public organizations are instruments of politicians in carrying out public policies, unable to act on their own behalf, autonomous public agencies are “liberated” and designed to pursue their own interests. As noted by Brunsson and Sahlin-Andersson (2000), public organizations have been transformed into organizational actors in their own right. In doing so, the reforms have weakened the normative public sector identity of government organizations and introduced strong components of the utilitarian identity. The reforms are based on the assumption that government organizations should be held to the same standards of efficiency and performance as any other organization and that notions of "outputs" and "results" are relevant guidelines for these organizations. The reforms have created government entities that in their managerial practices, priorities, and structures resemble private sector organizations.

Second, as a result of these reforms, government organizations are encouraged to understand themselves less as specific cases of public sector entities and more as formal organizations in pursuit of goals and results. Empowered public agencies have the liberty to define their own identity and to compare themselves to business organizations. This comparison has resulted in a large-scale adoption of business and management practices from the private sector such as performance measurement (van Dooren 2005), management by objectives, strategic planning (Berry 1994), and risk management (Power 2004), to mention a few. In many cases in Norway, these practices are imposed by law or regulations because the central government requires state-level organizations to report results and goal fulfillment on the basis of key performance indicators. However, in many other areas, government organizations voluntarily adopt well-known business models and practices such as balanced scorecard (Chan 2004), lean (Radnor 2010), reputation management (Wæraas and Sataøen 2014), and core value statements (Kernaghan 2003).

Such adoptions are strictly speaking not consistent with the traditional, bureaucratic, rule-oriented public sector organization. It requires a new or at least modified self-understanding: an identity that enables government organizations to see themselves as similar to business organizations and to require the same organizational "building blocks" as these organizations (Wæraas 2018). This identity drift is probably never going to be completed because of the overarching mission of government organizations of serving the public interest, which is, in the end, different from those of business organizations. For this reason, public administration research examining the organizational identity implications of NPM reforms has found more modifications and local translations of "old" administrative values and identities rather than the full-scale adoption of a "new" managerial identity (Meyer and Hammerschmid 2006; Rondeaux 2006; Skålén 2004).

Nevertheless, radical changes in the overarching identity of public organizations are more likely to occur with the influence from business sector identities than without, and business identity characteristics can still be prominent in external legitimation efforts. The table below shows how a sample of Norwegian local governments officially describe themselves on the basis of values and characteristics that are consistent with a utilitarian organizational identity (Table 3).

It is perhaps not surprising that municipalities choose to focus on efficiency in resource use given the scarcity of resources faced by many of them and the formal accounting and administrative requirements imposed on them. Moreover, there is no contradiction between maximizing collective welfare and being goal-oriented. However, the statements, as well the actual practices of these organizations, confirm

Table 3 Identity statements retrieved from Norwegian local governments

Municipality	Statements
Løten	"Løten Municipality is goal-oriented in its work to develop a professional organization emphasizing leadership development, quality management, and management by objectives. The municipality is well-managed and we are concerned with results in combination with developments and reforms." (job advertisement) (Løten Municipality 2016)
Os	"We are a very results-oriented municipality." (Mayor's newspaper statement) (Hamre 2013)
Eidsberg	"We are concerned with results, open communication, and team spirit." (job advertisement) (Eidsberg Municipality 2015)
Sandefjord	"We are a goal-oriented organization with accountable employees who implement what we have decided." (job advertisement) (Sandefjord Municipality 2019)
Karasjok	"The municipality shall be a goal-oriented organization." (municipal plan) (Karasjok Municipality 2019, p. 24)
Drammen	"Drammen shall be one of the best municipalities in the country concerning the quality of services and efficient resource use." (main goal) (Drammen Municipality 2015)
Lørenskog	"Lørenskog Municipality has implemented Balanced Scorecard, BMS, as a management system in order to ensure reporting and monitoring of the municipality's goals." (municipal plan) (Lørenskog Municipality 2013, p. 13)
Kragerø	"Kragerø Municipality uses management by goals and objectives as a fundamental governing principle." (financial guidelines) (Kragerø Municipality 2017, p. 4)
Asker	"Asker Municipality shall deliver good and efficient services with the right quality to users and citizens, working systematically to achieve this through the management of goals and objectives." (action program) (Asker Municipality 2016, p. 50)
Lyngdal	"Comprehensive management is about setting clear goals for what the municipality should achieve, measure results, and analyze them. This information is used in the management and further development of the municipality." (strategy plan) (Lyngdal Municipality 2019, p. 5)

the institutionalization of goal orientation, results, performance, rational systems, and management in government summarized by Brunsson and Sahlin-Andersson (2000) as the transformation of public sector organizations into "complete" organizations. Any examination of Norwegian municipalities' web sites would reveal a multitude of management and governance documents describing systems for rational and goal-oriented governance, with goals broken down into sub-goals supplemented with adequate indicators for verifying whether the goals have been met.

The statements also confirm a transition toward utilitarian organizational identity in public sector organizations because goal orientation, performance managements, results, and rational management are values and characteristics not only associated with what these organizations do but also deliberately with what they *are* and they *stand for*. The municipalities themselves claim to represent these values and to organize their activities in accordance with them. Løten Municipality "is goal-oriented," Os Municipality is "very results-oriented," Sandefjord Municipality is “a goal-oriented organization,” Drammen Municipality “shall be one of the best” concerning “efficient resource use,” and so on. As such, utilitarian characteristics arguably have an external legitimation function for these organizations. When conveying their rational organizational systems and processes to external stakeholders, government organizations seek conformity with “more complete” business organizations.

Against this backdrop, it is not surprising that many government organizations have redefined and currently propagate their socially responsible mission in CSR terms. When CSR is ubiquitous among business organizations, and government organizations identify with and adopt many of the other practices of business organizations, they also become more likely to adopt CSR practices, including symbolic CSR legitimation. The identity drift toward the utilitarian organizational identity suggests that CSR legitimation follows logically and “naturally.” Government organizations engage in substantive and symbolic CSR legitimation because they want to not only “do good” but also “look good” – just like business organizations.

Discussion and Conclusion

The questions of “who are we” and “what do we want to be” are fundamental identity questions whose answers influence strategies, decisions, and actions. Whether an organization is a government or a business organization matters for what it does because overarching normative and utilitarian identities entail different underlying values and characteristics, which in turn influence strategies, decisions, and actions.

The argument developed in this chapter, however, is that these boundaries are fluid and that CSR legitimation should be seen in conjunction with the blurring of organizational identity categories. A business organization that adopts characteristics of the normative identity will not stop understanding itself as a business or no longer seek pragmatic legitimacy, but it will be more likely to assume responsibility for issues outside its business area and propagate its CSR involvement in order to tap into the moral legitimacy basis of the normative identity. Similarly, a government organization that adopts characteristics of the utilitarian identity is unlikely to stop understanding itself as government or no longer seek moral legitimacy, but it will be more likely to adopt those managerial practices that are more typical for business organizations, including a more strategic approach to its social and environmental responsibilities.

These complex identity dynamics represent an important background for understanding CSR legitimation. Figure 1 sums up these arguments in the following way.

First, substantive CSR legitimation is associated with the normative identity because it aims to benefit collective interests, whereas symbolic CSR legitimation is associated with the utilitarian identity because it aims to benefit self-interests. Substantive CSR legitimation generates moral legitimacy, but can also result in pragmatic legitimacy if CSR actions directly benefit specific groups or individuals.

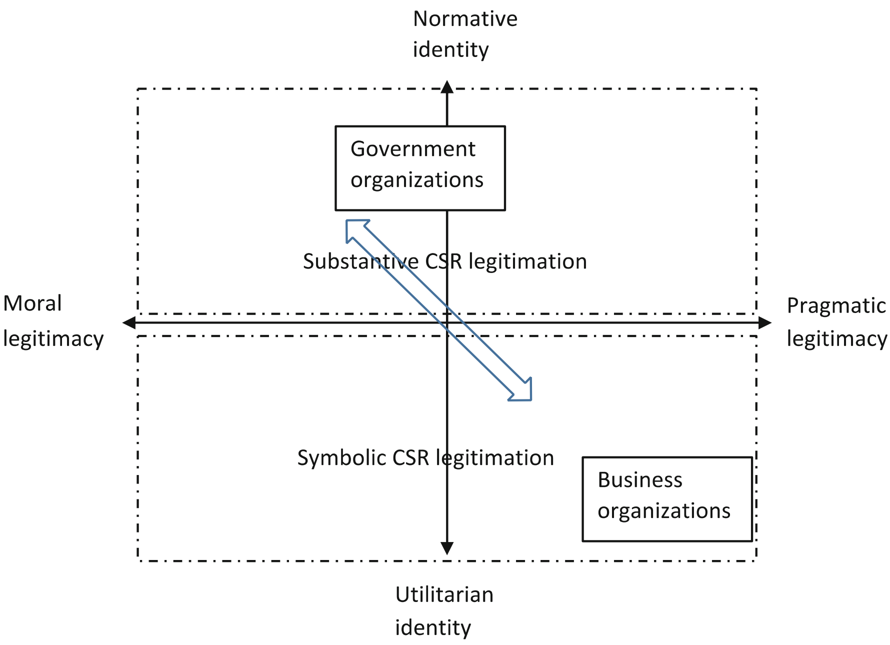

Fig. 1 Organizational identity dynamics and CSR legitimation

Symbolic CSR legitimation creates moral legitimacy because it aims to establish a perceived connection with altruistic values, but could also generate pragmatic legitimacy if it involves creating the impression that the organization caters to the needs or interests of specific groups or individuals.

Second, for business organizations, which by definition are meant to purse their self-interests, CSR is consistent with the utilitarian identity only if it is a means to an end, that is, if it is carried out as a symbolic legitimation strategy and/or contributes to the maximization of profit. However, driven by the limitations of the pragmatic form of legitimacy, modern business organizations aspire toward the normative identity. This leads them to seek moral legitimacy by engaging in both substantive and symbolic forms of CSR legitimation. By contrast, government organizations have normative identities and engage in substantive social and environmental legitimation activities by their nature. However, they aspire toward the utilitarian identity of business organizations because of large organization-building reforms and the proliferation of the idea that government entities also are "organizations," just like business organizations. This aspiration leads to the adoption of managerial practices and models from the business sector, including symbolic forms of CSR legitimation.

These arguments are abstract, generalized, and limited because they do not distinguish between different types of government organizations, between different industries within the business sector, or between different cultural contexts. As a result, there are ample opportunities for future research to examine in more detail the CSR legitimation implications of organizational identity dynamics. Some government organizations may not aspire toward a utilitarian identity at all, and some business organizations may not aspire toward the moral identity at all, in which case none of them is likely to propagate their CSR activities. On the other hand, some government organizations might show a stronger disposition toward the utilitarian identity than others. Some business organizations could have a stronger need for moral legitimacy than others. Local government, for example, interacts more closely with specific user groups than central government bodies and may therefore have a stronger aspiration toward the utilitarian identity. Future research could seek to determine how and to what extent such nuanced category differences influence CSR legitimation, including the ways in which substantive and symbolic CSR legitimations vary under different identity dynamics.

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Human Resource Management and Business Legitimacy: Changing Roles and Legitimacy-as-Process

Margit Neisig

Contents

Abstract

This chapter aims to analyze the role of legitimacy in mediating the people management-society relationship. Emphasis is on how the historically changing theorizations of people management reflect different institutional and historical contexts, legitimating notions of how to position people management and expectations of the role it ought to play. Also, emphasis is on specific types of blindness preventing long-term sustainability and legitimacy of HRM.

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The chapter is based on a *legitimacy-as-process perspective* claiming theorization as a critical element of legitimation. The theorization of the field of people management (of which HRM is a specific variation) is analyzed based on literature representing highly influential authorships and major knowledge institutions often cited in the literature influencing the field of people management and on secondary literature such as review articles.

A brief historical analysis of the changing core of the people management/ HRM ontology, epistemology, and its legitimating notations is performed, and four types of emergent HRM epistemologies and corresponding notions of legitimacy are identified based on the fragmented future HRM landscape.

The findings and practical consequences are that although the perspective of HRM is broadened, blind spots unavoidably generate paradoxes and an ever-existing "crisis" of the HRM project, which must be accepted as a precondition for the profession but also for its adaptation toward current challenges.

The chapter adds to legitimacy and HRM literature by providing an understanding of why the legitimacy-as-property and legitimacy-as-perception perspectives must be subordinated to the legitimacy-as-process perspective and how this appears in the case of HRM.

Keywords

Human resource management · Legitimacy-as-process · Future HRM · Paradoxes and deparadoxication · Sustainable HRM

Introduction

A crisis of human resource management (HRM) has been claimed, debated, rejected, and maintained throughout decades – but for different reasons (Legge 1995, 2005; Keenoy 1990, 1999; Keenoy and Delbridge 2010; Guest 2011). Especially the strive to position HRM as strategic HRM (SHRM) is met by critique and legitimacy issues, even though this position has dominated theorization of HRM since the 1990s. Accusations are that HRM are "swimming against the tide," have a "tired project," and may benefit from establishing "social partnerships and mutual gains" (Lucio and Stuart 2004) or more directly outspoken by Kochan (2004, first published 2013):

> The human resource management profession faces a crisis of trust and a loss of legitimacy in the eyes of its major stakeholders. The two decades effort to develop a new "strategic human resource management" role in organizations has failed to realize its promised potential of greater status, influence, and achievement. To meet contemporary and future workplace challenges, HRM professionals will need to redefine their role and professional identity to advocate and support a better balance between employer and employee interests at work.

While SHRM has retained the mainstream position, new ways of positioning HRM are emerging. As we shall see below, this not only represents a shift of the HRM project but also a shift of legitimating notions.

In this chapter, the interrelatedness between people management and society is understood as mediated by legitimating notions which have changed radically throughout history. The epistemological and ontological core of people management (of which HRM is seen a distinct variation) has been under reconstruction ever since the emergence of the discipline and so has the underlying legitimating notions. It is not the intension to understand or analyze in depth the entire change process of how legitimating notions mediate the people management-society relationship, but rather the query is how the historically changing theorizations of this field reflect different institutional and historical contexts and how this produces changing perceptions of how to position HRM and the role it is expected to play. Also, the query includes how these changing positions produce specific types of blindness of HRM preventing long-term sustainability and legitimacy. The unavoidable blind spots are identified to generate an ever-existing "crisis" of the HRM project, which must be accepted as a precondition for the profession but also for its adaptation toward current challenges.

The historical development is only briefly described, while the chapter is elaborating more on various positions emergent for the future.

Before the historical introduction of people management as field (section "A Brief History of People Management as Field") and before the analysis of the emergent positions and blind spots of HRM today (section "Emerging Types of HRM Epistemologies Resting on Four Different Notions of Legitimacy"), we will explain our understanding of legitimacy (or rather of legitimation) as well as our analytical strategy (section "Legitimacy versus Legitimation: Strategy of Analysis").

After the brief historical introduction, various emergent HRM epistemologies and corresponding notions of legitimacy are categorized into four different types, and we argue that they may lead to specific types of blindness:

Type 1. A unitary approach becoming reflective toward (some) stakeholders
Type 2. An approach oriented toward HRM taking part in heterogeneous networks letting HRM reflect on broader economic and societal factors
Type 3. An approach challenging the former rationality of HRM advocating reflection of the way in which HRM are "thinking" and creating knowledge
Type 4. An approach taking new tools as big data, cloud computing, and deep learning technologies into consideration as tools supporting reflection under highly complex conditions

As a practical consequence the analysis predicts that although new epistemologies and notions of legitimacy are broadening the perspective of HRM, they unavoidably also produce new types of blind spots leading to an eternal spiral of legitimacy paradoxes and attempts of deparadoxication – a notion used by Luhmann to understand a way of handling unavoidable paradoxes by postponing them in time. Otherwise, actions would be paralyzed (Luhmann 1993, 1995; Rasch 2000; Gonzalez-Diaz 2010).

Legitimacy versus Legitimation: Strategy of Analysis

In order to understand the role of legitimacy in mediating the people management-society relationship, we find it useful to differentiate between and apply the three different perspectives found by Suddaby et al. (2017). They identify three different answers to the question: "what is legitimacy?", each with a unique epistemological and ontological position. They find most scholars theorizing legitimacy as a thing – i.e., a property, resource, or a capacity of an entity. They term this perspective *legitimacy-as-property*. Scholars researching by using this perspective focus primarily on legitimacy as a product of two primary actors: the organization and its external environment. The scope of this type of research is to identify the elements or characteristics that constitute legitimacy. In this chapter we only use this perspective as subordinated to the second perspective, in which other scholars view legitimacy not as a thing but as an interactive process. This perspective, Suddaby et al. (2017) is calling *legitimacy-as-process*. In this perspective, "legitimacy" may not be as relevant as the term "legitimation." According to Suddaby et al. (2017), scholars using this perspective adopt a somewhat broader lens that "examines legitimacy as the product of interaction of multiple actors (typically organizations) operating largely, but not exclusively, at more macro levels of analysis, such as the organizational field" (Suddaby et al. 2017).

The third group of scholars categorized by Suddaby et al. (2017) understand legitimacy as a form of sociocognitive perception or evaluation. This perspective is termed *legitimacy-as-perception*. This stream of research sees legitimacy as occurring as "a cross-level process of perceptions, judgments of appropriateness and actions that occur in interactions between the collective and the individual" (Suddaby et al. 2017).

Our level of analysis is *the field* of people management, which has been termed differently throughout history, but since the mid-1980s, HRM, and its language and rhetoric, which by Keenoy is termed HRMism (Keenoy 1997), gained ground as further elaborated in section "A Brief History of People Management as Field." Therefore, we prefer to call the field people management rather than HRM which is a specific variation of people management.

Using the perspective identified by Suddaby et al. (2017), our analysis is rooted in the "legitimacy-as-process perspective." Nonetheless, it also finds the need to integrate the other perspectives, but as subordinated. The analysis identifies how different and changing anticipated "legitimacy-as property perspectives" are playing the role as legitimating notions of various paradigms of people management, of which HRM*ism* is one. The analysis does this historically as well as in emergent positions. Also, it identifies how different "legitimacy-as-perceptions" are struggling against each other as different "frames of references" (Fox 1966) creating paradoxes of legitimacy for emergent positions of HRM.

In applying the "legitimacy-as process perspective" in this chapter, we lean toward one important stream of research claiming theorization as a critical element of legitimation. The notion of theorization was first used by Strang and Meyer (1993) and has since been unfolded and researched in many organizational change processes and professional fields and may take on different forms (Suddaby and Greenwood 2005). Theorization refers to the process by which existing norms and practices are abstracted into generalized specifications or categories. This process is seen as one stage in a process model of institutionalization. As the theorized practice or form diffuses across an organizational field, it takes on even greater legitimacy until it becomes taken for granted (Suddaby et al. 2017). As already delineated in the introduction, this chapter does not intend to understand or analyze the entire process in depth but rather to identify how the historically changing theorizations of HRM reflect different institutional and historical contexts and how this produces changing perceptions of how to position HRM, the role it is expected to play, and the specific types of blindness it produces.

The theorization is also analyzed as framed by and framing "legitimacy-as-perception." In accordance with this perspective, it is identified how "the frame of reference" as first developed by Alan Fox (1966) and later elaborated by Cradden (2011), Ackers (2014), and Sappey et al. (2014) appears in the theorization of HRM. The two main frames of reference are unitarist and pluralist, while Fox later developed a radical approach (Fox 1974). Industrial relation research has later expanded his work into more "frames of references" as, e.g., corporatism and strategic choices, and new ones may emerge. A unitary system has one source of authority and one focus of loyalty. Pluralism is characterized by the need to accept the existence of rival sources of leadership and attachments. In a radical approach, the industrial relations are deeply and inherently biased toward conflict between management and workers.

Also, the theorization process is analyzed as drawing on very different concepts of "legitimacy-as-property," which is identified as fundamentally different concepts playing the role as legitimating and delegitimating notions of people management historically and in emergent HRM positions. A notion of "legitimate authority" (Bowen and Ostroff 2004) leaning toward a Weberian understanding of legitimacy versus a notion of "social legitimacy" as elaborated in more modern institutional theory (e.g., Suchman 1995) and an emergent notion rooted in ANT theory are identified and related to the different institutional and historical contexts in which they play a role in legitimating the role of HRM.

The theorization of the field of people management is analyzed based on literature representing highly influential authorships and major knowledge institutions often cited in the HRM literature as well as on secondary literature such as review articles. The four types of emergent HRM epistemologies and corresponding notions of legitimacy are identified based on the fragmented future HRM landscape as well as the gaps in the literature depicted by Stone and Deadrick (2014, 2015) and on future concepts advocated for by major HRM knowledge institutions such as the influential US-based senior executive think tank: the Results-Based Leadership Group (RBL), the London-based Chartered Institute of Personnel and Development (CIPD) with more than 145,000 professional members around the world, recent lines of scientific research concerning changes of the knowledge production systems of the twenty-first century, as well as large HRM consultancies with a worldwide scope.

A Brief History of People Management as Field

As already stated, the ontological core of HRM has never been concluded and is still debated. Kaufman (2014) argues that HRM ought to be defined broadly and inclusively as "people management in organizations." He questions the universalistic "more HRM is better" (Wright and McMahan 2011:97) proposition, as he finds the narrow definitions (e.g., Storey's definition below) overestimate the modern success of SHRM. This debate on how to define HRM – the ontology – is very important, as this is about the role of HRM and hence about whose interests to take into consideration. Also, it is about the historically changes of legitimating notions.

One of the most accepted definitions of HRM stems from Storey (1995): "HRM is a distinctive approach to employee management which seeks to achieve competitive advantage through the strategic deployment of a highly committed and capable workforce using an integrated array of cultural, structural and personal techniques."

This definition already shows challenges caused by the global networked society, in which more and more people either are not "employed" or the organizations are dependent on human resources outside the organization. Kramer (2014) therefore argues that the notion needs also to: "... include managing people, such as sub-contractors, consultants and people on non-employment contract as well as possibly also managing relationships with other organizations." Hence, already this short time frame shows evidence on the challenges of defining HRM in too narrow terms.

Keenoy (1990) argues that the notion must acknowledge interest differences and give up a "unitary" and "managerial" approach. He argues that HRM needs to reinvent a pluralistic view as before personnel management turned into HRM and to *include more voices, and not only big companies*.

This short argument shows how "the frames of references" as first developed by Fox (1966) are actualized in the HRM theorizing and struggling to legitimate or delegitimate different views.

Another reason to dwell on the history of HRM is that not only the ontology is socially constructed but also the epistemology of HRM is socially changeable. Kramar (2014:1082) states that "processes of HRM have been framed within the SHRM literature predominantly within a rational view of organizations."

Legge (2005) summarizes that to understand HRM you need to understand "the nature of work, the social relationships and the economic dynamic in which HRM is embedded". This constitutes a need for studies of HRM in a longitudinal perspective. Historical and culturally informed studies are allowing the understanding of the organizational institutional settings. She also calls for more efforts in studies of what HRM is about: the employees.

This brief introduction shows the social construct of people management. Below, we will headline some major landmarks of the historical landscape of HRM, just to show how history has shaped and reshaped ontology, epistemology, and the legitimating notions of HRM. The current reconstruction of HRM, thus, is part of an ongoing, never-ending process of reinterpreting what people management is about.

The Rise of the Profession and the Field

The rise of labor unions in Europe in the late eighteenth century (and in North America in the nineteenth century) gave rise to the labor management/industrial relations. Collective bargaining between trade unions on one hand, and employers and their associations on the other, has always been the core subject-matter of that discipline. The predecessor for HRM, however, is often counted as the welfare officer or secretary. This profession also came about during the industrial revolution and was primarily protecting women and girls working in the UK factories. What is today the Chartered Institute of Personnel and Development (CIPD) was established in 1913 as the Welfare Workers' Association (WWA) (CIPD 2018). Both labor management/industrial relations and the welfare secretary had very different notions of legitimacy than today's HRM. Both were recognizing the conflict of interests between employees and employers, and they were not seen as a support function for management.

After WWI, the scientific industrial revolution took place, and the first way of scientifically describing people management emerges from Frederick W. Taylor: "Principles of Scientific Management" (1911). This approach aimed for economic efficiency and labor productivity. About the same time, Henry Ford introduced the assembly line, and Henry Fayol wrote: "Administration Industrielle et Générale" (1916). Based on his own experiences concerning business administration, also Max Weber (1922) wrote "Wirtschaft und Gesellschaft" describing the bureaucracy. In these works, human labor was perceived as what Persky (1995) has called the "homo economicus," and the legitimating notion was science showing how to obtain increase of productivity for the economic benefit of both workers and employees. By that time the "labor manager" in the large factories was handling absence, recruitment/onboarding, dismissals, and complaints on bonuses, and the consciousness of class differences was clear. The employer's union negotiated at a national level with the labor unions but with local and regional differences and a lot of disagreements.

The human relations school emerged through the Hawthorne trials (1927–1932) at Western Electric Hawthorne Works in Illinois, which was documented by Elton Mayo's Hawthorne studies, described in his contribution, *The Human Problems of an Industrialized Civilization* (1933), and about and after World War II, what has been termed "Personnel Administration" appears as a people management paradigm distinct from "labor management." Welfare was integrated into this function as well as compliance with the increasing legislative rules shaping people management. Knowledge on human relation and behavioral sciences is also integrated with Personnel Administration as is education and training becoming a subfield of Personnel Administration. Thus, the profession is becoming increasingly institutionalized. The predecessor of HRM was taking shape, but as claimed by Kramer (2014) Personnel Administration was not linked to the corporate strategy and was as a discipline a sub-subject of the much broader defined field of industrial relations. The role of the people manager was, in the middle of the interest conflicts, described as "the man in the middle," a buffer and potential scapegoat for the actions of the rest of management (Legge 1989).

We will not dig into any details about the development from the 1940s until the 1970s; just mention that in this period, the neo-human relation movement was shaping Personnel Administration. This movement questioned the widely used economic management and planning that by that time was mainstream in management. Instead, the neo-human relations movement was advocating a focus at human relationship and goal orientation.

Often the rise of HRM is explained by the increasing complexity which also gave rise to what has been termed the knowledge society. Another explanation is the crisis in the 1970s through which the Japanese industry was demonstrating its competitiveness along with a very different people management approach than the Western and a very different notion of legitimacy, based on a unitary frame of reference, which was not until then common in Western countries.

The Rise of HRM

The crisis in the 1970s and the industrial competitive edge gained by the Japanese industry led to an increased American focus at people management during the 1980s – as an active, not only a cost. This new orientation is often called *Human Resource Management* and is related to a *Human Capital theory*, in which the human capital is narrowly related to the business strategy. This relationship between HRM and strategy is pivotal and differentiate HRM from Personnel Administration as distinct paradigms of people management.

In the mid-1980s, larger integrated models and definitions of HRM came about in the theorization of the field in the USA:

- Fombrun et al. (1984), Michigan
- Michael Beer et al. (1984), Harvard

Later, HRM was "discovered" in Europe and among others described by Guest (1987) and Storey (1989).

As described by Guest (1990), HRM emerged in the 1980s at a time when power relationships shifted among employers, managers, employees, and trade unions. Guest (1990) describes it as meaningful to regard HRM initiatives and HRM language as being closely intertwined with this shift of power, while Keenoy (1990, 1999) and later Keenoy and Delbridge (2010) account for the blindness of HRM in that it neglects conflicts of interest and voices from anything else besides large corporations (not included are, e.g., small- and medium-sized enterprises, micro-employments, NGOs, not-for-profit labor). HRM is also associated with the emergence of new managerialism, as described by, for example, Clarke and Newman, underlining that HRM "has been both a source and beneficiary of these wider economic and political transformations" (Clarke and Newman 1997:58). This swatch of literature understands new managerialism including HRM as the mode of governance aligned with neoliberalism.

HRM was by Storey (1989) characterized as a "hard" school represented by the Michigan model developed by Fombrun et al. (1984) and a "soft" school, represented by the Harvard model developed by Beer et al. (1984). He described them in this way:

> The hard one emphasizes the quantitative, calculative and business-strategic aspects of managing the headcounts resource in as "rational" a way as for any other economic factor. By contrast, the "soft" version traces its roots to the human-relations school; it emphasizes communication, motivation, and leadership. (Storey 1989:8)

However, in the book, *Human Resource Management: Rhetorics and Realities*, Legge (1995) described the hard and soft school as two sides of a coin, often used interchangeably. The two-sided coin was reconfirmed by Truss et al. (1997). Keenoy (1990, 1999) has furthermore argued that many of the dichotomies of HRM, such as personnel-HRM, rhetoric-reality, hard-soft, flexible-specialization, loose-tight structure, and core-periphery workforce, rather are dualities, as they work together and are dependent on each other.

During the 1990s, the concept of SHRM emerges (Wright and McMahan 1992), which developed into empirically testing the link between HRM and firm performance (Paauwe 2009); and in their article, "Strategic human resource management: a wrong turn for HRM research?", Boselie and Brewster (2015) argue that contemporary SHRM approaches implicitly build on the "hard" approach, largely neglecting "soft" more developmental approaches such as the Beer et al. (1984) model.

The two models (hard and soft) were debated for several years, but later this discussion transformed into a debate divided along other lines which by Delery and Doty (1996) were described as a "universalistic," "contingent," and "configurational" approach. The first two approaches were renamed by Richardson and Thompson (1999) as "best practice" and "best fit," while the configurative approach was associated with the bundling of HRM practices. These approaches are described in most HRM textbooks.

All the abovementioned approaches have a unitary perception and managerial frame of reference, and as described by Boselie and Brewster (2015), they "compete" by empirically testing their "link" between HRM and firm performance. Keegan and Boselie (2006:1506) have also described the epistemology of these approaches as "prescriptive, positivist, managerial, functionalist and strategic." Hence, all these schools are preoccupied with HRM's role in setting up HRM models and strategically aligning HRM practices and tools that improve and measure performance in terms of the economic results.

In terms of legitimating notions, the unitary approach is preoccupied by the notion of legitimate authority of the HRM system and its agents. According to Bowen and Ostroff (2004), legitimate authority:

> leads individuals to consider submitting to performance expectations as formally sanctioned behaviors. Influence by legitimate authority is essentially a perceptual process—that is, one

> sees the behavioral requirements of one's own role as subordinate to another that stands out as the legitimate authority (Kelman and Hamilton 1989). . . . The HRM system is most likely to be perceived as an authority situation when the HRM function is perceived as a high-status, high-credibility function and activity. This is most likely when HRM has significant and visible top management support in the firm and can be achieved through investments in HR practices or the HRM function, or perhaps by placing the director of HRM in a high-level managerial position. (Bowen and Ostroff 2004:209)

This notion of legitimate authority resembles the Weberian notion of legitimacy based on three types of authority, charismatic, traditional, and legal-rational (Weber 1947), and is a "legitimacy-as-property perspective" legitimating SHRM.

Other lines of research, drawing on discourse analysis, have illustrated how these power relations inherent in HRM are internalized by employees by technologies of the self (Townley 1990; Fournier 1998).

A newer body of literature, however, is emerging which indicates a shift in both epistemology and the legitimating notions of HRM. The increasingly interdisciplinary evolution of HRM and the constraints of a unitary perception of management address a reconstruction of the language of HRM (Janssens and Steyaert 2009). Scholars point to the need of admitting the conflict of interests in relation to HRM and release HRM from managerialism claiming a united interest by employers and individual employees (Kaufman 2014; Keenoy and Delbridge 2010; Cleveland et al. 2015; Kramar 2014). This new position shows up as the merger of HRM, CSR, and sustainability gains scholarly attention. Besides Kramar (2014), this is also the case for scholars as Ehnert (2009), Jackson and Seo (2010), Rhodes and Harvey (2012), and Ehnert and Harry (2012). Kramar (2014) reveals a comprehensive survey depicting various positions within this field of research and discusses the semantics of the notion of sustainability for each position. As distinguishing sustainable HRM from SHRM, Kramar underlines that:

> it acknowledges organizational outcomes, which are broader than financial . . .explicitly identifies the negative as well as the positive effects of HRM on a variety of stakeholders, pays further attention to the tensions in reconciling competing organizational requirements and takes an explicit moral position about the desired outcomes of organizational practices. . .in the short as well as the long term. (Kramar 2014:1069)

Moreover, other managerial disciplines are facing similar paradigmatic changes underlining an increasing importance of horizontal governance across multiple levels, departments/sectors, and disciplines. A new governance in the form of networks appears to be emerging and constituting a new mode of governance *beyond* unitary managerial frame of reference. This kind of new governance has broadly been studied in settings of public governance (Sørensen and Torfing 2007; Torfing and Triantafillou 2011; Klijn and Koppenjan 2012); however, they are still not as widely studied in terms of HRM.

These types of fluid networks are also crossing the boundaries of the public and private sectors, with a common theme being how to obtain results across very complex networks and settings. The steering and management strategies and semantics are different from those used in more classical management approaches (Klijn 2005), because it is a matter of complex interaction processes and the process of negotiation in networks involving private-for-profit, non-profit, and public organizations.

Also, the epistemology and legitimating notions of HRM are shifting and tend to go beyond a unitary managerialism. As example, Boxall et al. (2007) write: "While HRM does need to support commercial outcomes (often called 'the business case'), it also exists to serve organizational needs for social legitimacy."

Boxall, Purcell, and Wright's position is elaborated in their book *Strategy and Human Resource Management* (2010) influenced by neo-institutional theory. They refer to *Varieties of Capitalism* by scholars as Hall and Soskice (2001), as well as to Scott (1995), who defines "three pillars of institutions": the "regulative," the "normative," and the "cultural-cognitive." Also, Suchman's (1995) work on "Managing Legitimacy: Strategic and Institutional Approaches" is referred to as is Deephouse's theory of strategic balance (Deephouse 1999).

For decades, also Chris Brewster and Jaap Paauwe have published on HRM from an institutional perspective (e.g., Paauwe 2009; Brewster et al. 2014; Boselie and Brewster 2015) showing empirically how HRM varies according to the varieties of capitalism and a strategic balanced approach. Especially, the "Cranet" surveys have created a strong empirical evidence for this position. "Cranet" is an international network of business schools around the world conducting a periodic survey of human resource management, enquiring into policies and practices in people management through a set of common questions. The survey is undertaken approximately every 4 years.

The notion of social legitimacy which is different from the Weberian notion of legitimacy based on authority is an important shift in the legitimation of the role of HRM. Organizations not only require labor, capital, knowledge, and materials but depend on the acceptance by the society in which they operate. Suchman (1995) defines legitimacy in this way: "a generalized perception or assumption that the actions of an entity are desirable, suitable, appropriate within some socially constructed system of norms, values, beliefs and definitions" (Suchman 1995:574). Suchman's research on legitimacy has as Weber's a "legitimacy-as-property perspective," but nevertheless they are very different concepts.

Boxall, Purcell, and Wright take some steps to leave the unitary frame of reference behind. Also, the HRM literature strengthens the focus on employer branding, CSR, authenticity, and even the human resources in the circular economy. Nonetheless, a legitimacy conflict exists between a still dominant unitary mainstream SHRM approach and a more socially responsible approach leaning ever more toward something emergent, but not very well-defined, termed sustainable HRM. This legitimacy conflict is depicted by, e.g., Rhodes and Harvey (2012).

Emerging Types of HRM Epistemologies Resting on Four Different Notions of Legitimacy

In two special issue volumes on HRM Past, Present, and Future published by the *Human Resource Management Review* in 2014 and 2015, scholars depict a fragmented landscape for the future of the scientific theorizing regarding HRM

(Stone and Deadrick 2014, 2015). The summarized main learning points from these contributions are a need of a broad definition of HRM and a need to address not only the shift from an inside-out toward an outside-in approach of HRM but also a shift toward addressing sustainable HRM. To go one step further, an addressed gap in the literature is identified as a shift from a rational HRM epistemology toward an approach dealing with complexity, interest conflicts, and emergent processes and the ability to take advantage of digitalization version 2.0 focusing on not only efficiency but also effectiveness.

Based on Stone and Deadrick (2014, 2015) and on future concepts advocated for by major HRM knowledge institutions such as the RBL, the CIPD, recent lines of scientific research concerning changes of the knowledge production systems of the twenty-first century, as well as large HRM consultancies with a worldwide scope, four different types of theorization on future HRM approaches are outlined and analyzed below. This shows how the ontology and epistemology of HRM still evolve and how the notions of legitimacy are broadening the perspective of HRM, but nonetheless, unavoidably producing new types of blind spots leading to an eternal spiral of legitimacy paradoxes and attempts to deparadoxication (Luhmann 1993, 1995; Rasch 2000; Gonzalez-Diaz 2010).

Type 1: A Unitary Approach Becoming Reflective Toward Stakeholders

As described, one of the criticisms put forward by Kramar (2014:1073) is that HRM does not have a stakeholder approach. However, this is exactly what is elaborated in recent years by Ulrich et al. (2012). They have suggested adjusting HRM processes as to be outside-in, which would transform HRM organizations toward assisting businesses to *become part of* a reflective business paradigm, a notion described by Holmström (2004, 2005) as organizations seeing themselves from the outside.

The "HRM from outside-in" approach (Ulrich et al. 2012), championed by the influential US-based RBL Group, represents a way of implementing stakeholder theory into all of HRM's processes and practices, allowing alignment of cognitive models and management tools with stakeholder (mainly customers') interests. Ulrich and Dulebohn state the emphasis of customers and investors as the most important stakeholders very clearly: "HR's relationship to the business is defining HR value outside-in, *through the eyes of customers and investors*" (Ulrich and Dulebohn 2015:101, Table 1). Thus, not acknowledging conflicts of interest, this type of HRM language still has a unitary managerial perspective, the ontology is still the narrow definition of HRM (Storey 1995), and the notion of legitimate authority of the HRM system and its agents (Bowen and Ostroff 2004) is still prevalent.

Type 2: A Heterogeneous Network-Oriented Approach Reflecting Broader Economic and Societal Factors

As mentioned, a new position representing a merger of HRM, CSR, and sustainability is gaining scholarly attention. This broader definition of HRM is also approached by the European-based CIPD. Articulated by Sears on behalf of CIPD, HRM:

> [. . .] requires not only an understanding of both the market trends and forces that are affecting the business, but also an understanding of the broader macroeconomic *and societal factors* influencing the organization now and, in the future. (Sears 2010:15)

Sears predicts the next big evolution for HR is to become more of "an insight-driven function" using its core activities to further inform the organization about challenges, course correction, and big opportunities. By "insight driven," the CIPD expands the savvies that HRM must possess. For decades HRM had to possess organizational savvy. Then, to get strategic influence, HRM had to build business savvy. Now, to become "insight driven," HRM also must build contextual savvy.

Contextual savvy is also called for by Ulrich and Dulebohn (2015); however, the difference between the CIPD and the RBL approaches is through which eyes to observe the context. Ulrich and Dulebohn (2015) underline HRM's relationship with business looking outside-in through the eyes of customers and investors, whereas Sears (2011) underlines HRM having an "objective nature" that enables it to act as both confidante and commentator (Sears 2011:13). The CIPD approach also point to HR functions using creative techniques to bring the embedded insight held by employees to the surface.

While CIPD establishes HRM as being "organization guardians and commentaries" (Sears 2010), this competency is not part of the RBL vocabulary that underlines the most important HRM competencies to be strategic positioner and credible activist (Ulrich et al. 2012: Chap. 3–4), which implies targeting and serving key customers of their organization.

By focusing on organizational equity, CIPD is expanding the focus from the traditional HRM core on human capital. Organizational equity is explained further by the word: "future fit cultures." CIPD (Sears 2010) asks: "where was HR? when unsustainable business strategies were supported by unsustainable reward strategies (e.g. the financial crisis)." CIPD (Sears 2010) thus underlines *sustainability* as core targets for future HRM, and, in doing so, *authenticity* is made a keyword: "to build future-proof organizations HRM has to refocus: From employee engagement to organization authenticity. . ." (Sears 2010:8).

The sustainable, long-term orientation is constantly underlined in the CIPD concept, while the focus on customers and investors as well as the strategic business orientation is underlined by the RBL. In the CIPD concept, HRM steps up to be *a guardian, a steward, or a champion of corporate sustainability.* HRM gets a responsibility for the overall "future-proofness." This brings however, to the core, the question of HRM gaining legitimacy in actively transforming the businesses into sustainable practices.

Rhodes and Harvey (2012:49) underline that HRM organizations must be aware of legitimacy paradoxes if they are to keep a unitary managerial frame of reference. A *unitary managerial position* leads to the ethical being subsumed under the managerial. This will constrain HRM in becoming the new guardian of the ethics (Rhodes and Harvey 2012:49). Instead, HRM needs to take part in heterogeneous networks of ethical guardians (Rhodes and Harvey 2012) in which HRM plays a role. It may then become necessary to let the unitary perspective go, which Janssens and Steyaert (2009) also address. In this approach, the notion of social legitimacy reemerges (to some extend) – but still the main mission of HRM is to create organizational equity.

Type 3: An Approach Challenging the Former Rationality of HRM Reflecting the "Way of Thinking" and Creating Knowledge

The type 2 approach is still rooted in a rational epistemology, and HRM is understood as having an objective nature, just needing to expand its savvies. However, Kramar (2014) also points to the rational view of organizations and HRM processes within the SHRM literature as a problem for sustainable HRM. She underlines the lack of an explicit discussion within the sustainable HRM literature on the role an emergent iterative approach to the HRM processes ought to have for enabling an exploration of the competing outcomes desired by various stakeholders. Further, she points out that previously Colbert (2004) applied a complexity lens to the resource-based view, and Wright (1998) has touched upon levels of abstraction in the HR System. Kramar finds that sustainable HRM calls for a renewed theorizing of an emergent iterative approach to HRM processes.

As to quote Kramar (2014), sustainable HRM:

> takes an explicit moral position, requires a multidisciplinary approach and needs to be informed by theories which enable an understanding of ambiguity, feedback between action and outcomes and complexity. Critical processes will involve iterative and emergent processes, stakeholder management and recognition of the interdependence of processes at a number of levels.

Challenging the epistemology of HRM has for a long term been a position taken by critical HRM (Legge 1995, 2005; Keenoy 1999; Keenoy and Delbridge 2010); however, now it is also taken by those who are studying the production of knowledge within and between organizations.

As businesses are increasingly building interorganizational networks (Teubner 2002), learning to think differently than traditional knowledge workers is an issue (Rylander 2009) and implies that HRM organizations need to embrace what is termed design thinking defined as combining empathy for the context of a problem, creativity in the generation of insights and solutions, and rationality in analyzing and fitting various solutions to the problem context (Kelley and Kelley 2013:19–20).

In addition, changes in the knowledge production systems of the twenty-first century are identified by different authors and termed mode 3 knowledge-producing ecosystems (Carayannis and Campbell 2012; Carayannis et al. 2012) or quartet helix (Kaivo-oja and Santonen 2016). Both the quartet helix model and the mode 3 knowledge production system architecture focus on and leverage higher-order learning processes and dynamics that allow for both top-down government, university, and industry policies and practices and bottom-up civil society and grassroots movements and priorities.

This also complies with Kramar (2014) addressing the need of HRM to embrace complexity and to deal with moral and ethical concerns, paradoxes, tensions, and conflicting interests and let go a rational view of organizations.

Both type 2 and type 3 approaches also represent a shift from the notion of legitimate authority of the HRM system and its agents (Bowen and Ostroff 2004) toward the notion of social legitimacy (Suchman 1995).

Type 4: An Approach Taking New Tools as Big Data, Analytics, and Cognitive Computing into Consideration as Tools Supporting Reflection Under Highly Complex Conditions

To manage complexity, organizations must seek flexibility by regarding administration and management as a process that can be decentralized by self-governance. Paradoxically, by doing so even more complexity is created. In the article "The influence of technology on the future of human resource management," Stone et al. (2015) claim that up till now eHRM has enhanced a rational, transactional efficiency improvement of HRM at the expense of human interaction. The emergence of social media and the entrance at the labor market of a new "born digital" generation of people provide the foundations of a digitalization version 2.0, which may generate a change of organizations as well as future HRM practices. What it takes to obtain effectiveness (and not only efficiency) and to lead the multigenerational workforce in a world of increasing complexity, nonetheless, appears as a gap in the research literature, which is addressed by Carpenter and Charon (2014).

As the complexity of knowledge-producing communication in and between organizations increases, HRM organizations are challenged to apply *tools* providing a framework for meta-communication (communication about communication) on an inter- and intraorganizational scale; tools *that allow reducing or handling this complexity.* Such tools are to an increasing degree embracing big data, analytics, and cognitive computing, which encompasses a lot of dilemmas as elaborated by Ekbia et al. (2015).

This change has also generated new HRM roles and competencies. According to an analysis done by Accenture (León et al. 2013), these are, e.g., talent data analyst and "extended workforce" talent manager. The title "training consultant" has changed, and HRM now co-creates, facilitates, and markets content to attract learners. The rolls have also changed from development of formal procedures toward designing incentives, market-based mechanisms, and tools to support knowledge sharing. These types of HRM competencies, after all, comply well with data-driven analysis and the celebration of rationality that Rylander (2009) argues fit well with the traditional management discourse.

However, as HRM was born out of new power relations, as described, new disruptive algorithmic technologies may again reshape the social landscape in which HRM is embedded and the notion of legitimacy of HRM. Some of the ethical questions gaining importance in the wake of ubiquitous social media, big data, and the algorithmic economy are privacy, democracy, for which purposes the technology is used, data ownership, and inequality (Kitchin 2017).

Again, we may see the need to expand the savvies of HRM and add to the development described by CIPD as first embracing organizational savvy and then also business savvy and in the type 2 approach furthermore to include contextual savvy (Sears 2010). In the type 3 approach, we saw the need of HRM to also embrace new ways of thinking, not only rationality, and include networking in heterogeneous networks leaving behind the position of a unitary approach of people management. However, the type 4 approach furthermore points to the need of HRM to expand its savvy on algorithmic socio-technical systems and all its implications.

This development is challenging the epistemology of HRM, as the epistemology of algorithms are challenging. Kitchin (2017) concludes that algorithms are contingent, ontogenetic, and performative in nature. They are embedded in wider socio-technical assemblages and can be perceived in several ways: technically, computationally, mathematically, politically, culturally, economically, contextually, materially, philosophically, and ethically. One may conclude that besides the "old savvies," HRM may also need all these new savvies to master taking new tools as big data, analytics, and cognitive computing technologies into consideration as tools supporting reflection under highly complex conditions.

Also, a new array of questions is arising and requiring a reinterpretation of the legitimating notions of HRM which is becoming intertwined with big data, algorithms, and cognitive computing. Using big data, algorithms, and cognitive computing may at a first glance lend a strong legitimacy to HRM as being "objective" and rational, much the way statistical data bolsters scientific claims. But far from being objective, impartial, reliable, and legitimate, critical scholars argue that algorithms possess none of these qualities except as carefully crafted fictions (Gillespie 2014).

HRM will find itself as just one actor in what Floridi (2014) has termed the infosphere, and the legitimacy of HRM is becoming intertwined with how legitimacy in such an environment is being constructed. Who are we as a species? What constitutes our environment – natural and build? How are we interacting as human and with other forms of intelligence (e.g., artificial)? Which morals should AI obey when interacting with humans? Which rights are to be respected (Veruggio 2007; Anderson and Anderson 2011; *Bostrom and Yudkowsky* 2011*; Floridi* 2011*;* Evans 2015; Sheliazhenko 2017)? Legitimacy may once again be redefined – and businesses and HRM may need not only to listen to voices from more social stakeholders but also from nonhuman stakeholders with nonhuman agency (Dürbeck et al. 2015), much in line with actor-network theory.

Conclusion

Through the analysis in this chapter, the theorization of people management proves to be underpinned by different notions of legitimacy playing the role of legitimating or delegitimating the prevailing paradigm of people management. The social construct of legitimacy , thus, is an integrated processual part of the historically changing paradigmatic shifts. In a historical perspective, "legitimacy-as-process perspective," hence, needs to permeate the understanding, as the epistemological and ontological core of people management. The process perspective explains the permanent reconstruction, which has taken place ever since the emergence of the discipline of people management. The economic crises in the 1970s, the Japanese competitive edge intertwined with them, unitary frame of reference concerning people management, and the rise of knowledge and service professions shifted the power relations and HRM as a distinct way of perceiving and practicing people management emerged. Until then, interest of conflicts and a predominantly pluralistic frame of reference were prevailing, though both employees and employers gained from economic prosperity. The role, name, and institutionalization of the HR function, profession, and field have changed along with the complexity of organizations and the nature of work, but the shift from Personnel Administration toward HRM also shifted the role of the people manager, from being "the man in the middle," a buffer, and potential scapegoat for the actions of the rest of management to becoming part of strategic management. The SHRM sought legitimation through a notion of legitimate authority resembling the Weberian notion of legitimacy based on authority. The SHRM is blind toward a lot of stakeholders, as well as broader societal issues.

What can be learned from the analysis of the emerging new epistemologies and legitimating notions of HRM is that a broader reconstruction of the reflexivity in and between business corporations and society takes place, in which the epistemology and notions of legitimacy related to people management are again changing, now pursuing social legitimacy. However, an interesting question is to which extent the emerging new epistemologies and legitimating notions of HRM are producing different types of blindness and long-term unsustainability.

The type 1 approach is a unitary approach becoming reflective toward (some) stakeholders. This position is still unitary and blind to interest conflicts, bound to a rational, mainly positivistic epistemology and a notion of legitimate authority of the HRM system and its agents.

The type 2 approach goes beyond a unitary managerialism, increasingly underlining pluralism of interests, and an interdisciplinary evolution of HRM, integrating employer branding, CSR, authenticity, etc. However, the position is still struggling to reinterpret the new role of HRM and has a rational epistemology blind to reflect on its own rationality taking for granted the "objective nature" of HRM. After all, the notion of social legitimacy reemerges, but dilemmas and paradoxes appear as the position still needs to grapple with the predominant unitary ontological position of the still prevailing SHRM.

The type 3 approach goes one step further challenging the former rationality of HRM. Now design thinking is included as a distinctive different discourse compared to the managerial "knowledge worker" discourse. The quartet helix and mode 3 knowledge production, which is a distinct different pattern of knowledge production compared to the triple helix or mode 1 and 2 knowledge production, appear. The notion of social legitimacy reappears, and the ontological position is heterogeneous (maybe indicating a new frame of reference coming op, which resemble, but is not quite like pluralistic). This position, however, is blind toward its own paradoxical role in producing complexity.

The type 4 approach takes new tools as big data, analytics, and cognitive computing technologies into consideration as tools supporting reflection under highly complex conditions.

This may again lead the epistemology to celebrate rationality; however, the epistemology of algorithms needs also to be perceived as social constructs.

The definition of HRM is not determined by the technology; however, because of an ontogenetic and performative nature of cognitive computing, HRM needs once more to expand its savvy to grasp the socio-technical development. According to Stone et al. (2015), limited research has assessed how technology enables organizations to reach their HR goals of attracting, motivating, and retaining employees. HRM may also require an expansion of the notion of social legitimacy, as to include the social and ethical aspects of technology. Nonhuman actors and stakeholders are to be recognized (as in the actor-network theory). While expanding its savvy and notion of legitimacy, HRM may also lose its identity as HRM and become something different, more suited for complexity management – not only delimited to people management. For now, sustainable HRM tries to embrace the complexity and move toward a heterogenous perception.

A future role and legitimacy of people management may shift even more far-reaching, as the nature of work and the social power relations may change dramatically due to the technological development.

As a perspectivation, it is worth mentioning that Spencer-Brown (1969), Luhmann (1993, 1995), Rasch (2000), and Gonzalez-Diaz (2010) underline the impossibility of cognition or knowledge of the world (because of the operational closure of the system). This also counts for big data, algorithms, and cognitive computer, no matter how general intelligent artificial intelligence becomes.

As at the same time, the need for structural coupling is growing in an increasingly differentiated and complex society, which is inherently paradoxical, Luhmann points to making use of time and moving to a higher level of observation as the most effective way to handle a paradox, i.e., postponing it in time. Gonzalez-Diaz (2010) explains that constructing an image of the world and developing increasingly sophisticated theories, methods, procedures, and technologies are a way of dealing with this impossibility of access to our environment, but as there exists no omnipotent observer with direct access to the environment:

> paradox will be present as long as our knowledge system exists, and so will the need to resolve paradox by the system that Luhmann calls deparadoxication. Gonzalez-Diaz (2010)

This also underlines why we will see HRM in a never-ending "crisis," and it explains why "legitimacy-as-process perspective" needs to be the overarching perspective, while "legitimacy-as-property perspective" and "legitimacy-as-perception perspective" must be subordinated and used to understand the process of legitimation.

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Motivating Employees in a Globalized Economy: The Moral Legitimacy of Applying Gamification in a Corporate Context

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Marianne Thejls Ziegler

Contents

Abstract

For decades, corporations, consultants, and academics have examined different ways of incentivizing employees to align their volition with the interests of the corporation. This so-called soft Human resource management (HRM) adjusts working environments to the emotional needs of their employees. Critical voices have accompanied the attempts, blaming corporations for manipulating the very souls of their employees into identifying with the interests of the managerial elite without rewarding their dedication.

One of the latest management fads, gamification, has been met with similar criticism. With reference to a more detailed account of gamification and arguments from one of its critics, this chapter will show that the criticism is based on a perception of the relation between management and employees that questions the fundamental moral legitimacy of business and, as such, shows that the criticism is therefore of a circular nature. When academics presume that

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the overall system is deprived of legitimacy, then it only has to be demonstrated that the given HRM initiative is coherent with the values of that system in order to argue that the given HRM initiative is also deprived of legitimacy.

This circularity provides academics with a cornucopia of opportunities to criticize corporations. This chapter wishes to encourage academics, who reject neoliberal capitalism in its totality, not to waste their time also rejecting its individual manifestations but instead either apply a more differentiated approach that might assist managers and employees in cooperating across hierarchical differences or to dedicate their efforts to developing alternative social and political models.

Keywords

Human resource management · Gamification

Introduction: Incentivizing Human Resources

The so-called soft HRM model focuses on the possibilities of management to incentivize employee commitment through influence, respect, and responsibility. It is an alternative to the more old-fashioned hard HRM model, which is linked to a workforce management focusing exclusively on maximizing the use of human labor as a resource and prioritizing the strategic aims of the corporation over the well-being of the employees (Gill 2007). One might be tempted to believe that the former would enjoy a higher level of legitimacy among academics; however, the attempt to optimize human resources with a soft rhetoric of team building and empowerment has been a subject of intense debate. Soft HRM has been criticized for only pretending "to be concerned for workers whilst reasserting management control" (ibid.). Hence, soft HRM is, in its essence, no different from hard HRM, and it has the same connotations as hard HRM: "goal-directed activity, inputs and outputs, [a] black box of production, where organizational inputs -employees- are selected, appraised, trained, developed, and remunerated to deliver the required output of labor" (Townley 1993).

The description of the work of human beings in terms of "production," "input," and "output" refers to the practical aspect of work; the expressions "delivered" and "required" indicate that this work is performed in the context of power relations. Since all manifestations of work share a practical element, an element of human beings engaging in an activity that serves a purpose existing independently of the working person, the goal-directed activity, input and output as describing the purpose of HRM, can be seen from two angles. From one point of view the description is self-evident, in so far as input, the human work, and output, the product or result of the work, are inherent elements of work. From another point of view, however, "input" and "output" refer to a presumed reduction of humanity to functionality within a power relation ("delivered," "required"), which deprives the HRM of legitimacy, in so far as a superior deprives the subordinate of humanity. Since academics normally refrain from self-evident statements, the description of HRM is more likely to be read according to the second interpretation. Critics of the relations between a managerial elite and the employees therefore make use of an implicit moral reading of originally neutral terms that appears to have become habitual in parts of academic literature.

Critics of HRM interpret the aim of corporate endeavors as the reduction of humanity to a function, and hence, they presume that the optimization of a human resource is more than just a manner of making human beings work and cooperate more efficiently, but instead it eradicates the human element of work. The example above seems to be based on a hidden assumption that it is not possible to work as an employee and receive instruction on how to improve efficiency or be incentivized to improve efficiency without compromising one's own humanity. This reduction of labor and professional performance to a function where the worker is treated as a means serving an end determined by corporate rationality can be traced back to the Marxist conception of Alienation. Treating employees in this manner is, of course, deprived of moral legitimacy.

This chapter will approach the question concerning the legitimacy of human resource utilization by distinguishing between a polarized legitimacy and a balanced legitimacy. The aim is to identify hidden assumptions in the debate on the legitimacy of creating working environments and develop working methods for the purpose of stimulating and exciting the intrinsic motivations of employees.

Evaluating the legitimacy depends on two circumstances that are reflected in the criticism of soft human resource management in general and gamification in particular. The first circumstance is the question as to whether management's persuasive methods are legitimate. If it is pointed out that HRM entails management manipulation of employees, then this manipulation is not legitimate because it takes place within a power relation. Or, one could say, the attempt to persuade is referred to as a case of manipulation, which is possible because of the power relation. It is therefore the hierarchical differences that undermine legitimacy. If a more powerful person (A) attempts to persuade a less powerful person (B), then legitimacy is undermined because (B), due to his or her inferiority, is not in a position to resist. Accordingly, in a business context where management initiates team events or gamify processes, legitimacy is also undermined by the power relation between management and employees.

The second circumstance is the question of the legitimacy of the aim of the actions that (A) wants (B) to perform. If the aim of the action (X) is not legitimate, then nor is the attempt to persuade a person to do (X) legitimate. Generally it would be legitimate if a minister were to ask his church community for a contribution to a charity project in the name of the lord, but if a manager is asking his employees to work with more enthusiasm in order to improve the performance of his business, then it is only legitimate in so far as the aim of the business is legitimate. An academic, who believes neoliberal capitalism is not legitimate, would thus consider all attempts of management to persuade their employees to work harder or with more dedication equally deprived of legitimacy.

The two criteria work their magic as hidden, uncontested assumptions. It only has to be pointed out that management attempts to direct the volitions of their employees, and the reader already knows that this is bad. It only has to be pointed out that gamification serves the aims of Neo-liberal capitalism and the reader knows gamification is bad.

In both circumstances, the power relation and the lacking legitimacy of the aim constitute criteria for legitimacy that business can hardly live up to. The criteria are based on simplified moral assumptions of the powerful versus the powerless and of neoliberal capitalism in an undifferentiated totality. In that way, critics use a polarized conception of legitimacy in their approach to phenomena like HRM and gamification that leaves very little room for debate. A balanced conception of legitimacy would enable differentiation and make the criticism more interesting.

Since soft HRM has been seen as a reaction to increasing employee dissatisfaction caused by globalization, this chapter will start with a brief outline of the historical setting of soft HRM upon which it will then outline a recent HRM fad called gamification and describe two practical applications and the arguments of one of gamification's critics. The chapter will also argue that the critics of gamification are not substantially different from the critics of soft HRM. In the conclusion, I will attempt to demonstrate that the arguments of HRM and gamification opponents are enabled by the polarized conception of legitimacy (sketched above) that has already deprived all focus on corporate rationality and any exercise of control in an organizational context of legitimacy.

The Setting

It was the declared goal of postwar economic politics that the people should never again experience the devastating consequences of severe economic depression caused by unrestricted casino capitalism and short-sighted politicians. The promise was possible to keep, because Europe and the United States experienced almost three decades of unprecedented growth. In the early 1970s, the golden age came to an end and was followed by more turbulent times. The growing strength of OPEC; the increasing competition, in particular from Asian countries; and the more or less successful attempts to stimulate the economy with deregulation contributed to deteriorating conditions in particular for European and American workers (Eichengreen 2007). This process culminated in the 2008 financial crisis. At the time of writing, economy appears to have recovered, but on a fragile foundation of ever-increasing debt. Whether this attempt to save the liberal market economy will result in an even more severe crisis than the one of 2008 is yet to be seen.

The postwar golden age of continuous, economic growth was characterized by a relatively widespread social consensus. The memories of the devastating unemployment of the 1930s were still alive, and this incentivized workers, particularly in countries like Austria, Germany, and Holland, to accept wage restraint in return for investment in production, in other words, for a higher level of job security (Ibid.). During these more turbulent decades as globalization slowly, but steadily, forced companies to outsource production to low-wage countries, the negotiating power of European and US workers was weakened. The necessity of maintaining competitiveness became a lever for management, justifying stagnating wages and deteriorating job security. It is yet to be seen, if the Golden Age of unprecedented economic growth between the late 1950s and the early 1970s constitutes the climax of a capitalism capable of incentivizing citizens with promises of rising welfare and prosperity for all, or if capitalism as we know it will someday belong to the past.

Globalization and economic turbulence have created a gradually growing sense of social dissatisfaction. The rapid industrialization of successful Asian economies contesting European and American economic dominance has polarized western societies and produced winners and losers of globalization. As a consequence, the rise of populism in recent years brings back memories of the interwar political process in Germany, as if history was about to repeat itself in slow motion.

The financial crisis of 2008 gave rise to expressions like “privatizing profits and socializing losses.” Those who were wealthy before the crisis have become even wealthier in the years after the crisis, and the income of the normal part of the population, the 99% as they sometimes call themselves, has stagnated. Though statistics may be subject to variations, and though the increase in inequality appears to have been more pronounced in the United States than in some European countries, the success of populism is indicative of a general disbelief in the fairness of the economic system. This disbelief, whether justified or not, endangers social stability.

Well-being, Fun, and Games as Cure for Deteriorating Working Conditions

As the Harvard professor Lesley A. Perlow wrote back in 1998: “More recently, it has become difficult to design jobs as a series of explicit tasks to be performed, with appropriate incentives to ensure adequate output from qualified employees” (Perlow 1998). This inability to provide incentives to work has challenged managers, consultants, and academics alike to find manners to compensate for this development. Since the early 1980s, the recognition that fun and a good atmosphere at work motivates employees has inspired soft HRM to attempt to create a more joyful working atmosphere. The undertaking gained momentum as Tom Peter and Roger Waterman published their famous book *In Search of Excellence* in 1982.

The apparent lack of motivation among employees has inspired managers and consultants to replace the traditional incentives, such as the sense of duty and/or the hope of increasing prosperity, with an alignment of volition of employees and the interests of management. Instead of feeling obliged to work and finding pleasure in acting out of or being motivated by promises of rising incomes, employees should be attracted to the entertaining nature of professional challenges, i.e., by the challenge itself. Academics and consultants who propagated the trend encouraged managers to loosen up and to create a less formal and less hierarchical working environment in which the employee feels more relaxed. In return, the increasing well-being of the employee was supposed to increase motivation, dedication, and productivity (Fleming 2005).

Gamification is a more recent method applied by management for this purpose of fertilizing personal commitment to the workplace. Inspired by the impressive ability of well-designed online video games to capture the time, ingenuity, and dedication of gamers, managers and their consultants have cooperated with game designers in order to transfer elements of games to a professional context. According to its proponents, work can be reorganized to resemble a game and, thereby, become just as exciting and entertaining.

The fundamental principle is not new. Through history, games have been used for education and for training soldiers (Huizinga 1980), and they were even applied in the Soviet Union where Lenin built a theory of socialist competition in which workers were encouraged to compete with each other. His system bore resemblance to modern principles of gamification, rewarding success symbolically, and was highly contested as an indirect application of capitalist ideals (Nelson 2012).

The potential of games became apparent when Microsoft and DreamWorks launched an internet game in 2001 as part of the promotion for the Steven Spielberg science fiction film A.I. (Artificial Intelligence). The game designers distributed digital clues that were eventually noticed by members of online communities. The game was played by over two million people, but one group of players excelled in particular. The clues inspired a computer programmer to launch the internet group *Cloudmakers*, the members of which began to collectively explore the riddles and clues created by the game's producers. The group grew to over 7000 members in the 3 months that the game lasted, and their cooperation came to display an unprecedented level of collective intelligence and ingenuity to the extent where the producers of the game had difficulty keeping up with the pace at which the Cloudmakers solved the riddles (McGonigal 2003).

This cooperation among the Cloudmakers gave an initial indication of the immense ability of games to engage agents in collective action. Since then, the video gaming industry, i.e., the industry of electronic and multiplayer online games, has grown to a multi-billion-dollar business with a reputation for being addictive, undermining the social capacities of youths and reinforcing violent and extremist tendencies (Ebner 2017). Considering that video gamers spend on average 6 h per week gaming (Limelight Networks 2019), it is not surprising that this phenomenon caught the interest of researchers and consultants, who have been intrigued by the possibility of transferring this immense energy to the professional environment for the purpose of increasing productivity. According to one of the most prominent gaming gurus, Jane McGonigal, game developers "know better than anyone else how to inspire extreme effort and reward hard work. They know how to facilitate cooperation and collaboration at previously unimaginable scales" (McGonigal 2011).

Gamification applies game design elements in a non-gaming context (Deterding 2011), which can be done in two ways: as structural gamification or as content gamification. Structural gamification is the application of game elements to a professional or learning process that does not change the content. The work or task is provided with an outer shell enabling agents to receive instant feedback on progress and/or compete with co-workers for points. Content gamification alters the content to make it resemble a game. The task could be enhanced with a narrative element incentivizing the learner or worker to engage in, for example, a riddle; the task that is gamified would be performed as a side effect (Kapp 2014). Gamification can change behavior by changing agents' motivation. It can make tedious tasks, such as practicing mathematics, eating a healthy diet, and taking the stairs instead of the escalator, more enjoyable. Within companies, it can enhance or alter tedious work tasks for the benefit of the employees who are required to perform them, and it can pit employees against each other in order to create competition, where none would have been otherwise, by making individual performance visible to the team as a whole. The performance can be displayed on leader boards, highlighting top performers. It can also, will be shown below, be used in training programs.

Challenges in the Application of Gamification

The efficiency of gamification has been contested. According to Ian Bogost, gamification is "primarily a practice of marketers and consultants who seek to construct and then exploit an opportunity for benefit." In this context, gamification over-promises and under-delivers (Bogost 2014). The difference between positions appears to depend on how tasks are gamified. According to game designer Yo-Kai Chou, gamers are motivated by "elements of strategy and great ways to spend time with friends, or they want to challenge themselves to overcome difficult circumstances" (Chou 2014). He distinguishes between the shell and the deeper level of the game and criticizes the belief that gamification is achieved by applying points, badges, and leaderboards to a task. Competition, in the form of points, leaderboards, and symbolic rewards (badges), cannot change the behavioral patterns of employees on a long-term basis, if they are only applied as a shell to demotivating tasks within discouraging organizational structures. If the premises of Yo-Kai Chou's argument are correct, then content gamification is preferable, as it is more efficient than structural gamification. An essential element of successful gamification is voluntary participation and the possibility of exercising choices (Deterding 2011; Fleisch 2018). In his *Octalysis Framework*, Yo-Kai Chou identifies features of good gamification: meaning, empowerment, social influence, unpredictability, avoidance, scarcity, ownership, and accomplishment (Yo-Kai Chou 2014). These are the characteristics of good interactive video games, and the extent to which they can be transferred in a professional context determines the success of the gamification.

According to Yo-Kai Chou, gamifying work processes beyond the application of points, badges, and leaderboards challenge the process designer in particular with regard to the voluntary element. The work of an employee is exercised in the context of a power structure, and the application of gamification in the working processes will be initiated by professionals working at management level. Within the framework of the workplace, tasks are performed at the initiation of management level professionals. When gamified tasks are performed within hierarchical professional interaction, participation in the game is no longer voluntary, or at least the voluntary element is weakened. The extent to which a process designer succeeds in enabling the employee to make choices during the process depends on the context, the success criteria, and the consequences of the game. In the following two sections, two examples will be presented of how gamification can be applied in a professional context that differs in particular with respect to this voluntary aspect.

Elements of Gamification by General Electrics

In 2017, General Electrics cooperated with EY Fraud Investigation and Dispute Services in creating a pilot of an IT-based compliance system called *Profit and Loss-of-One* (*P&L-Of-One*). The pilot attempts to solve the challenge of how to provide thousands of employees with relevant compliance information without overloading them with irrelevant material. It should overcome the challenges of isolating target audience, deliver messages tailored to the individual risk profile, and assess the effectiveness of the training. Using forensic data analysis, the program designers created so-called digital twins of employees in order to be able to predict which situations would be of high fraud risk (Walden et al. 2018). Digital twins are normally digital versions of physical objects that, for example, inform technicians of expected malfunction by combining forensic data with data collected from sensors installed on the object.

To create a digital twin of the employee, "GE used historic travel and entertainment expenses (T&E), training history, information on business sales opportunities" (ibid.), and other factors to develop risk models for each employee in the pilot. These risk models form a risk profile in an employer's digital twin. It simulates the working processes in situations with higher fraud risk and can time the relevant information. If a sales person is planning a trip to a country with a high level of corruption, just-in-time messages informing the employee of risks, rules, and regulation are sent shortly before the departure of the employee's business trip. Employees are expected to respond and take appropriate action such as watching a recommended video link or clicking on a compliance certification.

The system has three pillars: The first pillar is the automization of the system for the sake of transparency. The second pillar is to make the system intriguing by incorporating elements of gamification where the employee receives points for an integrity score based on participation in the program. "Organisations can track these employee scores to encourage competition or peer bench marking [and . . .] managers can use this information to recognise employees with high scores" (Ibid.). Initially, the digital twin informs the human twin, but if the employee ignores the communications the system reacts with more direct messages "such as requiring training courses, with possible notification of management" (Ibid.). The third pillar is the relevance of the information; this is achieved by the ability of the digital twin to predict when the employee will be faced with a specific compliance risk.

As explained above, in Yo-Kai Chou's Octalysis Framework, the quality of a gamification process is analyzed with reference to eight different criteria: meaning, accomplishment, empowerment, ownership, social influence, scarcity, unpredictability, and avoidance (Chou 2014). If the gamification aspect of "Profit and Loss-of-One" were to be evaluated, the score on meaning would depend on the extent to which the employee would identify with the vision of General Electrics. The possibility of achieving a sense of accomplishment would depend on the challenges of participating. The sense of accomplishment requires a development of skills; it requires a task that is difficult in the beginning and then becomes easier as the player gains more experience. If the content of the game only involves confirming that the employee has received information, the sense of accomplishment would be limited, since the ability to read information on compliance policies is unlikely to contain a potential for development of skills.

P&L-Of-One would in particular have an issue with regard to empowerment and ownership of the player. Reacting with more direct messages "such as requiring training courses, with possible notification of management" is incompatible with one of the most basic elements of the game, namely, voluntary participation and the possibility of exercising choices (Deterding 2012; Fleisch 2018). *P&L-of-One* combines elements of gamification with what resembles a surveillance system. Although management is not informed of details, they are informed if the employee does not participate. This feature undermines the gamification element of the system. It may be an efficient and convenient way of securing compliance for General Electrics, but because the employees are under observation by the program, the gamification element is unlikely to work its wonders.

Delta Airlines Adventure Travel Game

Among Delta Airlines' call center professionals, traditional e-learning programs have suffered from low popularity. Looking for new ways to keep their call center professionals updated, Delta Airlines partnered with an e-learning company called NogginLabs, Inc. to develop a game-based learning program. The airline had, at that stage, eight call centers, 4800 agents and 36 million calls per year. The cost of moving training professionals was immense; if all 4800 agents were to be absent for 1 h, the cost would be just over $100,000 in lost sales (Orendain 2014). The aim was therefore to create a game that would be so entertaining that the employees would play it in their spare time. In order to gain insight into the drivers of gaming, the Delta Airlines project leader, Mr. Ponch Orendain, played video games himself and engaged with the theoretical aspects of gaming. He was therefore aware that the key to engaging employees would be that the game was entertaining and challenging, and it would be crucial that the game was strictly voluntary and that it was separated from the professional working processes (Ibid.).

The result was a travel adventure game called *Ready, Set, Jet!*. The game would open with an airport departure board from which the player would choose a destination. This structure placed the player in the position of the traveller. During the selected trips, the player would be faced with tasks and challenges reflecting the Delta Airlines system, but the business logo was absent in the game in order to remove connotations of work. Players proceeded by selecting destinations, deciding whether to travel business or economy, arriving at the destination, and selecting activities in the form of mini-games awaiting the player at each destination. The solution to the individual challenges would provide information about, for example, car hire policies, tourist attractions, flight connections to other destinations, baggage policies for different destinations, price categories, etc. This information was the learning content that Delta Airlines wanted their employees to acquire. Capabilities acquired in the game would enable the call center professionals to answer customer queries regarding the same topics.

The game enabled the players to connect with colleagues. In this manner, a player could post challenges to fellow colleagues and engage them in mini-competitions. They could buy souvenirs for each other and leave them at odd places in the virtual world encouraging other players to undertake trips in the game to collect them. The leaderboard would inform the player of the top players and the players just below and above the player's own position (Cook 2013).

The game was a success. Within the first 2 weeks, 1400 employees had played the game, and after 6 months, the total amount of time the professionals had invested in the game amounted to over 30 years. The call center professionals spent a total of over 30 years of their spare time training and updating the knowledge needed to improve the quality of customer service. The eight criteria of success, meaning, accomplishment, empowerment, ownership, social influence, scarcity, unpredictability, and avoidance (Chou 2014), would all be met in *Ready, Set, Jet!*.

The two examples of gamification in organizations indicate an approximate polarity in the application. In the first case, *P&L-Of-One*, participation was compulsory, so even if the employee had been performing their job with absolute integrity and been aware of the details of company code of conduct as well as legal regulations and the state of corruption in countries with which General Electric was doing business, participation was compulsory. Since voluntariness is a core condition of successful gamification, it is clear that the Delta Airlines program is more coherent with Yo-Kai Chou's criteria for good gamification. Compliance issues may be of a more severe nature than the information level of call center professionals, but considering the apparent success of *Ready, Set, Jet!*, the question arises as to whether Delta Airlines' content gamification of the learning progress could also be applied to the compliance program of General Electrics, whereby the compulsory and the surveillance element could have been avoided. In Autumn 2018, NogginLabs, Inc., the e-learning company that build *Ready, Set, Jet!* for Delta Airlines joined EY, so maybe this acquisition will inspire EY in future applications of gamification that are more faithful to the basic principles of this method.

Gamification as Exploitation

Just as HRM has generally been contested, so has gamification been the subject of debate. Gamification has been criticized for exemplifying a new kind of surveillance. Gamification "leverages discourses of play initially to entice users into [. . .] self-monitoring. Surveillance is phrased in terms of enabling free play and promoting engagement" (Whitson 2014). The hidden assumption of this argument is the lack of legitimacy of management attempting to influence the volitions of employees.

The reproach would be valid for the instances of gamification where management use the gamified processes to place their employees under surveillance and *P&L-Of-One* would be such an instance. However, as it was demonstrated in the Delta Airlines application, surveillance is not an inherent aspect of gamification. Theoretically, management could be interested in individual players and require special access to the overall status of the gamers, but keeping an eye on the extent to which the program is used would primarily be of interest from an overall point of view, i.e., that the game is used in the first place. If Delta Airlines was interested in individual professional performance, customer feedback would be a more informative source of information. In this imaginary debate, it might be claimed that it would be naïve to presume that Delta Airlines is not monitoring their employees via the game. This claim is difficult to counter, since Delta Airlines is declared guilty until proven innocent.

The second line of criticism emphasizes that gamification pretends to serve employees, but in reality, it serves capitalism. The "concept of gamification is gaining currency, in large parts, because it fits well with certain ideological assumptions native to contemporary, post-industrial capitalism and [. . .] it is promoted because it is believed to benefit those who already occupy a position of privilege within this system" (Ray 2014). Gamification uses play in the service of neoliberalism: "such practices are deeply problematic as they represent the capture of 'play' in the pursuit of neoliberal rationalization and the managerial optimization of working life and labour" (Woodcock and Johnson 2018). Here is an instance of the hidden assumption that neoliberal rationalization and managerial optimization are not legitimate. Gamification "ignores the power dynamics in both the workplace and society, passing over the ways in which management actively seeks to maximise exploitation" (Ibid.). This is an instance of the assumption that management pursuasion is manipulative. Woodcock and Johnson distinguish between gamification from above and below, suggesting that real and genuine voluntary gamification would arise spontaneously among employees to sabotage the working processes. Free agency is not possible within the constraints of the capitalist system.

The wider concept of HRM in general is exposed to a similar criticism. Soft HRM attempts "to win the 'hearts and minds' of employees: to define their purposes by managing what they think and feel, and not just how they behave" (Wilmott 1993). "Though masquerading as a 'therapy of freedom' that expands the practical autonomy of employees, cultural culturism identifies cultural values as a powerful underutilized media of domination" (ibid.). Carol Gill summarizes the critics of HRM: "workers are exploited through work intensification, downsizing and casualisation of the workforce and that this exploitation is possible because HRM uses soft rhetoric to disguise hard reality" (Gill 2007).

The criticisms of gamification and HRM resemble each other in so far as the point of criticism is the coherence between the aims of gamification and that of capitalism. If pointing out that HRM and gamification are coherent with the aims of capitalism is a criticism, and this can be assumed since the academics referred to above do not appear to be great fans of capitalism, then the argument is based on the assumption that capitalism is eo ipso deprived of legitimacy. If capitalism has no legitimacy, then it is clear that the methods that management uses to incentivize their employees have no legitimacy either. However, the aim of the criticism is not bad gamification or an unconstructive company culture but any gamification and culture, that is, a product of business leaders. It is the presupposed lack of legitimacy of capitalism that gives the criticism its circular nature.

Conclusion: The Legitimacy of Encouraging Work Enthusiasm

The focus on soft HRM as an answer to decreasing motivation among employees has been explained with reference to the deteriorating working conditions and polarization of society caused by globalization and neoliberalist economic policies. The assumption of a causal connection between neoliberalism and globalization on the one hand and deteriorating working conditions and subsequent job dissatisfaction on the other hand reinforces the foundation on which academics challenge the legitimacy of capitalism as well as the attempts of a managerial elite to align the interest of the employees with those of the corporation.

It is highly likely that this causal connection exists. Globalization may, however, not be the only cause of dissatisfaction. Another possible explanation for the increasing focus on soft HRM could be the changes in industrial structures of an increase in the demand of knowledge workers and a decrease in the amount of manual work. The tendency is, as Peter Drucker predicted in his 1993 book on the *Post Capitalist Society*, continuing into the present time of writing. Dedication makes a stronger difference to the productivity of a knowledge worker than a manual worker, and their expectations are higher; thus, the need for new ways of motivating employees can also be caused by the increasing significance of knowledge workers (Salamon 2003). Another possible explanation for increasingly demotivated employees could be found in the changing pedagogical principles of the 1970s characterized by anti-authoritarianism and less coercive learning methods. These pedagogical principles have the potential to undermine respect for future employers, increase requirements to working environments and make workers unwilling to compromise personal feelings and preferences.

There is more than one possible explanation for employee dissatisfaction and the exclusive focus on the inhumanity of neoliberal capitalism simplifies the question of business legitimacy. The claim that it is manipulative to, for example, provide workers with the emotional environment they need in order to be productive may as well indicate an underestimation of the autonomy and the intelligence of employees. The exclusive focus on a fixed interpretation of management-employee relations may blind us to the possibility that in some context the free market economy can also provide the framework for creative cooperation. In this manner the criticism of gamification outlined above cannot distinguish the legitimacy of *P&L-Of-One* from the legitimacy of *Ready, Set, Jet!*, whereby important insights may be lost.

In order to comprehend the mechanism of the HRM and gamification criticisms, this chapter has distinguished between *polarized legitimacy* and *balanced legitimacy*. The foundation of polarized legitimacy can be seen as a misreading of the humanity formulation of Kant's Categorical Imperative from Groundworks for the Metaphysics of Morals:

> Act so that you use humanity, as much in your own person as in the person of every other, always at the same time as end and never merely as means. (G 4:429; cf. G 4:436)

The misreading removes two parts of the imperative: "at the same time" and "merely." The manager of a company should, in this version, never treat another person as a means, but always and exclusively as an end. This interpretation of the Categorical Imperative makes professional interaction across hierarchical differences impossible. According to the original version, human beings can interact with each other to promote practical ends; they can treat each other as means as long as they also treat each other as ends. This imperative would in its application require an individual evaluation of each situation in order to determine if the extent to which one person treats another person as an end suffices. According to the original imperative, conducting business would be legitimate as long as they balance treating as means and treating as ends. The interaction with the materiality of the world, where we apply ourselves as means to an end in cooperation with others that also use themselves and others as means to ends, i.e., work, is fundamental to humanity, but it is difficult to imagine how this interaction is to take place in accordance with a polarized conception of moral legitimacy based on a misreading of the Categorical Imperative.

As mentioned in the introduction, there is a general tendency to a certain moral reading of originally neutral terms that appears to have become habitual in parts of academic literature. Returning to one of the quotations from Woodcock and Johnson: ". . .in the pursuit of neoliberal rationalization and the managerial optimization of working life and labour." The concepts have a clear empirical content, but the vocabulary has become evaluative. "Neoliberal rationalization" and "managerial optimization" are not neutral concepts, but inherently highly reproachable phenomena. The pervasiveness of this tendency becomes apparent by reflecting on the extent to which the terminology describing business has obtained a stable moral polarity. In other words, it does not change its moral valence according to context, instead it is always bad (Levine 2009).

The polarized concept of legitimacy makes the world very simple to understand, but a more balanced conception of legitimacy, allowing for context dependent examination of trends, might provide more interesting results. The conception is a tool used by some academics who feed on the conflict between the interests of managers and employees, to repeatedly deny business legitimacy. This has, as indicated in this chapter, been going on for decades. The conception is neither capable of enriching our understanding of professional interaction, nor does it enable us to improve the conceptual tools needed to develop professional interaction. It is my hope that future generations of researchers will approach this important topic recognizing its moral as well as its practical complexity.

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Business Legitimacy and Adoption of Human Resource Information Systems in Danish SMEs

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A. Scupola and Z. Pullich

Contents

Abstract

This chapter is a case study of the search for business legitimacy in relation to human resource management in Danish Small and Medium Size Enterprises (SMEs). The chapter examines the determinants for Danish SMEs to adopt Human Resource Information Systems (HRIS) in order to require legitimacy in

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technological development. To do so the chapter applies the technology-organizational-environmental (TOE) framework of innovation adoption and qualitative analysis. Perceived benefits, organizational HRIS knowledge and expertise and top management support are proven significant in driving HRIS SMEs' adoption decision in the four cases. With the use of HRIS, SMEs HR management has especially improved work efficiency and been able to grow faster and this has benefit for acceptance and legitimacy by employees.

Keywords

Human Resource Information System · HRIS · Adoption · TOE · SMEs · Denmark · HR · Legitimacy · Responsibility · Ethics

Introduction

Human Resource Information Systems (HRIS) are systems considered to be part of an organization's Management Information System. HRIS is defined as a system used to acquire, store, manipulate, analyze, retrieve, and disseminate information regarding the human resources within an organization (e.g., Lippert and Swiercz 2005). It is a form of human resource (HR) software that combines several HR processes, such as retaining, recruiting, administration, managing payroll, HR planning, performance record, employee self-service, scheduling, absence management analytics. HR management software is widely used by companies to ensure easy access of human resource data and management of employees' performance. HRIS is designed to facilitate administrative and strategic HR in an effective and competitive way (Poutanen and Puhakka 2010, p. 5).

Traditionally, HR systems are based on client server, and require high capital investment. In the 1990s, the emerging use of Internet makes web-based HR solutions more accessible to remote teams in global enterprises. However, it was still mainly used for administrative and operational purposes and usually an application of enterprise resource planning (ERP) systems. In the 2000s, HR software is designed for tackling specific tasks rather than just being an integrative ERP system. Employee Self Service (ESS) and Management Self Service (MSS) systems become prevalent in the late 2000s. With these applications, employees or managers can initiate and complete HR transactions without HR staff involvement. The range of transactions is highly configurable, and the access to the specific transactions is constrained depending on the employees' role (Florkowski and Olivas-Luján 2006). Potential employees can log into the system and apply for a position. Employees can view their own personal information and handle transactions such as travel reimbursement and vacation time, while managers can approve employee-related transactions (Shani and Tesone 2010) with the consequent delegation of responsibilities and activities shifting from HR professionals to employees and managers. This leads to more strategic HR focus, as the automation replaced time-consuming paperwork, but at the same time, it also leaves some challenges for HRIS implementation in an organization. Managers are frustrated with extra administrative tasks, and employees need guidance and motivation to adapt to the new system (Shani and Tesone 2010, p. 35). In 2010s, cloud and mobile deployment became a standard in HR software, providing users easy access and reducing costs of physical storage and IT support. The new cloud technology Software as Service (SaaS) offers several benefits including ubiquity, document control, and automatic updating, thus it has changed the HR software market, with increasing number of SaaS vendors and more solutions for SMEs. It can be said that the HR software is also specialized depending on the business size and needs. Large enterprises tend to use integrated HR systems or ERP while smaller enterprises tend to use specialized software. As today's HRM, focus is on fast talent sourcing, namely proactive searching for qualified job candidates; in this process, cloud-based talent management is playing a key role. In 2015, gamification features are introduced, which makes the work atmosphere more fun and interesting for employees. In 2016, HRIS with video features became popular among recruiters, which saves money and time on the recruiting process. From this historic development of HRIS, it can be seen that over the last few decades, the software delivery model has changed from on-premise to on-demand; the software's purpose has been shifted from administration to talent management, SaaS-enabled HRIS is expanding into SMEs. This is relatively a new trend, as traditionally company size has been a driving factor of IT adoption, and SMEs were believed to face more barriers in IT adoption.

Thus HRIS represents an important legitimacy challenge for businesses. HRIS implies new concepts of business ethics and corporate social responsibility (Rendtorff 2017a). Leadership philosophy and values in the development of the corporations depend on innovation and technological concepts and philosophy of management (Rendtorff 2013a, b, c, d). Here, there is focus on how HRIS can create shared value to improve the legitimacy of businesses in the context of development of advanced methods of Human Resource Management (HRM) (Rendtorff 2017b). New visions of leadership and management philosophies are required. Accordingly, we can situate the chapter in the context of dilemmas of ethics and responsibility with regard to the implementation of HRIS in business organizations. The chapter presents some lines of development within HRIS. These developments challenge ethical principles and values of business ethics and responsibility in relation to HRIS (Rendtorff and Mattsson 2006; Rendtorff 2009, 2010). Thus, values, ethics, and responsibility are important to improve legitimacy of SMEs in the process of HRIS adoption.

In addition, few empirical studies explain the increasing HRIS adoption among SMEs. Thus, it is interesting to examine the different drivers of SMEs HRIS adoption. This research is particularly interested in exploring the recent trend of HRIS adoption in Danish SMEs. Denmark ranks number 2 on the Information and Communication Technologies development index in 2013 in terms of information and communication technologies' access, usage, and skills according to the International Telecommunication Union (https://www.itu.int/en/ITU). SMEs represent 99.7% percent of the enterprises in Denmark (European Commission 2016). Yet, there is little research about Danish SMEs HRIS adoption, therefore the research question to be investigated in this chapter is: What are the determinants for Danish

SMEs to adopt HRIS and why? To answer the research question a qualitative investigation is conducted in four Danish companies.

The chapter is structured as follows. First, a literature review is provided and the theoretical framework presented, then the methodology is described. This is followed by a presentation of the determinants of HRIS adoption and the conclusions.

Literature Review

HRM

Human Resource Management (HRM) is the management of human resources, which is usually executed by HR departments. They are responsible for employee benefits design, employee recruitment, training and development, performance appraisal, payroll, and rewarding systems (Boon and Paauwe 2009) and accordingly HR professionals can specialize in recruitment, training, and development; employee relations; or employee benefits. Indeed, responsibility and ethics is important for human resource management professionals since they deal with the motivation and facilitation of the work of employees (Rendtorff 2010).

Today, as business becomes globalized and the competition intensified, it is even more important to attract top talents to stay competitive in the industry, and this demand has resulted in an even greater need for HR management to offer positive employee experience. HR management's focus has shifted significantly to managing employee experience, which has become a central issue for legitimacy of HR in business. Therefore, there is need for increased legitimation of the activities of HR professionals work in the movement of digitalization. International HR professionals realize the need of HR department as a service organization to examine and optimize their employee journey map, strengthen employee engagement, and revamp performance reviews. Besides, the labor market is increasingly characterized of short-term contracts, and freelance jobs and teamwork is often made of people with specific skills rather than fixed job positions. This requires HR professionals to react faster to identify the tasks and source the employees with the required skills, so the project team can quickly perform the tasks. Leveraging technologies may improve this process, therefore companies and HR professionals have real-sized the growing importance of using information technology in leveraging their HRM needs.

HRIS Types

Today's HR software can be broadly classified into human resource administrator segment and talent management segment. With the new cloud technology – SaaS as a key driven factor, the HR software market is shifting focus from administrator to talent management segment. Companies can adopt one specialist system focusing on core HR functions or integrated HR functions in one system, depending on their needs. The new HRIS still includes the basic administrative functions such as payroll and personal data administration, but updated with end-to-end feature and more user-friendly access. Furthermore, the new HRIS can collect and centralize all employee data and generate automatic transactions, thus improving other functions such as talents management and performance management.

The human resource administrator segment typically contains functions like payroll, time and attendance, and benefits administration. Time and attendance keeps track of employees' working hours on a task; benefits administration follows the employees' participation in benefits programs such as pension, compensation, and insurance. With payroll function, HR administrator puts in the employees' wage information and working hours, then the system automatically calculates wages, generates deposit and employees' tax reports, and delivers payment to employees' bank accounts. Employees can also login into the payroll system to check their personal information and salary.

These functions can be highly integrated with finance systems, and coordinated between the finance department and HR department. The HR administrator collects these data; the finance system analyses these data and makes the budget. It is in this context that the HR administration also needs to develop competencies of legitimacy, ethics, and responsibility in order to deal with the challenges of creating a better value-based organization in the process of digitalization.

Talents management segments encompass recruitment, performance management, learning and development, and compensation management (Little 2010). Talent management system can be a standalone application or a suite of applications aiming at supporting employee journey. This segment improves HR processes from hiring to training, and succession planning. At the same time, these HR processes also make up an employee journey, which HRIS pays attention to today. The new concept of employee engagement replaced talent management with the purpose of motivating and retaining employees, but the functions remain similar. Both can help companies achieve talent acquisition and retention. This concept of employee engagement corresponds to the challenge of social responsibility in the organization, where employees and HR administrators are in dialogue with stakeholders concerning the future activities of the organization.

As aforementioned in HRM, the role of talents acquisition has been more important to companies than ever, and the market of recruitment software has been growing rapidly. With cloud technology like SaaS, the online recruitment-featuring applicant tracking system is now commonly used by HR professionals because of its efficiency and low cost. For companies or recruiters, it does not require installation, and maintenance is provided by the vendor on the subscription base. Besides, the increasing number of SaaS vendors in the market has driven the price down, making it more affordable for SMEs. For HR staff, it streamlines the recruitment process automatically and centralizes both the data and communications in one place; it can also customize workflow, fields, forms and form layout, and e-mail communication. This significantly improves the recruitment process and the recruiters' productivity. In addition, anybody familiar with Internet browser can use the system, which makes it easy for applicants and executives.

Apart from talent acquisition, talent retention is also being highly valued. Talent retention is supported by learning management system, performance management systems, and compensation systems. Learning management system is an application that administrates, tracks, reports, and delivers training programs. It can automate the process of on-boarding a new hire or off-boarding a retired employee, develop employee skills as well as retain knowledge (Ellis 2009). Performance management applications provide real-time performance tracking, goal setting, and feedback, and it ensures the organizational goals are being continuously met effectively (Ellis 2009). Sometimes performance management is incorporated into learning management system. Compensation management designs reward system for employees' performance, and it is frequently integrated with performance management. These three applications with people-centric feature have been increasingly popular recently, as they encourage employee engagement and retention, and create an employee-centric learning environment (Bersin 2016). Accordingly, in this way, these applications contribute to the creation of business legitimacy in the organization. In the end, they build an agile organization and help companies achieve organizational effectiveness and strategic competence. HRIS types can also be distinguished by its approach of E-HRM. Ruël et al. (2004) recognize three different approaches of E-HRM: (1) Operational – the company focuses on the automation of basic HR administrative tasks, e.g., payroll administration and personal data administration (Table 1).

This can be the result from the adoption of human resource administrator. (2) Relational – the company uses HR tools to support the business processes such as recruiting, on-boarding, off-boarding, and succession planning. This can be associated with the adoption of talents management system streamlining the business processes. (3) Transformational – the company focuses on strategic HRM activities in order to support the organizational change process and strategic reorientation or strategic knowledge and competence management. This can be achieved through integrated sets of HR software that enable the employees to learn and develop in line with the company's strategic choices (Ruël et al. 2004).

It can be seen that the definition of E-HRM types are closely related with HRIS types. That is the result of HRIS adoption and the adoption of a specific HRIS type reflect a company's approach to HRM. A company can choose different approaches and adopt different types of software throughout the time, depending on their business size and needs. These different choices determine the concepts of Corporate Social Responsibility (CSR), ethics, and business legitimacy that are at stake in a particular company.

Table 1 HRIS classification (own elaboration)

E-HRM Approaches	Operational: Administrative tasks	Relational: Business processes	Transformational: Strategic activities
HRIS segments	⇓ Administrator: Payroll, time and attendance, etc.	⇓ Talent Management: recruitment, training, performance management, etc.	⇓ Integrated HR suites

HRIS Adoption in Denmark

According to the report "Market of HR systems in Denmark" (Pedersen 2013), various types of HRIS are adopted by Danish companies, and it is consistent with the development of HRIS and HRM. Traditionally it is a part of ERP, usually used by international corporations, to integrate all the business processes in one system. Later on, as the business software market is booming along with the prevalence of the Internet, HRIS has become gradually specialized as HR operation process management, competence and performance management, or one particular HR function. SMEs in Denmark tend to choose specialized HRIS rather than an ERP suite.

IT Adoption and Diffusion Theories

As HRIS falls in the category of information technologies (IT), the theories of IT adoption and diffusion is applicable here in explaining the phenomenon of HRIS adoption.

The most used theories in this field are diffusion of innovation (DOI) (Rogers 1983), technology-organization-environment (TOE) framework (Tornatzky and Fleischer 1990), technology acceptance model (TAM) framework (Davis et al. 1989), theory of planning behavior (TPB) (Ajzen 1991), and unified theory of acceptance and use of technology (UTAUT) (Venkatesh and Zhang 2010). TAM, TPB, and UTAUT explains individual end-user level of adoption. TOE framework illustrates factors of IT adoption and implementation at firm level. DOI explains how technology adoption and diffusion happens in an even broader context, covering individual, organizational, and social elements. This chapter chooses to use TOE framework in the investigation since TOE framework suggests technological, organizational, and environmental factors drive IT adoption, which is the subject of this chapter. This TOE framework is also the basis for understanding the legitimacy requirements and issues of responsibility and ethics in organizations that work with the adoption of new technology and acceptance of technology. Of course, the kind of technology that is proposed has an impact on the values and leadership philosophies of the organization (Rendtorff 2013a, b, c, d).

TOE Framework and SMEs

TOE suggests three factors of IT adoption: technological context, organizational context, and environmental context.

Technological context describes both internal and external technologies relevant to the firm, and the current internal practices of the firm as well as the available technologies external to the firm. The Organizational context refers to the characteristics and resources of the firm, such as firm size, scope, and managerial structure. Environmental context refers to the arena the company operates its business in –

industry, governmental incentives, and regulations. Even though TOE framework is consistent with DOI theory, TOE framework includes a new component – environmental context, which makes it more comprehensive. Technological factors are often referred as the characteristics of the technology and have been often measured by perceived benefits, which are one major factor determining the adoption of management information system such as CRM and ERP (Alshawi 2010).

The complexity of HRIS is getting lower and lower, as it starts to have more people-centric features, user-friendly interfaces, and easy access. Besides, HR software is segmented by functions. Apart from the technological characteristics, HRIS, as a tool of facilitating organizational management, is inevitably driven by organizational characteristics. Top management support plays a significant role in HRIS adoption, as top managers are the ones making decisions in the organization. Previous research shows that this applies to SMEs as well (e.g., Scupola 2003, 2006, 2009). Top management can include Chief Exective Officer (CEO), Chief Financial Officer (CFO), Chief Technology Officer (CTO), HR manager, marketing and sales manager, etc. All of them contribute to improve the legitimacy of the HR management in the SME organization.

In contrast to big companies, SMEs face some budget constraint, limited economies of scale, requirement of domain-specific technical personnel, and skilled workforce. Thus, SMEs desire cost optimization, high productivity, and top talents. Adopting recruitment software is crucial for SMEs' fast growth, as performance management systems are important for SMEs' to meet their goals and achieve high productivity. Affordable cloud-based HRIS certainly help SMEs save time and money finding high-potential employees and efficiently keep the employees' performance in line with the organizational goals.

Organizational maturity (Sierra-Cedar 2015; Celaya 2015) and organizational readiness (Kinuthia 2014; Malak 2016) are still found important in adoption decision of cloud-based HRIS or other management systems. These two concepts are related, as organizational maturity challenges the organizational readiness for technology adoption (Sierra-Cedar 2015). Finally, organizational HRIS knowledge and expertise is also driving the adoption. This can be indicated by whether the company's organizational structure has HR and IT specialists.

From an external environmental perspective, adoption of HRIS is usually associated with governmental and regulatory reporting requirements for employees and organizational trend such as globalization (Shani and Tesone 2010; Anitha and Aruna 2014). Globalization implies mobility of high-potential talents and intensified competition. A company can easily recruit high-potential talents from foreign countries; however under competition, they have to improve HR service on a global level and optimize cost-savings. This competition's effect in driving SMEs' HRIS adoption is evident in recent empirical research (e.g., Mukherjee et al. 2014). This means that SMEs' challenges of legitimacy and responsibility also have a global dimension (Rendtorff 2017a).

Both basic HR administration and employee engagement require compliance with the regional laws and regulations; HRIS vendors are highly segmented by region and have automatic solutions for compliance. Delivering legal changes in a timely manner, a key requirement for an HR solution, is greatly streamlined (Pruden 2017). This can be a specific reason for HRIS adoption as well, as without automatic compliance the human work of compliance might take time. In European Union, there is requirement for employees' data protection, so that personal information will not be leaked and misused. In April 2016, EU Parliament adopted General Data Protection Regulation (GDPR), and it has been enforced to its member countries since May 25, 2018 (eur-lex.europa.eu, 2018), which includes Denmark. GDPR requires that employers only keep a candidate's information for 6 months and afterwards the employer has to either ask the candidate again for permission to keep it or delete the profile in the database. This specific regulation can be challenging and inefficient to keep compliance with only manual work. HRIS adoption becomes inevitable when a company is actively hiring. As GDPR has only been enforced for the last 2 years, there are very few studies investigating its relation to HRIS adoption. To conclude, the two external environmental factors, competition in talents acquisition and GDPR, can be assumed to be driving Danish SMEs' HRIS adoption. GDPR is accordingly an important challenge to respect the legitimacy of digitalization of companies with HRIS adoption. This implies a conscious protection of basic ethical values of autonomy, dignity, integrity, and vulnerability of the human person (Rendtorff and Mattsson 2006; Rendtorff 2009, 2010).

Case Studies on HRM

When choosing the research strategy, the researcher has to consider three criteria: (a) the type of research question posed, (b) the extent of control an investigator has over actual behavioral events, and (c) the degree of focus on contemporary as opposed to historical events (Yin 1994, p. 4). HRIS adoption happens over time, and the explanation of how it was adopted, how it is perceived, and why is the adoption different needs to be traced over time rather than frequencies. Case studies, experiments, and histories are all suitable for explaining "how" and "why," while case study method is preferred in examining contemporary events, and when the relevant behaviors cannot be manipulated. Using the case study method can cover contextual conditions (Yin 1994, p. 13; Rendtorff 2015), which is highly pertinent in HRIS adoption.

In comparison to single-case design, multiple-case design is more compelling and robust, since it involves replication logic (Yin 1994, p. 45). EU's definition is applied here for SMEs case selection according to which SMEs are companies with number of full-time employees between 11 and 249.

Opinions on Digital HRM

This research has applied multi-method qualitative study. The qualitative data are from multiple sources, including semi-structured interviews, the official pages of the adopted HR software, the companies' websites, the companies' LinkedIn pages, and the business information provider Proff.dk and Bisbase.com. Companies' LinkedIn pages are first scanned to explore case study possibilities, and then used for number of employees and to indicate organizational maturity. The official page of HR software provides information about the software, from which the functions and the purpose of the software can be defined.

Semi-structured interviews are the primary data collection technique because of the nature of the research questions and the study. The interview themes include (1) HRIS classification, (2) management decision of HR software adoption, and (3) HR professionals' perception of the adopted HR software.

In the analysis, relevant data explaining the adoption factors are identified and highlighted in the interview transcripts and then categorized in terms of TOE determinants of HRIS adoption decision. At the same time, relevant secondary data complementing the interview data are also analyzed thus basing the analysis on multiple sources to ensure triangulation.

Determinants for Digital HR Information Systems

The decision-making units of all the four case studies agree on the perceived benefits of HRIS adoption as a significant factor in driving the Danish SMEs' HRIS adoption. The decision-making units also perceive relative advantages, not to be significantly influential in driving the Danish SMEs' HRIS adoption, as only one SME's HR support this relation. Interview data show that other factors such as ownership and partnership could also influence the company's decision in accepting HRIS adoption. Throughout the four cases, both secondary data and interview data confirm the top management support's necessity in accepting or approving SME's HRIS adoption. However, the HR professionals perceive top management's influence on the decision differently at different levels. This could be because HR managers might have different level of influence on the top management, due to the SMEs' different level of centralization and formalization. The findings also show that in the four cases organizational HRIS knowledge, organizational maturity, and expertise have significant influence on the SMEs' adoption decision. One or two companies only mention competition and GDPR as a determinant of SME's HRIS adoption as an influential factor in SMEs' HRIS adoption. This indicates the insignificance of competition as a factor influencing HRIS adoption. Three out of four of the case companies use both human resource administrator and recruitment software to manage HR related data, while one company uses integrated HR systems. Data also confirms the importance of HRIS adoption for increasing legitimacy of business in globalization. Companies can appear more responsible and more ethical by this improvement of their strategies of HR administration.

Correspondingly, three SMEs have relational HRM goals and focus on improving the recruitment process, while one has transformational HRM goal and requires more collaboration among employees. However, it should be noticed that operational goals and relational goals are not exclusive of each other. The data revealed the HR professionals' commonly perceived benefits and complexity in HRIS implementation. The common benefits mentioned include easier recruitment process and automatic workflow as well as ability to grow faster. In relation to the perceived complexity in implementation, the respondents mentioned that the newly adopted HR software are very intuitive and require a few hours to learn, which indicates the low complexity of the recent HRIS. It can be concluded that HR has overall positive perception of the adopted HRIS. Thus, HR sees the adopted HRIS as important for the improvement of business legitimacy of the business organizations.

Discussion and Conclusion

This research is significant, as it addresses a gap in literature regarding the reasons and results of HRIS adoption in Danish SMEs. The results of this study may be useful to academia, HR leaders implementing HRIS, and leaders in SMEs. It can be concluded that perceived benefits of HRIS adoption are significant in driving the Danish SMEs' HRIS adoption. This improves the perceived legitimacy of Danish SMEs in relation to stakeholders in the internal environment of the organization. Moreover, this can have an impact on the external legitimacy of the organization. In addition, the study shows top management support's necessity in accepting or approving SME's HRIS adoption. Organizational HRIS knowledge and expertise as determinants have significant influence on the SMEs' adoption, and company growth is also a determinant of HRIS adoption. Finally, it can be concluded that HR managers have an overall positive perception of their adopted HRIS for both improvement of HR administration and legitimacy of the organization, as they are useful in helping the company grow faster, improving HR work efficiency, and centralizing employee data in one place.

The study finds the TOE factors – perceived benefits, organizational HRIS knowledge and expertise, and top management support, to be significant in driving HRIS SMEs' adoption decision, therefore TOE framework's applicability in HRIS research; it also contributes to understanding legitimacy challenges of HR in advanced business organizations.

The findings also show that factors such as ownership and partnership could also influence the Danish SMEs' decision in HRIS adoption. This might be a theme for further investigation. Adoption of HRIS incredibly improves HR work efficiency, thus decreasing the job opportunities, since the efficiency of HRIS requires less HR paperwork. This helps to improve focus on ethical values and responsibility of the organization.

Therefore, HRM's focus is shifted to the strategic direction. An HR professional should increase his or her ability in strategic HR management. In addition, any one aiming to become an HR professional should keep himself updated with the technology change and HRM needs. Intuitive user-friendly software tends to be adopted fast. Moreover, because of the low cost, companies shift between HRIS vendors often. Therefore, HRIS vendors should continuously improve the product feature to keep the clients loyal. This is an important feature of responsible HR administration with focus on maintaining ethical values and integrity in managing HR. Business legitimacy of HR is dependent on service-oriented and efficient treatment of employees in the organization. HR administrators are required to be more aware of this working with HRIS.

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Part XVI

Business Economics, Finance, Governance, and Business Legitimacy

Finance, Sustainability, and Business Legitimacy

60

Guler Aras

Contents

Abstract

The world faces an increasing number of complex and mutually influential challenges that we have never experienced and cannot cope with our experience so far. The new economic age is an era of unparalleled resources and technological progress, but is also defined as the age of mistrust for a great number of people. This has led to increased requirement to new methods, new business models, and new business strategies to respond to this insecurity. Therefore institutions need to manage their risks in the long run in order to survive. Ethical and responsible behaviors, intellectual capacities, and corporate cultures are crucial for sustainable performance in this turbulent period. It is expected that the institutions that are able to establish the system of values can manage effective information sharing and communication with their stakeholders.

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Sustainability has become one of the most significant topics within the lexicon of corporate endeavor in the light of these developments. While the concept of sustainability is in many instances indicated as fundamental in corporate activity, its definition is still problematic, and its use is so varied. Therefore the concept of sustainability and its dimensions are defined in the business setting at first in this chapter. Then the theoretical framework is also presented in this chapter to clarify why companies disclose their sustainable performance information. Moreover the financial consequences of sustainability implementations of companies are discussed in this chapter. Sustainability should be considered as not solely a process which must recognize the decision being made in the operational activity but also the distributional decisions which are made. Only then, a company can be considered to be sustainable.

Keywords

Finance · Sustainability · Legitimacy theory · Social contract · Stakeholder theory · Institutional theory · Cost of capital · Risk reducing · Distributional problem

Introduction

In recent decades, due to the more volatile, uncertain, complex, and ambiguous (VUCA) conditions, the world faces a growing number of complex and mutually influential challenges that we have never experienced and cannot cope with our experience so far. The Global Risks Report (WEF 2019), which includes the multi-stakeholder approaches of the World Economic Forum, shows how high the risks are, including economic inequality, slowing global development and growth, climate change, geopolitical tensions, and accelerating the Fourth Industrial Revolution. While polarization is increasing in many countries, in some cases, social contracts that keep societies together are wearing down. Therefore, the new economic age is an era of unparalleled resources and technological progress, but is also defined as the age of mistrust for a great number of people. This has led to increased requirement to new methods, new business models, and new business strategies to respond to this insecurity.

In the new economic era, operating in VUCA world influences the direct business models and business strategies of corporations. Although the uncertainty is the only thing that is not uncertain in VUCA world, institutions need to manage their risks in the long run in order to survive. Ethical and responsible behaviors, intellectual capacities, and corporate cultures are crucial for sustainable performance in this turbulent period. It is expected that the institutions that are able to establish the system of values can manage effective information sharing and communication with their stakeholders.

In the light of these developments, sustainability has become one of the most significant topics within the lexicon of corporate endeavor. While the concept of sustainability is in many instances indicated as fundamental in corporate activity (Aras and Ingley 2017), its definition is still problematic, and its use is so varied. Mostly, corporations use this term merely to indicate that continue their existence into the future. In this chapter therefore, the concept of sustainability is defined in the business setting at first. Then this definition is extended with its dimensions (economic, finance, environmental impact, societal influence, organizational culture, and governance) (Aras and Crowther 2007a; Aras 2015b; Aras et al. 2018a, b, c). The theoretical framework is also presented in this chapter to clarify why companies disclose their sustainable performance information. Lastly the financial consequences of sustainability implementations of companies are presented in this chapter.

Business Sustainability

The concept of sustainable development was first identified in 1987 in Brundtland Report, which is also known as *Our Common Future* report, prepared by the United Nations World Commission on Environment and Development (WCED) and became a crucial phenomenon worldwide. In the definition of the United Nations World Commission on Environment and Development, it is stated that “meeting the needs of present without compromising the ability of future generations to meet their own needs” (WCED 1987). According to this definition, it is emphasized that no more of a resource must be used than could be produced. As part of an economic and social system, corporations must take into consideration not merely their effects and consequences in the present but also for the future of the business itself. In that respect, this approach to sustainability is ground on the Gaia hypothesis that describes the codependency of all living substance in ecosphere and a complete system (Lovelock 1979).

In the literature, it seems that there are two assumptions made commonly about the concept of corporate sustainability. The first extremely common confusion is about the terms of sustainability and sustainable development (Aras and Williams 2017; Aras and Crowther 2009a, b). While the pure sustainability signifies the ability to resume in a static manner, it is generally used to express development in a sustainable manner (Marsden 2000; Hart and Milstein 2003). Therefore, sustainability and sustainable development terms are mostly used as synonyms. The second is that sustainable company exists only by recognizing environmental and social matters and by involving them in strategic planning. On contrary to this common assumptions, Aras and Crowther (2008) emphasized that sustainable activity is an activity where current decisions do not restrict future options. If this belief of sustainability is accepted, it follows that development is neither a necessary nor desirable aspect of sustainability.

It is crucial to acknowledge the realities of global environment in so far as the organization is definitely stated in a global environment which inevitably takes into consideration not only the present but also the past and the future as well (Aras and Crowther 2007c). This effectively distinguishes stakeholders both in the present and in the future. Sustainability therefore involves a positive and negative distribution of impacts, which will eliminate the conflict between them and give attention to the future as well as to the present. Therefore, short-termism is no more acceptable for sustainability.

At first in the beginning, sustainability was seen as a concept that requires companies to be sensitive to the environment and to reduce their negative impacts on the environment. However, over the time this approach has been replaced by an approach that advocates the balanced consideration of the economic, environmental, and social objectives of the companies, which are defined as three pillars of sustainability. With triple bottom line concept introduced by John Elkington in 1997 for the first time, traditional accounting was expanded to include financial performance as well as social and environmental performance. According to this approach, the neglect of one of these three areas will endanger all company operations and future.

One of the first studies on this subject, Ranganathan (1998), in his study, emphasized the indicators of social, environmental, and economic performance of companies. These indicators are represented as competitive advantage, environmental management systems, supply chain, credit and investment opportunities, shareholder expectations, international standards, innovation efforts, competitive pressure, and reporting activities. Based on these criteria, social, economic, and environmental indicators should be connected. Similarly, Fricker (1998) argues that the sustainability of firms should be evaluated according to their economic, social, and environmental conditions. Despite the small number of economic indicators, it has been studied on to decide which indicator can truly measure sustainability. While social indicators are grouped under five headings, environmental indicators are examined under three main headings (air, land, and water) in his study. In Atkinson's (2000) study, the concept of corporate sustainability is dealt with in detail and developed various assumptions. In this study, the determination and measurement of corporate sustainability have been realized by determining the efficiency of investments in spite of the damage caused to the environment, and the effect of electricity production on air pollution has been evaluated financially.

The majority of sustainability analysis (e.g., Dyllick and Hockerts 2002) involves environmental and social of dimensions. However, there are a few studies (e.g., Spangenberg 2004) involving the dimension about organization behavior. Restricting analysis to environmental, social, and organization behavior dimensions is not sufficient (Aras and Crowther 2007b). Most studies in the area of corporate sustainability do not accept the need to acknowledge the importance of financial performance as an essential part of sustainability and therefore cannot perform financial analysis as well as other forms of analysis. Aras (2015a) and Aras and Crowther (2007c) argue that the financial dimension is a fundamental aspect of corporate sustainability and therefore adds a new dimension to sustainability analysis. They also argue that the third dimension, which is sometimes considered to be an organizational behavior, should actually include a broader corporate culture. For this reason, sustainability has four dimensions that need to be recognized and analyzed:

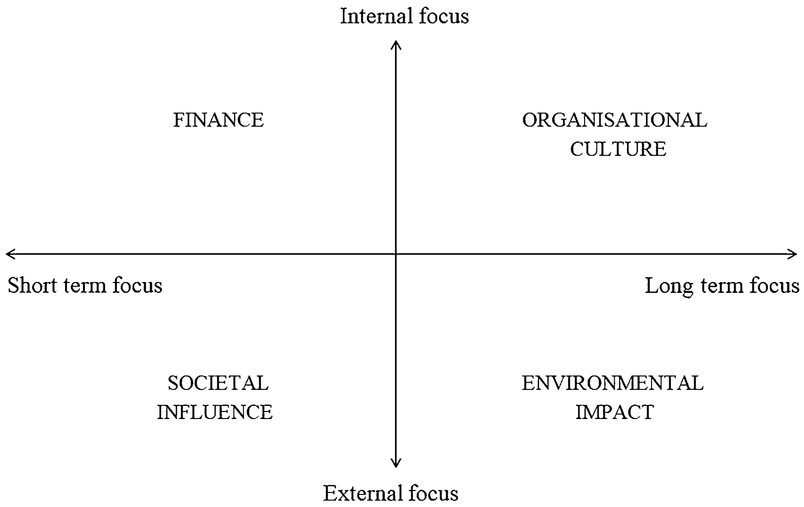

Fig. 1 Model for evaluating sustainability

- ***Societal influence*** expresses that society makes an impact upon the corporation regarding the stakeholder influence and social contract.
- ***Environmental impact*** expresses the effect of the activities of corporation upon its geophysical environment.
- ***Organizational culture*** expresses the relationship between the corporation and its internal stakeholders, especially employees, and all respects of that relationship.
- ***Finance*** expresses an adequate return for the level of risk undertaken.

Recommended by Aras and Crowther (2007a, c), four-dimension sustainability model is substantially inclusive and more complete than the others. These four aspects are represented in a two-dimensional matrix through internal-external focus and short-term-long-term focus poles as the model above model (Fig. 1).

In addition to these dimensions, Aras et al. (2017, 2018a, b, c) evaluate sustainability performance with an extended model including five dimensions of sustainability. This extended sustainability model takes into consideration environmental, social, governance, finance, and economic dimensions (Fig. 2).

Corporate Sustainability Performance Disclosures: Theoretical Framework

Considering sustainability in the level of enterprises, the recent transformation is remarkable. When the changes in the market value components in the last 40 years are analyzed, it is observed that the proportion of intangible assets increased from 17% to 87% (Ocean Tomo LLC 2015). A significant percentage of the market value

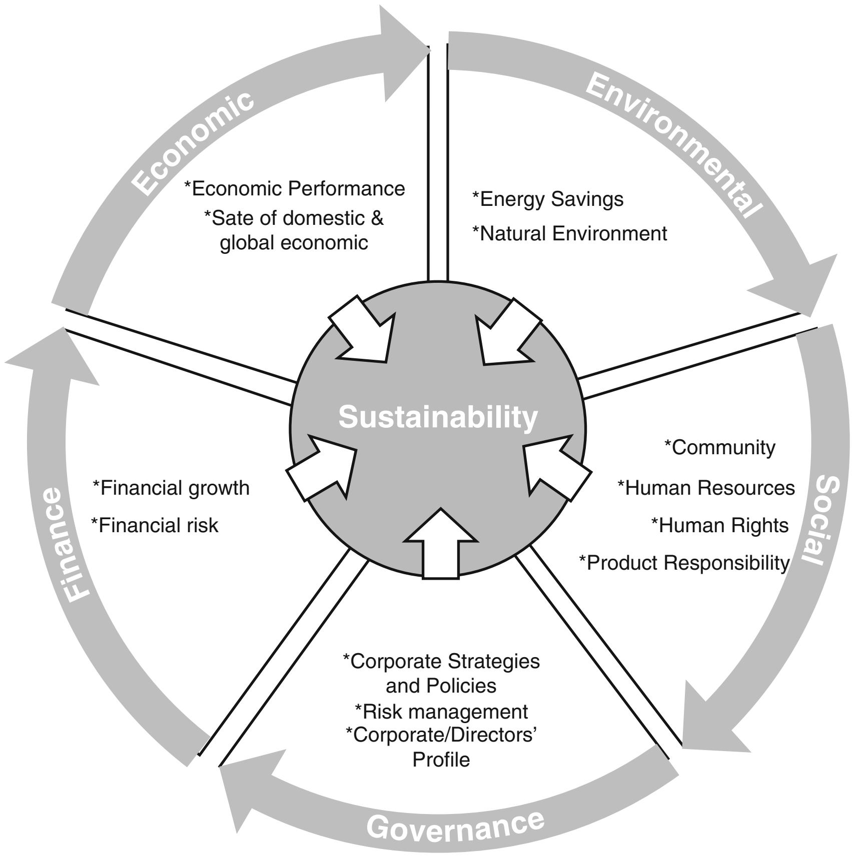

Fig. 2 Multidimensional sustainability model

components consist of intangible assets such as strategy, corporate trust, reputation, risk management, human capital, legitimacy of operations, and supply chain. This significant change in tangible and intangible values shows that the financial statements alone do not include a significant portion of the value of the companies. This change and transformation also leads to the development and growing of sustainability disclosures.

Although corporate sustainability reporting is mostly a voluntary implementation, today 93% of the world's 250 largest companies and 75% of the 4900 companies covering the top 100 companies in 49 countries disclose their sustainability performance (KPMG 2017). It has been a growing number of researches regarding why companies disclose their sustainability performance information with their stakeholders even though it is not mandatory. In the theoretical perspective, several motivations lead companies to disclose their sustainability information voluntarily (Fig. 3).

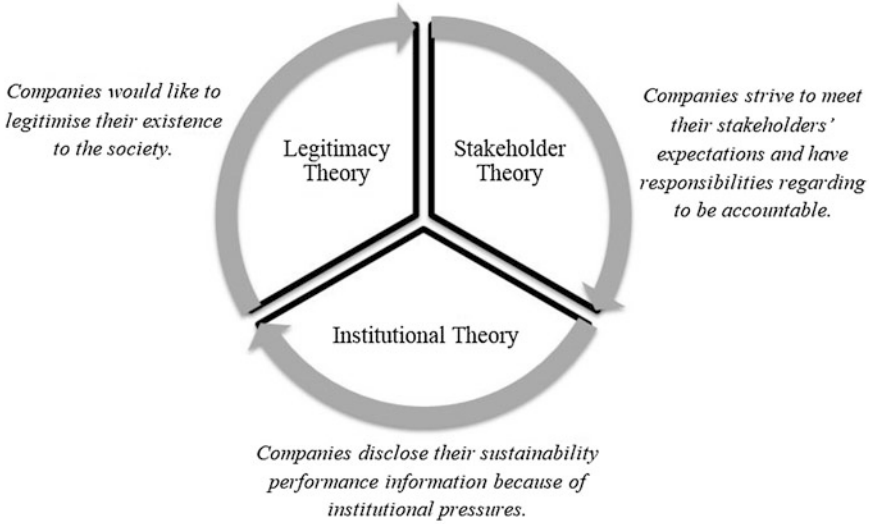

Fig. 3 Corporate sustainability performance disclosures: theoretical framework

Legitimacy Theory

Companies Would Like to Legitimize Their Existence to the Society

In the last quarter of the century, an increasing number of researchers have acknowledged that the activities of an organization have influenced the external environment and that such an organization is therefore not only solely responsible for its stakeholders but also wider audience. This proposal probably appeared in the 1970s for the first time by some authors who raise concerns about the social performance of companies that are part of the society. Thus these authors expressed that the company's performance should be addressed more broadly. Ackerman (1975) argues that the large business accepts the requirement of adapting to a new social responsibility environment but that the orientation of the entity to financial results hampers social sensitivity. On the other hand, McDonald and Puxty (1979) state that companies are no longer solely responsible for their shareholders. Since they exist in society, they have responsibilities to this society as well. Thus there is a shift toward more accountability of companies to all participants. In addition to all these views, Rubenstein (1992) argues that there is a requirement for a new social contract between a company and its stakeholders.

Guthrie and Parker (1989) refer that this theory can be used as a contract between society and companies, whereby the latter adopt social behaviors for gaining social approval. In line with *legitimacy theory*, that "social contract" is used for regulating the relationship between a company and society. Considering this contract, the company has to meet some requirements toward society in return for gaining the approval of the society. For instance, to enable the society to assess the company's sustainability performance, the company would provide information about its

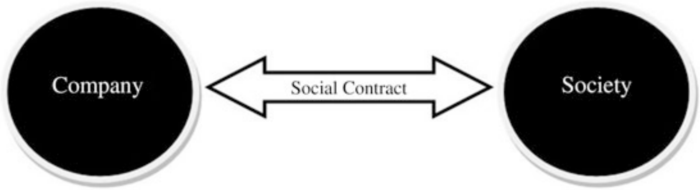

Fig. 4 The social contract

sustainability performance to society; otherwise, the society would assume this action as a breach of the "social contract" (Fig. 4). "Social contract" in turn led to the development of stakeholder theory.

Stakeholder Theory

Companies Strives to Meet Their Stakeholders' Expectations

Freeman (1984) defines the concept of stakeholder as "any group or people that may affect the company in achieving its objectives or that may be affected by the company's achievement." Thus, the stakeholder concept encompasses all groups that affect business activities Sternberg (1997). Stakeholder approach is a philosophy that takes care of employees, customers, suppliers, and shareholders and takes their expectations and needs into account. In line with *stakeholder theory*, a company's stakeholders have rights to the information about company's sustainability performance. Furthermore, Freeman et al. (2000) argue that stakeholder theory helps position sustainability management in a bigger picture and sustainability enters the debate on "values-based capitalism." Therefore, stakeholder theory provides an important support for business persuasion, which is why companies should adopt a corporate sustainability approach and why companies should disclose their sustainability performance information with their stakeholders.

Companies Have Responsibilities for Their Stakeholders Regarding to Be Accountable

In terms of the rights of stakeholders as mentioned in the stakeholder theory, Gray et al. (1996) have taken account of this from the perspective of accountability. In their *accountability model*, it is considered that companies have responsibilities to share their activities or inactivities not only because of the demand of stakeholders for information. According to accountability model, regardless of whether society demand or not for accountability information from the company, the company is still bounden to disclose this information to society. Therefore, it would be simplistic to assert that accountability model is based on the concept of social contract. In accordance with accountability model, there are two types of social contract: explicit terms and implicit terms. While the explicit terms are the laws, implicit terms are society's expectations. Thus, companies view corporate reports as a communication tool disclosing their accountability information to society both for explicit and implicit terms.

Institutional Theory

Companies Disclose Their Sustainability Performance Information Because of Institutional Pressures

Institutional theory explores the external pressures that influence the behavior of companies to adopt certain organizational practices (Hirsch 1975). Basically, that theory investigates the forms of companies' practices and clarifies why companies within a particular field have similarities in practices owing to the institutional pressures. Institutional theory supports legitimacy theory, but while legitimacy theory argues companies' strategies for achieving legitimacy, institutional theory considers companies' practices adopted to achieve it. The main reason of why researches on corporate sustainability reporting use institutional theory is that it complements legitimacy and stakeholder theories by ensuring insights for how companies react to institutional pressures. In the meantime, there is another significant reason for adopting institutional theory in corporate sustainability reporting studies. This reason is that the theory integrates organizational practices to the expectations of the society.

Corporate Sustainability Performance and Financial Consequences

In the literature, there are several studies examining the relationship between corporate sustainability performance and financial performance. The majority of these studies have been evaluated together in a comprehensive meta-study by Oxford University and Arabesque Asset Management Company (2015). In this study, a strong correlation has been found between corporate sustainability and financial performance according to meta-analysis results. Eighty percent of the resources examined show that the shares of companies with good sustainability practices are affected positively. However, 90% of these researches indicate that appropriate sustainability standards reduce the cost of capital, and 88% show that integration of ESG (Environmental-Social-Governance) practices into the companies' activities and strategies positively affects the performance of the company.

Cost of Capital

In the financial world, the cost of capital of any company is considered to be related to the perceived risk of investing in that company. In other words, there is a direct relationship between the risk of an investment and the expected returns from a successful investment. Therefore, it is generally accepted that more established and larger companies are a more precise investment and therefore have a lower capital cost. The cost of capital decreases as the certainty of returns increases. These are all recognized in the functioning of financial markets in the world and financial theory. Thus sustainable companies will be less risky than a company that is not sustainable. As a result, most large companies in their reporting disclose sustainability information and often show distinct characteristics. In fact, it is noteworthy that extractive industries, which by their very nature will not be sustainable in the long term, make sustainability a very important issue. Although the most important example of this is a very small part of its main activities, it can be seen in oil companies, which have a renewable energy feature and which are busy with redesigning themselves from oil companies to energy companies.

Mostly, companies do not really address real sustainability issues, but only create the image of sustainability (Aras and Crowther 2008). Therefore, the language of the statements made by companies tends to be used as a tool to disrupt thought (Orwell 1970) by using it as a tool of preventing thought about the various alternative realities of organizational reality. Significantly, it creates a security image for investors and thus reduces the cost of capital for such companies. This language should be considered semiotic as a way of creating the impression of true sustainability (Barthes 1973). When such an analysis is used, signification relates to the inclusion of the organization in the selected audience for comparative reports that the signification provides a common understanding with the authors. This is based on the acknowledgment of the approval code used to define the corporate activities in this way. As Sapir (1949) states:

> *... we respond to gestures with an extreme alertness and, one might almost say, in accordance with an elaborate and secret code that is written nowhere, known by none and understood by all.*

Risk Reducing

The methodologies for the assessment of risk are deficient in their evaluation of risk – especially environmental risk. The starting point for fully integrating environmental costs and benefits into the investment analysis process should be the definition of the cost and income types that should be included in the evaluation process. Once such costs are identified, it becomes possible to measure these costs and to include qualitative data on lesser material benefits that are not easily subject to quantification. Completion of an environmental audit will improve and facilitate understanding of relevant processes. When considering environmental benefits, unlike financial benefits, it is significant to select an appropriate time horizon to ensure that these benefits are recognized and accrued. This can mean a very different time horizon than which is determined merely by the requirements of financial analysis.

Once all data have been identified and aggregated and quantified, it becomes possible to incorporate this data financially into an assessment that includes more consistent risk. It is significant to recognize the costs as well as the benefits, and perhaps it is worth repeating that most of these benefits are less quantitative and less concrete and less relevant. For instance:

- Advanced company or product image – this may lead to increased sales.
- The benefits of health and safety.
- Ease of attracting investments and reducing the cost of these investments.
- Better society relationships – this can lead to easier and faster approval of plans.
- During the process of planning.
- Improved relations with regulators in relevant cases.
- Improved motivation among employees, higher productivity, and lower staff turnover.
- And therefore, lower training and recruitment costs.
- Enhanced image and relationship with stakeholders.

Most listed benefits above are not merely intangible but also take time to take place. Therefore, there is a requirement to choose an appropriate time horizon for the assessment of risk and associated effects. This time horizon is likely to be longer than traditional financial assessment. Definitely, cash flows should be taken into account at that time, and an appropriate evaluation method (e.g., a discounted cash flow technique) should be used in the assessment. None of this will change with the inclusion of environmental accounting information, except for the evaluation of risk and its relevant impact on the cost of capital, which is expected to occur when calculating the actual measure of the environmental impact.

Therefore, the steps involved in introducing environmental accounting into the risk assessment system can be summarized as follows:

- Identify environmental impacts in terms of costs and benefits.
- Measure these costs and include qualitative data on less tangible benefits.
- Use appropriate financial indicators.
- Determine an appropriate time horizon to ensure full environmental impact.

The Distributional Problem

However, it is obvious that any actions realized by an organization will have an impact not only on itself but also on the external environment in where the organization operates. Considering the impact on the organization's external environment, it should be acknowledged that this environment includes both the business environment in which the firm operates and the local social environment in which the organization is located and the wider global environment. This effect of the organization can be realized as many forms, including:

- Use of natural resources as part of production processes
- The impact of competition between itself and other companies in the same market

- Enrichment of a local community through the providing employment opportunities
- Conversion of landscape due to raw material extraction or waste product storage
- Distribution of the wealth created within the firm to the owners of the firm (through the dividend) and the workers of that firm (with wages) and the effect of this on the welfare of individuals

According to these examples, it can be seen that an organization can have a crucial impact on the external environment and it can really change its environment. It can also be seen that these different effects can be seen as useful in some cases and in other cases as harmful to the environment. In fact, the same actions can be seen as useful for some people while be seen as harmful by some. For this reason, it is for this reason that planning investigations, which take into account the possible effects of the suggested actions by a company, find the ones that are in favor and those who oppose them. This is, of course, due to the fact that the evaluation of the effects of an organization's activities on the environment is evaluated differently by different people.

For this reason, a company has been fully involved in its activities because it has such wide-ranging impacts. Thus, one of the key aspects of sustainability concerns the dissemination of the effects of its actions. The traditional approach to this was to record the profit as an internal of the organization and to treat it as an externality that should be ignored. Hence, the only discussion was related to the distribution of profits from institutional activity: to the owners as a risk handling return, as a reward for managers to profit, and to maintain future profitability.

Of course, such an approach ignores two aspects of corporate activity:

1. It is probable to gain an increase in profit by externalizing costs (as recorded by accounting).
2. It is not realistic to make a profit for other stakeholders – either active or passive – without making cooperation.

Therefore, the social accounting approach is to acknowledge all costs and benefits arising from the activities of a company and to focus on the distribution of them to ensure the all stakeholders' satisfaction – a common satisfactory approach in the social accounting literature. The basic principle is that if all stakeholders are satisfied, then the conflict between them will end and everyone will collaborate for mutual benefit.

Hence, there has been a growing concern about the performance of companies in a larger field than the stock market and the created value for shareholders. Fetyko (1975) regarded social accounting as an approach to reporting the activities of a company and underlined that it is necessary to identify socially responsible behaviors, to identify those responsible for the company's social performance, and to develop appropriate measures and reporting techniques. Klein (1977) regarded social accounting and defines that separate aspects of performance are distinguishing between stakeholder groups such as investors, society relations, and philanthropy.

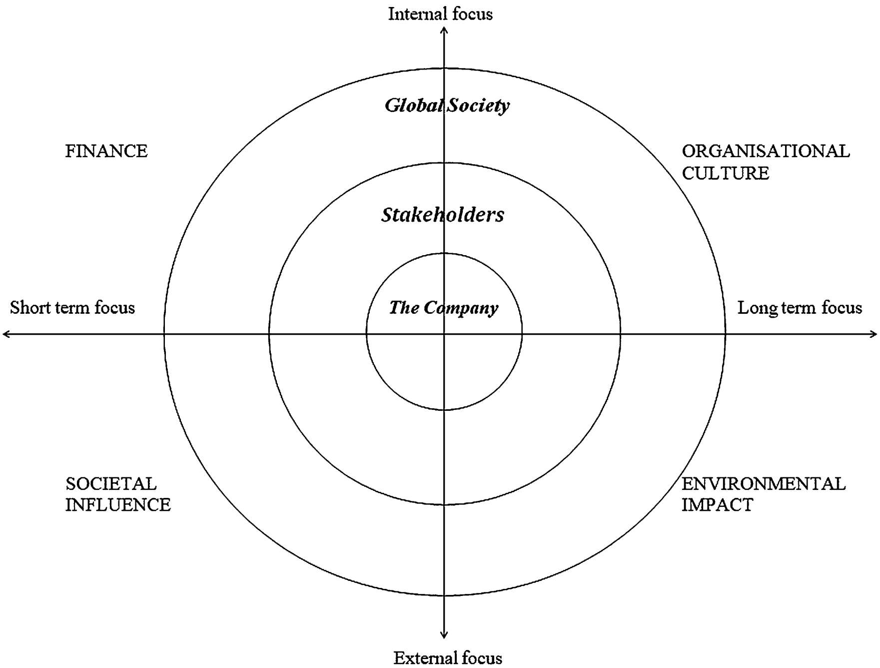

Fig. 5 Model of sustainable distribution. (Aras and Crowther Aras and Crowther 2009b)

Klein also considered different topics for assessment such as nonmonetary values, environmental impact, and consumer surplus. These authors, implying without considering the reason for believing that it is important to measure social performance, Solomons (1974), evaluated the reasons for objectively measuring the social performance of a company. He argued that while one reason is to help make decisions rationally, another reason is a defensive nature.

Thus, sustainability therefore requires the distribution of influences – positive and negative – in a way that eliminates conflict between all of them and pays attention to the future as well as today. Therefore, a short-term approach is no longer acceptable for sustainability, and Fig. 5 shows a proposed approach to sustainability in terms of sustainable distribution.

Conclusion

Sustainability has been a crucial concept for a business and surviving its existence. The term of sustainability is also essential for the surviving its existence not solely for actual economic activity but also for global environment. Hence this process includes both of making decision about operational activities of the company and distributional decisions.

Revealing the different theoretical perspectives, several motivations lead companies to disclose their sustainability information voluntarily and adopt sustainability practices. Sustainability reporting becomes particularly important in the legitimacy processes, contributing to the enhancement of credibility with all stakeholders. Additionally, undertaking not only the financial aspects but also the ESG aspects and voluntary disclosures has a significant contribution for achieving the objective of legitimacy in business environment.

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Transaction Cost Theory and Business Legitimacy

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Josef Wieland and Dominik Fischer

Contents

Abstract

The importance of business legitimacy is continuously increasing. Beyond economic interests, companies are incorporating social responsibility and human rights management on both a voluntary and an obligatory basis, thereby strengthening their legitimacy. From a scientific perspective, there is potential for further

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research to combine economic theory and the concept of business legitimacy. The following discussion aims to develop an approach in this direction, presenting literature from the fields of business legitimacy as well as transaction cost theory and integrating these. Three different levels (the institutional, the organizational, and the individual) are observed in this context. The discussion indicates that business legitimacy particularly impacts transaction costs in a positive and negative way. A possible mechanism for gaining legitimacy and reducing transaction costs is a stakeholder advisory board in combination with a values management system. In this emergent field for research, these findings can be further developed and discussed in the context of various situations. In practice, it is important to consider stakeholders' norms and values when conducting transactions. When organizations are increasingly likely to undertake sovereign tasks, or when legal enforcement is weak, especially in a global context, the legitimacy of organizations' transactions becomes relevant. The clear distinction between legitimacy, which is determined by ethical expectations, and legality, which refers to public regulation, is of paramount importance in this discussion.

Keywords

Transaction cost economics · Business legitimacy · Institutional economics

Introduction

The relationships between society and the business world are not limited to economic aspects (see Wieland 2014, 2018; Warren 2003). Corporations are organizations within society, and, thus, a society's set of norms and values affects its corporations (e.g., Rendtorff 2009, p. 13). The transactions of an organization are granted social legitimization in return for their successful integration of private and social value generation (see Wieland 2017a, p. 237). These organizations must and can evaluate their existence and their transactions on the basis of the combined observation of the communication of the market, the communication of other organizations, and the communication of actors in society (Wieland 2018, p. 107). Nonconformity with a society's values leads to a firm's exclusion from the spheres of legitimacy (Rendtorff 2009, p. 154). In an organizational context, legitimacy impacts reputation which in turn facilitates resource access (see Rao 1994, p. 32; see also Zimmerman and Zeitz 2002).

As Wieland (2017a, pp. 237–238) elaborates and, thereby, applies the following arguments, modern economic theory refers to corporations and their relations to society and politics, which emerged in the context of the development of organizational economics (see Gibbons and Roberts 2013), the economics of governance (Tadelis and Williamson 2013; Williamson 2005), and the theory of negative external effects (Kitzmueller and Shimshack 2012). One driving force triggering this development is the economic, political, and social change occurring within the processes of global value chains. Firms, as collective actors facilitating and promoting the cooperation of individual actors, play an essential role in transactions. For this reason, decisions are made not only about the returns and costs of value creation but also about the social legitimacy of the firm's existence (see Wieland 2017a for the aforementioned outlines; also Wieland 2018). Transaction cost economics (TCE) has, over recent years, become a diverse and interesting field for research and is highly relevant in this context. Currently, it is according to David and Han (2004, p. 39) "one of the leading perspectives [. . .] in organizational studies".

A large body of literature has underlined the importance of legitimacy for organizations (for an overview and a discussion see e.g., Deephouse and Suchman 2008; Suchman 1995; Vidaver-Cohen and Brønn 2008; Rendtorff 2009; Baumann-Pauly 2017). In this discussion, it is crucial to distinguish between the concepts of legitimacy, which refers to adherence to the values and norms of society (see Suchman 1995; Beetham 2013, p. 21) and is therefore an informal institution, and legality, which refers to adherence to the law and is a formal institution (see North 1991 for a distinction). The discussion later in this chapter considers this issue and explains the differences between the two concepts in detail.

Transaction cost theory (e.g., Williamson 1979, 1985, 1991, 2005) is particularly important when private ordering is involved (see Wengler 2005, pp. 125–126), and this is the case with the legitimacy concept. The joint observation of TCE and business legitimacy is critical for a better understanding of both. This discussion requires a link to the theory of the firm, which is mainly concerned in our perspective with *The Nature of the Firm* (see Coase 1937) as well as particularly with the characterization of the firm as "a nexus of stakeholders" (which centres the resources provided by a firm's stakeholders) (e.g., Wieland 2014, p. 105–120; 2018) and covers the firm's emergence and relationship to the market with a strong reference to transaction cost theory. Transaction costs are associated with transactions' arrangement, execution, and monitoring (see e.g., Williamson 1985; Ebers and Gotsch 2006 for a discussion). Legitimacy can lower the costs of initiating (e.g., search costs or reputation costs) and executing (e.g., trust in situations of uncertainty) a transaction (see also Kumar and Das 2011, p. 303), while, at the same time, legitimacy increases monitoring costs (e.g., evaluation costs of legitimacy drivers).

The issue of the legitimacy of transactions arises during the observation of corporations in particular, because they are, on the one hand, organizations for the pursuit of private interests, but, on the other hand, they are organizations in the society with which the society's economic transactions are performed (Wieland 2017a, 2018, p. 141).

In the following discussion, the main focus is an approach to a combination of TCE and business legitimacy. A sound understanding of TCE is indispensable for building the connection. Therefore, the chapter begins with a brief overview of TCE and an introduction to its basic concepts. This is followed by a discussion of the determinants of transaction costs and a characterization of the institutional arrangements that provide the framework for the execution of transactions (see Ebers and Gotsch 2006 for an overview on these arguments). To illustrate the relationship between transactions and the existence of corporations, the theory of the firm with an emphasis on the perspective of the "firm as a nexus of stakeholders" (Wieland 2014, 2018) is part of this discussion. After presenting the relevant TCE literature, business legitimacy is briefly described, but only at a general level and in sufficient detail to allow the most important aspects for the subsequent discussion to be introduced. After a discussion of the relevant literature, the main part of this chapter starts and is focused on a combination of business legitimacy and TCE as well as observations on the impact of different legitimacy levels (individual, organizational, and institutional) on transaction costs. This part of the chapter also discusses the distinction between legitimacy and legality. Finally, possible mechanisms for ensuring business legitimacy are presented.

Fundamentals of Transaction Cost Economics

The following section focuses on the fundamental issues of TCE. It is mainly based on and summarizes the discussions of Wieland (2014, 2018) and Ebers and Gotsch (2006). John R. Commons (1932, 1934) realized at an early stage the importance of moving beyond simple exchanges in the market (as in Tadelis & Williamson, 2013, p. 160; for the arguments on Commons here and in the following, see Wieland 2014; 2018). He describes as a fundamental problem of economic organization that "the ultimate unit of activity [. . .] must contain in itself the three principles of conflict, mutuality, and order. This unit is a transaction" (1932, p. 4; as in Tadelis & Williamson, 2013, p. 160; Wieland, 2014, p. 5). Commons defines a transaction as the "transfer [of] ownership under the 'operation of law'" (Commons 1950, p. 45).

He, thereby, shifts the focus of analysis from a system-oriented exchange and price mechanism to the transaction as a relation. In doing this, he connects economics, ethics, and law (see Commons 1934), and, as a result of this shift, legal, economic, and ethical aspects of exchange are at the same level of analysis (see Wieland 2014, 2018 for a discussion). An economic transaction occurs through the integration of different decision logics (e.g., law, economics, and ethics) and different actors who succeed in dealing productively with their interdependencies, because they are organized in a way that enables to respond appropriately to them (e.g., Wieland 2018, p. 38).

Without taking the ethical component into account, Oliver E. Williamson (1979, 1985, 1991, 2005) extends this framework and creates his economics of governance. The core of transaction cost theory is the cost comparison of alternative forms of the governance that provides the framework for the execution of transactions (see Wieland 2014, 2018; Ebers and Gotsch 2006 for a discussion). Two dimensions characterize the institutional arrangements: first, the mechanisms through which the transaction is governed and, second, the contractual form, which explicitly and implicitly determines the transaction framework (see Ebers and Gotsch 2006 for a detailed discussion, also for the following arguments). Actors choose the most cost-effective arrangement.

TCE distinguishes, as Ebers and Gotsch (2006) analyze based on Williamson (1985, p. 20), basically transaction costs ex ante, such as information and search costs or negotiation and contracting costs, from transaction costs ex post such as monitoring or adaptation costs (see Ebers and Gotsch 2006, p. 278). It is difficult or even impossible to predict the exact cost of a transaction in advance. However, this is not required since transaction cost theory is not concerned with a specific transaction's total costs but only with its relative costs comparing several institutional arrangements (ibid. p. 277). Transaction cost theory is concerned with the organization of the entire transaction process (see ibid.). The costs of a specific transaction are now discussed in more detail.

Determining the Costs of Transactions

To gain a better understanding of the drivers of transaction costs, this brief overview based on Ebers and Gotsch (2006; see ibid. also for further literature) introduces mainly the arguments of Williamson (1985). The characteristics of the institutional arrangement and the characteristics of a transaction determine the relative costs of a specific transaction. The three distinctive characteristics of a transaction are (I) frequency (Williamson 1985, pp. 60–61), (II) uncertainty (ibid. pp. 56–60), and (III) asset specificity (ibid. pp. 52–56) (see Ebers and Gotsch 2006, pp. 281–284; Tsang 2006, p. 1001).

(I) Frequency: As the frequency of identical transactions increases, the costs per transaction decrease. Williamson (1985, p. 60) discusses *specialized governance structures* that involve high costs and, therefore, should be used for in connection with recurring transactions to compensate for their cost. This phenomenon is due to synergy effects and economies of scale. The rise in frequency allows a more efficient design of institutional arrangements lowering transaction costs (see Ebers and Gotsch 2006, pp. 283–284).

(II) Uncertainty: Williamson (1985) considers two kinds of uncertainty – parametric (p. 59) and behavioral (p. 57) (for a discussion, also on the following points, see Ebers and Gotsch 2006, pp. 282–283). Situational conditions and their future developments cause parametric uncertainty, whereas behavioral uncertainty results from the possibility of opportunistic behavior by the transaction partners (ibid. p. 282). The behavioral uncertainties are further differentiated and are thus categorized more precisely. Ebers and Gotsch (2006, pp. 282–283) discuss Williamson's (1985) categorization applying the following citations. First, there is adverse selection (Williamson 1985, e.g., p. 47), which describes the uncertainty over whether the counterpart is capable of completing the transaction (Hart and Holmström 1987). Second, there is moral hazard and holdup, which impact on whether the transaction will be executed (Fama and Jensen 1983). Third, there is uncertainty about whether the transaction was fulfilled, which is mainly due to measurement and attribution problems (Alchian and Demsetz 1972).

(III) Asset specificity: Transaction-specific investments (see Williamson 1981, pp. 559–560) are investments made in the context and for the specific purpose of the transaction. Examples are site, human and physical asset specificity (see also Williamson 1983, 1991). On the one hand, transaction-specific investments reduce transaction costs through the realization of specialization advantages, but, on the other hand, they provide a driver for transaction costs because they increase dependency on the transaction partner (Ebers and Gotsch 2006, p. 281). In such a case, input factors are tailored to a specific transaction and have only a reduced value for an alternative use (see ibid. pp. 281–282 for a detailed discussion).

Based on these three variables, actors decide which governance structure is most suitable for the execution of a specific transaction, as will be discussed in the following paragraphs.

Characterization of Institutional Arrangements

The various institutional arrangements are also briefly described based on Ebers and Gotsch (2006). The consideration of institutional arrangements requires a discussion of the theory of contracts. Transaction cost theory distinguishes three institutional arrangements on the basis of contract theory. In this way, Williamson (1985) builds mainly on the works of Ian R. Macneil (e.g., 1978, 1987) to characterize three types of contracts: classical, neoclassical, and relational ones (see Ebers and Gotsch 2006, p. 284–285).

Classical contracts (see Ebers and Gotsch 2006, p. 284; Williamson 1985, p. 69) form the structure for discrete market transactions as an instrument to coordinate the interests of the affected participants). They precisely determine the conditions of the transaction and the specific object (good or service). Apart from some essential communication required for the execution of the transaction, there is no further coordination between the respective actors (cf., Macneil 1987). The transaction is conducted based on rules defined ex ante, with no additional commitments. Incentive mechanisms support the efficient execution of the transaction (Williamson 1985, p. 69).

A more open form of contract is the neoclassical contract (see Ebers and Gotsch 2006, pp. 284–85; Williamson 1985, pp. 70–71). Whereas the classical contract determines all the parameters of the transaction, actors using a neoclassical contract expect a need for further adjustment during the transaction. Neoclassical contracts allow decisions and coordination between the transaction partners during the transaction process (Ebers and Gotsch 2006, p. 285). Therefore, neoclassical contracts allow cooperation between the parties (Wieland 2018, p. 55). Neoclassical contracts are often an indicator of a long-term relationship between organizations, also “under the conditions of uncertainty” (Williamson 1985, p. 70).

Relational contracts enable long-term exchange relationships between transaction partners embedded in social complex relationships (Ebers and Gotsch 2006, p. 285, see also Williamson 1985, pp. 71–72). The roles that actors accompany may play an important role in relational contracts (Wieland 2018, p. 50). The ex ante definition of mutual obligations is more open for these contracts than for those previously discussed (see Macneil 1978). The entry into the long-term relationship requires joint decisions, bilateral exchange processes, and conflict resolution by the transaction partners without third-party enforcement (Macneil 1974; Williamson 1991) (as discussed by Ebers and Gotsch 2006).

The various institutional arrangements protect the transaction partners from opportunistic behavior in different ways. They also cause the costs incurred in executing the transaction to vary. Examples of these costs are monitoring costs or enforcement costs. The costs depend on how the arrangements are structured and on whether they solve transaction problems cost-effectively and encourage the efficient use of resources (see Ebers and Gotsch 2006, pp. 285–286).

After this brief outline of institutional arrangements, it is critical for the arguments that follow to describe the relationship between transactions and the nature of the firm.

The Nature of the Firm and the Link to Transactions

Firms are a critical pillar of the market because they enable actors to better cope with uncertainty what is discussed in transaction cost theory (Williamson 1985 as discussed by Freiling 2013, p. 29). Researchers go so far stating "that the scope of firms is determined exclusively by transaction costs" (Becerra 2009, p. 47). Thus, the theory of the firm is closely intertwined with TCE. Firms emerge as an alternative form of governance to the market, when the market does not provide a better alternative (see also Jensen and Meckling 1976, p. 310). In this connection, Ronald Coase (1937) elaborates in his article *The Nature of the Firm* why firms exist. Coase argues that firms exist due to the aim of avoiding costs when using the market. Inside the firm transaction costs are, according to him, widely negligible what makes the firm an alternative to the market (Dariot and Nascimento 2008, p. 19). Because of the transaction costs arising from imperfect information in the market ("to determine the size of the firm, we have to consider the marketing costs (that is, the costs of using the price mechanism)" (Coase 1937, p. 403)), entrepreneurs internalize transactions (also see Johnson and Turner 2003, p. 110). Therefore, the "distinction between the allocation of resources in a firm and the allocation in the economic system" (Coase 1937, p. 389) is thoroughly discussed in the theory of the firm. Jensen and Meckling (1976, p. 310) state that "[i]t is important to recognize that most organizations are simply legal fictions which serve as a nexus for a set of contracting relationships among individuals" (ibid., p. 310). The firm is, therefore, a vehicle serving as a governance structure for realizing transactions between and by its stakeholders (see also Wieland 2014 for a discussion of the firm as a nexus of stakeholders).

Business Legitimacy

The previous discussion outlined the main points of TCE and highlighted the fact that TCE is mainly concerned with comparing alternative governance forms for conducting transactions (see Ebers and Gotsch 2006). The primary criterion is the efficient structuring of transactions according to economic logic. However, empirical studies and comprehensive discussions have demonstrated that the role of corporations has shifted from a solely economic one (acting as an institutional arrangement for conducting economic transactions in the most efficient way) towards contributing to broader societal issues (Wieland 2014, 2017a, b, 2018, see e.g., Walsh et al. 2003 as noted in Baumann-Pauly 2017) which also impact the discussion of legitimacy (see Baumann-Pauly 2017 for a discussion and also Wieland 2017b Palazzo and Scherer 2006; Scherer and Palazzo 2007; Díez-De-Castro and Peris-Ortiz 2018). Particularly when executing operations globally, corporatoins move increasingly into the political sphere (see particularly Baumann-Pauly 2017 on whom the following outlines are based, also Palazzo and Scherer 2006, pp. 76–78; Scherer and Palazzo 2007, p. 1096; Wieland 2018, p. 99), which raises the question of their legitimacy (e.g., Scherer and Palazzo 2007, pp. 1097–1098). Corporations are organizations of private nature; however, they should be always seen in the context of the society that embeds them (Wieland 2018, pp. 141–142). As a nondemocratic legitimized entity increasingly also executing political functions (see Baumann-Pauly 2017 for a discussion), this entails new challenges to a corporate's legitimization particularly considering settings beyond the traditional nation-state (Scherer and Palazzo 2007, pp. 1097–1098). The reference point here is the transactions that are not legitimized. In order to facilitate this, the facts are transferred to the organization that executes the transactions.

Transactions impact societal issues to a large extent. The successful integration of private and public value creation is a basis for legitimizing the realization of transactions by companies (Wieland 2017a, p. 237). Also, societies conduct their transactions via organizations (Wieland 2018, pp. 141–142). When such transactions are not entirely legitimized by the legal system (see also section "Distinguishing Legitimacy from Legality"), as described above, corporations need to acquire their legitimacy in alternative ways, e.g., through social mechanisms (Beisheim and Dingwerth 2008, pp. 12–15 as noted in Baumann-Pauly 2017). Even firms that run suitable mechanisms to build their legitimacy face frequent criticism (see Baumann-Pauly 2017). John Micklethwait and Adrian Wooldridge (2005) remark in their study that "to keep on doing business, the modern company still needs a franchise from society, and the terms of that franchise still matter enormously" (p. 178). Companies as franchisees of society must, therefore, ensure that they have the legitimacy provided by society with regard to their transactions and mainly that the legitimacy will not be taken from them (see Wieland 2018, p. 142). Legitimacy in this context is a public process of social justification (see Perrow 1961 as in Dacin et al. 2007, p. 170). Society can thus regulate companies by withdrawing their licenses to operate and grow (Wieland 2018, p. 142). In this case, legitimacy is an input factor, which is a critical resource required for the execution of transactions (ibid.; see also Suchman 1995, p. 576).

Organizations can "occasionally depart from societal norms" and sometimes still remain legitimate (Suchman 1995, p. 574 referring to Perrow 1981), but only if these deviations are isolated events and are not routine practice (ibid.). Legitimacy is subjectively created, and, therefore, it is an assumption or perception arising from how an observer perceives the organization. Therefore, legitimacy is always earned legitimacy (Suchman 1995, p. 574). If the observer does not notice the deviation from the norms, the organization can still maintain its legitimacy. Further Suchman (1995, p. 574) elaborates that an organization can also deviate from the values of individual observers. In this case, society can still provide legitimacy to the organization or support it (see ibid. for a discussion).

Definition of Legitimacy

Researchers have defined the concept of legitimacy in several ways (for a detailed discussion, see Suchman 1995; Tilling 2004, 2010; Rendtorff 2009). The present outline appreciates the high number of definitions of legitimacy in research, but, for the following purpose, it is sufficient to narrow the choice since the focus here is on the interplay between (business) legitimacy and transaction costs. Legitimacy is frequently defined as "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman 1995, p. 574). A related definition sees legitimacy as "a broader concept that pertains to the extent to which a firm's structures and activities appear to conform with social norms, values, and expectations of the firm's economic and social environment" (Dacin et al. 2007, p. 171). Norms are impacted by culture (Rendtorff 2009, p. 121), which adds a cultural dimension to the legitimacy discussion.

Basically, legitimacy consists (see Zimmerman and Zeits 2002) of two components: on the one hand, the values, norms, and expectations of society and, on the other hand, the activities and outcomes of organizations. These two must be aligned in order to achieve legitimacy (see Ashforth and Gibbs 1990; Dowling and Pfeffer 1975 as noted in Zimmerman and Zeitz 2002, p. 416). Monica A. Zimmerman and Gerald J. Zeitz (2002) put these considerations in a nutshell and define legitimacy as "a social judg[e]ment of acceptance, appropriateness, and desirability, enable[ing] organizations to access other resources needed to survive and grow" (p. 414). Aditionally, legitimacy is not only important for utilizing resources but is also a resource itself (see Suchman 1995, p. 576; also in Tilling 2010, p. 4; see also Tilling 2004), as already explained in the previous section. In principle, conceptualizing legitimacy as a resource is appropriate, although this term must be handled with caution (see Tilling 2004, 2010 for a discussion, also for the following arguments). Legitimacy should not be conceptualized as a resource that can be exchanged, but rather it "is better conceived as both part of the context for exchange and a by-product of exchange. [. . .] It exists only as a symbolic representation of the collective evaluation of an institution" (Hybels 1995, p. 243, as in Tilling 2010, p. 4).

Distinguishing Legitimacy from Legality

A discussion of legitimacy always requires a clear distinction to be drawn between legitimacy and legality. From the perspective of institutional economics, the two concepts are constructed differently. Institutional economists distinguish between two kinds of institutions, formal institutions (e.g., laws) and informal institutions (e.g., values or norms), both of which determine transaction costs by dealing with uncertainty and creating order in exchange (see North 1991). Legitimacy is an informal institution since it is determined by norms and values. The opposite is true of legality, because legality is defined by laws and therefore it is a formal institution.

Legitimacy influences the cost function of a corporation. On the one hand, legitimacy is a costly investment; on the other hand, legitimacy affects information asymmetries and, therefore, may reduce costs. From the point of transaction cost theory, the question then arises as to which of the two options is more efficient or whether a combination is more reasonable. This point is central to the further discussion and will therefore be addressed again in the context of transaction costs.

Corporations often expect the legal framework to be the most important source of legitimacy for their transactions. In a democratic state, where laws reflect the normative expectations of society and therefore provide a scope for action, legitimacy and legality are closely interrelated and should be almost congruent; this perspective has its limits in times of global value chains. Therefore, in most cases a strict concentration on the law is not sufficient to create legitimacy, because legal mechanisms cannot always, especially not in complex and relational settings, legitimize corporations' transactions. Examples are the registration of a corporation in a tax haven or the production of destructive weapons. These are both, on the one hand, legal, but, on the other hand, they do not meet society's expectations, and consequently such transactions are legal but at the same time lack legitimacy.

Distinguishing Legitimacy from Reputation and Prestige

Further, the distinctions between legitimacy and prestige as well as reputation are crucial. Legitimacy is related to notions of prestige and reputation but still has some notable differences (cf., Dacin et al. 2007, p. 171 who engage in this discussion and, thereby, makes the following remarks). Prestige refers to specific roles or competencies that involve recognition and shapes the public image of an organization (ibid. based on, Perrow 1961). Reputation is an emotional or affective reaction to an organization and, therefore, an emotive estimation of an organization by its constituents (Dacin et al. 2007, p. 171 based on Fombrun 1996).

The Link to Transaction Cost Economics

Until this point, TCE and business legitimacy have been discussed separately in respect to organizations. It is now the aim to link TCE and business legitimacy. As already described above, transactions can be conducted using various institutional arrangements (Williamson 1995; see also Ebers and Gotsch 2006). In what follows, the discussion focuses briefly on the organization before the topic is further explored. Therefore, a return to the theory of the firm is necessary. Firms are a nexus of stakeholders (Wieland 2014) who provide resources. The individual stakeholders are linked by contracts (Jensen and Meckling 1976) of various kinds (see e.g., Macneil 1974, 1978; Wieland 2018). As a nexus of stakeholders, a firm continuously oscillates between market and social references (Wieland 2018, p. 142). In this context, “a firm should be observed as a socially legitimated governance structure for the realization of transactions between and by the members of a given societal formation” (Wieland 2014, p. ix). Thus, the acquisition of social legitimacy is obligatory and not an exception. The firm, seen as a social cooperation project using resources owned by individuals and linked through transactions for social welfare and individual and mutual benefit (see ibid.), is an excellent starting point for the following observation. As a result of the governance of transactions in this context through the various forms of contracts (e.g., Macneil 1974, 1978, 2000; see also Wieland 2018), the legitimacy question can be moved to the center of the discussion.

Since a company has an extensive resource network controlled by heterogeneous stakeholders, the transactions of the joint project linking the resources must be conducted with stakeholders who conduct legitimized transactions (see Wieland 2014) so that other stakeholders are committed to making their resources available for joint value creation (see Parsons 1960, also discussed in Palazzo and Scherer 2006 as well as in Suchman 1995, p. 574; see also Tilling 2004). Legitimacy affects how people understand organizations and contributes to the trustworthiness, predictability, and meaningfulness of an organization (Suchman 1995, p. 575; see also Dacin et al. 2007 for a braoder discussion). Therefore, legitimacy is valuable when it comes to efficient acquisition of the resources needed for survival (Hearit 1995, p. 2 as in Tilling 2010, p. 4) and growth (Zimmerman and Zeitz 2002).

Comparing Legitimacy and Legality Through the Lens of Transaction Cost Economics

When considering the distinction between legality and legitimacy from the point of transaction cost theory, the same question as discussed prior arises as to which of the two concepts is more efficient or whether a combination of them is preferable. Institutional economists have to deal with the trade-off between the two concepts. In a comparison of the concepts of legitimacy and legality, it is evident that they differ concerning transaction costs. Therefore, in the following, the differences between legality and legitimacy regarding transaction costs are observed. Critical components in this consideration are cooperation, bargaining, implementation, monitoring, and enforcement costs.

From the perspective of institutional economists, formal and informal governance converge. Actors must therefore decide which arrangement is most efficient. A change from one concept to the other is always associated with costs. A change from legality to legitimacy increases uncertainty, in the first place. The appropriate mechanisms must be established, and challenges must be responded to, according to the new concept. Formal mechanisms often appear more efficient at first glance because they involve less uncertainty, but informal mechanisms often have advantages in relation to implementation and monitoring costs over the long term.

Now, the focus is on legality. The state passes laws and enacts regulations that are generally nonnegotiable. Corporations gain legality by structuring their transactions in compliance with these laws and regulations. Primarily, the state bears the enforcement costs. Noncompliance results in sanctions for the particular corporation. The processes are therefore clear, so the transaction costs for obtaining legality are quite low.

The matter is different for legitimacy. Legitimacy requires cooperation with society, to understand to what extent the company's transactions need to be aligned with societal norms and values. These processes entail cooperation costs and bargaining costs, as the company must agree on values and norms with its stakeholders.

There are also differences between the two concepts in terms of enforcement costs. Using legitimacy, the company is solely responsible for structuring its transactions in line with the values and norms of the society, and, thus, only the company bears the enforcement costs. This is particularly true over short periods. For longer periods, if processes can be translated into routines, then the enforcement costs and implementation costs of legitimacy sharply decrease. Furthermore, legitimacy is strongly situation-dependent and consequently highly subject to external influences. This raises uncertainty and therefore increases transaction costs.

In this context, it is also evident that the concept of legitimacy is similar to relational contracts and the concept of legality to classical contracts. The concepts of legality and legitimacy are of particular interest in a globalized world. Global value chains span several countries (Gereffi and Fernandez-Stark 2016) with institutional frameworks that vary in maturity (Peng et al. 2008; Li et al. 2019). If formal institutional frameworks do not exist, or are incomplete, immature, or not properly enforced, transaction cost theory gains importance. Informal institutions substitute for formal frameworks if the formal frameworks are underdeveloped, absent, or weakly enforced (see Peng and Heath 1996 as discussed in Peng et al. 2008, 2009; Li et al. 2019). Therefore, in global value chains in which individual states have only a limited impact, legitimacy moves to the foreground. Both legitimacy and legality can reduce the uncertainty in transactions. However, the concept of legality lacks universal applicability due to restricted possibilities of state enforcement.

Uncertainty increases the role of legitimacy, and this affects transaction costs. Therefore cooperation, bargaining, and enforcement costs are lower under legality than under legitimacy when considering a short time frame in a stable environment. This is mainly due to the use of formal institutions in the concept of legality, which is more efficient as regards transaction costs because formal institutions involve less uncertainty than informal arrangements. Because of the strong dependence on the situation, legitimacy involves high uncertainty. Consequently, actors such as large companies, NGOs, and trade unions often prefer formal rules even over standards that can be implemented on a voluntary basis. In addition, NGOs and trade unions prefer formal rules because states are reliable in enforcing them. To sum up, transaction costs for legality are in general lower compared to the ones for legitimacy. This fact explains the necessity to manage legitimacy issues in a way that economizes on transaction costs.

Legitimacy and the Various Levels of Analysis

In the previous discussion, the focus was on the importance of legitimacy for actors conducting transactions through which companies access resources that are critical for their survival and growth. Now the three levels that provide the frame for transactions are considered. Niklas Luhmann (1986) distinguishes function, organization, and psychic systems (for a detailed discussion and explanation, see Wieland 2014, 2018). Luhmann's approach is highly appreciated, but in the following the aim is to adopt the main characteristics of this concept and apply them for the purposes of this chapter. Until now, research on legitimacy has distinguished between institutional (see also Suchman 1995) and organizational (Kaplan and Ruland 1991) levels (see Tilling 2004 who applies these arguments and discusses two levels, institutional and organizational). The individual level is added here for a more comprehensive analysis (see Bitektine and Haack 2015 for a comprehensive discussion on multilevel issues in legitimacy). Challenges of legitimacy are analyzed in the context of transactions by introducing distinct decision-making logics that are attributed to the various levels (for a detailed explanation, see Wieland 2014, 2018.)

Individual and collective actors are able, and obliged, to reconstruct and evaluate economic transactions in different contexts and decision logics, such as from the viewpoint of rational utility considerations, legal or ethical norms, technical feasibility, aesthetic preferences, or cultural values (Wieland 2018, p. 43). It is evident that all three levels are critical to conducting transactions, as transactions are embedded in each of them (see also Wieland 2014, p. 16, p. 33).

The following examples are given to explain the concepts in more depth. Before the analysis of the various levels, a brief recollection of the definition of legitimacy is given: the concept of legitimacy requires that the actions of an agent correspond to socially constructed norms. This is important for the upcoming illustrations. To simplify matters, the healthcare sector serves as an example for the illustrations.

Each example contains (I) the institutional, (II) the organizational, and (III) the individual level (when referring to a specific level, the focus is on its transactions):

1. It is assumed that the healthcare system, which is located at the institutional level, does not correspond to the values of a society. There may be several reasons for this non-legitimacy. One possibility is that there are irregularities in the billing for health services with insurance companies. The situation may be different at the organizational level. (II) The clinic in focus could be highly regarded in the region if, for example, it has managed to solve several challenging cases with high competence thereby living up to high moral standards. The legitimacy of the clinic as a health provider would therefore not be in question. (III) If the consideration focuses on the individual level, the physician in question could be a person with high ethical standards and a favored expert who is honest and

caring with his patients. His legitimacy would be beyond question, at least if only the given facts matter.

When analyzing this example, it is obvious that the transaction that the physician is conducting is legitimate. The legitimacy of the physician and the clinic can override the non-legitimacy of the healthcare system's transactions.

2. Other arrangements are also feasible in this context. (I) The healthcare system could be considered legitimate, but (II) this could not be the case for the clinic, if it frequently allowed expired drugs to be administered and people were aware of that fact. (III) The physician has legitimacy in this example.

   Therefore, the conclusion would depend on whether the physician could compensate for the organization's fraudulent acts and whether he could protect his patients. If he were unable to do so, he could also lose his legitimacy.
3. Another example would be (I) a legitimate healthcare system and (II) an equally legitimate clinic, but, at the same time, (III) the physician in question lacks legitimacy.

   In this case, it would be very unlikely for the transactions to be legitimate, as will be analyzed below.

Further combinations are also conceivable – for example, transactions at the organizational level are legitimate, but those conducted at the institutional and individual levels are not legitimate. The levels or systems in which the transactions are embedded therefore affect whether the transactions are considered legitimate. The level that mostly impacts the transaction is the most crucial one. It is not only individuals who conduct transactions, but organizations can also be actors. In the previous examples, the physician plays an essential role because here the action is mainly linked to the individual. Only when the action is influenced to a certain degree by another level, so that the relevant actor is overruled, is the other level the primary driver for legitimacy. All combinations of levels and influences on each other are feasible. The observation is highly context-dependent. It should also be noted that different systems have different decision logics (for a detailed explanation, see Wieland 2014, 2018, p. 95). What seems legitimate from the point of view of one specific organizational system (such as a managed firm) can be considered not to be legitimate from another's (such as an NGO). (For a detailed discussion, see Wieland 2014, 2018)

Legitimacy on Different Observation Levels and Transaction Costs

In the previous section, the question of legitimacy based on different levels was addressed. In this regard, it is important to focus on transaction costs, as this is the aim of this chapter. As already mentioned above, transaction costs can be divided into ex ante (such as information and search costs or negotiation and contracting costs) and ex post costs (such as monitoring costs or adaptation costs) (Williamson 1985; see the discussion of Ebers and Gotsch 2006). Transaction costs reach a minimum when all three levels at which the specific transaction is conducted are considered as legitimate. In this case, the transaction is performed in accordance with the norms and values of a society concerning all levels. High legitimacy indicates that the result and the process of the transaction are highly predictable (see also Suchman 1995), because the transaction is governed and conducted based on norms and values, which lowers uncertainty and, therefore, lowers transaction costs (in terms of lower negotiation, contracting, monitoring, and enforcement costs). (The present discussion does not engage in the discussion about whether this is due to enhanced trust, or reputation, or other concepts. For a discussion see Cook et al. 2005.) If not all levels at which the transaction is embedded are legitimate, the transaction costs are higher than in the aforementioned best-case scenario. (Cf. examples I–III above.) Higher transaction costs result, for example, from higher monitoring or enforcement costs. In the examples given above, if the clinic administered expired medication, the patient would have to ensure that the substance that was administered was still valid. In order to be able to evaluate this, the patient would have to gain specific knowledge. This process would cause costs, which would ultimately impact on the related transaction costs.

Transaction Costs of Actors with Low Legitimacy

Transaction costs should not only be viewed from the perspective that transactions are made with actors whose legitimacy is in question. The question is not only about the impact on transaction costs when conducting transactions with an actor who has low legitimacy but also about how the transaction costs of the actor who himself has only low legitimacy are affected.

In discrete exchange transactions, supply is always bound up with simultaneous demand, and demand is always bound up with supply (for a detailed explanation see Wieland 2018, p. 36). The physician in the example at the same time offers treatment and requests payment in return. Simultaneously, the patient offers financial incentives and asks for treatment. Both are in a similar situation in theoretical terms. Before this consideration, the analysis mainly concerned the transaction costs for patients. Now the focus shifts towards the physician whose legitimacy is in question. It is assumed that the healthcare system is similar to a classical market system and that there is no shortage of physicians at the moment. In such a situation, it would be more challenging for the physician to place his offer on the healthcare market because he needs to find patients who are willing to pay for his treatment. This process accounts for search costs in the terminology of TCE. Another possibility is to lower the prices for the service, responding through market mechanisms.

The transaction costs are even higher when the clinic also lacks legitimacy. In order to find patients, investments in signaling measures are required. If the health system does not have legitimacy either, the transaction costs are even higher again. Once more, all possibilities concerning legitimacy at the individual, organizational, and institutional level are conceivable.

The Importance of Legitimacy in Relational Transactions

In this chapter, the focus is mostly on exchange transactions, which are executed primarily under classical or neoclassical contracts. However, for relational transactions, legitimacy is even more critical, because actors rely primarily on informal safeguards (for a detailed analysis, see Wieland 2018). Legitimacy is a decision metric for the expected outcome, with the aim of reducing the uncertainty in this context.

Relational transactions are prevalent in long-term economic relationships between actors such as strategic alliances, partnerships, or networks. Such transactions are not one-off spot transactions but are repetitive transactions embedded in complex social relationships (see Ebers and Gotsch 2006; Wieland 2018). These complex social relationships demand high legitimacy if both transaction partners are to commence the transaction. Each player must partly identify themselves with the respective transaction partner, which requires a high degree of legitimacy. No one wants to identify himself with something or someone that is not legitimate because of the risk of his reputation and legitimacy declining.

Stakeholder Dialogues and Values Management Systems as a Solution

This section discusses suitable measures for strengthening and ensuring business legitimacy. The following two options are appropriate measures: the introduction of stakeholder dialogues and values management systems. Both possibilities allow a productive combination to improve the outcomes. As already elaborated above, the firm is a bundle of resources that are mutually provided by its stakeholders (Wieland 2014). This process involves transactions. The early participation of the affected stakeholders in a transaction can increase the legitimacy of the transaction because companies gain knowledge of what stakeholders expect. This relates to the norms and values to which the transaction should be aligned. As firms conduct many transactions on a day-to-day basis, the practice of including every stakeholder would become an insurmountable challenge.

Multi-stakeholder dialogues are suitable for addressing these challenges (for a discussion see Wieland 2014). These dialogues may be institutionalized in terms of stakeholder advisory boards. Through an early dialogue with stakeholders, their concerns can be heard, and possible solutions developed jointly. This will clarify which transactions the stakeholders expect and the specific conditions for transactions and allows the alignment of transactions with the norms and values of the society. Thus, the firm can gain or strengthen its legitimacy accordingly. These mechanisms also create new opportunities for transactions and new ways in which they can be conducted. This, in turn, contributes to innovation chances, since a stakeholder committee considers problems by following a variety of possible approaches and therefore the number of potential solution options increases. Societal involvement through the inclusion of stakeholders is ultimately essential, since

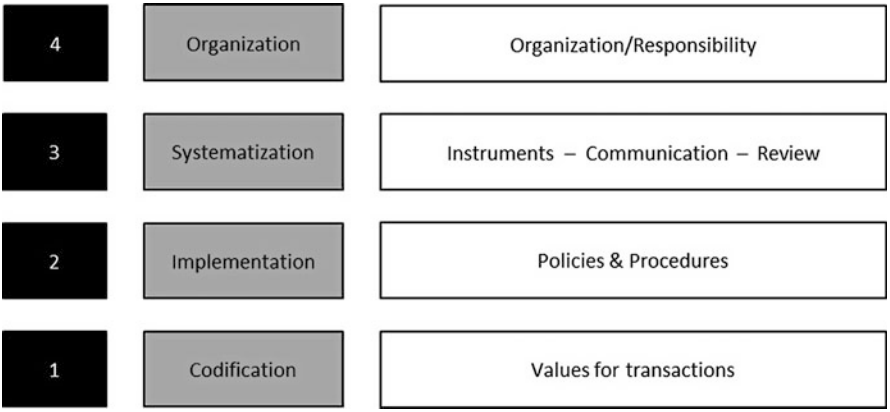

Fig. 1 The four fundamental stages for implementing a values management system. (Adapted from Wieland (2014) and the Center for Business Ethics (1998))

transactions can only be conducted in a sustainable way if society legitimizes them. Through these dialogues businesses can design their transactions in such a way that they gain legitimacy. The task of the stakeholder advisory board is to explore the values and standards prevailing in a society with which the company should align its transactions. The question then arises as to how to operationalize the respective values and norms.

These challenges can be addressed with a values management system. Such a system links value creation and moral values (Wieland 2005), thereby integrating economic, moral, legal, and political dimensions (Wieland 2003). Values management aims to achieve values-oriented behavior and organizational governance. It serves both to develop and promote a specific corporate identity and as a guideline for difficult decisions in everyday business practice (Fig. 1).

The firm can align its transactions with the expectations of society through values management, or it can decide which transactions will not be conducted because they negatively influence legitimacy. An orientation for the implementation of values management systems with regard to transactions is provided in the recommendations of the Center for Business Ethics (1998). Four stages are essential for the implementation of a values management system (see Wieland 2014, p. 165–168):

1. Values for transactions (codification stage): Every values management system has as its foundation the selection, determination, and codification of values. The company identifies the values and norms relevant to the legitimacy of transactions and incorporates these in its set of fundamental values. These values then affect and structure decisions about transactions as well as the overall vision and mission of the organization, which in turn should influence the code of ethics. The organization must consider what transactions it will carry out, under what conditions, and under what circumstances. The values set does not have to be complete, but it needs to allow the evaluation of transactions.

2. Institutional communication (implementation stage): The values and standards critical to the legitimacy of transactions are communicated formally and informally in organizations. They can be documented in policies and procedures or introduced to employees through training. The values become effective when they are integrated into routines. This ensures that transactions are evaluated with almost no additional effort in this respect. Stakeholders such as suppliers are also integrated into this process. Audit and monitoring systems should guarantee the alignment of the transactions to the values. Regular communications and training prevent the values from being neglected or forgotten.
3. Instruments, communication, and review (systemization stage): The organization anchors its values in its integrity and compliance and, of course, in its values management. The procedures and guidelines from stage 2 are systemized and integrated into the different management areas that deal with transactions. Stakeholders should also be involved in these programs. Clear communication through workshops and training, as well as information documents, is essential. Ethical audit systems ensure compliance with the values.
4. Organization/responsibility (organization stage): The success of a values management system in respect to transactions requires expertise. The implementation of an ethics or compliance office ensures that the critical values for the legitimacy of transactions are respected and ensures continuity in this regard. This process provides the company with a department that is responsible for intervening in the case of challenges. The commitment from senior management as a role model for the staff is also essential. Top management serves as a role model with respect to the transactions that are carried out. Employees are often guided by how top management behaves. Functional integration allows values to be respected across all hierarchy levels.

The values management system codifies and operationalizes the values that are critical for the legitimacy of transactions and embodies them in the organization. Those responsible get to know the values and standards via the stakeholder advisory board. The board should meet at regular intervals to adjust the values accordingly. Stakeholders also have the opportunity to alert the company at an early stage if there is a threat of legitimacy withdrawal.

Conclusion

This chapter discusses how transaction costs and legitimacy are interrelated. It provides a brief overview of TCE and business legitimacy issues that are relevant to the arguments and distinguishes between legality and legitimacy. Based on the theory of the firm, it is critical to acknowledge that the firm is a bundle of resources provided by its stakeholders (see Wieland 2014). The stakeholders must legitimize their transactions to ensure the sustainable long-term existence of the organization and the willingness of critical stakeholders to contribute resources to the cooperative project. In doing this, the company must pay attention to the legitimacy of the system levels at which transactions are carried out (institutional, organizational, and individual). The degree of legitimacy of the different levels influences the transaction costs. In the discussion, a distinction is made between legitimacy and legality, and the differences with regard to transaction costs are identified. At first, legality seems more efficient, but the concept quickly reaches its limits, and legitimacy becomes increasingly important. A change in the concepts is always associated with costs. The fascinating field that combines TCE and business legitimacy is still in its infancy. For that reason, the ideas presented here are only a first approach to the discussion. This provides interesting opportunities for future scientific discussions in this field.

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Corporate Governance and Business Legitimacy

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Till Talaulicar

Contents

Abstract

The present chapter analyzes the relationship between corporate governance and business legitimacy. After introducing basic foundations of corporate governance, the state of the art of legitimate structures, processes, and systems of corporate governance is outlined. Based on a compilation of extant corporate governance indices, the empirical evidence on the performance implications of corporate governance is dealt with and discussed. The chapter concludes by providing promising avenues for future research on the association between corporate governance and business legitimacy.

Keywords

Business legitimacy · Codes of corporate governance · Corporate governance · Corporate governance bundles · Corporate governance indices · Performance · Shareholder · Stakeholder

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Introduction

Corporate governance deals with the system by which companies are directed and controlled (Cadbury 2002). This system pertains to the relationships at the apex of the organization among the board of directors, top executives, owners, and other stakeholders of the firm. Corporate governance arrangements refer to the structures and processes of how corporate assets are managed and overseen. These arrangements aim at facilitating that the goals of the enterprise are attained more effectively. Corporate governance arrangements about the management and supervision of the enterprise are hence not either good or bad. Their value rather depends on their contribution to a more effective attainment of the goals of the enterprise. In a broader view, corporate governance has implications on the country level as well as it is supposed to support economic efficiency, sustainable growth, and financial stability (OECD 2015). According to the OECD (2015: 7): "The purpose of corporate governance is to help build an environment of trust, transparency and accountability necessary for fostering long-term investment, financial stability and business integrity, thereby supporting stronger growth and more inclusive societies."

Depending on their root of origin within or outside the boundaries of the firm, internal and external corporate governance mechanisms are distinguished. Internal mechanisms refer to the board of directors, managerial incentives, or the role and responsibility of controlling owners. The board of directors, executive compensation, and shareholder meetings and voting have been viewed as the "most elemental components of a corporate governance system" (Bhagat et al. 2008: 1810). External governance mechanisms that have received comparably less attention include the legal environment, the market for corporate control, external auditors, stakeholder activism, rating organizations, and the media (Aguilera et al. 2015).

Whereas considerations of the effectiveness, and related performance consequences, have been the primary lens to develop and evaluate corporate governance rules and regulations, these provisions are increasingly also viewed from the perspective of their legitimacy (e.g., Aguilera et al. 2018; Filatotchev and Nakajima 2014; Judge et al. 2008). According to the definition by Suchman (1995: 574 italics deleted), legitimacy stems from "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions." Corporate governance arrangements appear thus to be more or less legitimate depending on their alignment with societal expectations, norms, rules, and regulations. Corporate governance attributes and the adherence to generally accepted standards are therefore pivotal to the legitimacy of companies, their activities, and their projects in developed as well as emerging economies (Khan et al. 2013).

This debate has gained much attention due to general threats to the legitimacy of the business sector whose license to operate, as a contractarian basis for the legitimacy of businesses' activities (Demuijnck and Fasterling 2016), is not taken for granted anymore (Gehman et al. 2017; Gunningham et al. 2004; Hall et al. 2015). As Palazzo and Scherer (2006: 66) put forward: "Financial scandals, human rights violations, environmental side-effects, collaboration with repressive regimes and other problematic issues have not only threatened the reputation of the involved firms but provoked critical questions about the societal role of business in general." Initiatives of corporate social responsibility and sustainable management are partly viewed as ideological movements to legitimize the power of the business sector (Banerjee 2012). Grand societal challenges like global warming, ocean acidification, as well as inequality within single countries and across the globe have strengthened concerns in this regard that also affect the system of corporate governance and potential future reforms with regard to business models and the overall goal of the enterprise (Marti 2018).

Notwithstanding that corporate actions are not the only cause of these challenges, the magnitude of their negative consequences and their transcendence of national borders provide a critical role to the business sector to develop and implement solutions that help to address and overcome these challenges and to change social reality. Corporations are therefore under pressure to pursue broader social goals beyond seeking purely profits as they have the potential to "trigger positive social change" (Aguilera et al. 2007: 836). Securing and strengthening the legitimacy of the business sector and its governance system is a precondition to protect and retain the license to operate in society and the supply of resources needed for value creation (Rendtorff 2019). This also needs to consider the extent of power granted to, and exerted by, the business sector and the role of corporate governance arrangements to exercise control and to guide this corporate power to socially accepted usage (cf. Coglianese 2007).

Foundations of Corporate Governance

Interest in the subject of corporate governance can be traced back to problems that emerge from the separation of ownership and control (Berle and Means 1932). In the modern (public) corporation, a professional management is hired to run the company that is different from the owners of the firm. As a consequence, the functions of decision-making and risk-bearing are separated (Fama and Jensen 1983). Against this background, corporate governance arrangements are developed to ensure that executives do not misuse their discretion and pursue courses of action that are in the interest of the firm and/or its owners (e.g., Roe 2000). Otherwise, professional managers who remain unchecked by a diffuse group of diluted owners may act for selfish rather than corporate motives leading to the concentration of economic power and inefficient resource allocation (Lipton 1987).

Following this logic, agency theory has become the dominant perspective to analyze phenomena and problems of corporate governance (Dalton et al. 2007). This stream of theory "is directed at the ubiquitous agency relationship, in which one party (the principal) delegates work to another (the agent), who performs that work" (Eisenhardt 1989: 58). With regard to the corporate governance system of management and supervision, agency theory deals primarily with contractual relationships between executives (as agents) and owners (as their principals). When the interests of these parties do not converge and information is asymmetrically distributed due to the division of labor, agency problems emerge as the agent may misuse his or her advanced information to the disadvantage of the principal.

Means to prevent that agency problems occur aim at aligning the interests of executives to the interests of the owners or the firm (primarily by arrangements of pay for performance) and reducing information asymmetries (primarily by various arrangements of disclosure and monitoring). This logic has been very influential to inform corporate governance rules and regulations as well as corresponding reforms including the diffusion of corporate governance codes around the globe (Cuomo et al. 2016), the adoption and implementation of which may be more or less effective. As Shapiro (2005: 269) puts it: "Corporations announced the adoption of new policies, explicitly invoking agency theory buzzwords about aligning incentives, discouraging self-interested behavior by managers, and reducing agency costs. Indeed, some adopted new policies that embraced an agency rationale without bothering to implement them, simply jumping on the bandwagon of a socially constructed institutional logic that bestowed increased market value on symbolic declarations alone."

To align the interests of executives to the interest of the enterprise, stock-based compensation plans have been recommended. While variable compensation plans have accelerated the dramatic growth of executive pay that has come under public attack and imperils the legitimacy of the business sector and its prevailing governance systems (Bank et al. 2016), the performance consequences of related agreements remain still open to debate (Bebchuk and Fried 2004). In addition, corporate governance rules have been enacted and strengthened to increase the transparency of corporate decisions and to disclose what arrangements of corporate governance are in place. Firms differ tremendously in their level of corporate governance disclosures (Al-Bassam et al. 2018) that are strongly influenced by the applicable legal framework and common practices within a given country, whereas the correlation with financial performance remains equivocal (Berglöf and Pajuste 2005). More transparency is therefore not necessarily superior; rather some opaqueness could better serve the interests of the firm and its owners (Hermalin 2014). To strengthen the monitoring role of the board, the appointment of a majority of independent directors and the formation of committees for audit, nomination, and remuneration have been suggested. While the specific definitions and criteria of independence vary (Zattoni and Cuomo 2010), the effectiveness of these arrangements is also by no means conclusive (Bhagat and Black 2002; Pearce and Patel 2018; Zorn et al. 2017).

More recently, the logic of agency theory has been increasingly criticized since its underlying assumptions and foundations may be too narrow or even invalid (Aguilera et al. 2016). Being an economic theory, agency theory rests on the behavioral assumption of self-interested men that seek for their own well-being with guile. Empirical studies have indicated that this assumption is too narrow as human beings are guided by a much wider range of motives (Fehr and Gächter 2000), including norms of reciprocity and perceptions of fairness (Bosse and Phillips 2016), and organizations have to be built on trust and commitment to succeed. While the assumption of opportunism may be beneficial to protect the firm against expropriation, it is bad for practice (Ghoshal and Moran 1996) as the assumption may become a self-fulfilling prophecy when related organizational arrangements crowd out pro-organizational interests, such as voluntary cooperation, and eventually create self-interestedness (Fehr and Gächter 2000). Even in the absence of opportunism, full commitment of organizational members may be lacking and governance arrangements remain necessary to deal with the "ubiquitous problems of communication, cognition and interpretation" (Hodgson 2004: 415).

A broader perspective is therefore requisite that acknowledges the ubiquitous necessity of corporate governance arrangements even if interests and goals of the involved parties largely converge. Even if ownership and control are unified, like in the case of owner management prevalent in many entrepreneurial and family firms around the globe (Schulze et al. 2001), managerial discretion could be misused for cognitive rather than motivational reasons which accounts for the establishment of control structures. Every organization of a sufficient level of complexity therefore needs to establish an eligible system of management and supervision. Agency theory emphasizes the relationships between the executives and the owners of the firm and assumes that the interests of owners are isomorph in maximizing their personal wealth. This perspective ignores that firm owners may pursue very different, and partly even competing, goals with regard to the risk, social impact, and time horizon of their investments (Chung and Talaulicar 2010).

In addition, firms rest on the contributions by multiple stakeholder groups to create value. In order to ensure the provision of these value-creating contributions, the system of corporate governance has to balance the contributions and the appropriate compensations of these stakeholder groups (Talaulicar 2010). As Garcia-Castro and Aguilera (2015: 137) explain, the firm needs to be decomposed into "multiple stakeholders who (1) *create* value by bringing in resources and capabilities that are firm-specific, causally ambiguous, and socially complex and (2) *appropriate* some of the value created in their relationship with the firm." Value-creating contributions legitimize their adequate compensation. If legitimate claims are ignored, necessary contributions may be withdrawn which compromises the sustainable creation of value by the firm. Barney (2018: 3305) resumes: "To attract the kinds of resources that can generate profits, managers must recognize that stakeholders, besides shareholders, have claims on the profits that their resources help generate." The corporate governance system needs to ensure that trade-offs in the dynamics of value creation and appropriation are sustainably balanced (Garcia-Castro and Aguilera 2015) and potentials of stakeholder synergies are tapped where value for two or more stakeholder groups can be appropriated simultaneously without reducing the value received by another stakeholder group (Tantalo and Priem 2016).

Assessing both the effectiveness and the legitimacy of the system of corporate governance depends on the social context of the firm that provides resources for the firm's creation of value. Resource relationships, social norms, and institutions are therefore pivotal to the development and success of corporate governance systems. Albeit largely ignored in agency theory, research has indicated that corporate governance systems, and their social desirability, are influenced by social norms, informal institutions, as well as formal institutions of the environment in which the firm is embedded (Boytsun et al. 2011; Estrin and Prevezer 2011; Judge et al. 2008). Since the nature and extent of agency relationships differ across institutional contexts, broader governance frameworks are needed that acknowledge the institutional embeddedness of the firm and the variability of governance outcomes depending on the institutional environment (Filatotchev et al. 2013). In this regard, prior research has indicated that assessments of the legitimacy that corporate power is concentrated, for instance, in the position of the CEO, are culturally variant and depend on institutions that influence the expectations and judgments of stakeholders regarding a firm's legitimacy (Krause et al. 2016).

Legitimate Systems of Corporate Governance

Systems of corporate governance are considered legitimate when their structures and processes are perceived to satisfy the social expectations of relevant constituencies. A lack of their legitimacy can prove threatening to the firm's viability as it may deter internal and external stakeholders from supporting the firm. Firms that lack legitimacy face barriers to enter into processes of social exchange as their potential partners do not rely on their adherence to social rules and expectations (Palazzo and Scherer 2006). Legitimate corporate governance arrangements, in contrast, facilitate the provision of resources from external sources and also shield the firm from external pressures (Desai 2008). Firms with legitimate corporate governance arrangements that conform to their stakeholders' expectations tend therefore to be more successful and to incur less unsystematic risk than illegitimate firms (cf. Bansal and Clelland 2004). The positive effects are evoked as firms with legitimate corporate governance arrangements conform to institutional expectations, have better access to resources, and are insulated from external scrutiny (Bansal and Clelland 2004).

Ensuring adherence to social expectations is challenging when there is ambiguity about the appropriate elements to be included in a legitimate corporate governance system. In the absence of such consensus, companies have to make individual decisions about their corporate governance and justify them to their stakeholders. Ogden and Watson (2008) have revealed the difficulties firms encounter when they attempt to justify and legitimate their executive long-term incentive pay (LTIP) schemes due to the indeterminacy and incoherence of guidelines for implementing good governance. Firms are therefore inclined to avoid such uncertainty that may lead to stakeholder criticism and justification pressures. They are rather open to adopt generally recognized standards of good governance that are widely shared and taken for granted. Due to the complexity of legitimacy judgments (Tost 2011), conformity with well-established corporate governance standards becomes appealing.

Against this background, corporate governance codes have been adopted in multiple countries around the globe and spread worldwide (Aguilera and Cuervo-Cazurra 2009; Cuomo et al. 2016; Zattoni and Cuomo 2008). These documents contain provisions of generally accepted standards of corporate governance and refer to the composition and structure of the board, tasks and responsibilities of directors and executives, and their remuneration as well as transparency and disclosures. While they are adopted with the intention to improve the systems of corporate governance further, compliance with these standards may also follow the wish to gain legitimacy by adhering to well-established standards that are widely believed to indicate good corporate governance. Prior research has indicated that the establishment of such standards as well as their adoption on the firm level may be temporally segregated such that early adopters seek efficiency gains, whereas late adopters seek to gain legitimacy (Ansari et al. 2010; Sahin 2015; Zattoni and Cuomo 2008). As a consequence, late adopters may decouple their conformity from truly implementing these standards (i.e., conform symbolically rather than substantially) if their lack of follow-through can be concealed and does not jeopardize the sought legitimacy gains (cf. Westphal and Zajac 1998). Such decoupling, or ceremonial adoption, tends to become more likely when corporate governance standards become mandated (Shi and Connelly 2018) the substantial implementation of which appears to be costly and to compromise economic efficiency (cf. Hengst et al. 2020).

Compliance rates with codes of corporate governance have been shown to be rather high (e.g., Werder et al. 2005). Due to the legitimacy gains that companies may seek from their compliance, this finding comes with little surprise. In contrast, deviation from these standards requests much more efforts on behalf of the companies (Aguilera et al. 2018) that are under pressure to justify to important constituencies why they prefer to select corporate governance arrangements that differ from widely accepted ones. As a consequence of these pressures of conformity, organizations and their corporate governance become more similar. This organizational isomorphism, i.e., the resemblance of a focal firm to other firms in its environment, has been shown to increase organizational legitimacy (Deephouse 1996) which is a fundamental proposition of institutional theory (DiMaggio and Powell 1983; Meyer and Rowan 1977). The high levels of prevalence of certain corporate governance arrangements indicate their social desirability and taken-for-grantedness. Firms implementing commonly used structures and practices of corporate governance are generally considered acceptable as they appear rational and prudent to the social system. However, this strong compliance orientation may neglect firm-specific peculiarities that may suggest different corporate governance arrangements to better reflect the context of the firm. In general terms, firms may be more or less inclined to follow conformity pressures depending on the salience of the issue at hand and the expected net benefit (Durand et al. 2019).

Standards of Good Corporate Governance

Based on theoretical considerations, codes of corporate governance, and practical suggestions by proxy advisors and institutional investors, provisions of corporate governance have been compiled and aggregated to corporate governance measures that indicate to which degree a company conforms to widely accepted standards of corporate governance. Gompers et al. (2003) have developed a Governance index

("G index") that is constructed from data provided by the Investor Responsibility Research Center (IRRC). This data is collected from corporate charters, bylaws, and other firm-level rules as well as legal rules from the state in which the firm is incorporated. The index focuses on director (as opposed to shareholder) rights and contains 24 provisions that are grouped into 5 categories: tactics for delaying hostile bidders; voting rights; director and officer protection; other takeover defenses; as well as state laws. The index ranges from 0 to 24 and is reverse coded, i.e., the higher the value of the G index, the weaker the corporate governance of the firm is. The 24 provisions cover shareholder rights-decreasing provisions of a company, such as classified boards, golden parachutes, supermajority requirements to approve mergers, poison pills, or restrictions to shareholders to call special meetings.

Bebchuk et al. (2009) have suggested that this index is to be reduced to an entrenchment index comprised of only a subset of six provisions as the (18) remaining ones provide little explanatory power, assessed by regressing Tobin's Q on each factor, the complete score minus the factor and controls. Out of the six influential provisions, four constitutional provisions prevent a majority of shareholders to take over the firm (staggered boards, restrictions to shareholder bylaw amendments, supermajority requirements for mergers as well as for charter amendments) and two provisions put the board in place to defend a hostile takeover attempt (poison pills and golden parachutes). The entrenchment index therefore ranges from 0 to 6, with higher values indicating weaker shareholder rights or poorer corporate governance, respectively.

To study corporate governance in emerging markets, Klapper and Love (2004) have utilized a report provided by Credit Lyonnais Securities Asia (CLSA) in which an index has been created with corporate governance rankings for 495 firms across 25 emerging markets. The corporate governance ranking compiled by CLSA is a composite of 51 binary (yes/no) questions to analysts. Each positive answer (yes) adds one point to the governance score that ranges hence between 0 and 51. About two thirds of the questions are based on facts, whereas the remaining ones rest on the analysts' opinions. The corporate governance questions in the CLSA report are grouped into six broad categories: (1) management discipline (nine questions, e.g., Has the company issued a mission statement that explicitly places a priority on good corporate governance?), (2) transparency (ten questions, e.g., Does the company publish its annual report within 4 months of the end of the financial year?), (3) independence (eight questions, e.g., Is the chairperson an independent, non-executive director?), (4) accountability (eight questions, e.g., Do independent, non-executive directors account for more than 50% of the board?), (5) responsibility (six questions, e.g., Is there any controversy over whether the board and/or senior management takes measures to safeguard the interests of all and not just the dominant shareholders?), and (6) fairness (ten questions, e.g., Do all equity holders have the right to call general meetings?). Since the distinction of the categories appears to be somewhat imprecise, only the sum index (termed GOV) is considered.

Based on data provided by the Institutional Shareholder Services (ISS, today accessible via RiskMetrics), Brown and Caylor (2006, 2009) have created a summary measure called Gov-Score that aggregates 51 firm-specific provisions on internal as well as external governance arrangements. A high Gov-Score indicates good corporate governance. Similar to the findings by Bebchuk et al. (2009), Brown and Caylor (2006, 2009) demonstrate that a subindex based on only seven provisions mainly drives the effects attributed to good governance. They use three statistical approaches to assess the explanatory power of the attributes. In addition to the method used by Bebchuk et al. (2009), they regressed Tobin's Q on the complete set of provisions and controls, and they run a stepwise regression using a forward-selection procedure that retained variables. Following these calculations, the seven most influential governance provisions put forward that (1) board members are elected annually, (2) the company either has no poison pill or one approved by its shareholders, (3) re-pricing of share options did not occur within the last 3 years, (4) average options granted in the past 3 years as a percentage of basic shares outstanding did not exceed 3%; (5) all directors attended at least 75% of board meetings or provided a valid excuse for their non-attendance, (6) board guidelines are in each proxy statement, and (7) directors are subject to stock ownership guidelines (Brown and Caylor 2006: 411).

Following guidelines by and compiling data from the ISS as well, Chung et al. (2010) have suggested 24 indicators to assess good corporate governance that are aggregated to an overall (equally weighted) summary measure:

(1) The audit committee consists solely of independent outside directors.
(2) The board is controlled by more than 50% independent outside directors.
(3) The nominating committee is comprised solely of independent outside directors.
(4) The compensation committee is comprised solely of independent outside directors.
(5) The governance committee meets at least once during the year.
(6) The board members are elected annually.
(7) The size of board of directors is at least 6 but not more than 15 members.
(8) The shareholders have cumulative voting rights to elect directors.
(9) The CEO serves on no more than two additional boards of other public companies.
(10) No former CEO serves on the board.
(11) The CEO and chairman duties are separated or a lead director is specified.
(12) The board guidelines are disclosed publicly.
(13) The company has no poison pill.
(14) A majority vote is required to amend charter/bylaws (not supermajority).
(15) A simple majority vote is required to approve a merger (not supermajority).
(16) Shareholders may act by written consent, and the consent is not unanimous.
(17) Shareholders are allowed to call special meetings.
(18) The board cannot amend bylaws without shareholders' approval or only in limited circumstances.
(19) The company is not authorized to issue blank check preferred stock.
(20) The directors receive all or a portion of their fees in stock.
(21) All directors with more than 1 year of service own stock.

(22) The executives are subject to stock ownership guidelines.
(23) The directors are subject to stock ownership guidelines.
(24) The company is incorporated in a state without any takeover provisions.

A shorter version that is also derived from the ISS guidelines has been created by Aggarwal et al. (2009) and utilized, among others, by Yu (2011). Starting from 44 attributes that cover 4 broad subcategories with regard to the board (25 attributes), audit (three attributes), anti-takeover (six attributes), and compensation and ownership issues (ten attributes), they suggest a corporate governance index that rests on only 7 characteristics and is therefore referred to as Gov7:

(1) Board independence: The board is controlled by more than 50% independent outside directors.
(2) Board size: The board size is at greater than 5 but less than 16.
(3) Chairperson/CEO separation: The chairperson and CEO are separated or there is a lead director.
(4) Board structure: The board is annually elected (no staggered board).
(5) Audit committee independence: The audit committee is comprised solely of independent outsiders.
(6) Auditor ratification: The auditors are ratified at the most recent annual meeting.
(7) Stock classes: There is only one class of common stock.

According to Aggarwal et al. (2009), these seven attributes are the ones that have received the most attention in research and practice. Interestingly, these items differ from the ones identified by Brown and Caylor (2006).

Ammann et al. (2011) have brought together 64 corporate governance attributes that were collected from Governance Metrics International (GMI). The 64 attributes are subcategorized by GMI into (1) board accountability, (2) financial disclosure and internal control, (3) shareholder rights, (4) remuneration, (5) market for control, and (6) corporate behavior. Interestingly, this index also covers specific corporate behavior that appears to be related to the firm's corporate social responsibility. This sixth subcategory contains the nine attributes whether the company has a policy addressing workplace safety, does not have pending criminal litigation against it, has no allegation that the company used sweat shops within the last 3 years, discloses its environmental performance, discloses its workplace safety record, has no regulatory investigation for a material issue other than for accounting irregularities, discloses its policy regarding corporate-level political donations, has not been charged with workplace safety violations within the last 2 years, and has not been alleged to have used child labor.

Based on primary survey data and with specific references to peculiarities of emerging markets, Black et al. (2012) have created a more comprehensive corporate governance index that consists of six subindices referring to board structure (board independence and audit committee), ownership structure, board procedures, disclosure, related party transactions, as well as minority shareholder rights. The board structure subindex contains seven elements. Four of these refer to board independence and indicate the proportion of independent directors and the separation of the roles of chairperson and CEO. The remaining three elements refer to the existence and independence of an audit committee and its inclusion of minority shareholder representatives. The ownership structure subindex (five elements) measures the proportion of nonvoting shares, the fractional ownership of voting shares by the largest shareholder, the wedge between this shareholder's voting and economic rights, as well as the size of the largest outside blockholders. The board procedure subindex (six elements) measures whether the firm had more than four physical board meetings in the previous year, provided materials to directors in advance of their meetings, has systems in place to evaluate CEO performance and other executives, and established a code of ethics as well as specific bylaw to govern the board. The disclosure subindex (12 elements) indicates, inter alia, whether related party transactions are publicly disclosed, management has regular meetings with analysts, and financial statements apply generally accepted accounting standards and are accessible on the webpage. The related party subindex (four elements) refers to (potential) conflict of interest transactions, their regulation, and their approval. The minority shareholder rights index (seven elements) captures the existence of potential takeout rights on a sale of control and freezeout rights at prices exceeding the legal minimum, shareholder rights for the election of directors, as well as procedures to arbitrate disputes with shareholders. Within each subindex, each element is equally weighted. To compute a subindex, all elements are summed up and then divided by the maximum score achieved by any firm. Each subindex consequently ranges between 0 and 1. The overall score is the average of the subindex scores (Black et al. 2012).

In sum, these standards remain very much within the logic of agency theory and focus on the division of power and corresponding rights between the directors and executives of the firm and its (minority) shareholders. They emphasize (easily observable) structural arrangements and have only recently started to consider corporate governance processes (that are much more difficult to access and assess). In line with their agency theoretical lens, they mainly refer to the US governance environment and have been less receptive to the peculiarities of corporate governance systems in other countries.

Performance Implications

A plethora of studies has investigated the effects of generally accepted standards of corporate governance. Although scales to measure the legitimacy of organizations and issues have been developed (Alexiou and Wiggins 2019; Chung et al. 2016; Etter et al. 2018), the legitimacy of corporate governance standards remains to be largely assumed rather than precisely tested. Empirical studies rather focus on the performance consequences associated with the adoption of these standards.

Overall, there is some evidence that certain standards of corporate governance tend to be positively associated with various measures of firm performance. However, the results remain equivocal. As Bhagat et al. (2008: 1814) resume: “the empirical literature investigating the effect of individual corporate governance mechanisms on corporate performance has not been able to identify systematically positive effects and is, at best, inconclusive." The extant evidence is based on single-country studies as well as multi-country studies. Studies have referred to single governance mechanisms like the composition of the board or its formation of committees or utilized composite measures integrating a multiplicity of governance arrangements, like the indices outlined in the previous section of this chapter. Outcome measures include accounting-based performance, market-based performance, and operational performance but also broader consequences such as corporate social responsibility or earnings management.

Reddy and Sharma (2014), for instance, have demonstrated that publicly listed companies in Fiji have adopted governance recommendations like the appointment of independent directors, the formation of board committees for audit and remuneration, and the separation of the positions of CEO and chairperson in order to gain legitimacy from stakeholders. Their findings also show that some of these arrangements, more specifically the establishment of audit and remuneration committees, are positively associated with firm performance measured by Tobin's Q. The authors conclude that firms adopt best practices of corporate governance practices to strengthen their legitimacy.

More recently, Elmagrhi et al. (2018) have shown that better-governed UK listed firms tend to arrange more modest levels of executive compensation than their poorly governed counterparts and that the pay-for-performance sensitivity tends to be stronger in firms with higher corporate governance quality. The pay-for-performance sensitivity therefore appears to be contingent on the quality of corporate governance arrangements. This is also indicated by Ntim et al. (2019) who demonstrate that the pay-for-performance sensitivity is higher in better-governed South African firms that have larger ownership stakes by directors and institutions and established independent nomination and remuneration committees.

Beekes et al. (2016) analyze about 5,000 publicly listed firms in 23 countries and find greater and more frequent disclosure by better-governed firms. Following Chung et al. (2010), the authors utilize a comprehensive measure of corporate governance that incorporates 24 specific governance provisions and includes an assessment of the functioning of the board of directors and its formed committees, stock ownership by and compensation of directors and executives, as well as change-of-control provisions in the charter or the bylaws of the firm.

Despite this positive evidence, the extant results remain rather inconclusive. Depending on the specific governance arrangements, the context and environment in which the firm is embedded (e.g., Aggarwal et al. 2009), the overall condition of a booming versus shrinking economy (Li and Li 2018), as well as the measurement of outcome consequences, findings do vary. Bhagat et al. (2008: 1808) resume "that there is no consistent relation between . . . governance indices and corporate performance. In short, there is no one 'best' measure of corporate governance: The most effective governance institution depends on context and on firms' specific circumstances."

There are important endogeneity concerns from which prior findings may suffer (Bhagat et al. 2008; Brown et al. 2011). Clearly, a broad range of different measurements of good governance have been applied that should be sensitive to local institutional arrangements and cover both internal and external aspects of governance (Aguilera et al. 2015; Brown et al. 2011; Cremers and Nair 2005).

Extant indices whose construct validity has seldomly been addressed (Black et al. 2017) treat corporate governance characteristics mainly as additive (Bhagat et al. 2008). However, there is evidence that these characteristics could substitute for each other rather than being complements (Brown et al. 2011). As they may substitute or complement each other, governance mechanisms may produce non-linear, non-additive, and interrelated effects (Rediker and Seth 1995). Two governance mechanisms operate as substitutes if the equivalent functionality can be achieved either by one or the other (Aguilera et al. 2012), i.e., one mechanism can be replaced by another without affecting the way the governance system functions. In contrast, two mechanisms are complementary if the presence of one mechanism strengthens the functional effectiveness of the other (Aguilera et al. 2008). In other words, they operate in a synergistic and mutually reinforcing manner (Schiehll et al. 2014). Scrutinizing corporate governance characteristics in isolation from each other is consequently insufficient as essential contingencies and interrelationships remain ignored.

The analysis of configurations, or governance bundles, appears therefore to be promising in order to reflect on, and account for, the complex interdependencies between various corporate governance characteristics whose interrelationships may also vary depending on the context in which they are embedded (Aguilera et al. 2012; Schiehll et al. 2014; Ward et al. 2009). In this regard, firm performance is not only an outcome that could be reached equifinally by multiple corporate governance bundles (Garcia-Castro et al. 2013). Rather, firm performance could also influence the composition of and the mix of corporate governance mechanisms within bundles (Ward et al. 2009). Misangyi and Acharya (2014) have shown that the effectiveness of board independence and the separation of the roles of CEO and chairperson depends on their combination with the other mechanism in the corporate governance bundle. They are therefore not singular elements of good corporate governance. Regarding the equifinal consequences of multiple corporate governance bundles, Oh et al. (2018) have indicated that similar levels of corporate social responsibility can be achieved with different combinations of corporate governance characteristics.

There are large cross-country differences of these bundles of corporate governance mechanisms that tend to rest more on board monitoring, executive compensation, and the market for corporate control in advanced economies. In contrast, the relationship-based systems in emerging economies tend to place a greater emphasis on the governance role of lending institutions, large blockholders including family shareholders, and organizational governance hierarchies (Armitage et al. 2017). Within developed countries, there are differences between stakeholder- and shareholder-oriented governance systems (Desender et al. 2016). Moreover, recent research has demonstrated that country-level institutional factors influence the interplay between internal governance arrangements and their relationships with external governance characteristics (Bell et al. 2014).

Conclusion

The system of corporate governance deals with the roles and responsibilities of directors, executives, shareholders, and other stakeholders of the firm. This system determines how corporate power is divided among the constituencies of the enterprise and who is consequently supposed to make, or at least influence, corporate decisions about the allocation of assets for value creation and appropriation. While corporate governance has been widely studied as a determinant of various measures of firm performance, it also influences to which degree a company and its structure, processes, projects, and operations are viewed to be legitimate. In this regard, firms may seek to gain legitimacy by complying with standards of management and supervision that are widely believed to indicate generally accepted and therefore good corporate governance arrangements.

Future research is needed to investigate the complex interrelationships and potential trade-offs between effective and legitimate systems of corporate governance in more depth. Well-performing firms may be assumed to be well-governed and assessed to be legitimate due their high levels of performance, whereas low-performing companies may jeopardize their reason to exist and face consequently threats to their legitimacy. Well-performing firms tend also to be better able to bear the costs associated with efforts to gain legitimacy (Jeong and Kim 2019). If legitimacy is gained from conformity to well-established standards of corporate governance that are taken for granted, companies tend to become more similar or isomorph due to their adoption of these standards. Above average rates of performance, however, tend to require to differentiate from the average firm and roles and routines that are widely shared within the sector. “Organizations face a constant tension to maintain legitimacy by conforming to industry norms, but also to differentiate by creating a distinctive market presence and competitive position” (Irwin et al. 2018: 270). As Deephouse (1999) has explained, performance tends to be increased by singularity due to less competition as well as by similarity due to more legitimacy. Hence, there are tensions between differentiation and conformity that need to be balanced.

Experimenting with new forms of corporate governance may be warranted to tap the full potential of the system of management and supervision and to tailor this system to the peculiarities of the individual firm. This may also request more efforts to explain and justify potential deviations from dominant logics about how (legitimate) firms are supposed to be governed. Since innovations break out of common ways of thinking, achieving their legitimacy may be rather demanding and needs to overcome contentions in order to become applied and accepted (Semadeni and Krause 2020). Gaining a sufficient level of legitimacy remains therefore to be a precondition that corporate governance mechanisms are approved by influential constituencies and widely adopted.

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Corporate Governance and Corporate Legitimacy: The Role of Boards

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Eythor Ivar Jonsson

Contents

Abstract

The field of corporate governance can to a large extent be traced back the aftermath of the Great Depression 1929. The problem which led to the crash of the stock market was described as a division between control and ownership. The problem was described as managerialism. The thesis of managerialism inspired agency theory which has been synonymous with corporate governance theory. The theory focuses on the shareholder perspective and the importance of maximizing profits. Although corporate legitimacy has become a more important concept within institutional theory, it has had limited influence on the corporate governance discourse. That is, however, likely to change as the importance of the stakeholder perspective is growing. To align corporate governance with stakeholder perspective and strive for corporate legitimacy will have profound effects on the role of boards and corporate governance.

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Introduction Stakeholders and Corporate Governance

Corporate governance has many definitions, but the most common one claims that corporate governance is a system for directing and controlling companies. A few examples from different country codes illustrate the point.

Corporate governance is the system by which companies are directed and controlled (Cadbury Report – Cadbury 1992, p. 15). Corporate governance refers to the set of rules applicable to the direction and control of a company (Cardon Report – Cardon 1998, p. 5). Corporate governance is the goals, according to which a company is managed, and the major principles and frameworks which regulate the interaction between the company's managerial bodies, the owners, as well as other parties who are directly influenced by the company's dispositions and business (in this context jointly referred to as the company's stakeholders). Stakeholders include employees, creditors, suppliers, customers, and the local community (Norby Report – Johansen et al. 2001, p. 3).

The roots of the field of corporate governance can be traced back to Berle and Means' (1932) thesis concerning the problem of separation between control and ownership. The problem of managerialism which is described by Berle and Means (1932) focuses on the importance of shareholders as the ultimate owners of corporations and decision-makers. It has emphasized the importance of the shareholder perspective in the corporate governance discourse. An example of shareholder perspective is how Shleifer and Vishny (1997, p. 737) define corporate governance as "the ways in which suppliers of finance to corporations assure themselves of getting a return on their investment."

Although the literature of corporate governance has been dominated by the shareholder perspective, there have been attempts to define corporate governance from a stakeholder perspective. Demb and Neubauer (1992, p. 187) define corporate governance as "the process by which corporations are made responsive to the rights and wishes of stakeholders." Hilb (2006, p. 9), for example, defines corporate governance as "a system by which companies are strategically directed, interactively managed and holistically controlled in an entrepreneurial and ethical way and in a manner suited to each particular context."

Although attempts have been made to define corporate governance within the stakeholder perspective, there is however surprisingly limited discussion within the literature which represents corporate legitimacy as the social acceptance of business organizations and their activities (Filatotchev and Nakajima 2014). If this "social license to operate" or a "social contract" provides organizations a "reservoir of support" that enhances the likelihood of organizational survival (Dowling and Pfeffer 1975; Rao 1994) and perpetuates organizational influence by increasing individuals' loyalty to the organization and willingness to accept organizational actions, decisions, and policies (Tyler 2006), it should be a central issue within corporate governance rather than a footnote. Corporate governance research, however, points out that organizational leaders make decisions that may shape the foundations of leadership responsibility and accountability not only to shareholders but also to a wider body of stakeholders (Scherer et al. 2013). Therefore, it is important to explore the contradictory relationship between corporate governance and corporate legitimacy.

The Foundations of Corporate Governance

The field of corporate governance can to a large extent be traced back to Berle and Means' classic work from 1932, *The Modern Corporation and Private Property* (Berle and Means 1932). The focus of the work was Berle and Means' basic concern over the separation of ownership from control in large US corporations. The thesis became the inspiration for the leading corporate governance theory.

Berle and Means' concerns were about dispersed ownership, as firms grew the stocks became dispersed among a large number of small shareholders. Those small shareholders did not have the same power as owners as if the companies were owned by large shareholders. The limited power of dispersed shareholders created a vacuum in which managers, those who ran daily operations, had seized the power. The problem of that, according to Berle and Means, was that interests of managers were not necessarily in line with those of shareholders. Owners were more inclined to prefer profits to be returned to them as dividends; managers, however, might prefer to reinvest the profits or even use it for more self-serving purposes (Mizruchi 2004).

The idea of managerialism which Berle and Means (1932) proposed did attract considerable attention from transaction cost economics and agency theory (Mizruchi 2004). Oliver Williamson (1975, 1979, 1984) wrote about how managerial decision related to transaction cost could affect profit maximization. The active role of management in directing the firm was acknowledged, as reflected by Alfred Chandler (1977), as an important factor in organizational behavior as decisions were predicated on the assumption of managerial discretion (Mizruchi 2004). As transaction cost approach was based on the assumption of managerial discretion, the agency theory took the degree of managerial autonomy as far more problematic (Mizruchi 2004).

Agency theory (and transaction-cost theories) is usually described as part of organizational economics (Barney and Ouchi 1986; Donaldson and Preston 1995) or new institutional economics. As originated in the study of Berle and Means (1932), the use of new institutional economics in relation to corporate governance has primarily focused on the relationship between shareholders and managers of large public companies (Ulhøi 2007). Agency theory is the most common approach in empirical research within the governance field. It has been considered the dominant theoretical perspective in corporate governance (Shleifer and Vishny

1997). Furthermore, it is often used synonymously with governance theory (Lubatkin 2007).

Agency theory is concerned with the problems arising when one party (the principal) contracts with another (the agent) to make decisions on behalf of the principals (Fama and Jensen 1983). Three factors play a key role in this problem and capture the nature of the principal-agent relationship: (1) information asymmetry between principals and agents, (2) bounded rationality by both principals and agents, and (3) potential goal conflict (Gomez-Mejia and Wiseman 2007). The separation of ownership and control gives rise to conflicts of interests between shareholders and managers, their agents, because of the opportunism of managers (Lubatkin 2007).

Williamson (1975) and Fama and Jensen (1983) argue the role of the board of directors, and more generally of the corporate governance system, is to harmonize agency conflicts. The board is principally an instrument by which managers control other managers (Williamson 1984). It is an instrument of control with the primarily role of monitoring management activities in order to minimize agency costs and thereby protect shareholder interests (Stiles and Taylor 2001). It can therefore be argued agency theory is at least partially, if not completely, about control (Mace 1971; Zahra and Pearce 1989) and power (Finkelstein and Hambrick 1996; Pettigrew and McNulty 1998). The contractual relationship of the principal and the agent is related to potential moral hazard and adverse selection problems (Gomez-Mejia and Wiseman 2007). Moral hazard arises when agents shirk their responsibilities, as they believe their behavior is unobservable. Adverse selection arises when one party has information the other party in the contract cannot obtain without some cost. Moral hazard and adverse selection create the need for a governance mechanism (Gomez-Mejia and Wiseman 2007). As information asymmetries increase, it becomes harder for the principal to know whether the agent is fulfilling his contract (Balkin et al. 2000).

The key is to create an “alignment of incentives” in which managers’ interests will correspond with those of owners. Agency theorists focus on means by which owners can provide effective monitoring mechanisms. Much of the research within the area involves examinations of the effectiveness of these various mechanisms. A couple of ideas have been emphasized: (A) Aligning incentives to stock prizes. When managers own stock in the firm, they share interests in its performance with the remaining equity holders. (B) Effectiveness of markets, both in terms of its effect on the firm’s stock price and the related market for corporate control. This approach raises the possibility that managers could be ousted. (C) Direct monitoring through the appointment of an expert board of directors, who are constrained to operate in the stockholders’ interest because of their need to maintain their reputations (Mizruchi 2004).

There are serious doubts as to whether agency theory is applicable in other settings than large US corporations or even whether it was ever intended for any other settings (Ulhøi 2007; Lubatkin 2007). The main assumptions of agency theory are still being debated (Lubatkin 2007; Ulhøi 2007; Gomez-Mejia and Wiseman 2007). It is argued some researchers emphasize the opportunism of managers too heavily, as the main premise is not distrust (Ulhøi 2007), but rather insurance or protective measures.

The main premises of agency theory, Berle and Means' (1932) managerialism, have constantly been contested and somewhat ignored by economists (Mizruchi 2004). Berle and Means (1932) found that 44% of the 200 largest nonfinancial companies in the United States had no one shareholder with more than 20% stake in the corporation which was the cutoff point for approximate minimum necessary for control. They labelled these companies as management-controlled (Mizruchi 2004). Berle and Means' thesis was that management-controlled corporations would have worse results than ownership-controlled corporations. Researchers have only found limited influence on results if any between corporations labelled as management-controlled, with no owner with more than 20% stake, compared with ownership-controlled (Monsen et al. 1968). Furthermore, limited evidence has been found regarding increases in retained earnings in management-controlled organizations (Lintner 1959; Stearns 1986). The lack of evidence for the managerialism thesis might be the reason for limited discussion about the phenomena between 1932 and 1970 (Mizruchi 2004).

Furthermore, research has indicated that block holder ownership was even less frequent in the 1960s than in the 1930s as controlling for 10% ownership (Larner 1970) found that more than 80% of the 500 largest US manufacturers had no block owner with 10% or more. Zeitlin (1974) argued that as many as 60% of the companies in Berle and Means' (1932) sample had been owner controlled at the time.

The main thesis of Berle and Means (1932) was that ownership had become so dispersed there was no real owner of organizations, which in turn empowered managerial control of organizations. Many researchers question whether this is as common a problem as indicated, because ownership is much more concentrated in most companies (La Porta et al. 1999; Faccio and Lang 2002). La Porta et al. (1999) and Faccio and Lang (2002) have studied ownership structure in several countries and found corporate ownership is concentrated in most countries, although to a lesser degree in Anglo-Saxon countries. Many researchers have questioned the claim of dispersed ownership and how commonly corporations are management-controlled (Shleifer and Vishny 1997). Lubatkin (2007) argues the problem of dispersed ownership is nonexistent in majority of companies on a global scale.

It can therefore be argued that there is limited support for the management control thesis of Berle and Means (1932) as being a realistic problem, nor a problem in terms of the effect of managerialism that is supported by empirical evidence. The basis of agency theory in the corporate governance context is therefore weak at best. It is, however, the leading argument for the shareholder perspective in context of corporate governance.

The Role of Boards

Discussions about the role of boards in companies are often puzzling because the underlying theoretical frameworks differ. In the literature at least nine challenging theories can be found underpinning various perspectives and which may possibly lead to challenging arguments, e.g., agency theory, stewardship theory, managerial hegemony theory, institutional theory, resource dependency theory, class hegemony theory, networking theory, legalistic theory, and stakeholder theory (Zahra and Pearce 1989; Johnson et al. 1996; Hung 1998). Some researchers argue a general theory of the board is needed which avoids such confusion (Stiles and Taylor 2001), as well as an appropriate conceptual framework to adequately reflect the reality of governance (Tricker 2000).

The discourse of corporate governance has put emphasis on the monitoring duties of the board, partly due to the dominance of agency theory and partly because of legal requirements and regulations (MacAvoy and Millstein 2003). At the same time, interest in the "directing" concepts decreased (Lorsch and Carter 2004). It is, however, important to acknowledge the Delaware courts in the United States have emphasized both the monitoring and directing functions of the board. As has been made clear in a series of famous cases, e.g., Paramount Communications, Grobow v. Perot, Hanson Trust PLC v. SCM Acquisition, Moran, and Smith v. Van Gorkom, "boards could and should determine key strategic decisions, acting independently of management, through a thoughtful and diligent decision-making process" (MacAvoy and Millstein 2003, p. 23). Furthermore, directors themselves have emphasized the need for increased strategic participation (Demb and Neubauer 1992; Stiles and Taylor 2001; Lorsch and Carter 2004). In other words, the monitoring function has been fed, while the directing function has been starved. Agency theory, which is often used synonymously with governance theory, emphasizes the monitoring function of the board (Jensen and Meckling 1976; Lubatkin et al. 2007), while stewardship theory proposes the main function of the board should be directing (Donaldson 1990; Donaldson and Davis 1994). Agency theory has, however, received the most attention in the literature (Stiles and Taylor 2001; Lubatkin et al. 2007).

Stewardship theory takes a different view from agency theory of the relationship between management and the board of directors. It can be described as a counter theory to agency theory. Managers are considered good stewards of corporate assets, rather than opportunistic and self-interested actors as within agency theory (Donaldson 1990). It originates from organizational psychology and sociology, claiming executives are generally trustworthy (Argyris 1964; Donaldson and Davis 1994). Davis et al. (1997) compare the two theories and point out the limits and boundaries of the theories rest in their definition of behavior or the model of man. While both theories concentrate on the relationship between the board (or shareholders) and management, they view that relationship in totally different fashions. According to agency theory, managers are self-serving individualists focused on the short term, while stewardship focuses on managers who serve the collective and are long-term orientated (Davis et al. 1997).

The shareholder perspective, including the dominance of agency theory in the corporate governance literature, has been the focus of corporate governance. The perspective emphasizes the importance of the owner of the organization. Other stakeholders might be considered but usually only as influencers or associated with risk. Stakeholder theory, however, stresses corporations and boards must accept responsibility for stakeholders such as customers, suppliers, employees, and the community, rather than just shareholders (Lorsch and Carter 2004). The theory challenges the predominance of shareholders as the only real stakeholders and assumes interests of all stakeholder groups have intrinsic value (Jones and Wicks 1999). In agency theory and stewardship theory, companies are run for their owners, the shareholders, based on a simple profit-maximizing perspective. The stakeholder approach to the role of the governing board implies negotiation and compromise with stakeholder interests (Hung 1998). Stakeholder theory takes the broad view companies are not just profit-maximizing entities, but rather need to consider all stakeholders of the company. It can be argued this approach has at least three implications for the role of the board and its functions: (1) monitoring, as an example for ethical standards or environmental standards not directly linked with shareholder interests; (2) negotiations and compromise, where the board acts as a link and coordinator between management and shareholder interests on one hand and other stakeholder interests on the other; and (3) directing, with the focus of more than one success criteria which reflects the impact on different stakeholders.

The stakeholder theory differs from resource dependency theory, although it too focuses on the external environment. Resource dependency theory, like agency theory and stewardship theory, focuses on the shareholder perspective. The two theories can be contrasted in another way. While stakeholder theory focuses on the role of board in establishing long-term relationships between the firm and the stakeholders (Freeman 1984; Blair 1995), resource dependency theory focuses on the board as an instrument to facilitate access to resources critical to the firm's success (Johnson et al. 1996), both in the short and long term.

The role of the board within the stakeholder perspective is therefore to satisfy multiple stakeholder interests, rather than only to monitor conventional economic and financial factors (Donaldson and Preston 1995). The focus of the theory is not just shareholder-board-management interaction and goals. It becomes stakeholder-board-management interaction and goals. The model of the firm changes from a simple input-output model to a more interactive stakeholder model. The comparison of the shareholder and the stakeholder model indicates how much more complicated the stakeholder model is in practice (Donaldson and Preston 1995).

The complexities of the stakeholder model, to satisfy multiple stakeholders, is a reason for why the effort of management and boards is more inclined to focus on compliance with laws and regulations, including accounting rules and anti-fraud policies (Ball et al. 2003), which protects stakeholders rather than using it as a guideline for directing the organization. The stakeholder perspective with different institutional pressures may require different managerial approaches (Eesley and Lenox 2006). The key question will still be the question of how to measure success for stakeholders, including shareholders, as the organizational performance will determine the survival and legitimacy of the organization.

Compliance and Performance

The corporate governance debate seems to have been driven by corporate scandals (O'Brien 2005). Although it is hardly noted in the context of Berle and Means' (1932) thesis, it is hard to disregard the fact their book was a response to and written because of one of the most severe recessions in modern times, a recession which had an immense influence on politics and commerce around the world, the 1929 stock crash. There are indications that waves of interest in corporate governance occur at the break of prosperous times and irrational corporate confidence. MacAvoy and Millstein (2003) have, for example, studied the history of corporate governance in parallel with the waves of mergers in the twentieth century. This is even more noticeable in the emergence of corporate governance codes. The Cadbury Code of 1992 was a response to a series of scandals in Britain in the 1990s, most notably Coloroll, Polly Peck, Bank of Credit and Commerce International, and Maxwell Enterprise (Cadbury 2002). At the same time, some legendary corporations like IBM, General Motors, and Sears were faltering in the United States, which led to increased pressure from institutional investors, takeover firms, and judicial interpretations of fiduciary duties (MacAvoy and Millstein 2003). The Sarbanes-Oxley Act in the United States was pushed through congress in the aftermath of corporate scandals like Enron, WorldCom, Global Crossing, Lucent, Williams, Dynegy, K-Mart, and HealthSouth (MacAvoy and Millstein 2003; O'Brien 2006). This does not come as a surprise, as to quote Warren Buffett (Buffett and Clarke 2006, p. 47): “It's only when the tide goes out that you learn who's been swimming naked.”

The typical response to a scandal has been “where was the board?” (MacAvoy and Millstein 2003). It is therefore performance or rather the lack of performance which has been the driver of corporate governance codes and legislation.

Research on corporate governance has to a large extent focused on the association between the board and the performance of the board (Filatotchev and Wright 2005; Shleifer and Vishny 1997). The interpretation of organizational performance is therefore an important variable in corporate governance research, especially in research based on agency theory (Bøhren and Ødegaard 2003). The perspective of maximization of profit for shareholders is furthermore the objective of agency theory.

Organizational performance is the dependent variable in the formulation of the problem. Most models in corporate governance literature use corporate performance as a measure. Dalton et al. (1998), in a meta-analysis of 131 samples, note governance structure and financial performance research have relied mostly on accounting-based indicators, although some studies use market-based indicators or both types together. Several researchers claim Tobin's Q, the standard approximation of market value, is the leading indicator of performance in corporate governance (e.g., McConnell and Servaes 1990; Bøhren and Ødegaard 2003). Dalton et al. (1999) note, however, corporate governance research has relied on many different types of accounting measurement for performance.

Performance measures have received little attention in the corporate governance field. Organizational performance, however, is a major research topic and has been for a long time (Maltz et al. 2003). Organizational performance is a complex and multidimensional phenomenon (March and Sutton 1997). There is some concern simple outcome-based indicators as measures of organizational performance are insufficient (Brett 2000; Venkatraman and Ramanujam 1986). Some claim the trend in research is moving away from the tradition of measuring only financial performance of organizations (Ramanujam and Venkatraman 1988; Brett 2000).

Stakeholder perspective calls for a broader measurement of success than profit as the benefits for different actors cannot be solely achieved through increased profits. Those measures are gradually being developed. More variety of measures for boards to consider as part of their decision-making process complicates the role of the board. It is more than only compliance to laws and regulations.

It is evident that compliance has become more demanding as scandals have driven the regulatory framework of corporate governance. The legalistic perspective mandates boards to contribute to performance by carrying out their legal responsibilities (Zahra and Pearce 1989). Dulewicz and Herbert (1997) found, in their study of listed UK companies, boards do focus on the importance and effort of fulfilling their legal and fiduciary duties. In agency theory, this power comes from the shareholders, and in legal theory, power emanates from state law (Budnitz 1990). Legal theory is therefore less specific in identifying board duties to shareholders than agency theory (Budnitz 1990). Some legal scholars have argued that by making the board responsible for ensuring that the corporation in compliant with relevant laws and regulations and therefore making directors primarily accountable to the corporation itself, the debate moves away from the shareholder – management dichotomy (Lan and Heracleous 2010). In that context it is important to note that by law, almost universally, the board's fiduciary duty is first to the corporation itself, not the shareholders.

Legal theory emphasizes that law and regulation are the sole motivation for organizational behavior. The focus is on the agency relationship between the board of directors and the corporation, as corporate law restrains management's opportunistic behavior by devising rules to regulate the actions of the board of directors – not of managers generally (Nakajima 2012). By imposing accountability on the board of directors, the thesis is that management opportunisms may be restrained (Nakajima and Sheffield 2002).

However, in institutional theory the pressure is more pluralistic, as social pressure and convention structure the behavior of the board. It may be argued legal theory stands for more formal institutional pressure, while institutional theory focuses on more informal external pressure. The institutional perspective claims organizations are institutionalized through internal and external pressures (Hung 1998). Tolbert and Zucher (1983) argue the governing board can only act to maintain the relationship between the organization and the environment. The role of the board from an institutional perspective is therefore sometimes labelled as maintenance role (Hung 1998). The role of the board is to maintain the status quo in the face of pressure from outside the board. These pressures restrict and limit what the board can do, as it is constrained by social rules and taken-for-granted conventions (Ingram and Simons 1995). By instilling value, institutionalization promotes organizational stability and persistence of the organizational structure over time (Selznick 1957). Corporate legitimacy is a concept which was developed as part of the institutional theory.

Stakeholders and Corporate Legitimacy

The importance of legitimacy for development and endurance of organizations and other social systems is a research agenda for sociologists and strategy researchers. Organizational legitimacy can shape investor behavior and perspectives (Pollock and Rindova 2003). Organizations with high levels of legitimacy are insulated from unsystematic variations in their stock prices (Bansal and Clelland 2004). From the institutional perspective, legitimacy seems to provide organizations with a "reservoir of support" that enhances the likelihood of organizational survival (Dowling and Pfeffer 1975; Rao 1994) and perpetuates organizational influence by increasing individuals' loyalty to the organization and willingness to accept organizational actions, decisions, and policies (Tyler 2006). The key argument is that legitimacy facilitates effective governance (Gibson 2004), and legitimacy judgments lead to the persistence of inequitable social structures (Thomas et al. 1986). Legitimacy is therefore a central concept in institutional theory (Colyvas and Powell 2006).

Institutions consist of cognitive, normative, and regulative structures and activities that provide stability and meaning to social behavior (Scott 1995). Or in other words, institution is a system of rules, beliefs, norms, and organizations that together generate a regularity of (social) behavior (Greif 2006). Corporate legitimacy is a necessary component of institutionalization, which occurs as an emerging social entity gains a quality that leads it to be perceived as an objective and natural reality. Illegitimacy can consequently be specified as a critical driver of the pursuit of institutional and organizational change (Greenwood et al. 2002; Suchman 1995). Changes in organizational forms, practices, and policies require that new arrangements be viewed as more legitimate than existing ones (Oliver 1991; Suddaby and Greenwood 2005).

In this context, Deephouse and Suchman (2008) argue that early definitions of organizational legitimacy from institutional theorists viewed legitimacy as a function of the congruence or conformity of an organization to social norms or laws (Weber 1978). Legitimacy has also been defined as the degree of cultural support for an organization – the extent to which the array of established cultural accounts provides explanations for its existence, functioning, and jurisdiction, and lack or deny alternatives. A completely legitimate organization would be one about which no question could be raised (Meyer and Scott 1983, p. 201). Popular definition by institutional theorists is that legitimacy is a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions (Suchman 1995, p. 574). The key issue is a fit or appropriateness of an organization with their social context.

The dominant perspective within corporate governance research, agency theory, has however been focused on the link between various corporate governance mechanisms from the perspective of shareholder and corporate performances or more the importance of maximum return on their investment (Filatotchev and Wright 2005; Shleifer and Vishny 1997). The fit between management and ownership intent is contaminated by the self-interested opportunism of management, and therefore the role of the board is to monitor the actions and intentions of management and restrain managerial discretion. The solutions for a better fit between management and shareholders are incentive schemes which align top management interests with shareholders interest (Bruce et al. 2005).

From this shareholder perspective, corporate governance studies have attempted to associate board structure and composition, shareholder engagement, and executive incentives, directly with the firm's financial performance rather than with managerial strategic decisions (Filatotchev and Wright 2005). Stakeholder perspective argues, however, that corporate governance relates to the structure of rights and responsibilities among the parties with a stake in the firm (Aoki 2001). From this broader perspective of corporate governance, the system needs to ensure that executives respect the rights and interests of company stakeholders, as well as to make those stakeholders accountable for acting responsibly with regard to the protection, generation, and distribution of wealth invested in the firm (Aguilera et al. 2008). This broader stakeholder perspective is also described in strategic management research as action taken by managers which need to benefit the stakeholders of the company and/or actions taken to avoid harmful consequences for corporate stakeholders and the larger society (Voegtlin et al. 2012). There is evidence that rather than being a short-term perspective, as some would argue, the stakeholder perspective and the focus on corporate legitimacy enables firms' sustainability and long-term survival (Donaldson and Preston 1995; Scherer et al. 2013).

A system of corporate governance which enables stakeholder theory probably needs to be different from system which has the role of facilitating shareholder agency perspective. The "legitimate" governance practices may have profound effects on the firm's leadership and its strategic decisions (Ioannou and Serafeim 2012). Corporate governance is a product not only of coordinative demands imposed by market efficiency but also of rationalized norms legitimizing the adoption of appropriate governance practices. In some cases, this process of legitimization may lead to changes in the firm's governance system itself, such as the creation of a board's committees or the introduction of nonfinancial metrics into internal controls, risk management, and incentive systems (Bell et al. 2014). This change becomes even more intense if the strategic focus of the organizations goes beyond of "doing good" by integrating social and environmental issues into formal and informal process of the firm from the perspective of shared value (Porter and Kramer 2006). As an example, corporate social responsibility (CSR) from a shared value perspective considers CSR to be an integral part of organizational capabilities and aligned with the strategic goals of the company to align best interests of stakeholders and the firm (Porter and Kramer 2006; Waldman and Galvin 2008). Then the corporate governance structures, such as corporate boards, board committees, and dominant owners, should not only monitor managers' compliance with laws and regulations but also determine how deeply CSR principles are integrated into the decision-making process at the top (Scherer et al. 2013).

Conclusions

Corporate governance and corporate legitimacy are concepts which have sparse common history. It is however important that boards of directors understand the social contract which can impact the survival of the organizations. Prioritizing corporate legitimacy will affect corporate governance and the role of boards. Decision will have to be taken in different manner where the stakeholder perspective with multiple measures of success will have to be the central focus of boards rather than a pure shareholder perspective with focus on maximizing profits.

It has somewhat been forgotten that Berle and Means' (1932) focus on separation of ownership from control was not only about managerialism and lack of accountability to investors, they were also concerned about lack of accountability to society in general (Mizruchi 2004). The concern was that a small group of people controlling the largest organizations had the power to build and destroy communities to generate great productivity and wealth but also to control the distribution of that wealth, without regard for those who elected them, the shareholders, or those who depended on them, the larger public (Mizruchi 2004).

The concerns of Berle and Means (1932) about society in general might not have been the main focus of their thesis, but it emphasizes that their work has somewhat been lost in translation as it led to the tunnel view of agency theory where the role of board becomes an act of monitoring management for the sake of investors and maximizing profits. Compliance with laws and regulations which try to safeguard the interest of society has become the name of the game. There is, however, a movement which emphasizes the importance of organization actions which go beyond compliance with laws and regulations and signal the willingness to advance the goals of stakeholders at large (Waldman and Galvin 2008). Such an effort is an attempt to secure corporate legitimacy.

The issue of managerialism has shed a light on who controls organizations for what reason. There were researchers which interpreted the separation of ownership of control as a positive thing as it has the potential to limit the power of the elite and increase democracy in the corporate context (Mizruchi 2004). Dispersed ownership and managerialism doesn't seem to increase corporate democracy or decrease the focus on shareholder wealth. That begs the question of what the role of the board is in this context. The definition of corporate governance is the system by which companies are directed and controlled (Cadbury 1992). At the core of the system is the board of directors who have the power by law to take decisions on behalf of the company (Stiles and Taylor 2001).

Lorsch and MacIver (1989) described the board in terms of pawns rather than potentates. It is, however, important that future boards will neither be described as potentates nor as pawns but as a fair decision-maker with a role which is relevant for the context of the organization. If boards have been largely irrelevant throughout most of the twentieth century (Gillies 1992), they need to get a different role. One of the key objectives of such boards and corporate governance in general could be to secure the corporate legitimacy of the company.

The board fiduciary duty is first to the corporation itself. It is only because of lack of clarity and context of legal framework that this fact has been somewhat lost in the corporate governance discussion. Legislation universally does not prioritize shareholders over the company although it is a common misconception. Boards of directors are the safeguards of the company not only the shareholders. They might be elected by shareholders, but it is clear by law that they are not the representatives of those same shareholders. They work for all shareholders but more importantly for the company itself. The best interests of the company usually coincide with the best interests of shareholders, but do not necessarily have to. The perspective of corporate legitimacy therefore becomes a more relevant objective than if the board were by law bound by the shareholder perspective.

The monitoring and directing role of the board can be adapted to the stakeholder perspective although the theoretical basis of the agency and stewardship theories focuses on the shareholder perspective. From the agency theory view of management, it would be important to incentivize management based on the stakeholder model and not just the shareholder perspective or align interests, and the monitoring function of the board would be to secure that decisions are taken with a broader view of stakeholders. The board would become the agent of society at large, and shareholders would be given the duty of actively seeking out societal expectations and protect societal rights before striving to maximize their firms value (Raelin and Bondy 2013). Directing, in line with stewardship theory, would have to include the risks and benefits for stakeholders in the strategic dialogue and decision-making. The change could be less imposing taking into account benevolent managerial behavior, intrinsic motivation, and the need for self-fulfillment (Scherer et al. 2013). A shift from agency theory, stewardship theory, and shareholder perspective to a more institutional and stakeholder perspective would call for structural and behavioral changes within boards and management.

The thesis of corporate governance, inspired by Berle and Means (1932) and driven by agency theory and shareholder perspective, is somewhat misaligned with the thesis of corporate legitimacy. It is most likely that corporate governance mechanisms need to change and adapt to a more inclusive stakeholder model in effort to align profit maximization, survival, and long-term sustainability of the firm and secure corporate legitimacy.

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Finance, Economic Theory, and Business Legitimacy

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Aloys L. Prinz

Contents

Abstract

In this chapter, the economic theories of the firm are used to ask what they can contribute to the legitimacy of business. The first step is to provide arguments why firms exist at all, and not only markets, and why the capitalist firm is the prevalent form of firms. In a second step, theories of the firms and their implica-

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tions for business legitimacy are presented. Besides the dominant agency and contractual theory on the one hand and the stakeholder theory on the other hand, the legal theory of the firm is introduced, as well as the resource-based view of the firm and the behavioral theory of the firm. In a third step, a broader economic analysis is applied in which the existence of market power, multinational and “footloose” enterprises, and lobbying activities of firms are considered. Last, but not least, four methods of social norm enforcement are discussed, namely, consumer choice, business reputation, financial markets, and stakeholder interference. After all, the dominant legitimation of business comes from the provision of economic values in form of goods and services in a socially acceptable way. Even from a well-understood stakeholder perspective, long-term value maximization is seemingly the adequate firm objective.

Keywords

Business legitimacy · Legal, agency and contactual theories of the firm · Resource-based, behavioral and stakeholder firm views · Enforcement of business legitimacy

JEL Classification

D21 · D23 · D62 · M21 · L21 · P12 · P14 · P16

Introduction

What legitimizes business in a society? This is a quite new question, as the discussion on the role of business in a society changed a lot over time. It evolved from the nineteenth to the twenty-first century along three main conflicts, from a Marxian conflict in the nineteenth and the early twentieth century between employees and employers, to a corporation conflict in the twentieth century between managers and firm owners, and, finally, to a legitimation conflict in the twenty-first century between stakeholders and firms (Prinz 2016). The Marxian conflict was mainly about the role of capital and labor as factors of production, as well as labor as a very special factor of production, provided by human beings. The corporation conflict reflected the separation of ownership and managerial control in firms and the consequences this implied. The recent stakeholder-firm conflict developed in advanced economies over the societal role of mainly large, internationally operating firms. This latest (legitimacy) conflict, although it started in the 1970s, gained momentum in the aftermath of the financial and economic crises of the years since 2000. Meanwhile, due to the alleged failure of states and international governmental organizations in the provision of global public goods, the role of a political agent is ascribed to business firms (Scherer et al. 2014), although the separation between business and politics remains very controversial (Pies et al. 2014).

Parallel to the evolution of conflicts, the economic theories of the firm evolved, too; the most prominent among them are:

- The firm as a legal institution
- The agency and contractual theory of the firm
- The resource-based view of the firm
- The behavioral theory of the firm
- The stakeholder theory of the firm

These theories emphasize certain aspects of firm behavior; none of them is the only theory of the firm.

The topic and aim of this contribution is to ask what theories in economics and finance tell about the legitimacy of business in a society. Although these theories do not focus on the legitimacy of business *expressis verbis*, they nevertheless contain implicit statements on this issue. The intention here is to reveal the respective legitimacy perspectives. To do this requires a definition of legitimacy. The starting point is the well-known definition of Suchman (1995, p. 574): "Legitimacy is a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions." As pointed out by Suddaty et al. (2017, Table 1), three different approaches to legitimacy are adopted in the literature: (1) legitimacy as a property, resource, asset, capacity, or thing; (2) legitimacy as an interactive, constructive process; and (3) legitimacy as a social judgment, evaluation, or construction. In this study, the emphasis is on legitimacy as a property of business. Nevertheless, the perspectives of legitimacy as a process and an evaluation are also considered, particularly in the section "Conclusion" below.

The remainder of this contribution is structured as follows. In section "The Firm in Economic Theory," the reasons for the existence for firms, rather than only markets, are presented. The focus in this section is on enterprises and corporations that are characterized by the dominance of capital as a factor of production, i.e., capitalist firms. Section "Theories of the Firm and Business Legitimacy" gives an overview on the main economic theories of the firm and their implications for business legitimacy. These theories are complements to each other and are the basis for an economics understanding of businesses and their activities. In section "A Broader Economic View on Business and Its Legitimacy," a deeper view of businesses in a society is taken. In particular, certain imperfections of firms and markets are considered: market power, multinational and so-called "footloose" enterprises, as well as firms as political actors. The enforcement of legitimacy concerns is analyzed in section "The Enforcement of Legitimacy Norms." Section "Conclusion" concludes.

The Firm in Economic Theory

Why Firms?

To start with, transactions are the analytical basis of economic activity, as recognized by Commons (1932) and rediscovered by Williamson, as pointed out in his 2009 Nobel Prize lecture. Transactions are rarely costless; otherwise, as demonstrated by Coase (1960), all economic transactions could take place via markets, even when they imply external effects. With positive transaction costs – finding a trading partner and concluding and enforcing contracts – markets alone cannot allocate input factors, as well as goods and services, to their best use. This was the birth of the firm, so to speak, according to Coase (1937), on which Williamson (1979) could continue.

Another building block for firms in economic theory are property rights (Hart and Moore 1990), and with property rights connected are contracts to exchange them (Cheung 1983). A firm must be legally able to own factors of production, as well as the assets it holds and the products it manufactures. Moreover, all factors of production must be owned by someone to call a positive market price. In this respect, labor as a service of workers is owned by the workers, as is capital by the respective owners or investors. The problem is, however, that contracts are usually incomplete. To be able to sustain long-term relationships in a productive endeavor and to motivate so-called specific investments (investments that are of no or very little use outside the common endeavor) require the (legally different) structure of firms. This explains why Eugene Fama summarized the contractual nature of the firm as follows: “The firm is just a set of contracts covering the way inputs are joined to create outputs and the way receipts from outputs are shared among inputs” (Fama 1980, p. 290). Put differently, a firm is a legal construct that creates economic value and this value is distributed contractually among the factors of production.

However, with positive transaction costs and property rights, it would also be possible that the state organized all economic activities via laws, regulations, and bureaucracies. The crucial question is where the costs of the organization of production are minimized (Williamson 1979, 1981). Organization costs consist of production costs and coordination costs. Production costs are increasing with distance to markets because markets allow to exploit economies of scale and scope to the highest possible extent and risks can be pooled. A single firm in a market will only produce a good itself if its own production costs are the minimal cost.

In contrast, coordination costs – as a part of transaction costs – are high in markets. The reason is that a high number of contracts are necessary in markets, if coordination among individuals and firms is required. The contract partners must be searched and contracts concluded and enforced. In this respect, hierarchies can perform the coordination better since only a few eventualities have to be written into contracts, whereas the remaining contingencies are delegated to one party or the other (Hart and Moore 1990). Coordination costs are the more important the higher the specificity of assets is (Williamson 1981). Consequently, high asset specificity and high coordination costs are indicators for a comparative advantage of firms over markets.

In general, the combination of increasing costs of production and decreasing costs of coordination with the level of hierarchies implies that the minimal organization costs imply a certain, not too high level of hierarchy, i.e., firms. The state as the highest level of hierarchical organization comes into play if the externalities created in production become too large to be internalized by individual firms. This means that the respective goods are public goods, with maximal externalities:

nobody can be excluded from consumption at reasonable costs, and rivalry in consumption is small to nonexistent. Put differently, the state as an ordinary producer of goods and services comes into play only if markets and firms are failing more or less completely. The economic approach to the organization of the production of goods and services proceeds according to comparative cost advantages. In this way, the institution with the lowest organization costs takes over the responsibility for production. In a world of scarce resources, this principle seems to be adequate and, hence, legitimate.

These theoretical considerations on the nature of firms can be applied to give a first answer on the question of the legitimacy of business. First of all, the creation of value in form of goods and services via cooperation of people, as well as the coordination of productive activities, is the first and foremost legitimacy of business. To provide goods and services at lowest costs, i.e., with the lowest input of scarce resources, an organizational division between markets and hierarchies (firms and institutions up to the state level) is required. Moreover, this organizational division according to the principle of comparative cost advantage allows asset specificity and the specialization of human skills and activities (human capital). These specializations are preconditions for high levels of productivity.

Why Capitalist Firms?

From a theoretical point of view, firms could be managed by owners or their representatives, the managers, or by labor, i.e., the firm's workers, as demonstrated by the theory of the labor managed firm (Drèze 1976), or worker-capitalist cooperatives (Tirole 2017, Part III, section 7). The question is, therefore, why the dominant share of firms is by far capitalist. These capitalist firms are defined by private property; decision-making by owners, investors, or their representatives; and the liability of the firm for violation of third-party rights.

According to Jean Tirole, the "driving need for finance" (Tirole 2017, p. 177) is the main reason for the dominance of the capitalist firm. In other words, capital or financial resources seem to be the scarcest factor of production. This factor hires than the other, less scarce factors as, most importantly, labor services.

This explanation of the capitalist firm is incomplete. The reason is that capital alone is insufficient to justify the existence of a firm. For a firm to exist, and to justify its existence, ideas for products, services, and production processes are necessary. Otherwise, there would be no willingness to pay of potential customers that could contribute the financial basis for its existence. In this respect, the entrepreneur is at the center of a (new) firm. Since only entrepreneurs provide and enforce innovations, they are the main source of economic value, survival, and growth (Schumpeter 1934; Casson 2005). Nevertheless, to pre-finance a firm's economic activity, capital is the direly needed factor. The innovatory role of entrepreneurship and the financing with capital explain the economic basis of capitalist firms. As argued by Schumpeter later on, the great danger of the capitalist firm and the respective economic system is the monopoly of firms (see Ebner 2006 to the stages of Schumpeterian entrepreneurship). This will be a topic in section "A Broader Economic View on Business and Its Legitimacy" below.

If economic signals as, for instance, prices, interest rates, and profits, are correct, and if the firms are accountable for their actions, the only "business of business" is the creation of value for its investors (Tirole 2017, p. 186). Differently said, the legitimacy of capitalist firms is driven by three factors: (1) the provision of economic value by the efficient employment and use of capital and labor services, (2) the liability of firms for the damage they may cause for third parties, and (3) the creation of shareholder value. From a shareholder viewpoint, profits are an end; however, from an economic perspective, profits are means for business survival and investment (Tirole 2017, p. 175).

Theories of the Firm and Business Legitimacy

The Firm as a Legal Institution

The relevance and importance of the legal system for a world with transaction costs has been stressed by Ronald Coase in his Nobel lecture: "Because of this, the rights which individuals possess, with their duties and privileges, will be, to a large extent what the law determines. As a result the legal system will have a profound effect on the working of the economic system and may in certain respects be said to control it" (Coase 1991). Therefore the firm as a legal institution is of first and foremost relevance for the legitimacy of business in a society. The legal system defines the limits of actions of firm owners, the firm's management, as well as the stakeholders. Although legal rules can be changed, the legal system itself restricts these changes, too.

The legal objective of business corporations was summarized very briefly by the Michigan Supreme Court in 1919: "A business corporation is organized and carried on primarily for the profit of the stockholders" (Michigan 1919). John Commons put it as follows: "Thus the going business, while it is a flow of transactions, is built upon the expectation of implied agreements that the transactions shall be the means of compensation for services not yet compensated. It is a process of investment and liquidation implied in the institution of private property which gives to the proprietor power to withhold service until the expected compensation is deemed satisfactory. It is the recognition of this ethical relation between investment and compensation, that in recent years has led to re-definitions of both Capital and Property" (Commons 1924, p. 207).

Although the Michigan (1919) decision is no longer applied in its strict sense, its nucleus is still intact; anything that provides a plausible positive link between decisions of a firm's management and the value of the firm for its shareholders is legally acceptable and does not violate shareholders' rights. Legally, managers are fiduciaries of the investors, i.e., the stockholders. In this respect, the firm as a legal entity meets the economics of the capitalist firm, as pointed out above.

Said very simply, there are legal constraints to the objectives of managers in a capitalist firm. The most serious constraint is that no management policy is acceptable that violates shareholder rights to the extent that it reduces substantially the value of their claims (Strine 2012). Of course, the laws may provide regulations that do exactly that, but for all firms. The general and specific rules of law restrict also the rights of shareholders. This cannot be done unilaterally by the management in complicity with or in reaction to stakeholders.

The legitimacy implications can be summarized as follows: (1) The legal legitimacy of business is identical with law compliance. (2) Managers of firms and corporations are legitimated trustees of the firm owners and investors. (3) Long-term profitability – restricted by the law – is the most prominent legitimacy of business (OECD 1999). A problem may nevertheless occur, if the "retain and reinvest" strategy is replaced by a "downsize and distribute" strategy in which (profitable) firms are liquidated and the profits distributed among shareholders (Lazonick and O'Sullivan 2000).

The Firm as an Agency and a Contractual Arrangement

The starting point is the famous statement of Eugene Fama: "The firm is just a set of contracts covering the way inputs are joined to create outputs and the way receipts from outputs are shared among inputs" (Fama 1980, p. 290; see also Jensen and Meckling 1976, p. 310, who determine firms and other organizations as "legal fiction," i.e., "...the artificial construct under the law which allows certain organizations to be treated as individuals"; footnote 12, p 310).

First of all, the firm as a social entity is defined by Fama (1980), as well as Jensen and Meckling (1976), as the result of a large number of contracts. The basic (legal) principle is the freedom and voluntariness of contract. The objective of these contracts is twofold: (1) to determine how input factors are combined to produce output and (2) the distribution of the net surplus (or rent or residual claims) after the remunerating of all factors of production. As already said above, the firm as an organization is required because of transaction costs.

Nevertheless, the existence of markets plays a crucial role in the contractual theory of the firm. The reason is that firms compete with each other. Competition restricts the firm-external conditions for firm-internal solutions for management issues and opens up opportunities for business. In this sense, competition is a discipline device for all firm members and for managers in particular (Fama 1980). The separation of ownership (in securities rather than ownership as such that is seen as irrelevant in modern large corporations) and control that seemingly creates incentive problems for all participants can be solved by adequate incentive mechanisms and performance monitoring schemes for teams, individuals, and the management within firms (Fama 1980). As a consequence, the separation of ownership in securities and control is rather a solution than an issue for the so-called agency problem, i.e., if one party in a relationship with conflicting goals – for instance, the management of a firm – should act in the interest of the other party.

As pointed out by Jensen and Meckling, their theory of the firm intends to combine the theory of property rights, agency theory, and finance theory to get a new theory of the firm (Jensen and Meckling 1976). Most importantly, they stress that the firm is not an individual but rather comparable with a market; the outcome of firms is then an equilibrium of different individual objectives within the contract framework that defines the firm. Corporations with inside equity (in the hands of managers), outside equity, and debt (in the hands of persons or institutions outside the firm) are seemingly well-equipped to minimize agency costs. In detail, agency costs encompass monitoring costs, costs of economic bonding, and residual income loss. Put differently, there is no other form of organizing large firms that operate with "other people's money" in such a way that the costs involved are at a minimum as a publicly held corporation. Moreover, the separation of decision management from residual risk bearing in large publicly held corporations allows to use external risk sharing (Fama and Jensen 1983). Without external risk sharing, the management would concentrate too much on the surviving of the firm than on the exploitation of economic opportunities. The separation of management decisions on the one hand and the control of the management on the other hand solve the agency problem (Fama and Jensen 1983).

These considerations have a crucial impact on the interests of stockholders in open corporations. As shown by Fama and Jensen (1985), in a perfectly competitive capital market in which stock prices contain all relevant information and where no transaction costs exist, maximizing the current market value of stockholders' wealth is the best strategy because it maximizes the future stream of consumption for stockholders. Depending on the contractual structure, this might be different for, e.g., closed corporations, partnerships, or nonprofit organizations (Fama and Jensen 1985). After all, the minimization of agency costs determines the ownership structure and, hence, the legal form of the firms.

The implications of the contractual and agency theory of the firm for business legitimacy can be summarized as follows. (1) Given the legal framework for establishing businesses, particular organizational forms of firms, as well as their solution for agency problems, are chosen deliberatively. Workers, investors, and managers are free to accept these contracts. (2) Private written and unwritten contracts govern the production process and the distribution of residual claims. (3) The main legitimacy of business is the creation of conditions for voluntary cooperation to provide economic values for customers and the society as a whole.

The Firm as a Collection of Assets and Capabilities: Resource-Based View of the Firm

Not resources, but the services that resources can provide are the real inputs in production processes; the management of a firm is the firm's capability to make use of these services (Penrose 1959). Hence, the management and the firm's resources, in combination with the management's capability to make use of the services of the resources, define the perceived opportunity set of a firm.

Resources that are not fully employed are a source for experimentation and innovation. "Unused productive services are, for the enterprising firm, at the same time a challenge to innovate, an incentive to expand, and a source of competitive advantage. They facilitate the introduction of new combinations of resources - innovation - within the firm" (Penrose 1959, p. 85). The so-called Penrose effect describes the capability of the management as the firm-growth limiting factor (Tan and Mahoney 2005).

According to Wernerfelt, the crucial strategic element in a firm's resource acquisition is to make it "more difficult for others to catch up" (Wernerfelt 1984, p. 173). Among such rare resources are machine capacity, customer loyalty, production experience, and technological lead. Rare resources are in this view employed to gain competitive advantage by enhancing market imperfections.

The role of invisible or intangible assets as firm resources is stressed by Itami and Roehl (1987). Among these assets are reputation, corporate culture, technology knowledge, brand names, and – particularly relevant in the age of Big Data – accumulated information on customers. As pointed out by Mahoney (2005, p. 261), invisible assets are important as they can hardly be bought for money, its development and accumulation cost time, and they can provide a multitude of uses and benefits. Therefore the value of these assets for a firm may be very high.

In effect, the resource-based view of the firm underlines the peculiarity of the firm's resources, management capabilities, and the value of underused and invisible assets in order to gain competitive advantage and, hence, economic rents.

The essence of the resource-based view of the firm for business legitimacy is (1) the provision of an experienced, highly capable management to unlock the services of resources for creating economic rents. (2) By the efficient use of resources, abundant resources can be employed for innovations. These innovations may promote Schumpeter growth from which society will benefit. (3) Invisible or intangible assets, particularly accumulated information, as well as technical and organizational knowledge, may enhance the dynamics of the economy.

Behavioral Theory of the Firm

Firms are organizations; as such, they exert authority and influence the habit of their members; instead of being rational, individual organizational behavior is driven by bounded rationality via "satisficing rules of thumb" (Simon 1970).

Nevertheless, the most important new insight of the behavioral theory of the firm is that a firm is rather a quasi-political coalition of its members than a mere agglomeration of individuals. As a coalition, a firm is a social entity with its own internal norms, conflicts, and resolutions (March 1962). Therefore, the management of a firm is obliged to resolute conflicts and to avoid uncertainty for the firm's members (Cyert and March 1963). In effect, the objectives of the firm are compromises between the firm-internal group interests, in particular market shares, profits, and sales (for a review of research on the politics aspects of firms following the Cyert and March approach, see Gavetti et al. 2012).

In this respect, manager entrenchment can become a serious issue, as shown by Shleifer and Vishny (1989). A manager can reduce the probability of its replacement by investments that are specific to her or him, at the costs of shareholder value. Even investments in corporate social responsibility may be (mis)used as an entrenchment tool (Cespa and Cestone 2007). Moreover, manager power makes the remuneration of managers very costly (Bebchuk and Fried 2003).

In the behavioral theory of the firm, business legitimacy (1) rests on internal organization, i.e., on the ability of the management to avoid uncertainty and to arbiter conflicts between groups within the firm over the distribution of rents. (2) In a sense, the firm is rather a political coalition of groups than an agglomeration of contractual arrangements. Nevertheless, its activities are legitimated by creating economic rents that are secured by managerial conflict resolution. (3) The firm's outside world may offer ways for the management to appropriate a larger part of the organizational rent than required to fulfill its proper function.

The latter aspects lead directly to the stakeholder theory of the firm.

Stakeholder Theory of the Firm

Stakeholder theory surpasses the boundary between the firm and its socioeconomic environment by rendering the firm-society embedding interactive. As argued by Donaldson and Preston (1995), the stakeholder concept puts the firm at the center of a give-and-take relationship with employees, investors, suppliers, customers, communities, political groups, governments, and so on. In a certain sense, it could be said that the firm is in this concept a political organization whose existence depends on the mutual benefits for the firm and its relevant environment.

Moreover, according to the stakeholder theory, relevant stakeholders not only want to be involved in the firm's decision-making process but also to get a share of the firm's economic rent. In a more advanced form, Freeman et al. propose the following three (out of six) principles for a so-called stakeholder capitalism: (1) stakeholder cooperation, "[v]alue can be created, traded, and sustained because stakeholders can jointly satisfy their needs and desires by making voluntary agreements with each other that for the most part are kept" (Freeman et al. 2010, p. 281); (2) stakeholder engagement, "[t]o successfully create, trade, and sustain value, a business must engage its stakeholders" (Freeman et al. 2010, p. 282); and (3) stakeholder responsibility, "[v]alue can be created, traded, and sustained because parties to an agreement are willing to accept responsibility for the consequences of their actions" (Freeman et al. 2010, p. 282). Obviously, these are also the principles of shareholder capitalism, as implicitly contained in the contractual theory of the firm. If these principles really became effective, stakeholders would be de facto shareholders. Stakeholder theory, therefore, may be interpreted as an extension of shareholder theory, encompassing "relevant stakeholders." Moreover, the question is whether the firm will be transformed into a political coalition of shareholders, the management, employees, and "relevant stakeholders."

The two most relevant legitimacy questions are firstly, who are those "relevant stakeholders," and secondly, how can stakeholders be held responsible for the activities of the firm when they do not own a financial stake in the firm? In a so-called theory of stakeholder identification and salience, Mitchell et al. (1997) proposed three criteria for the salience of stakeholder to managers of a firm: power, legitimacy, and urgency. Stakeholders have power if they can impose their will on a firm by using coercion, financial and other resources, or normative claims (Mitchell et al. 1997, p. 865). Legitimacy is defined as in Suchman (1995), quoted above in the Introduction. Urgency means that the claim of the stakeholder is time critical and highly important concerning the relationship with the firm or its management, respectively (Mitchell et al. 1997, pp. 867 f).

Behind these definitions, a double legitimacy issue is hidden. The first is the firm's business legitimacy that seemingly does not directly depend on stakeholders. The second, however, is that stakeholders themselves must or should be legitimated to approach powerfully and urgently the firm or its management.

The first issue is that the firm is legally obliged to be accountable and liable for damages it causes by its actions and activities; stakeholders are not. As a consequence, stakeholder legitimacy cannot be based on legal or economic demands but only on moral claims. Concerning the second issue, the question is who decides which shareholders have powerful and urgent claims to managers or the firm? In the end, this is an empirical question. If stakeholders have power, they may define that their claims are urgent. This would change the moral character of the claim to a question of power.

The next implication is that within a corporation, either the management, the shareholders, or the employees may be the most powerful group. Outside stakeholders, therefore, may be urged to join one of these groups to become powerful. Put differently, a particular group inside the corporation or firm may join an outside stakeholder group to gain dominant power inside the firm, as already pointed out by Shleifer and Vishny (1989). In this way, stakeholder activism may harm substantially the (legally protected) interests of shareholders or owners and other stakeholders as well.

This leads to the question how outside stakeholders can be held responsible for the consequences of their activities and actions concerning the firm. As it seems, this question is not even asked, let alone answered in the relevant literature. It would only be irrelevant if stakeholders did only participate in the race to gain a share as large as possible from the economic rent a firm creates. Though it reduces the shares that shareholders and other groups inside the firm can appropriate, it does not harm the core business of the firm. This would be in accordance with the "enlightened value maximization" approach of Jensen (2002). Moreover, as also pointed out by Jensen (2002), multiple objectives are neither well-defined nor can they be applied as a guideline for managers.

In stark contrast, Harrison and Wicks argue that ". . .firm performance might be defined as *the total value created by the firm through its activities, which is the sum of the utility created for each of a firm's legitimate stakeholders*" (Harrison and Wicks 2013, p. 102; in italics in the original text). The authors provide a table of examples for specifying and measuring via potential proxy variables the happiness/well-being of employees, customers, suppliers, shareholders, and community. Even if these items were measured accurately, it would remain unclear who will define to want extent and with which weight the particular objective(s) is attempted. This is again a question of the legitimacy of stakeholder claims over and above the shareholders' objective, represented by the maximization of the long-term firm value (Hayek 1967; Jensen 2002; Sundaram and Inkpen 2004).

The latter question is addressed by Mena and Palazzo (2012), as well as Tricia Olsen (2017). Mena and Palazzo restrict stakeholder activities to the regulation of social and environmental externalities of global business that are unattended by governments. They analyze the conditions for the legitimacy of global institutions (i.e., corporations and civil society organizations) for so-called soft law regulation. On the one hand, "inclusion, procedural fairness, consensual orientation, and transparency" are identified as "input legitimacy criteria" and on the other hand, "rule coverage, efficacy, and enforcement" as "output legitimacy" conditions. However, such soft law regulations as (unwritten or written) private contracts are always possible, as long as they do not contradict national laws. In the latter case, a conflict between own legitimation and democratic legitimation might nonetheless occur. This tension between the state and stakeholder legitimacy is considered in Olsen's (2017) political stakeholder theory. In her theory, the state – and not managers – ultimately determines the legitimacy of stakeholders, although the influence from stakeholders and firms on the state is not excluded. However, the state has the legitimate power to regulate both corporations and stakeholders. Consequently, the legitimacy of firms may depend on the legitimacy of stakeholders – and vice versa. In a final analysis, the state is a unique stakeholder because only the state can legitimately use force (Olsen 2017, p. 76).

To summarize, business legitimacy and stakeholder legitimacy seem rather closely connected to each other. (1) Businesses, as well as stakeholders, require state legitimation. In a sense, the state and business and stakeholders are coproducers of social value and wealth. (2) A combination of shareholder and stakeholder theory implies that business is legitimate if it maximizes the long-term firm value. In this respect, stakeholders participate in the firms' economic rents because of not internalized external effects. (3) Although there is a multitude of stakeholders and a large number of values that stakeholders want from firms, the legitimacy and effectiveness of stakeholder claims depends to a large extent on state regulations of firms and stakeholders.

A Broader Economic View on Business and Its Legitimacy

In this section, a deeper economic view is applied to answer the question of the legitimacy of business by taking into consideration several greater issues of actual or alleged failures of firms, corporations, and markets. The following issues will be discussed:

- Market power
- Multinational and “footloose” enterprises
- Lobbying

The reason for choosing these issues is that these aspects of businesses arise from a combination of economic and financial decisions within firms and corporations, but also from a certain regulatory framework provided by the state’s economic policy. The latter cannot directly or easily be incorporated into economic and financial theories of the firm, although it plays a role in the stakeholder theory of the firm (see section “Stakeholder Theory of the Firm” above).

As argued in the previous section, the state is a unique stakeholder. In particular, the state’s policy defines the legal and regulatory framework for the actions and activities of businesses. This framework must be taken into account since it establishes the first-order conditions for the legitimacy of business, so to speak. Violating these conditions, businesses would risk to lose their “license to operate.”

However, it may be argued that the state’s first-order conditions for business legitimacy are not sufficient because they might be compatible with market power of corporations, multinational or even “footloose” enterprises, and political lobbying by firms. These aspects of business could be the origin for firm behavior that risks to violate the second-order condition for business legitimacy as provided by widely shared social norms.

Business as Creator of “Value Added” and Wealth: The Problem of Market Power

It is globally accepted that the state is responsible to set up a framework that guarantees competition among enterprises to avoid monopolies, as well as companies with significant market power. In particular, the reason of antitrust laws is to prevent the misuse of market power. This means that although large enterprises may exist for economic reasons, their market behavior is observed and sanctioned if it is in conflict with antitrust laws.

The misuse of market power may hurt customers, employees, suppliers, as well as newcomer businesses. In recent times, the so-called superstar company (The Economist 2016), mostly IT-related and other high-tech businesses, emerged in markets with strong network effects. The latter means that the products and services of these companies are the more valuable the larger the so-called installed base (i.e., the number of customers) is (Shy 2001).

The scandal at Facebook in connection with Cambridge Analytics is one of the signs that superstar companies may have market power that cannot easily and effectively fought by ordinary instruments of competition and antitrust policy. Moreover, countries may decline the application of antitrust laws if their superstar companies are relevant for the country’s industrial policy. Instead of manager entrenchment, company entrenchment is the new game in town (The Economist 2016).

Probably the most dangerous policy of these firms is to buy startups. The data collection of these firms is huge, and the customers' control over their own data is nil. To acquire these data, services worth billions of US dollars are given presumably for free to customers. Privileging their own platforms and services, competition is restricted to a large extent. The highest danger, however, seems to be the concentration of data, as described by Nunan and Di Domenico (2017).

Such developments do not only threaten the functioning of markets in economies but also the legitimacy of business. One can no longer deny that superstar companies have market power. Although it might be difficult to prove that they are misusing their power in the sense of antitrust laws that had been put into effect before superstar high-tech and IT companies grew big, the just-mentioned observable behavior gives rise to conjecture that there is such a misuse of power. Obviously, the misuse of market power, not negatively sanctioned by antitrust and competition policy, gives reason to doubt the legitimacy of these businesses, too.

To summarize, although there are economic arguments that market power of high-tech and IT companies is justified by large network effects, the misuse of the power is definitely not. Restricting market access for newcomer firms, privileging own platforms and services, as well as collecting and using customers' private data for their own business without informed consent of the customers is sowing the seeds of doubt as to the legitimacy of those businesses.

Business as an Accountable and Liable Entity: The Problem of the Multinational, Transnational, and Footloose Enterprises

Small and medium-sized enterprises (SMEs) are the heart of national economies as they provide by far the most jobs; in contrast, large multinational enterprises (MNEs), transnational corporations (TNCs), and footloose enterprises are no longer nation-based, although they create the largest part of the gross domestic product (GDP). SMEs must comply with those national laws and regulations where they are located. TNCs choose those states and locations where they can profit most from the respective laws and regulations. A case in point is the tax avoidance of TNCs; for instance, according to Phillips et al. (2017), 73% of the Forbes 500 companies used offshore subsidiaries in tax havens. The behavior of MNEs and TNCs with respect to state regulations could be dubbed as "regulation shopping" (with respect to international business taxation, "treaty shopping" is a closely related term), i.e., to locate specific activities of the enterprise at those locations and countries where the regulatory compliance costs are minimized.

The crucial question is whether TNCs and their likes have the same legitimacy as SMEs, even if they behave in a manner that is open to criticism. First of all, although the regulation density and deepness depend on the level of a country's economic development, it is not clear whether a worldwide regulation would really enhance the welfare of all. In this respect, it seems not very convincing to say that private enterprises are more powerful than states, as documented in Fuchs and Lederer (2007). If a state decides that it is best for its citizens to attract foreign firms by specific offers, it is doubtful that this is a reason to condemn such a behavior without qualification. In effect, all countries conduct policies to attract businesses, with different methods.

Secondly, to make a difference, only those regulations may be enforced worldwide that are accepted by most or all countries. For instance, basic human rights have this quality. As pointed out by Prinz (2017), complicity of corporations with governments that are unwilling or unable to regulate the enforcement of basic human rights in their countries could be called corporate social irresponsibility. Such a behavior would put the legitimacy of business at risk.

Thirdly, competition with business regulation and business taxation can be very useful from an economic point of view, at least to a certain extent. Worldwide regulations can only be put into effect if all countries agreed to such treaties. Economically, such treaties can be welfare enhancing if global externalities are the reason for the regulation. Nevertheless, even such regulations must take into account the differences of economic productive capabilities between countries. Otherwise, poorer countries would be hurt. If MNEs and TNCs take advantage of these regulatory differences, it is difficult to deny their business legitimacy in this respect. Although this might be judged quite differently in rich countries, poor countries must also have legitimate instruments to improve their economic well-being. Moreover, it is to expect that regulations in poorer countries will converge to those in rich countries when their economic productive capacity increases accordingly. The point is, however, that the governments in poorer countries are not corrupt and legitimated according to democratic principles.

A further related problem is that MNEs and TNCs may have the power to influence the regulations in those countries where they are located (Forsgren 2017, Chap. 7, p. 131 ff). If the democratic checks and balances of the respective political system do not restrict this power in such a way that the population decides on politicians and policies, the respective businesses are also at risk to lose their legitimacy.

To sum up, not all differences in business regulation and business taxation between countries are bad and should put business legitimacy at risk if enterprises use them to their advantages. If a country adopts rules of regulation and taxation according to democratic principles, it is to be presumed that enterprises can use them legitimately to their advantage. If this is not the case, that is, if countries do not comply with basic human rights, the state is corrupt, or big business employs its power to define the rules of the business game in an undemocratic way, their business legitimacy is at risk.

Business as a Political Actor: The Issue of Lobbying

As mentioned in section “Business as an Accountable and Liable Entity: The Problem of the Multinational, Transnational and Footloose Enterprises,” business as a political actor is a fact that cannot be ignored concerning its legitimacy. There are three questions that are relevant in this respect:

1. Do businesses manipulate democratic elections by campaign contributions?
2. Do businesses manipulate legislation to their own advantage by lobbying?
3. Do businesses undermine policies by regulatory capture?

First of all, businesses as legitimated institutions of society are relevant for politics because they are the main sources of economic value creation. This fact is the main reason for business legitimacy.

The first question is whether enterprises can manipulate democratic elections. The main source for such a manipulation is campaign financing of political parties. As long as political campaign contributions remain within the legal limits, there is no obvious argument that manipulation might occur. However, there are theoretical arguments for both that campaign donations may have an effect because of government's large expenditures for goods and services and that such donations will not have any impact since the winning probabilities for the candidates are not changed much by the individual contributions (Grossman and Helpman 2001).

Ansolabehere et al. (2003) argue that not only the US contributions remain beneath the legal limits, but also that most donors are individuals and not companies. Moreover, the contributions did not increase over time. They conclude that campaign contributions should not be interpreted as investments but rather as a consumption good or participation good of the donors.

This might be different in poorer countries where politicians and political parties depend to a larger extent on firm contributions. In such cases, public financing should be considered as an alternative as, for instance, in some European countries.

A greater importance has lobbying by enterprises, as argued by Kowal (2018). According to his results, it is the network of trade associations that is of particular relevance. An economic counter argument is, however, that costly lobbying delivers unintendedly important information about firms and sectors to legislators, despite the fact that the information provided by single lobby groups is biased (Grossman and Helpman 2001, Chap. 5, p. 143 ff). The reason is that the more urgent and important the information is that a lobby group wants to transmit to policy makers, the higher the costs it is prepared to bear. In this way, legislators receive information they could not get otherwise.

The most crucial political issue of regulations is called regulatory capture. It means that a government agency with the task to supervise industry regulations changes sides and works in favor of the industry instead of society. The reasons are asymmetric information between the regulatory agency and the industry, different interpretations of the legal regulation rules, and incentives for persons (Dal Bó 2006). Since people in the regulated industry have almost always more information about their business, they have an advantage to the regulation agency. If the agency employs persons from the industry, it cannot be sure whose interests they represent. Additionally, the legal rules almost always require interpretation; this interpretation often differs greatly between the agency and the industry (Randolph and Fetzner 2018). Last but not least, persons working for the agency may expect a subsequent employment within the regulated industry (so-called revolving door effect).

The empirical evidence is mixed. As argued by Dal Bó (2006), ideology of agency administrators plays a role, and elected agency persons may be more pro-consumer than otherwise chosen regulators. Moreover, external experts may be required to strengthen the abilities of the agency. According to Dal Bó, however, it is not clear whether funding, professionalism, and talent are important for the regulation.

To sum up, there is no clear indication that the power of business undermines politics. Although the manipulation of elections, lobbying, and regulatory capture are serious dangers for business legitimacy, there is no obvious evidence for these issues to be crucial in highly developed economies and societies. Nevertheless, this is a field of business activities that requires political attention.

The Enforcement of Legitimacy Norms

Without enforcement, legal rules, as well as social norms, will not be generally applied. While the enforcement of legal rules is delegated to authorities, the implementation of social norms occurs in a very different way. If social norms are widely accepted in a society, they may become laws (Bénabou and Tirole 2011). Meanwhile, however, whether a norm is applied or not depends on the decision of people who are the addressees of the respective norm. In other words, people have a larger degree of freedom in norm application than in law compliance.

In the following, the legality of business is assumed. That is, the respective business is founded and run according to the laws. Moreover, it is also assumed that the laws are enforced. If law enforcement is weak, the best remedy is to increase enforcement. In this respect, social norms are different. The measures to enforce social norms concerning the legitimacy of business taken into account here are:

1. Consumer choice (personal social responsibility)
2. Business reputation
3. Financial markets (shareholders, creditors, investors)
4. Stakeholder interference

(1) In a market economy, consumer choice plays a dominant role. If firms cannot sell their products, they will lose automatically their legitimacy via bankruptcy. Insofar, the economic survival of firms is a first substantial test of its legitimacy.

Nevertheless, markets can fail because of material and informational externalities. In principle, it is the task of the government to internalize such externalities. Governments, too, can and do fail quite often (Beck and Prinz 2015; Schuck 2015). From an economics point of view, this causes a dilemma as the internalization of externalities with positive transaction costs is a public good. This implies that consumer choice, carried out on the personal level, acts in this respect as the provider of a public good (Besley and Ghatak 2007). In a sense, private social responsibility would act as a substitute for government policy.

Consumers can avoid products and firms that violate social norms they share. The main question is: What motivates consumers to "punish" firms that produce non-internalized negative external social and environmental effects, i.e., that behave illegitimate in their view? Beside altruism, the visible social self-image may provide such a motivation (Ariely et al. 2009; Bénabou and Tirole 2010). Nonetheless, the impact of individual consumer choices seems not to be strong. The willingness to pay higher prices for goods that are morally more acceptable seems rather low (Öberseder et al. 2011). Nevertheless, consumers are prepared to protest against social irresponsible firm behavior (Grappi et al. 2013). The latter can have negative effects, even for the ethical standards of firms. Baumann and Friehe (2017) demonstrate in a theoretical model that firms may change to a worse production mode and decrease the market transparency of the production mode.

As a consequence, it seems unlikely that consumer choices alone can solve the issues of not internalized negative externalities. The main reason is that the effort to stage protests and to change the consuming behavior must be rather collective than individual. After all, the private supply of public goods is restricted to cases in which the private benefit of the public good is high.

(2) Business reputation has become a major issue in all enterprises. The first reason is the rise of social media that makes it possible to distribute information and gossip about firms and their (mis)behavior very quickly and widely. At the extreme, a shit storm may result, whether justified or not. The second reason is the growth of corporations and the number of their subsidiaries at home and abroad, as well as the length of their supply chain and the number of subcontracted firms. As a novel development, firms may (or may not) own now "reputational capital," defined as the value of the firm over and above its liquidation value, as well as the value of its intangible intellectual capital (Fombrun et al. 2000). This capital is at reputational risk if the firm is misbehaving in the eyes of its stakeholders. The risk of reputation rests on the perception of a company, often in contrast to its reality; if its reality is worse than its reputation, then there is a risk (Eccles et al. 2007).

The reputation of some industries in the economy is contemporarily confronted with negative social norms, for instance, so-called sin products as tobacco and alcohol. Nevertheless, these products are demanded by customers. Empirically, the stocks of the companies that provide these products have higher expected returns in comparison to other comparable stocks; the reason is that they own lower reputational capital; therefore they must provide a financial compensation for their stockholders (Hong and Kacperczyk 2009). In this example, stockholders require a sin-premium for holding such stocks.

The question is, however, whether corporate social responsibility pays off for companies. If social responsibility of firms is valued by shareholders, it should be expected that those companies can live with lower expected returns on capital. Moreover, if social responsibility of firms is a win-win arrangement, firms that offer social responsibility should have also higher returns on capital. In an analysis of studies concerning win-win social responsibility, Rost and Ehrmann (2015) detected positive reporting biases, i.e., that the empirical studies overestimated the efficiency of social responsible firm behavior.

According to the “risk management hypothesis,” firms with reputational capital based on corporate social responsibility accumulate a kind of insurance against adverse effects on the firm’s reputation (Godfrey 2005). In an empirical test, Godfrey et al. (2009) find evidence for this hypothesis but only if social responsibility activities are directed to society as a whole. Ducassy (2013) provides also some but not full evidence for the risk management hypothesis.

Finally, there is some evidence from an empirical viewpoint for the idea of an insurance against negative reputation shocks by social responsibility of firms. Although some doubts are possible, reputational capital may become a relevant concept for evaluating enterprises. Reputational capital may also be an indicator of business legitimacy within society as a whole.

(3) Financial markets may also take the position of referees for business legitimacy. In a certain sense, these markets act as a financial discipline device. If firms overspent or spent their financial resources for outside business activities, financial markets may punish this. Since shareholders, investors, and creditors on the one side and (secondary) stakeholders on the other side differ according to the money they put into the firm, the first group has a vital interest in a profitable firm. As already shown by the construction of business law, the management is legally responsible to its shareholders, as well as its creditors.

Despite much recent criticism of financial markets, they do function quite well in normal times. Of course, no regulation or bad regulations of these markets provide the basis for financial crises that may have strong and long-lasting effects on the economy. As indicated by the above sin markets (Hong and Kacperczyk 2009), a sin-premium must be paid by those firms to attract capital. With a win-win version of social responsibility policy, the financing of firms should not lead to problems.

However, if firms pay much for social measures that are not motivated by the firm’s business, the necessary profit to satisfy investors must come from other sources. Taking this into account, tax avoidance of otherwise socially responsible firms can be explained (Avi-Yonah 2014; Dowling 2014; Davis et al. 2016). There is some economic reason in this behavior, however. Since corporations provide a public good via investments in socially responsible activities for society, the latter participates in these costs by less tax revenue. This might be interpreted as the counterpart of the indirect subsidization for some charitable contributions of firms via tax laws. This interpretation is supported by the empirical result that detected tax-avoiding firms seem not to bear reputational costs and, if, then only for a short period of time (Gallemore et al. 2014).

(4) Stakeholder interference is the last measure to enforce social norms on firms considered here. The problem is how salient stakeholders are selected and what kind of motivation stakeholders may have. Not all stakeholder engagement and involvement is created equally, so to speak. Stakeholder interference may impose widely shared social norms on firm activities; however, it may also change firm activities to the worse. Responsibility of stakeholders is strictly required to improve the result of economic activities of enterprises. As said by Michelle Greenwood (2007), stakeholder engagement should be rather seen as a “morally

neutral practice" (Greenwood 2007, p. 315). This is in contrast to the view of Freeman et al. (2007) who would like to reframe capitalism ethically into "stakeholder capitalism."

Of course, stakeholder participation, engagement, and interference might be justified by economic, social, and ethical arguments. Nevertheless, the survival of the firm in its existent form should not be at stake. Since there are a large number of legal types of firms, stakeholder activism could be used to create nonprofit firms. However, if stakeholders want a long-lasting representation within the firm instead outside of it, several forms of participation for activist investors are available (Prinz and van der Burg 2006, 2010, 2013). These forms of engagement put stakeholders in the position of shareholders as they will have a financial stake in the firm. After all, this could be probably the best form of stakeholder engagement.

Conclusion

All in all, the main source of business legitimacy is the creation of economic value by providing goods and services. The evolution of the dominance of capitalistic firms demonstrates that capital is the scarce factor of production. Over time, human capital emerged as a new form of the quality of labor services that is accumulated, depreciated, and reinvested in a similar way as physical capital. In addition, reputational capital is a recent version of intangible capital that can also be accumulated, depreciated, and reinvested over time. Most recently, digital capital (i.e., customer data) as the newest form of capital is on the rise.

The justification and legitimacy of business and the economy as a special subsection of society requires that the creation of goods and services remains the dominant objective of business and of the economy. Instead of being an end of its own, goods and services determine only the material conditions of life in a society, and, therefore, they are the precondition for ethical, social, cultural, and political values. All theories of finance and the firm considered in this contribution demonstrate that the incorporation of other than economic values in the objective function of the firm would demand too much of firms, enterprises, and corporations. This holds even true for the largest corporations.

A well-understood stakeholder theory acknowledges the awareness that the creation of economic value is the nucleus of the legitimacy of firms. Since the creation of economic value requires first of all that the value of the product or service is larger than the costs of providing it, profits as the price for providing equity capital are indispensable. A well-understood stakeholder theory will acknowledge this, too.

Given the dominance of capitalist firms, a societal redefinition of values to be provided by firms requires that consumers are willing to pay for these values. If consumers' willingness to pay suffices, business will adjust to that and provide the new values whatsoever.

Otherwise, legal changes are a method to force all businesses to adopt new standards of creating economic value. However, these standards will always serve as restrictions on business activities; they will not become part of the business objective function.

The legitimacy of business is never absolutely fixed. A crucial issue for business is the volatility of legitimacy claims by stakeholder groups; another issue for business and politics is the legitimacy of stakeholders. In this respect, the state is a very special stakeholder as it can define its own rules as laws for all businesses and it can enforce them by force. Moreover, the state may determine the legality of stakeholders and their claims.

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Part XVII

Legitimation with Different Forms of Practice of Legitimacy in Complex Societies

NGOs, Institutions, and Legitimacy: Empirical Findings and a Research Agenda

65

Tobias Gössling and Thomas Straub

Contents

Abstract

In this chapter, we discuss the possibility to assess and communicate NGO performance. We argue that legitimacy is a crucial factor for performance. The aim of this research is to analyze conditions that influence NGO legitimacy. We base our work on empirical data. The data was gathered in interviews with NGO executives in childcare organizations in Chisinau, Moldova. The interviewees discussed conditions for the legitimacy and performance of their organizations and the analysis of their statements unveiled that the performance indicators are embedded in constellations of these conditions. Consequently, we suggest a constellation analysis for assessing NGO legitimacy and performance.

Keywords

Legitimacy · NGOs · NGO performance · QCA

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Introduction

German supermarket chain EDEKA communicated to ban Nestlé products from their shelves due to a dispute about Nestlé's price and retail policies in 2018. Meanwhile, other companies, decided to boycott Nestlé in several contexts that are not related to the consumption quality of their products but rather to their sourcing, environmental, and human rights policies. For example, the gourmet guide GUSTO decided to not place any Nestlé water commercials because they disagree with Nestlé's water sourcing policies, especially in poorer regions of the world. Nestlé, though being known for their wide variety of products and activities have suffered from share price decreases in the context of this situation.

This example shows that legitimacy is important for performance and action possibilities of organizations. This is also the reason why legitimacy, defined as "generalized perception or assumption that the actions of an entity are desirable, proper or appropriate within some socially constructed system of norms, values, beliefs and definitions" (Suchman 1995, p. 574), is also referred to as the "license to operate" (Gehmann et al. 2017, p. 293; Gössling and Buijter 2017, p. 117). Organizations that do not appear legitimate to the society may lose their license to operate and experience difficulties for pursuing their activities. Organizations in general can gain legitimacy with regard to three aspects of their activities. First, the idea of pragmatic legitimacy relates directly to the products and services that organizations are offering. If those are needed and demanded on the market, organizations can operate successfully. Second, organizations can demonstrate that their activities positively relate with societal expectations about their behavior to gain moral legitimacy. Finally, organizations can manage their communication and appearance in such a way that they are appreciated or taken for granted in societies (Suchman 1995). This form of legitimacy, cognitive legitimacy, is a perception of the organization that might differ from its behavior but that is eventually of major importance for the relation between societies and organizations (Suddaby et al. 2017). It is worth mentioning that the equation of legitimacy as the license to operate is appropriate in that sense that we can severe financial and marketing consequences of a lack of any type of legitimacy for organizations (Matejek and Gössling 2014). However, examples for a complete withdrawal of the license to operate are rather scarce in that sense that organizations usually survive even major legitimacy crises.

Among the different types of organizations pursuing a greater good for society, Nongovernmental Organizations (NGOs) play a central role. NGOs are organizations which are made to achieve social goals and are not controlled by a government (Kourula and Laasonen 2010). Due to their independence and their embeddedness in the civil society, their level of legitimacy is per definition rather high as compared with both government as well as companies (Zadek 2001). However, there is an increasing pressure on NGOs to document their credibility and their commitment and success with regard to their societal goals (Dhanani and Connolly 2015; Joutsevirta and Kourula 2015).

Whereas the assessment tools and methods for companies are well defined and extensively used to evaluate both their economic performance and their social performance (van Beurden and Goessling 2008), NGOs cannot benefit from these insights and measurement possibilities (Fowler 1996). Even though the documentation of FPO performance has significantly developed in current years to the extent that FPOs are analyzed and evaluated social and financial performance indicators, financial indicators like stock value or return on assets are still regarded as crucial for their assessment.

NGOs are by definition not profit oriented and therefore, it is almost impossible to judge their performance on the basis of classical financial assessment methods. On the other hand, NGO performance is heavily related to, first, the impact of their work on societies and, second, the impression that the respective society has about their activities, in other words, their legitimacy. Legitimacy, however, is also a characteristic of organizations that is rather difficult to assess (Deephouse 1996; Suchman 1995).

Furthermore, NGO legitimacy is regarded as an asset for for-profit organizations to partner with NGOs. For such partnering decisions, however, it is crucial for the respective organizations to assess the legitimacy and other potential contribution of their partner organizations (Glasbergen 1998). NGOs are repeatedly criticized for their lack in adhering to their missions and commitment to doing good (Reimann 2005). The legitimacy challenge for NGOs increasingly consists in the demand to document their adherence to societal goals (ibid., Wagner 2002). That has, amongst others, also to do with the misuse of NGO structures. For-profit organizations and industry associations also make use of the legal form of NGOs in order to undertake political activities that do not represent civil societies' interests but rather particular interests (Polishchuk 2008; Kilduff and Brass 2010; Jamison Gromark 2008). For example, the US CEI, competitive enterprise institute, focuses on stigmatizing environmental initiatives as antisocial and tries to manipulate public opinion about global warming (Lewis 2007; Murray 2005). The German Initiative for new social market economy (Initiative neue soziale Marktwirtschaft, INSW) aims at manipulating societal thinking about employment towards radical market orientation and discredits labor unions as being detrimental for the economic development of a society. They distribute their tinted information material in schools (Speth 2004; Speth and Leif 2006). At the same time, NGOs in the entire world display behavior that makes observers ask critical question about their societal goals and commitment. For example, NGOs are criticized for spending too much money on buildings and personal benefits of their employees (Kamat 2004; Holloway 1997). Also the close collaboration between NGOs and for-profit organizations (FPOs), advocated as beneficial for societies and businesses (Glasbergen 1998), may impose challenges for the legitimacy and credibility of NGOs (Baur and Palazzo 2011).

Consequently, measuring and assessing NGO performance with regard to performance, impact, and legitimacy becomes more important to the same degree as the role of NGOs in societies gains impact and importance.

As for NGOs in general, they need resources. Their and donors, however, individuals as well as groups, may apply rational and critical decision-making when deciding about how to spend their financial means and which organizations to finance. These decisions will not be profit-optimizing in the strict sense, but following rational choice theory, also sponsors will donate their money to those organizations that are most likely to successfully pursue the social and benevolent goals of their sponsors. Consequently, the legitimacy challenge for NGOs increasingly consists in the demand to document their adherence to societal goals (Reimann 2005; Wagner 2002) and an effective use of their resources.

In other words, NGOs exist because of their moral legitimacy. Their reason to exist is the conviction of citizens that the task or purpose that an NGO represents is desirable for societies. At the same time, they are not viable on the basis of their marketable activities. They exist because volunteers work for them and because donators provide financial resources for their activities. In order to get access to funding, NGOs need to document their performance and legitimacy. Communicating their performance will contribute to their viability.

This research deals with the difficulty of assessing NGO legitimacy and performance by relating it to antecedents of NGO success. Even though theses antecedents are neither proxies nor exact measurements for NGO legitimacy and performance, this research suggests that insight into the antecedents of success will contribute to understanding NGO legitimacy and performance.

Problem Field, Research Problem, and Research Question

Our research was conducted in child care organizations and donor organizations in Chisinau, Moldova. Moldova appears to be a forgotten state in Europe. Located at the periphery of Europe, between Romania and Ukraine, without access to international havens, without a highly developed infrastructure and with a rather low level of technological development and industrialization, the country suffers from a rather low level of economic development. The level of income is low for European standards, with an average of about 300 €/month. Even though the possibilities for education are relatively high nowadays, the country is not a typical knowledge society. On the contrary, also access to medication and qualified physicians is limited. Especially on the countryside, the level of information and enlightenment is low (UN development report). Abortion is not illegal, but it is socially traditionally stigmatized. This combination of conditions results in a relatively high level of unintended pregnancies, on the one hand, and a high level of prenatal underdevelopment and nutritional and medical conditions that eventually result in high numbers of medical conditions and handicapped newborns in the country. Additionally, discrimination of handicapped people, especially children, is socially accepted and legally enforced, to the extent that especially handicapped children only have very limited access to state-financed care.

Therefore, in the Republic of Moldova, child care and child development is to a large extent a task that is provided by national and international NGOs. The overall economic development of the state is low, the government does not provide sufficient money for these tasks, accordingly, many grass root initiatives emerge and international NGOs enter the country in order to improve living conditions of orphans, homeless children, abandoned and disabled children.

Even though the NGOs do not compete in their primary activities, which are the provision of child care and development aid, they do compete for resources, especially financial resources. In order to be successful in their funding activities, many NGOs need to demonstrate and document their performance. However, clear performance indicators are lacking.

Furthermore, funding organizations as well as operating NGOs are interested in understanding the factors that influence NGO performance, also in order to make funding decisions and provide guidance for their core activities. In this context, there is a lack of evidence for performance predictors for NGOs.

Therefore, our research question is:

> Which factors determine the legitimacy and performance of NGOs in the childcare sector in Moldova?

Theoretical Development

According to the Resource dependency theory, the performance of an organization, as much as their potential to act and perform is dependent on the resources that they are getting from their environment. In that sense, organizations are even regarded as externally controlled by their partners, suppliers, financers, peers, etc. (Pfeffer and Salancik 1978). Other than FPOs, NGOs cannot produce, market, and sell anything and are therefore crucially dependent on external, often voluntary financing.

In other words, companies compete for market shares; the competition between NGOs is focused on funding. Even though the nature of the competition differs for firms and for NGOs some theoretical frameworks initially designed for firms in competitive environment could also be applied to NGOs. Among the theories extensively employed for analyzing the advantages, a firm can rely on in a competitive environment; the resource-based view (RBV, Barney 1991) explains this competition for resources. The RBV framework rests on the seminal work of Penrose (1959) in which organizations are conceived as distinct entities, each of them having idiosyncratic resources at their disposal. As such, they can use their idiosyncratic resources to build a sustainable competitive advantage by fostering four characteristics of their resources: their value, their rarity, their imperfect imitability, and their imperfect substitutability (Barney 1991). Nevertheless there is a limitation inherent to this conceptualization of the firm. This early RBV framework considered the firms as a single isolated entity, which only uses its own resources, and it did not take into account the shared resources used by several distinct entities, as it is the case for alliances for instance. Lavie (2006) pointed out this limitation and proposed an extension of the RBV in order to define more accurately the competitive advantage of interconnected firms. Interconnected firms are “embedded in alliance networks” (Lavie 2004). Because of their specific activities and organizational configuration, the NGOs, and in particular the ones in our study in Moldova, have common features with interconnected firms. Therefore we will use this latter extension of the RBV for our analysis.

Since NGOs cannot offer any direct material tangible assets in exchange, and given the aforementioned issue of legitimacy, NGOs are crucially dependent on their ability to establish relationships with their peers (Lister 2000; Banks et al. 2015). Given the vast field of research on structural aspects of networks for performance (Burt 1982; Provan and Milward 1995), we include a focus on network activities in our observation. Qualitative approaches to networks have shown to highlight especially the importance of the quality of relationships for organizational performance as well as tie or network performance (c.f. Oerlemans et al. 2007; Ren et al. 2009).

Also Lavie (2006) used insights from the relational view (Dyer and Singh 1998) and social network (Wasserman and Faust 1994) theories. Particularly he proposed that "the capacity of interconnected firms to gain and sustain competitive advantage will depend less on traditional RBV conditions and more on their relational capability—that is, their capacity to form and maintain valuable interactive relationships with alliance partners" (Lavie 2006, p. 650).

Data Collection and Interview Analysis

In a first attempt to explore the field, we held interviews with experts in childcare NGOs in Moldova. We held a total of 30 interviews with donor representatives as well as managers and employees of child care NGOs, of which 12 interviews with NGO representatives, 8 with donors and 10 with international NGO experts. Interviewing these three groups results in a complete overview of conditions that can explain NGO legitimacy and performance. These 30 organizations are chosen as a sample out of a total of 10,000 NGOs officially active in the relevant field in Moldova. Data were collected in NGOs in Chisinau, Moldova, in 2015 and 2016. All NGOs work in the field of child development and child protection in the Republic of Moldova. We added to this sample by interviewing representatives of NGOs in Geneva, foremost donor organizations and INGOs with subsidiaries in Moldova. These interviews took place in the fall of 2015. Finally, we assessed a group of international NGO representatives at an NGO management workshop in Geneva in the spring of 2016. The selection took place on the basis of advice of a NGO Network organization. In order to get familiar with the cases, we inspected several sites in the respective region and held spontaneous interviews with societal experts. Eventually, the recipient organizations as well as the sponsors are all exposed to very comparable institutional conditions that correspond with international and national legal conditions. Hence, the sampling is convenience based (Tansey 2007).

The interviews were held in teams of two interviewers and a junior researcher who protocolled. The interviews were semistructured. This is useful since it facilitates an open conversation with the interviewee which leads to new insights for the interviewers and does not limit the interviewee to the experience horizon of the interviewer (Arksey and Knight 1999). The topic list of the interviews is based on the theoretical framework and the design of the interviews allows for the spontaneous emergence of new topics, which then can be used for future topic lists. Most of the questions are non-directive questions; however, in the case of stalling, the researcher can ask questions in order to ask the opinion of the interviewee about possible relations between conditions, on the one hand, and legitimacy and performance, on the other.

The interviews showed certain patterns. All interviewees indicated that there success was crucially dependent on finances and that these finances again depend on their success and the ability to communicate their success stories. When asked about their possibilities to demonstrate success, however, no single interviewee indicated the existence of an accepted performance measurement standard or a reporting scheme for NGOs. When being asked about the availability of standard indicators, all interviewees indicated that they were desirable but not available. Furthermore, answers to more directive questions unveiled that hard data, such as an annual budget or a ratio that indicated the amount of children that were supported per financial unit were not considered as good indicators. All interviewees emphasized the importance of good communication and relationships with the donors. In that context, especially long-standing relationships with donor organizations were considered beneficial for future funding activities. Given this strong congruence in the answers, we reconsidered the open interview guidelines but could not find evidence for any question or comment that would lead to socially desirable answers.

Furthermore, the interviewees were also consistent with regard to the factors that may influence legitimacy and performance. However, there was disagreement with regard to the way in which the factors will influence the outcomes. The interviewees mentioned the following factors as being of influence:

1. The regional orientation of the operations of the organization. Whether the organization is operating regionally, nationally, or even internationally has influence on their ability to attract money. For this factor, some interviewees stated that it would be easier to get funding if they operated internationally whereas others perceived this as a burden.
2. The range of activities. Some organizations indicated that they perceived their own strict focus on child care activities as an important success factor whereas others indicated that a more generalist (including health care and schooling) approach facilitated access to funding.
3. Collaboration with other NGOs on the same level. Collaboration with other NGOs on the same level was perceived as beneficial for legitimacy and performance by some interviewees, neutral by some and even negative by some organizations.
4. Government Collaboration. Many interviewees indicated a firm decision not to collaborate with the government or any government agencies at all and indicated that it would be detrimental for access to funding to do so, whereas few others indicated the beneficial effects of government collaboration
5. Resource Ownership. Some of the NGOs are owner of their resources, of this group, some saw it as a burden for documenting performance and attracting additional funds to be the resource owner whereas other saw it as a privilege to

be in this position. On the other hand, also amongst the other NGOs, some experienced their situation as a great problem for finding financial resources, whereas others stressed the positive side of their independency.

6. Exclusive access to resources. A similar story can be told about exclusive access to resources, which was the case for subsidiaries of international NGOs. Also here, the opinion of the interviewees diverged. Some subsidiaries perceived it as a possibility to concentrate on their actual work, whereas others regretted the explicit or implicit interdiction to look for additional sources. For the independent organizations, some appreciated their independence that allowed for approaching donors whereas others rather regarded their fundraising activities as a burden that prevented them for doing their actual work.
7. Intermediary. Some organizations were providing child care in that sense that their employees or volunteers worked with or for children. On the other hand, some organizations work as intermediaries that subcontract other NGOs or for-profit-organizations to do the actual childcare work.

At first, these interviews just showed a rather skewed situation. On the other hand, on the basis of the sample, they provided a complete list of legitimacy and performance indicators for Moldovan child care organizations. The list was double-checked in expert interviews with interviews representing donor-organizations.

It was impossible to find clear linear relationships indicating denominators for legitimacy performance; however, given the differences in orientation and governance structures of the respective organizations, we started looking into patterns and constellations that would allow for a deeper analysis of the findings.

Thus, the conditions vary to a large extent. Which conditions matter for explaining both, legitimacy management success as well as organizational performance, depends on purposes, incentive structures, and legal systems and other societal, legal, economic, and organizational factors (Ragin 2006; Howard-Grenville et al. 2008). In this context, suggestions to define conditions for success that matter in the literature are often not empirically supported (Gangadharan 2006). On the basis of theoretical insights supported by our interviews with both, representatives of NGOs as well as donors, we constructed a list of conditions that are perceived as being influential are displayed in Table 1.

At first sight, these conditions look like binary. A closer look, however, suggest that most of them are rather extremes on continua, given the possibility to, e.g.,

Table 1 Conditions of interaction success of NGOs

Orientation	Local or national	International or global
Operations	Specialists	Generalists
Collaboration with other NGOs (same level)	Yes	No
Government collaboration	Yes	No
Resource owner	Yes	No
Exclusive access to resources	Yes	No
Intermediary	Yes	No

collaborate with just some other NGOs or with many others, they could engage in some or many collaboration activities with the government, could employ other organizations to execute childcare or could do so in addition to their main activities.

On the basis of these results, we could not even formulate hypotheses that would predict legitimacy and performance. On the other hand, a closer look into patterns unveiled that conditions for legitimacy and performance were mentioned in different combinations which suggested to analyze the findings with regard to patterns and constellations of conditions. As such, we assumed set-theoretic relationships (Schneider and Wagemann 2007). Therefore, we suggest hypotheses predicting legitimacy and performance on the basis of sufficient and necessary constellations of conditions. A necessary condition exists if we find that an organization that is perceived legitimate and well-performing will definitely meet the necessary condition. A sufficient condition is a condition that an organization that matches this condition will be perceived as legitimate and successful (c.f. Schneider and Wagemann 2007).

Further Analysis

Performance research is dominated by linear models. These models entailed fragmented views of the antecedents of organizational performance and may have oversimplified the complex causality relationships leading to organizational performance. Conversely, as stated by Fiss (2007, p. 1192): "A set-theoretic approach may contribute to the RBV by offering both a conceptual framework and an empirical methodology for analyzing how resources combine to form bundles and how these bundles affect firm performance." In our study we were interested in analyzing what are the combinations of NGOs characteristics that lead to organizational performance. That is the reason why QCA is particularly suitable to our research question. Hence, we suggest that a qualitative comparative analysis (QCA) will be an appropriate method to further assess NGO legitimacy and performance.

One advantage of the QCA, as a set-theoretic method, is that it does not "disaggregate cases into independent, analytically separate aspects but instead treat configurations as different types of cases" (Fiss 2011, p. 401). We used the crisp-set approach to qualitative comparative analysis (QCA) to explore the combinations of organizational characteristics that exist among the NGOs that are successful We will not detail here the full methodology of QCA (Ragin 2008). For further studies, we suggest to follow the procedures and steps of QCA analysis (Fiss 2011). We give here below an example of the truth table for two characteristics among the four analyzed.

A first attempt would be to develop a truth table to allow for detecting patterns in the conditions. A truth table looks into cases and displays the number of cases that match the conditions that are analyzed (Table 2).

As explained above, research for organization suggests financial performance as a measure, legitimacy measures rather work with proxy methods, often based upon proxies like public endorsement and media coverage. Furthermore, subjective

Table 2 Example of truth table for the characteristics resource "ownership" and "collaboration"

	NGO are the resources owner	NGO are sharing resources	NGOs are collaborating	NGOs are operating on their own
NGOs with high level of legitimacy	Number of successful NGOs who are the resources owner	Number of successful NGOs who are sharing resources	Number of successful NGOs who are collaborating	Number of successful NGOs who are operating on their own
NGOs with low level of legitimacy	Number of not successful NGOs who are the resources owner	Number of not successful NGOs who are sharing resources	Number of not successful NGOs who are collaborating	Number of not successful NGOs who are operating on their own

measure of organizational legitimacy and performance are equivalent to objective measure when they are carefully planned (Singh et al. 2016). Therefore, we used a subjective measure of organizational legitimacy and performance, namely, the evaluation of legitimacy and performance of the NGOs by the NGO managers. In order to operationalize this measurement further, we developed a survey for NGO managers to indicate legitimacy and performance indicators. Hence NGO managers are asked to answer seven survey questions about different aspects of the performance of the NGO. The different aspects that were taken into account were the use of performance assessment tools, the disclosure of performance indicators, and the subjective level of organizational performance perceived by the managers. As an example, for this latter aspect of the organizational performance, the managers answered the following question: "On a scale from 1 to 10, how do you evaluate the legitimacy of the organization?"

Eventually, according to the standards of QCA, there will be a need of more cases than the 30 cases already analyzed to run the future analysis. However, on the basis of the limited data set, we could already run a preliminary analysis that suggests constellations of conditions for future research. Amongst others, it allows us to develop set-theoretic hypotheses.

The within-case analysis is an important prerequisite of conducting QCA. Therefore, we developed and applied a protocol to ensure a uniform method of collecting the data. In addition, we used external data collection as well as archive data. For the collection of external, mostly archival data, we also took advice from the interviewees. The interviews are presented in a coded scheme. The coding of the interviews is done with the open coding technique that randomly creates categories, which eventually creates categories that are used to code all the transcripts (Corbin and Strauss 1990) which eventually leads to the conditions required for the QCA.

Eventually, our analysis led to building a dichotomous data table, which is based on the data collected during the interview and the archival data. From this table, the necessary and sufficient conditions leading to the outcome are deduced. In the end, the significance of the QCA-found results is evaluated with the help of the case knowledge.

The literature gives very limited suggestions for conditions that can explain NGO performance. This research describes a set of conditions and analyzes their eventual impact; the nature of this research is therefore explorative. In a preliminary phase of the research, we have selected and defined conditions on the bases of multi-coder coding of interviews as suggested for explorative qualitative research (Schneider and Wagemann 2007).

We performed a preliminary qualitative comparative analysis on the basis of interviews and observations. In a first round of qualitative interviews, we identified factors that were mentioned to be influential for NGO performance. These results and the corresponding conditions form the basis for the subsequent QCA. QCA is used to find the relationships between constellation of conditions and outcomes (Rihoux 2006; e.g., Bakker et al. 2010); in our study, the outcome is NGO legitimacy and performance and, more specifically, their success in getting access to financial resources for the provision of childcare. QCA further helps to develop theories that explain the mechanisms under research (Schneider and Wagemann 2010) and thus contributes to the development of an NGO performance assessment framework.

In this context, and on the basis of the method described below, we developed the following hypotheses:

H1: Orientation towards the society is a necessary condition for NGO performance.
H2: Specialization of NGOs is a necessary condition for NGO performance.
H3: A combination of specialization and collaboration is a necessary condition for NGO performance.
H4: A combination of resource ownership and exclusive resource access is a necessary condition for NGO performance.
H5: A combination of national orientation and intermediary activities is a sufficient condition for NGO performance.
H6: A combination of the avoidance of governance collaboration and resource ownership and exclusive resource access is a sufficient combination of NGO performance.
H7: A combination of the avoidance of governance collaboration and specialization and NGO collaboration is a sufficient combination of NGO performance.

Eventually, we included 30 cases in the QCA; however, this was insufficient to perform the definitive analysis and provide all a sufficiently solid result for the research question. However, we are able to indicate tendencies.

After the analysis of the interviews and the theoretical framework, the conditions are selected. The data required to determine the conditions of the organizations is collected. This data is partially collected with help of local NGOs. Funding conditions and performance rates of NGOs are taken into account when formulating the eventual judgment.

This within-case analysis is an important prerequisite of conducting QCA. A protocol is therefore developed to ensure a uniform method of collecting the data. This is especially important since interviews are performed by a relatively large group of researchers as well as local contractors, in different languages. Accordingly, the interview conditions as such will largely vary, but the protocol will assure homogeneity of evaluation standards. Familiarity with the cases is a requirement before, during, and after the analytical moment of a QCA analysis (Wagemann and Schneider 2007). In addition to the data collected in interviews, archival data is assessed. Archives provide partial information about performance records of NGOs across several periods as well as information about their historic funding and network relations.

The interviews are recorded, transcribed, and coded with an open coding technique that randomly creates codes, which eventually creates codes that are used to code al the transcripts (Corbin and Strauss 1990). After the coding, code families are determined to cluster related codes. The most often occurring codes and codes families are analyzed and form the base for the conditions that are used for the QCA.

The ratio of number of variables and the number of cases is a potential cause for problems (Schneider and Wagemann 2006). If too many variables are introduced in a model, the results can be too complex to be useful. Researchers suggest that 4–7 conditions are the maximum amount still manageable with QCA (e.g., Thiem 2010). This analysis of the interviews has created a total of 120 codes. The codes are assessed and familiar codes were placed in 7 code families as indicated above. Next to the codes in the code families, other often used codes are size of organization, religious underpinning, and spatial proximity. The code families and the most often used codes are assumed to be conditions. The amount of potentially relevant conditions is equal to what is methodologically regarded as acceptable (Ragin 2008).

Eventually, the analysis leads to building a data table, which is based on the data collected during the interviews, observations, and the archival data. From this table, the necessary and sufficient conditions leading to the outcome are deduced. In the end, the significance of the by QCA found results is evaluated with the help of the case knowledge.

Conclusion and Recommendation

This research unveils the difficulties in assessing conditions of legitimacy for NGOs. On the one hand, this lack of insight is surprising given the great importance of legitimacy for NGOs. On the other hand, the level of professionalism, especially in developing countries, is developing only slowly. Our work sheds light on conditions for NGO performance in a very specific societal and regional setting. We have identified conditions that are relevant for NGO performance, namely, regional orientation, focus of operation, collaboration with other NGOs, collaboration with the government, possession and exclusive access to resource, and distance from the eventual operations.

The sample we looked at is a unique sample of NGOs, doing societal work on rather small scales, without any major attempt to do political or lobbying work. They are “real” or “pure” NGOs, not business owned, industry run, or advocating the business interests. Neither are these NGOs criticized for serving the enrichment of their employees. The respective NGOs do local work, the employees are mostly locals, with regard to their education rather over-qualified for their work (e.g., holding a PhD in a management position) rather underpaid relative to their education and highly dedicated to their mission. This implies that much of the criticism often brought forward against NGOs does not apply on our sample. From all, the research team can judge on the basis of site visits, document studies, group interviews, and individual interviews, the NGOs who participated in this research actually contribute to solving the difficult problem of child development and child protection in Moldova.

To a large extent, these conditions are qualitatively different from conditions that are discussed as success factors for for-profit organizations, in any case they are specific. This is partially due to the fact that market conditions are not completely absent for NGOs; however, NGOs are exposed to different kinds of decisions and actions as opposed to organizations who provide directly marketable products or services. Central to this argument, especially in the context of our research, is that the beneficiaries of the services of the NGOs can hardly take any decisions and perform any actions that are directly relevant for viability, funding, or success of the organizations. Furthermore, our research helps at understanding the performance differences of NGOs, and our explanation differs to large extent from legitimacy explanations (Edwards and Hulme 1996).

The results provide guidelines for future research. First, the results of this qualitative study are limited with regard to generalizability. The subsequent large-scale data collection has already started. That research consists in a questionnaire that collects, on the one hand, data about the indicators analyzed in this research. On the other hand, it also focuses on psychological and sociographic data about the actual performance with regard to child development. This will eventually enable the research team to compare the self-indicated performance measures of NGO representatives with measurable and comparable data. Even though also these performance data will not be unbiased, the large dataset, consisting of a sample of approximately 1,000 NGOs will help at minimizing the bias.

The main approaches that have been previously used to test the RBV ignored the "resources bundles" specificities (Fiss 2007). In the present study, we contribute to the RBV research by suggesting QCA as a rather novel approach that seems to be appropriate to deeply benefit of the RBV framework. Even though the work nicely links *conditions* for success with eventual success of NGOs, our research points to the limited accessibility of performance *indicators* for NGOs. Finally, on the basis of the (limited) dataset, we were able to develop a set of set-theoretic hypotheses that can serve as a guideline for further empirical research into organizational legitimacy.

Methodologically, this present paper suggests an approach for further research in this field that will provide more documentation of the applicability of fuzzy QCA approaches, especially for fields of exploration. Furthermore, an important issue about the indicated conditions is that they are located on different levels. Organizations have to deal with their own organizational structure and culture; they are in relations with other organizations, both on a horizontal as on a vertical dimension; they are exposed to similar laws on our case, but too different regional conditions that to some extent differ heavily (e.g., the cultural difference between the capital and the extremely impoverished countryside; regions involved or uninvolved in the civil war). That leads to the suggestion that multilevel analyses are promising when assessing NGO performance conditions.

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Values, Values-Based Management, and Business Legitimacy

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Contents

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Abstract

This section describes practical experience, with how value-based management can be an effective lever, when working with the company's legitimacy. First, the key concepts are defined: values, value-based management, and business legitimacy. Next, an important tool – the scorecard – is shown. The decisive matter about the scoreboard is that it must be used in a certain way to get effect. Therefore, ten brief instructions on how the tool should be used follow. It is absolutely crucial that the instructions are followed. Finally, a brief summary of a research case is given. The case is from a company that has secure legitimacy through value-based management and has done it extraordinarily well. The reference list contains a link for downloading the case.

Keywords

Individual responsibility · Brotherhood of honor · Mutual trust · Self-regulation · Win-win situations · Coordination of conduct · Internal consistency · Value dialogues · Inner motivation · Active involvement

Definitions

Values

A value is a consideration to be taken or a principle to be followed. A value expresses an ideal to strive for.

Values are culturally definite perceptions of what is valuable and desirable and what is not. Stable feelings about certain ideals of right and wrong, what one puts high and will work for. It may be family unity, personal freedom, success, and security.

Values are characterized as "the beliefs that determine and motivate our attitudes, actions, and assessments, based on our social institutions and political system." All people live their lives on the basis of values that are founded, at an early stage of their lives. Individuals, groups, and communities may differ in the way they rank their values, but as certain values are deeply embedded in culture, society's institutions, and a common way of life, they form the basis of social life, the political community and the state.

Value-Based Management

Today's management needs are directing those who can lead themselves, directing peers, leading experts, managing open tasks, and putting the customer at the center.

Effective techniques here are to enable self-control, upbringing, control through ideology, and control through individualization.

The management system must be able to create authenticity, integrity, symmetrical presence, recognition, feedback, and trust management and establish a culture of conversation, leadership through self-creation, the team as a microcontroller, dialogue management through coaching, and face-to-face contracts.

Value management fulfills this and provides a good foundation for emotional branding, as it makes it possible to tell who we are, where we go, and what we feel.

Value-based management sees the primary management task of controlling values and behaviors rather than controlling productivity and goals, understanding that values and behaviors must not be overlooked to achieve short-term productivity goals.

Business Legitimacy

A company has business legitimacy when it is recognized as effective and in accordance with general standards, habits, and rules and exhibits a true honorable business conduct.

External legitimacy is a generalized perception or assumption that the actions of the business are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions.

Internal legitimacy is considered to be conditioned by the fact that employees acknowledge the management and the exercise of power, as something that should be respected.

Internal legitimacy is measured by the extent to which it depends on the employee's tacit acceptance and not, for example, coercion and violence.

According to German sociologist Max Weber (Loftager, Jørn (2015)), legitimacy can derive from the personal charisma of leaders, or it may derive from legality, i.e., that the exercise of power takes place by virtue of accepted norms and regulations.

Dialogue and influence are considered a condition for governance's legitimacy, but not necessarily an adequate condition. On the one hand, it is claimed that legitimacy implies stability, which again depends on the board's ability to efficient problem-solving; on the other hand, legitimacy is linked to the company's functioning.

In particular, German sociologist and philosopher Jürgen Habermas (1996) emphasized that legitimacy presupposes that through dialogue and discussion and argumentation, it should be possible to influence the power system.

Tool and Application

The Scoreboard

When it comes to creating and maintaining internal and external legitimacy, the scoreboard is a suitable tool (see Fig. 1).

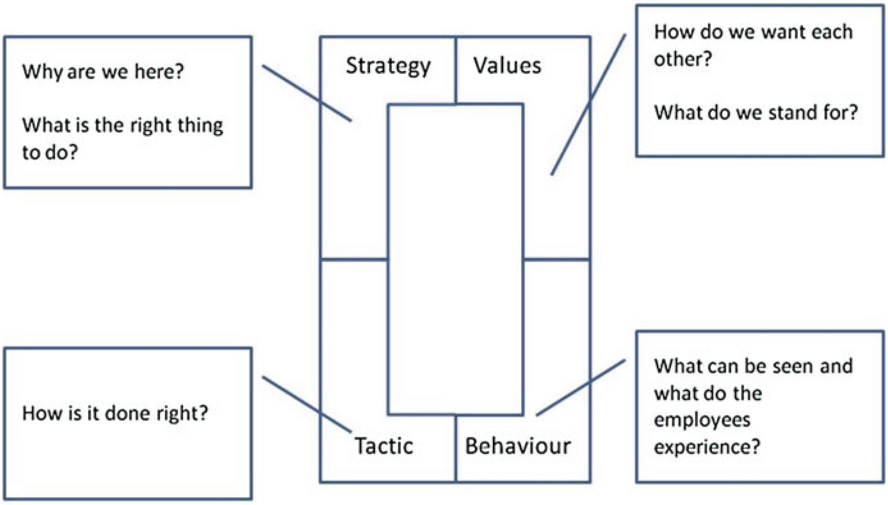
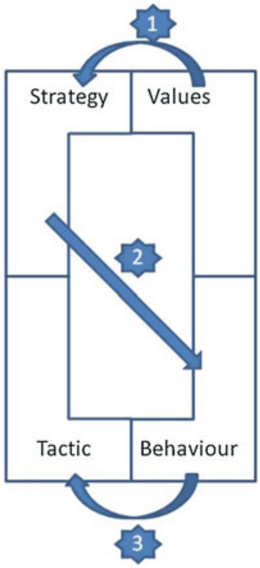


Fig. 1 The scoreboard

Fig. 2 The sequence of completing the scoreboard



When designing the company's scoreboard, start on the right side and move through the fields as illustrated in Fig. 2.

When formulating the company's values, one can choose different value orientations, depending on the formulation of the business concept (see the Table 1 below).

The scoreboard must show the company's conscience. Conscience is a continuous dialogue that the company has with itself. It is characterized by a two-way communication, where the company is both sender and receiver.

Table 1 Different value orientations

Dimension	Value
Society	Sustainability
The environment	Transparency, responsiveness
The business	Innovation, effectiveness, punctually, working environment
The employees	Honesty, integrity, confidence, responsibility
Customers	Dialogue, fairness, involvement

Communication must focus on the real motives that underlie the company's actions and nonactions. The dialogue must build a bridge between the individual, the community, and the environment.

It is important to have concrete behavioral formulations for each value you have chosen. It is the behavioral formulas that make it possible to control values and to introduce a greater degree of self-management.

The left side of the scoreboard must not erode the right side. Value-based management is based on concepts such as self-understanding, value leadership, self-management, diversity management, personal mastery, etc., and the management task is, through coaching and sense giving, for example, in interaction-based relations, to raise personal behavior both for individuals and for groups. An important part of the leaders job is to ensure the balance between the left side and the right side of the scorecard.

Application

Once the values are defined, they must be taken seriously; otherwise they will tend to erode the legitimacy of management instead of strengthening it. Values are not intentions but norms that will ensure cooperation and support between the company's actors. Values must be kept alive through a current value dialogue. It must run continuously. It is not a dialogue about values but about the interpretation of these. The interpretation depends on whether the behavior is in accordance with the values. Therefore, a value dialogue requires that there is a concrete behavior that can be discussed. Valuation dialogues must ensure that we agree on the values but also to what extent we live up to them.

The value discussions are characterized by a different logic than the one that characterizes the business economics. Is the company an unscrupulous machine or a conscientious organism? Today there are several trends that increase the need for companies to show conscience:

- Increased material prosperity
- The young generation, which is becoming more and more independent
- The huge explosion in technological capacity
- Greater awareness of the environment and energy problems
- The ever-increasing globalization trend
- The huge information pressure and information bulimia

For managers, the values mean that you will increasingly meet the requirement to show in practice, what you want with the managerial post. For the employees, it means that you have to make decisions on your own, also decisions that have not been formally answered in advance.

Guidelines of Importance

Value Formulation Is Heedful Action

When formulating your values, you may be tempted to slip in "hidden goals" that do not cover values but instead intend to put organizational focus on something that you as manager believes seem important.

By way of example, we can take the word "competitive." Competitive fits our universe best on the left side of the scoreboard. It requires a lot of conscious reflection to place it on the right side.

When designing the scoreboard, you must always keep in mind the separation between goals and values. Help can be obtained from Emanuel Kant (2002). He says, p. a.:

There are two kinds of imperatives: the hypothetical says, "You must do such and such, if you want to achieve a goal", and the categorical that says "that a particular kind of action is objectively necessary without regard to any particular goal". Moral value exists only, when a person acts out of a sense of duty. A value is a final ideal and not just a mean to reach a goal. Value-based actions correspond to the categorical imperative.

If you put "competitive" up as a value and thus accept it as a categorical end, it means that the management will not accept behavior like suboptimization as behavior, when the organizational units work to achieve their individual financial end goals. Does it mean we outsource all activities that others can do better than us? Does that mean that we always put the best man on a task, even when he does not count in our own department budget? Does it mean that we do not take over prices when the market allows it?

Values must be some that there cannot be found "good" excuses to violate, even in short-term situations.

Build a Bridge Between Goals and Values

One task which often is not solved, perhaps because one does not see it as an assignment, is to ensure that all parties in the cooperation can see that they can achieve the goals through the values and behaviors formulated on the right side of the scoreboard .

This task is not elementary, and it requires deep organizational reflection. Professor Liedman (2000) has in his book used hundreds of pages to argue why.

On a very short formula, it can be expressed as follows: "The conflict between the left and the right side of the scoreboard lies in the conflict between the rational and the appropriate. As soon as you have a goal, there are actions that will be rational in relation to the given goal, but if the actions also will be appropriate, requires a holistic approach."

If one does not solve this conflict, then it will happen – shows Liedman – that the left side erodes the right, and the values end their lives on a colorful folder that is shown on special occasions. For the employees, it means that they lose their maneuverability. They are only able to orient themselves to the left side, and then you're left in pure goal and rule management.

Self-management deals with people, as leaders believe in. This involves flat structures, project organization, delegation of responsibility and competence, and less emphasis on rules and instructions, but one must ensure that the new employees are instructed properly. The management's task is to create engagement about the values and goals, and the employees must orient them to, making dilemmas and principles clear and clarifying the responsibility that is a result from increased personal freedom.

Self-management is largely about creating a whole. A good example below is from the Danish Ministry of Finance's debate book (Gundelach 2000), written here:

Welfare work is not a standard product that can be produced for warehousing, on the contrary, welfare work must satisfy individual needs and wishes of a differentiated group of citizens, needs and services that often extend beyond performance in a narrow sense. An example is cleaning for the elderly. The employees must also take care of and observe changes in the physical, mental and social situation of the elderly, and help to make the older resourceful.

Therefore, the organizational need of an organization that produces welfare service is that it can play on many strings. It can be a municipality as a starting point. But over the last years, many municipalities have split production of welfare services and set productions rules on individual parts. This may give some immediate rationalization gains, but the risk is that the elements of the welfare service are beyond the core benefit.

Shared values are the norms and standards an organization and its stakeholders use to assess, whether the organization's behavior is reasonable. What is reasonable is based on an overall assessment, different views are weighed against each other, and the assessment is complex and multifaceted. It will contain solution objects, if mutual relation just represents the values you are looking for. The values in the institutions, for example, are about how to ensure, under the given economic and personal framework, the fullness of the welfare service that is provided.

Value Management Is Personal Development

The motivation for letting leadership be based on values is often a desire for more self-management and thus an organization that is more efficient.

On some occasions we can see, an incomprehensible reaction, that some employees do not want the greater latitude. We experience the duality between freedom and security. The bird in a cage is safe; it gets feed every day, while the bird in nature itself has to get it.

One can ask whether the ability to handle latitude is something we learn through our childhood, just as our ability to learn as Senge (1992) has argued in his book *The Fifth Discipline*.

Self-Management Is Learning Through Action

Young children learn quickly. They do, because they are good at action-driven learning. You act first, and then you see what happens and draw the experience.

When you are going to work during self-management, you do not always get instructions. You have to start acting on a looser basis and create your own fast learning circles.

Therefore it is important to work with personal mastery, a course where the individual experiences the ability to go beyond his own limits, doing something he would otherwise have left. Our experience is that such exercises are very fast, release energy, and solve some problems that otherwise would not have been solved.

The Value Formulation Is Completed Not Until the Behavior Is Described

Several have asked us, why they have not experienced an intensive discussion, when the value set has been submitted for discussion. At closer notice we do not think it's so strange again.

We have never seen a value you could not agree in, in the sense that it is always a clear positive thing, words as trustworthy, responsible, innovative, and holistic. Who will stand for the opposite?

The conflict arises when you subsequently will formulate which action is the right one. Values are never free. They cost something. When formulating the behavior, it becomes clear where and what the cost is. It is here that you decide which price you will pay.

If you have the value of doing everything for the customer, it means that when the customer comes and asks for one of your goods, as you know, that the competitor on the other side of the street sells at half price, will you send the customer there? It's here as in politics, the devil is in the details.

Be Aware of the Conflict Between Goals and Values

Many municipalities are based on a combination of both New Public Management and "value-based management." It answers figuratively to be able to play without problems on a football field, where rules and everything else change, when you pass the center line. Can you do that? Yes, we mean we actually can. It requires that we prevent that the goals and rules erode the values.

Remember, Values First Appear when They Are Organizationally Anchored

Values without organizational anchorage will quickly become an abstraction for employee and management and utterance without content and obligation. Values should never be exterior but internalized in the relationship that both management and employees have to their workplace, colleagues, customers, and citizens.

An acknowledgment of values personal significance for the actions of both employees and management is important for the self-understanding and credibility of an organizational culture.

Proactive action is a beginning to take responsibility and start living with choices that require personal integrity and courage for value dialogue. In this dialogue personal perceptions must be played on the pitch, otherwise there will be no personal and organizational development.

Let Dialogue Carry the Value Management

In dog fights you can have a strategy and a plan in advance, but in the meeting with the opponent, the plans must be adapted and the tactics changed. The value dialogue must give this possibility.

An organization culture that does not provide room for dialogue will cut employees and management from establishing a community of practice, where a sharing of knowledge can take place between all, for the benefit of the whole company and its surroundings. For companies with requirements for innovative processes, a reflexive practice will be a foundation for business development and moreover the company's earnings. It is the dialogue that removes the eye for the eyes.

Give the Dialogue a Meeting Place

Dialogue gives employees and managers the opportunity to work with the values in such a way that the individual values through a living interaction between thought and action are translated into personal, social, and professional competences for the benefit of the individual and for the social contexts such as workplace and outside world demands.

Without dialogue and learning, the introduction of values is a project that will legitimize management power. But the ownership of the project may not last longer than it takes to make it visible to the organization. Subsequently, no one in the organization can understand what becomes of the vision and values.

Create Balance Between Reflection and Action

Visions and values as entities in an equation with only theoretical variables will have the consequence that the responsibility for divert actions both among management and employees becomes abstract and imperceptible in both organization and business. Confronted with environmental expectations and organizational culture, the business can react with more specific goals and rules instead of conspicuous visions and values.

An experiment to design a scoreboard resting on theoretical ideas about the life in organizations is solely a waste of time.

Actions in isolation are visible. They give both executives and employees a sense of results and efficiency. Just that we act gives an impact on the personal and common plan, but whether it takes place in a coherent and collaborative culture is a completely different matter.

Transformation Powered by Values Is an Ongoing Process

Grounding a transformation process on values has only meaning, if the organization at the same time is able to both personal and organizational development. Commitment for this is extremely important, if the chosen values are meant to be internalized.

Just as it is in football, you are looking forward to teamwork, happy spectators (customers), and good play. Most often, the happiness is greater over this than if the match is won.

Japanese Professor Yoshio Kondo (1989) writes in his book, *Human Motivation*, that the following prerequisites for leadership must be present:

- The leader must have a dream (vision, ideal, common purpose).
- The leader must be ready to do what is necessary to realize this dream.
- The leader must win the employee support. To achieve this, his dream must be sufficiently desirable for all.
- The leader must be able to do more than his employees, and he should actually do it. But he must not interfere in what employees can do alone. However he must interfere if the employee does not or cannot; his job is to create capable employees.
- The leader must be successful – but he must not sacrifice his colleagues to obtain it.
- The leader must give appropriate advice to the employees and do it in time.

Extract from the Devoteam Case

The full case can be downloaded (Beyer 2013).

Self-Management Based on Values

Devoteam practices self-management based on three key values supported by a group of behavioral formulations. This means that the value set is manageable and easy to grasp and that it can be put into operation through behavior. The value set is actively used in daily work. There is an ongoing organizational dialogue on how to best express the values through action. The Devoteam scoreboard is as follows:

Strategy We create value in the intersection between business and technology Structure Process organization for release Balanced with control model and driving license Collaborative infrastructure and free seating Internalized values (value dialogs) Ongoing concept work	**Values** 1. Openness 2. Respect 3. Passion
Tactic Transparency Energy and motivation Flexibility and dynamics Better knowledge sharing New career paths Activation of multiple management resources Attracting talent Growth and renewal Outside marketing	**Behavior** *Openness* Give all relevant information to your colleagues Do not let internal things affect your performance negatively Do not just criticize, at least always provide an improvement proposal Indicate about risks and apply if you do not feel qualified for work Learn from your successes and failures *Respect* Treat the people you work with as yourself will be treated See your colleagues' time and work as just as valuable as your own Integrate new people into the team and make your guests feel welcome Be professional in your daily work Complete agreements *Passion* See the opportunity in all changes Be proud of your colleagues, your work, and the value you provide to the customers Help develop Devoteam You must always act to encourage, protect, and strengthen long-term relationships Give value and new ideas and share knowledge with your colleagues

Devoteam focuses on values; as an example I shall examine the value "respect for the individual." This value can be interpreted in the following ways:

1. We trust that employees will take responsibility, do their utmost, and know their own limits.
2. We accommodate employee differences/requirements.
3. We strive to ensure that employees work with projects they are passionate about.

Personal managers have the following tasks:

- Responsibility for minimum 3–5 employees
- Continuous coaching of employees according to their needs
- Annual performance review (including salary and goal setting)
- Preparing recommendations for promotions

Management has grown up from within and has become a team. Devoteam is led by a group of four directors, all of whom have a long history within the organization. The CEO was the fifth employee to be hired in 1982. The other directors have an average of more than 10-year experience in the company.

No Win-Lose Games

A director described it thusly:

> *We don't have any cutthroats, they'd be frozen out. And they are also weeded out during the hiring process. We have people with ambition, and we recognise that, but we don't put up with cutthroats. We won't tolerate being cheated, passed over, etc.*

Ordinary consultants expressed it like this:

> *You don't talk about people, but to them, and winning at the expense of others just doesn't happen. What I think is great is how there are very few tactical games played here.*

Values Are Used Actively

Values are often discussed at Devoteam. When it comes to projects, the consultants are very value-conscious, and in many projects, a value agenda is set. Time is also spent talking about values in connection with the introduction phase for newly hired consultants. A member of the management group had the following to say:

> *Values are living concepts and must remain so or become forgotten or transformed into dogma. The large management group sometimes discusses value; I recently experienced this, how you deal with it, provide feedback, etc. It quickly becomes a value debate.*

Management Philosophy Is Largely Self-Management

Devoteam's management philosophy is primarily based on self-management, freedom, room to self-organize, minimum standards, etc. This appears to be one of the reasons for the company's excellent results, but as with all other things, it creates challenges as well.

Self-management brings its own challenges, for instance, that it is very much up to the employees to create the learning loops and do the concept work to ensure integration of cultures, work processes, services, management style, etc.

Power and decision-making are delegated to the employees. Their task now is to find the balance between integration and differentiation. The case analysis indicates that this has not yet succeeded to its fullest extent.

Conclusion

My conclusion from analyzing the case is that value-based management is a powerful way to obtain external as well as internal business legitimacy, if management follows the guidelines and uses the scorecard.

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Working in the Brand Economy

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Work, Labor, and Experience

Eric Pezet and Juliet Poujol

Contents

Abstract

The humanist approach of work prevails in human resources management. It seems the most legitimate from a corporate social responsibility perspective because it postulates that work allows individual fulfillment. However, the Marxist approach, which emphasizes the context of exploitation through labor, is in many cases relevant to the reality of work. Salaried work is part of a Hegelian master-servant dialectic which is proving to be impassable.

A contemporary phenomenon, which is the entry of work into the brand economy through the employer brand, invites us to consider another approach to work, i.e., the experiential one. It replaces neither the Marxist nor the humanist approach, which remains relevant for reporting on employers' behavior. However, by focusing on the employees' point of view in assessing their work context, the experiential approach reflects the legitimacy of HRM, which is suggested by the entry of work into the brand economy, that is, offering employees a work experience compatible with their life projects. The master-servant dialectic is then replaced by a masterS-servantS dialectic.

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Introduction

In management, work is considered in an organized context, and its study focuses on the relationship between the individual, the expression of authority, and the organization. The conception of work always includes a dimension of relationship to authority; it is a dialectical relationship between the individual and the organizational order. This dialectic is studied on the basis of two main philosophical referentials, the humanist and the Marxist, each marked by social history. The humanist approach sees salaried work as a way to achieve personal development, and the Marxist approach sees salaried work as a relationship of irrepressible domination. The humanistic approach to work seems the most legitimate from a CSR point of view; however, the recommendations made from a humanistic HRM point of view reveal the exploitation that the Marxist approach denounces (Dahl Rendtorff 2009: 220–227).

The Hegelian dialectic of work is present indirectly in these approaches through the authors it has influenced or inspired. In the Marxist approach, Alexandre Kojève has influenced research on work in management, for example. What makes the Hegelian dialectic of work particularly interesting to contrast the dominant approaches to work in management is that it is a dialectic of self-awareness, in other words a dialectic of the construction of the individual by himself through work. This approach is particularly contemporary because it addresses the issue of individual construction. It also makes it possible to integrate an aspect of salaried work that cannot be overlooked, namely, the relationship with authority. Work is considered in a master-servant relationship (*The Phenomenology of Spirit*, Chap. IV: *The Truth of Self-Certainty*).

From the Hegelian perspective, work is the activity by which the individual becomes self-aware by confronting an external object: "Self-consciousness exists in and for itself when, and by the fact that, it so exists for another" (Hegel, n°178). The external object allows self-consciousness if it is a self-sustaining object. In the master-servant relationship by which Hegel describes the social relationship, the servant is for the master a living object that cannot allow him to regain consciousness of himself because he is servile and the master cannot recognize himself in him. Nonliving objects are ephemeral and produce only an illusion of recognition. On the other hand, the servant experiences the worked object through his work. He therefore has the possibility of experiencing himself through the object, but the status of servant, by which the work is done in the service of the master, prevents him from becoming fully aware of himself in the object he has built.

The aim here is not to present the details of these philosophies but to show how their reception in management research has led study a new contemporary phenomenon, which is the entry of work into the brand economy through the emergence of employer brands.

The reference to Hegel (1977), who is indirectly present in work approaches, allows us to put these approaches into perspective and indicate how they deal with the contemporary question of self-building through work in an organized context. This question is contemporary because we observe a relatively recent phenomenon, namely, the entry of work into the brand economy based on the valuation of their employer brand by companies.

In both Marxist and humanist approaches, work does not belong to the brand economy since it is considered as one of the means by which the goods and services that make up the brand are produced. Labor force has a price that depends on a market. Work is not related to the brand. It is indirectly so through the product it allows to manufacture but is rarely present for itself in the brand.

Through the management of the employer brand, companies present work as an activity that can be chosen from the point of view of self-experience and thus create an opportunity for competition between them for recruitment on the basis of a promise of experience made to employees. Work is in the process of having its own brands, the employer brands.

From the point of view of the employee-company relationship, the contemporary phenomenon of the entry of work into the brand economy introduces an important change: the company addresses employees by mobilizing the language of consumption. However, until recently, work has not been studied in relation to the brand regime but to the economic regime of supply and demand.

When managing their employer brand, companies mobilize the techniques and language of product promotion to communicate on job offer. The employer brand is the perception that employees (internal employer brand) and potential candidates or stakeholders (external employer brand) have of the company's managerial behavior. The language of employer brand management is that of experience: it promotes an experiential approach to work through which an individual becomes self-aware.

Thus, alongside Marxist anthropology, which is a historical anthropology of class relations, a neoliberal anthropology has emerged in recent years where workers are encouraged to consider work as consumers: "work is reimagined through the language of consumer culture. Work is defined not as a constraint on freedom, but as an area where individuals represent, construct and confirm their identity as consumers" (Du Gay 1996).

The question that interests us here is how the two main philosophical traditions on which management research is based can take into account the contemporary phenomenon of the entry of work into the brand economy. If not, can a new approach be considered that could inspire management research?

Humanist Approach: The Possibility of Work

Humanism is a relationship to the world according to which man is the end of all activity. The discourse on work, promoted by the employer brand, has humanistic characteristics. By placing people at the center of the production system through the legitimization of individual experience, the management of the employer brand develops a communication on the rebirth of work, which should be initiated by the organization.

Talking about work in terms of brand expresses employers' concern for working conditions and the consideration of employees' expectations in terms of personal development. Compared to a conception that sees work as a necessary suffering, the communication of the employer brand is a discourse on the rebirth of man at work.

Humanism is the dominant reference philosophy in human resources management research, particularly in human development work. The humanistic psychology of Carl Rogers and the School of Human Relations have emphasized the importance of self-esteem and personal development at work (McGuire et al. 2005: 132). The humanistic approach to human resources management implies "regards concern for persons and human aspects in managing organizations" (Melé 2016: 33).

Philosopher Hannah Arendt distinguishes between *animal laborans*, who produce effort, and *homo faber*, who is an object maker. The first, as referred to by Simone Weil (1951), lives in immediacy, under the regime of necessity and the restorative consumption of effort. The second one inscribes his activity in the duration of the objects he manufactures. What is important in work organizations focused on effort productivity is to make those who produce these efforts work in rhythm, and "in this motion, the tools lose their instrumental character, and the clear distinction between man and his implements, as well as his ends, becomes blurred" (Arendt 1998: 146). Labor is different from work in two ways: first because it relates to utility and not to effort and, second, because work is long-term while effort is immediately consumed by the productive system and is reconstituted in consumption. By focusing on motivation and satisfaction, the language of work that underlies the employer brand is related to labor by offering a reproduction of effort. There are many jobs in paid work that are jobs of design where a type of work is performed, but research on the employer brand is not interested in them: what defines the individual is the language of labor and of the need to survive, not the language of work. The necessity of work, which translates into the organization of work through the concentration on the coordination of efforts, cannot be denied: what can be discussed is the incessant nature of the capture of time through necessity.

From the Hegelian perspective, only the accomplishment of work enables one to become aware of oneself because it is an object in which one can find an object of self-awareness. From this point of view, the employer brand promotes an ambiguous discourse: it uses the concepts of sustainability of effort to give hope for the accomplishment of work. The promised work is not the object like the one made by *homo faber*, but the work of the self.

From a research perspective, the question is whether the organization can preserve the possibility of individual development.

Work is based on a content theory of motivation, such as the theory of expectations. The employer brand having the valences expected by employees would thus be a good employer brand. The first scale for measuring the employer brand was developed by Berthon et al. (2005), who identified five dimensions to assess the perceived benefits of working for an organization: (1) interest value represents an enriching work environment, which uses creativity and new work practices; (2) the social value is inherent in a friendly, even fun environment, offering good working relationships and team spirit; (3) economic value refers to elements of compensation (higher than competitive salaries, bonuses), promotion opportunities, and job security; (4) development value is related to recognition and career opportunities; and (5) application value represents the opportunities to apply the knowledge learned and transmit it to others, in an environment that is both customer- and human-oriented.

The conception of work that underlies employer brand research remains close to a conception of work that makes it an activity focused on effort production. Working conditions must allow for a repair of this effort through a friendly environment and the possibility of a career. It must also reward effort with an attractive salary. Research on work motivation and job satisfaction is central, but it is not based on humanistic approaches.

For Locke (2002), whose research on work motivation is very influential, management education must give meaning to the research developed in organizational behavior. Locke (2002) proposes to give this meaning by reference to Ayn Rand's objectivist philosophy that holds an important place in research on motivation, satisfaction at work, and its teaching. Human development is at the heart of objectivist philosophy, but for Ayn Rand, it is the achievement of exceptional personalities to lead society (Rand 2007), and the proposed ethic is rational selfishness (Pezet 2018). Therefore, for many, it is a question of encouraging the continuation of effort and restoring the force producing effort.

Under extreme conditions, a conception of work, exclusively centered on the production of effort and the repair of effort, leads to work organizations that deprive employees of their use of imagination and creativity: "the tragedy is that although work is too mechanical to engage the mind it nevertheless prevents one from thinking of anything else" (Weil 2015: 11). For sociologist Georges Friedmann (1960: 695), a balance can be found in the employment relationship: "he [the employee] must give his company a minimum of his technical potential and moral participation, which reciprocally implies, for him, minimum salary, satisfaction, and a feeling of well-being." Weil (1951: 21; 2015: 11) does not share such optimism: "if you think, you work more slowly; and there are rate-fixed times, laid down by pitiless bureaucrats, which must be observed." For Hannah Arendt, effort is made painful by endless repetition (1998: 122).

The employer brand can be viewed as a public expression, visible to all, of the companies' search for an exchange of employee commitment in the company for well-being. This promise seems conceivable at a time when management is conceiving spirituality at work. However, this is not the spirituality at work that Simone Weil (1951) seeks. For Simone Weil, there is a link between work and spirituality, but it is a possibility offered by work and not a condition of its productivity. Research on spirituality presents it as a means of increasing the productivity of effort and as a technique for repairing this effort. For Petchsawang and McLean (2017: 218), spirituality is seen as a human need to be satisfied that gives meaning to work. Spirituality makes one feel part of a working community

(Ashmos and Ashmos and Duchon 2000: 137): it develops optimism and hope that make individuals more self-confident in the activities they undertake (Dust and Greenhaus 2013: 289). Spirituality is achieved through the practice of performance asceticism (Pezet 2007).

The humanism to which the communication on the employer brand refers is the humanism of the organizer who is attentive to the human. For many, work experience is not an experience of self-awareness. It is a psychological experience measured by the satisfaction felt and renewed by restorative consumption and the repetition of effort. Consciousness is tested by an intentional ability. Even *homo faber* is not free of this intentionality since utility is not decided by him, it depends on the employer's instructions.

Marxist Approach: Work as Labor

In the Marxist conception, work is not reduced to the relationship of capitalist domination; it is conceived in a broader way. In such a conception, work is not only a producer of economic goods but also a producer of solidarity and self-realization. The extended conception of work encompasses three dimensions of action: work as (1) an end-oriented activity (cognitive-instrumental or teleological dimension), (2) a form of social interaction and communication (practical-moral or social dimension), and finally (3) a practical self-expression of the human being, who develops "the free play of his bodily and intellectual forces" (Noguera 2011: 138). In the Marxist conception of work, work is an activity that allows an experience of oneself through confrontation with the world, but, in practice, in a capitalist regime, employees only sell their labor power and are dispossessed of this aspect of work, and the experience in the world is reduced to the experience of command.

In management research, neo-Marxist criticism is based on only one aspect of Marxist labor analysis, that of the work process in the company. Marxist criticism concerns the relationship of domination in which capitalist labor is embedded and the organization of production that makes it possible to transform labor into a consumable good in the production process. The organization of production transforms the labor force into a good consumed during the production process.

According to the approach adopted mainly in critical, neo-Marxist management research, work is an activity of capital development, and the employee is dominated because he is subject to power relations in the workplace, his activity is governed by impersonal mechanisms, and he holds a hierarchically subordinate job (Renault 2016: 26). The history of labor is important because it reflects the domination exercised by capitalist employers over employees. Edward Palmer Thompson's studies (1990, 1991) on the formation of the English working class and on work in the seventeenth century in England have supported this view, in particular as they highlight the importance of work experience and the phenomenon of revolt it has generated throughout history. Braverman's (1974) work has been particularly influential in neo-Marxist management research. For Braverman (1974), control over work led to a de-skilling of work. Braverman presents work in occupational psychology – e.g., the School of Human Relations – on motivation and satisfaction as attempts to adapt workers to contemporary working conditions.

The worker makes his working capacity available to the employer and is thus deprived of the possibility of work experience, which is the creative power of work. The individual at work becomes a "productive body" (Deleule and Guery 2014): his knowledge is captured. The labor process theory currently builds on Braverman's (1974) work and goes beyond it by deepening the critique of the effects of workers' dispossession of their knowledge within the production process. The themes of monitoring and control are particularly influential in management science research. Control is not limited to Taylorian strategy; it takes forms of direct control and responsible autonomy (Friedman 1990: 186). The labor process theory (Knights and Willmott 1990) has not lost its relevance with technological developments. On the contrary, the new jobs generated by the use of the digital platform have led to research on the platform as a ghost employer. Control over employees takes on new forms of feedback and evaluation by customers (Gandini 2019).

Work on industrial democracy acknowledges the impossible reconciliation of employers and workers and examines the conditions for reconciling interests. These studies try to overcome the rivalry of the Marxist class. This is the case of Dunlop (1970), who does not belong to the Marxist tradition but acknowledges the divergence of interests between employer and employee: on the one hand, he takes a critical approach to the theories of human relations by considering them as an attempt to increase control over workers; but on the other hand, he considers that there is a possibility of creating an ideology shared between workers and employers. For him, resistance can be resolved in accordance with a shared ideology institutionalized by the system of professional relations (Dunlop 1970). However, from a Marxist perspective, one may wonder how a common ideology can exist in a context of capitalist domination and hegemony. O'Donnell's (1999) democracy at work is a myth (cited in McGuire et al. 2005: 134).

In the context of capitalist domination, the only possible experience for workers is that of resistance to the capitalist order. Studies aim to describe the organization as the materiality of domination and thus suggest ways of resistance. It is for this reason that neo-Marxist critical research questions the performativity of research (Spicer et al. 2009); it is indeed in the perspective of awakening consciousness that it can contribute to awakening and guiding resistance.

In this perspective, the work experience proposed by the employer brand could be compared to the implementation of a playful work context in order to make it easier to accept the rules of production (Burawoy 1979). Such an experience would be a fall asleep of the employees' capacity of resistance by making it possible to find "relative satisfactions" in work. The experience of satisfaction, which is the basis of the work on the employer brand, curbs the temptation of the experience of resistance. The management of individuality has been suggested by the employer brand (Fleming and Sturdy 2011).

That is what the Marxist analysis of management considers as a set of managerial techniques to make acceptable the work done in marketing the employer brand as the object of communication. Managerial techniques are no longer only useful within the company to make an intense work effort sustainable (internal employer brand); they are also useful outside the company to make the company attractive to employees and socially legitimate because it meets contemporary expectations (external employer brand).

In the Hegelian approach to work, work reduced to effort does not produce any object that allows employees to become self-aware through their work. On the contrary, effort disappears in its consumption by the production system. The renewal of effort presupposes restorative consumption, which is what consumer society proposes, but consumption is ephemeral and does not allow self-awareness. Therefore, from a neo-Marxist point of view, the employer brand cannot keep its promise of emancipation. Management can only offer repairs to the effort to restore the workforce.

From a neo-Marxist perspective, the organization of work is the materiality of domination and raises the question of the new materialities of domination. The entry of work into the brand economy through the employer brand invites to develop work on new managerial techniques of control through responsible autonomy.

The Experiential Relationship to Work

The employer brand communicates the possibility of an organizational experience that satisfies the values to which the employee is attached. In the Marxist perspective, this experience is impossible because the worker is caught in the immediacy of effort and constrained by a system of authority. Studies based on the humanist approach seek to offer an alternative by focusing on effort management and repair. It introduces a new symbolism of work by substituting self-development and play work for hard work, but it remains on an anthropology of effort and restorative consumption. The sign of change that the employer brand carries is the entry of work into the brand's economy. The employer brand becomes a tool for differentiating companies from their stakeholders, but it also makes the employee a stakeholder in the company's economy. Research in human resources management on work in brand economics is becoming important today, but it requires a specific approach to work.

A common point of the humanist and Marxist approaches is to consider the employee's work experience from the perspective of the inside of the organization. The employer brand by considering the employee as a consumer of work context and activity suggests an experiential relationship to work. It communicates with an employee who does not undergo or experience the experience but who evaluates it. It evaluates it ex ante in relation to a desire (external employer brand), and it evaluates it in progress in relation to this desire (internal employer brand).

The entry of work into the brand's economy opens another path, which is the choice of work in a relationship with work that is comparable to a consumer relationship, i.e., where a value is given to consumption in relation to a personal context and a personal project. It opens it in two ways: on the one hand by creating a discourse on the characteristics of work, thus making choice criteria visible, and on the other hand by legitimizing choice in relation to work and opening up the possibility of public criticism of a given employer brand through these two channels.

The pragmatist approach, which is placed in the Hegelian lineage (Shook and Good 2010; Garrison 1995), places criticism within the work experience itself and involves the critical posture at two points in time, first at the time of choosing the experience and second at the time of evaluating it.

Experience is "the active relationship of the organism to its surrounding conditions, projecting ends as consequences to be achieved" (Bidet 2008: 213). The experience is underpinned by desire. The "content and object of desires are seen to depend upon the particular context in which they arise, a matter that in turn depends upon the antecedent state of both personal activity and of surrounding conditions... Effort instead of being something that comes after desire is seen to be of the very essence of the tension involved in desire" (Dewey 1939: 16). For Dewey (1939), experience is a practice and not a mental or psychological state. Effort is not absent from an experiential approach to work, but it is not the effort of work activity: it is the effort made to achieve a desire. The effort of the activity in an organized context is only one aspect of effort. It is part of a relationship of effort and desire that makes sense in an experiential relationship with work and also integrates the efforts required by "non-work" activities and not in a relationship of effort and repair that makes sense only in a given organizational context.

Experience makes sense over time as employees evaluate and reevaluate their experience. According to Dewey (1939), value is a component of any immediate experience. The process by which a value is assigned to the different elements of the experiment is called valuation by Dewey (1939). This process is both cognitive and emotional and is conducted in interaction with the environment.

Marxist and humanist approaches integrate a critique of the work context, but this critique is external to work, just like the critique of a conscious observer. You cannot work and criticize work at the same time. You cannot be involved in both work and organization and be critical. In the Marxist perspective, this is because domination prevents it in the humanist perspective, because satisfaction, which is the result of effort, silences criticism. On the other hand, from a pragmatist perspective, work allows us to acquire, *The Phenomenology of Spirit*, particularly Chap. IV: *The Truth of Self-Certainty*, reflexive self-awareness. It shows that the desire of others – in this case, the desire expressed by the employer through his strategic and organizational project – may be integrated into an experiential relationship with work and thus contribute to shaping oneself to the possibility of this desire (Garrison 1995). However, the experiential relationship to work is a critical one. The experience is evaluated.

The experiential relationship at work is a critical report that offers research perspectives in human resources management. The employer brand brings work into the brand economy by making the proposed experience a criterion for valuing the company among stakeholders.

In a brand economy, research can introduce the possibility of a comparison between trademarks, and this comparison must be conducted from the consumer's point of view. To move away from the conception of work as a necessity, which justifies concentrating research on the couple effort/repair, we can refer, as invited by the entry of work into the brand economy, to an approach that emphasizes employees' desires in relation to work. The economy of the employer brand invites to compare proposed (external employer brand) and lived (internal employer brand) organizational experience from the employees' point of view. The entry of work into the brand economy makes it possible to conceive intentionality and a choice of experience among those possible represented by employer brands.

The experience conducted in a given context is provisional. A given organization cannot hope to fill an employee on a long-term basis. The experiential approach to work makes it possible to integrate the fact that the organizational context of work is not necessarily the one that allows self-discovery in the Hegelian sense. This type of work is a work of concept. The development of experience requires this type of work, and this is why the experiential approach integrates the possibility of self-knowledge through work. This is given not so much by work itself as by the experiential process in which it is embedded.

Discussion

The salaried employment relationship makes it possible to refer to the Hegelian dialectic of work. The working relationship is a historical construction and is marked by conflict. It has a legal existence given by a contract defining the relationship between the employer and the employee. When this legal form is lacking or does not exist, the relationship between a master and a servant is a relationship of domination as in the case of forced labor or domestic work. Placing the analysis of the working relationship in the Hegelian dialectical perspective is to ask oneself to what extent the working relationship contributes to enabling the employee to experience self-awareness.

Employer brand research can follow different possible paths. When comparing employer brands, a distinction can be made between business contexts. Three types of relationships to activity can be proposed: a *homo laborans* report, a homo faber report, and a *homo experiens* report. From the company's point of view, the first two are determined by the organization of work, while the third is based on a human resources management policy that considers and accepts the unconstrained external mobility of employees. From the employee's point of view, in the first two cases, he entrusts the evaluation of his experiential relationship to work to the company, and in the third case, he carries out his evaluation in a broader context than the company, including life choices.

Each of these contexts may or may not be acceptable depending on the individual experiential projects in which work is not absent but only plays a relative role. In addition, all experience takes place in contexts where organizations are made up of several work contexts. Is the employer brand a global or local brand?

The entry of work into the brand economy can encourage some organizations to develop communication that is out of step with their actual work context. A critical dimension is introduced when the detachment between an external brand, perceived outside the company, and an internal brand perceived by employees, i.e., actually experienced by employees, is observed. The discrepancy is a sign of clumsy marketing communication if the internal brand is positive while the external brand is negative. Conversely, it is a sign of organizational hypocrisy (Brunsson 1993) if the internal brand is negative while the external brand is positive. The employer brand therefore provides an additional tool to assess the employer in a self-referential way, through the consistency of the internal brand and the external brand, and in a differential way compared to other employer brands.

The way employees build their experience is also an area of research into the experiential relationship at work. The experiential relationship to work has an emancipatory dimension since it relates work to desire, but it implies possible mobility between organizations. A work experience is only a step toward another experience. Employer brands can be assessed from this perspective in terms of the company's ability to contribute to this mobility.

The experiential relationship to work also requires research on the institutional context. A work context is more or less painful or even dangerous for employees, depending on the legal context. The experiential possibility is made more or less easy depending on the individual contexts of employees. Each of the three contexts of experience, *homo laborans*, *homo faber*, and *homo experiens*, may or may not be acceptable depending on the individual experiential projects where work is not absent but plays a relative role. In addition, the economic context also makes experience more or less secure and can have an impact on the quality of experience.

Conclusion

The issue here is salaried work in an organized system, which is why, for example, no reference has been made to Protestant ethics, which deals with the relationship between work and religion in a global cultural context. We have heard about philosophers and researchers whose work focuses on the relationship between work and organization and on the employee's work.

It is not a question of opposing humanism and Marxism but showing the differences in perspectives. Marxism is interested in the capitalist logic of domination of one social category by another in the production system and the mechanisms deployed to exercise and maintain this domination. The humanist tradition is concerned with the effect of working conditions on human development. In the humanist tradition, there are exchanges with the Marxist tradition (Weil 1951) and vice versa (Gorz 2011). Similarly, Dewey's pragmatism is not indifferent to humanistic thinking (Shook and Good 2010: 4).

From a research perspective, no approach prevails over the other. The choice depends on how the approach can reflect the master-servant relationship that is established in a given context. Work is a historical and anthropological concept, and not all regions of the world, or even all sectors of activity in the same country, are historically and contemporary in the same anthropological approach to work.

Hence, the entry of work into the brand economy could currently be a Western phenomenon whose scope is to be studied.

The experiential relationship to work allows for aspects of the experience that are promising for research development to be taken into account.

Work is part of the conduct of life but is not enough to establish a relationship with oneself. For Simone Weil, this closeness to oneself is spiritual. There may be a work spirituality, i.e., a spirituality that integrates work activity, but spirituality is not reduced to work activity (Weil 1951). This idea that work is essential to the establishment of a relationship with oneself but that this relationship with oneself is not exclusively related to work is also present in Arendt. For Arendt, public life is the most flourishing one.

The experiential approach to work makes it possible to take into account the fact that the construction of a paid work experience is linked to work in an organized context but also to activities outside the workplace. This approach is already present in research with studies on work-life balance, for example.

In the experiential approach, the meaning of work is no longer contained in the activity itself; it is a means to an end. Labor may be acceptable and meaningful in some circumstances but has no meaning in itself. The entry of work into the brand economy gives rise to the idea of a relationship of consumption at work. This is not a new idea. The reconciliation of work and consumption is present in the Marxist tradition where work is seen as an activity that is consumed by companies to produce wealth. Labor is a consumption that values capital. In a Marxist approach, work is the expression of a relationship of domination by which workers become producers of economic goods and wage labor is a social assignment resulting from social position. In the experiential approach, work is a consumption of a technical and social context that is part of the evaluation of experience.

The entry of work into the brand economy may allow some employers to contribute to promoting a relationship of the *homo laborans* or *homo experiens* type. The employer offers an experience but is not the master of the experiential project. The master-servant relationship inherent in the working relationship is replaced by a masterS-servantS relationship.

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Part XVIII

Conflicting Notions of CSR and Business Legitimacy in Globalization

Legitimacy Issues in Corporate Public Diplomacy

68

Kirsten Mogensen

Contents

Abstract

Transnational corporations negotiate with stakeholders in host countries to build long-term, trustworthy relationships. Such *corporate diplomacy* activities aim at creating economically and socially sustainable business solutions. The sub concept, *corporate public diplomacy*, refers to collaborations and negotiations directly with civic society. Based on a review of scholarly, peer-reviewed journal articles, where the authors use the term "corporate diplomacy," this article identifies four topics of special interest for discussions on legitimacy in diplomatic processes involving civic society: (1) Who can be perceived as legitimate representatives of civic society? (2) To what extent is it legitimate for corporations to seek political power and fill government gaps in host countries as well as in international politics, considering that the public has not elected the CEOs? (3) How do transnational corporations, from an ethical perspective, handle legitimacy issues related to the many different ideologies expressed by people in the countries where they operate? and (4) How do

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corporations deal with disparities in power and expertise so that representatives from civic society, who generally do not have as much technical expertise and economic power, perceive the processes as well as the solutions as legitimate? Much of the literature on corporate diplomacy is either conceptual papers or macrolevel analyses of corporate behaviors in relation to world politics. So far, few case studies have been published. More case studies would be helpful in creating insight into the processes of transnational corporations' long-term negotiations and collaboration with civic society and in locating legitimacy issues related to practice.

Keywords

Transnational corporations · Civic society · Power disparities · Public protests · Anti-corporate activism

Introduction

Transnational corporations' investments sometimes spark protests from people living on the lands where corporations intend to build factories, mines, or hydro dams. Well-known examples are the Indian Niyamgiri Hill range, where villages after years of anti-corporate protests voted against plans to mine bauxite – the primary raw material for aluminum (Kraemer et al. 2013; Seetharaman 2018) – and the Myanmar hydropower project in Kachin (Myitsone Dam) that would produce clean energy but was suspended by government after years of public protests (China Daily 2011; Sun 2012; Mogensen 2017).

For corporations, such cancellation or suspension of planned projects is expensive. For people in the affected areas, the uncertain years of protests mean that they cannot look to the future in peace and communities are disrupted. During the years of protests, local people in India and Myanmar were outraged about the prospect of being moved from their ancestral lands, the threatening undermining of their traditional livelihood, and the lack of respect for places of spiritual significance to them. Similar arguments are heard around the globe, just to mention that Brazil's indigenous people staged protest against loss of rights and land (Peres and DiLorenzo 2018), Native Americans protested against the Texas pipeline (Levin 2017), and Australians protested against a proposed Carmichael coalmine in Queensland (Hancock 2017).

When corporations undertook the initial expenses, related to the constructions in India and Myanmar, they had already negotiated successfully with relevant governments, and, as such, they were in the belief that their projects were legitimate. However, some people clearly did not find the projects legitimate. When they protested, they experienced closed doors and treats rather than an invitation to negotiate. It seems like the corporations did not perceive such protesters from civil society as legitimate actors in the corporate diplomacy related to their investments.

When corporations engage with stakeholders in other countries, this engagement may take the form of public relation, commercial diplomacy, and corporate diplomacy depending on the context and issues involved. While the first two aim at winning the public support for corporate products, ideas, and plans, the concept of corporate diplomacy implies a much deeper involvement with the public (Ali 2009; Ordeix-Rigo and Duarte 2009). Public relations, commercial/economic diplomacy, and corporate public diplomacy are interrelated concepts, and the practices share many techniques (Tam and Kim 2017). However, the emphasis is different. Respectively, keywords are perceived legitimacy (Vos 2011; Weber and Larsson-Olaison 2017), attraction (Ruël 2013; Nye 2014), and collaboration (Agmon 2003; Mogensen 2017). A number of legitimacy issues are involved when powerful corporations negotiate with less powerful actors such as governments and other stakeholders – including the general public – in smaller, poorer, and less powerful countries (Strange 1992, 1996; Agmon 2003; Ottaway 2009; Bloom 2016; Garsten and Sörbom 2017).

The focus in this chapter is on corporate public diplomacy, which is one aspect of the broader concept corporate diplomacy. In international relations, public diplomacy is a concept used to describe when a government engages directly with the public (Cull 2009; Memis 2010; Khakimova 2013; Seib 2013; Chang and Lin 2014; Mogensen 2015). In the transnational business world, the concept of corporate public diplomacy implies that management negotiate directly with civil society representatives (Mogensen 2017). As an example, corporations may engage civic society in an open discussion on how best to solve specific societal challenges in the hope to find solutions that are experienced as beneficial by both the corporation and the public. From an economic viewpoint, such direct negotiations are especially meaningful in situations where political opposition threaten to suspend or delay projects as experienced by, for example, China Power Investment Corporation (CPI) in Myanmar (Lwin 2015) and Vedanta Resources in India (Seetharaman 2018).

In the hindsight, "corporate public diplomacy – that is, collaboration with the general public in a host country through negotiation directly with civic society" (Mogensen 2017) might have saved the corporations for millions of dollars in wasted investments. Furthermore, at least in the case of Myanmar, analyses indicate that a profitable, sustainable solution could have been found though negotiations and co-creation activities with civil society.

This article will not elaborate on the economic perspective but instead discuss four other types of legitimacy issues related to "corporate public diplomacy." A search on EBSCOhost in May 2018 shows that the broader term "corporate diplomacy" has been used in less than 30 English language peer-reviewed journal articles and they form the core for this review. Many are conceptual papers, such as Asquers' (2012) cognitive-linguistic analyses inspired by George Lakoff, and several others discuss corporate diplomacy at macrolevel (e.g., Strange 1992, 1996). Case studies focusing on corporations' diplomatic activities with civic society are rare, but most of the scholarly literature on corporate diplomacy point to legitimacy issues that are relevant in dealing with civic society, and they will form the basis for discussion of corporate public diplomacy in the rest of this article.

The Concept of Corporate Diplomacy

As foreign direct investments and international trade grew after WW2, scholars, politicians, and practitioners with international relations discussed the need for transnational corporations to develop and practice diplomacy (Herter 1966; Strange 1992; Trice et al. 1995). However, up to the turn of the century, the use of the concept "corporate diplomacy" in academic peer-reviewed journals seems to have been limited to the use of scholars studying corporate history. Miner (1969) introduced the concept in a study of the St. Louis-San Francisco Railway Company back in the 1880s, and Smith (1976) a few years later used it in his study of "The Millspaugh Mission and American Corporate Diplomacy in Persia, 1922–1927."

When the international engagements grew rapidly in the 2000s (WTO 2014; World Bank 2016), the concept was adopted by scholars in business management. An early adopter was Steger (2003), who called his book *Corporate Diplomacy: The Strategy for a Volatile, Fragmented Business Environment*, and while it was not an academic article, a review was published in the strategic management journal *Long Range Planning*. A few years later, Steger co-authored a journal article about corporate diplomacy (Amann et al. 2007). Steger and his team defined corporate diplomacy:

> Corporate diplomacy refers to the attempt to manage the business environment systematically and professionally, to ensure that business is done smoothly, with an unquestioned license to operate and an interaction that leads to mutual adaption between corporations and society in a sense of coevolution. (Amann et al. 2007)

Amann et al. emphasized strategic as well as institutional legitimacy theory in their discussion of four cases of corporations faced with pressure from external forces such as NGOs. The cases involve reputation management, and as such, it could be read as not much different from the public relations and social responsibility activities that were covered under already know terms. However, in the hindsight the definition contains some words that imply a much deeper engagement with society, including "mutual adaption" and "coevolution," both of which require negotiations. The word "unquestioned" also requires an agreement with the local communities, because a project can hardly be considered unquestioned if local people protest.

Since then, scholars within different fields, including management, strategy, corporate communication, public relations, marketing, branding, international relations, and history, have used the concept in various contexts. More recently, scholars have suggested that corporations should take on new roles and try to solve problems that governments have not been able to, which means that they take on a more political role. As an example, Ordeix-Rigo and Duarte (2009) suggest that "corporate diplomacy is aimed at positioning the company or a group of companies as institutions" and that by "taking over some of the traditional state functions (. . .) they are also acquiring the status of interlocutor in an non-governmental environment." Mogensen (2017) writes that corporate diplomacy "is a relevant concept for activities which transnational corporations engage in, when they perceive an opportunity or a problem in a host country and try to develop a sustainable solution in collaboration with relevant stakeholders at all levels, including civil society."

Scholars have, for example, discussed (1) who are involved in diplomatic negotiations with corporations, (2) how these corporate diplomacy activities relate to government diplomacy, (3) what issues can be handled through corporate diplomacy activities, and (4) how they differ from related concepts.

1. Actors can be other businesses – foreign competitors and business partners, more or less powerful (Miner 1969; Asquer 2012), foreign governments (Strange 1992; Agmon 2003; Miller 2009; Asquer 2012; Jackson and Dawson 2017), international organizations (Pedersen 2006), NGOs (Amann et al. 2007; Mirvis et al. 2014), and foreign publics (Macnamara 2012; Mogensen 2017). A few history scholars also talk about corporate diplomacy when corporations are engaged in negotiations, damage control, and lobbying in their home country (Miner 1969; Schroeder 2011), but that is the exceptional use of the concept. In general, corporate diplomacy is used in connection with transnational negotiations.
2. When corporations work in foreign countries, they can have different links to their national governments. Before WW2 it was common that colonial powers appointed corporations as government representatives in other countries (Smith 1976; Ali 2009; Ottaway 2009; Westermann-Behaylo et al. 2015), and in a smaller scale, corporations are still appointed national consultees in areas where the establishment of an embassy is considered too costly. However, after WW2 the role of embassies in promoting the interests of corporations has developed. Such trade or commercial diplomacy recognizes the importance of the home government and the common interests between national governments and national corporations when they want to expand on foreign markets (Amann et al. 2007; Asquer 2012; Holden and Tryhorn 2013; Ruël 2013). On the other hand, corporations and individual citizens can also help create soft power for their national government if public abroad admires them (Ali 2009; British Council 2012; Tam and Kim 2017; White 2015) or harm the soft power of a nation if they undermine the trust in the country's core values (Miller 2009). While such cooperation centering on national interests is still the trend, some large corporations have started to claim independence from national governments, insisting that they are truly transnational and that they can do better alone than when linked to a national government (Ali 2009; Westermann-Behaylo et al. 2015). Management literature discusses when it is in the interest of transnational corporations to dissociate from national governments (e.g., Wang 2005). The relationship between a national government's diplomatic efforts and those of other actors is, in other words, not always in harmony (Miller 2009). This disharmony raises the questions of (1) who are the legitimate representatives of a nation and responsible for its image and (2) if it is legitimate for transnational corporations to act independently when its home country is involved in a territorial dispute with a host country (Tam and Kim 2017). These issues will not be discussed further in this article.

3. Scholars use the concept of corporate diplomacy in different contexts of which some seem very close to public relation concepts and others imply actual negotiations where the result is "a negotiated solution rather than perfect market equilibrium" (Agmon 2003). Examples of the first are that corporate diplomacy is used in an effort to "bring about mutual understanding and respect among people and cultures" (Wang 2005), "win the hearts and minds of external stakeholders in support of an organizational mission" (Henisz 2016), and reduce "nationalistic antagonism in overseas markets" (Wang 2005). Examples of the latter are transnational corporations' negotiations with states for better infrastructure (Agmon 2003), with other businesses to maximize their combined opportunities (Miner 1969), with civil societies to find solutions to societal problems (Mogensen 2017), and with all stakeholders to fill governance gaps and solve conflicts (Westermann-Behaylo et al. 2015).
4. *Corporate diplomacy* as a concept has evolved from government-to-government long-term relation building and negotiations, and mostly, the concept is used in contexts where transnational corporations are strong enough to negotiate directly with other powerful actors outside their home country. Scholars have discussed how corporate diplomacy differs from other concepts like economic and commercial diplomacy, negotiations in general, international relations, and business diplomacy (Asquer 2012; Rüel and Wolters 2016). Parallel to government diplomacy, corporate diplomacy is the responsibility of the top management (Pedersen 2006; Ali 2009), and it "requires engagement, two-way conversation, transparency, and hopefully win-win negotiations with a mix of interests" (Mirvis et al. 2014). *Public diplomacy* has evolved from the diplomatic communication from one government to foreign publics (Wang 2005). As a concept, it implies engagement, networking, and listening, but not negotiations, with the general public (Cull 2009; Mogensen 2015). Scholars have therefore struggled to describe the differences between the visible conduct of public diplomacy and of other concepts like public relations, propaganda, lobbying, relationship marketing, and nation branding (Pedersen 2006; Tadajewski 2009; Asquer 2012). Only after 2000 have scholars tentatively included civil society as relevant participants in genuine negotiations, and Mogensen (2017) suggests that "corporate public diplomacy" is a relevant term for cooperation and negotiations directly with civic society.

The Concept of Legitimacy

This article recognizes two ontologies of corporate legitimacy. Both are reflected in the literature, usually without elaboration; however since this article combines both types of study in the review, it is necessary to introduce a way of distinction:

1. Citizens' perception of the corporation's legitimacy. This is linked to the socially constructed image of its activities – a social construction that is usually negotiated

between the corporation and its social relations. Evaluations of this socially constructed image will in this chapter be referred to as "perceived legitimacy."

2. The actual conduct of corporations and its impact on society. The discussions refer to this ontological level whenever legitimacy is discussed without the prefix "perceived." In a perfect world, citizens have a transcendent view that allows them to evaluate the legitimacy of corporations based on their actual behavior, and there would be compliance between the ontological levels; however in the real world, some corporations manage to create a legitimate public image while behaving illegitimately backstage (Goffmann 1959). Examples are regularly uncovered by journalists and NGOs. In our imperfect world, there are also companies who behave perfectly good but are unjustifiably accused of illegitimate behavior. For these reasons, the perceived and the ontological levels of legitimacy are often not coinciding.

In the following discussion, Boltanski and Thévenot's (2006) six orders of worth, market, industrial, civic, domestic, inspired, and fame, plus Patriotta et al.'s (2011) green order of worth will be used as common reference without further elaboration. The framework is produced with social construction of justification in mind; however, the orders of worth refer to fundamental human values, and the categories of orders can therefore be used in discussions of legitimacy as well as perceived legitimacy. Even if the reader does not know the framework in detail, the meaning will be clear from the context in which it is used.

While there are many legitimacy issues involved in corporate diplomacy, the following discussion will be structured around four main topics that seem especially relevant when corporations cooperate with civil society in host countries:

1. Legitimacy of civil society representatives
2. Legitimacy of corporations as political actors
3. Conflicting ideologies
4. Imbalance in power and expertise

Legitimacy of Civil Society Representatives

When corporations engage with civic society on controversial issues, many actors will claim to speak on behalf of the community. In the cases of Myitsone and Niyamgiri Hill, outspoken protesters included, among others, the affected villagers, people from surrounding areas and towns, people living further away but fearing that their livelihood would be affected by the constructions, national politicians, surrounding countries that feared that the constructions would impact power balance in the region, national and international anti-corporate activists, artists, and individuals who enjoyed personal exposure from linking to a popular movement.

Often the affected villagers do not have the capabilities required to engage in campaigns, e.g., they speak only a local language and have no experience with media handling. In the analyzed cases, the most outspoken protesters came from outside the villages. They were better educated people with contact to media, e. g., artists. Because villagers can hardly create international attention around their resistance without such supporters from outside, they are needed in the process, but they are not legitimate representatives of the villages unless they are appointed by them. While the villagers tend to emphasize values from the domestic order of worth – link to the ancestral land, local heritage, spirituality, and traditions – the outside supporters are not attached to the land and can easily move on, as in the Niyamgiri Hill where one of the most outspoken protesters changed his mind and appeared officially as a supporter of the project after the corporation gave him a scholarship (Kraemer et al. 2013).

However, people from outside the affected villages can be perceived as legitimate stakeholders, if they have interests in the project or are affected by the consequences. For example, a hydropower station can create clean energy to millions of people, and, therefore, the interests of the villagers must be balanced with the interests of the larger community. Ideally, a solution can be found where the hydropower station is placed so that it can produce energy and be profitable and will not harm places that the villagers find sacred. In regard to mega projects, other countries may also be legitimate stakeholders. As an example, neighboring countries can fear that a foreign superpower – e.g., China in Southeast Asia – gets too much influence on regional policy if it controls major resources like hydropower dams and other infrastructures through its transnational corporations (Mogensen 2017).

Legitimacy of Corporations as Political Actors

This section will briefly discuss legitimacy issues related to three corporate roles that the literature has described:

1. Engagement with stakeholders
2. Representing home country
3. Broader political role

These three will now be discussed:

Ad 1

It may seem obvious that transnational corporations are legitimate actors in diplomatic activities involving them, including negotiations with stakeholders at all levels.

However, governments may not always find it appropriate that corporations negotiate directly with civic society, because they perceive themselves as the one legitimate negotiator on behalf of their country. For example, in Myitsone, the Chinese investors said that the Myanmar military government, with whom they had originally negotiated, did not want them to negotiate with the villagers (China Daily 2011). Governments can fear that negotiations will be complicated by the involvement of representatives from civic society, e.g., anti-corporate activism and lobbying in favor of the project, and that there will be lack of confidentiality during the negotiations. It can reasonably be argued that democratic governments are elected as representatives of the common will, while civic society are not. The extent to which civic society can be considered legitimate partners in negotiations will therefore depend on moral reasoning in the specific case.

Ad 2

The conduct of transnational corporations and their home countries mutually affect the perceived legitimacy of each other (White 2015; White and Kolesnicov 2015). Today, some corporations insist that they are truly international and therefore have no home country, or they try to distinguish themselves from the home country's foreign policy. However, mostly, transnational corporations benefit from and contribute to the home countries' brands, and they are to some extend representatives of that country. Referring to Kochhar and Moelleda (2015), Tam and Kim (2017) write that transnational corporations (TNCs) "serve an important political function as corporate diplomats of their countries of origin." Tam and Kim conclude that: "Corporate diplomacy should be practiced not merely for TNCs to gain legitimacy in foreign countries in which they operate; it should be practiced as a political function because of the association between TNCs and their countries of origin." Such a political function will, of course, affect civil society in the host country.

Smith (1976) names American Secretaries of State in the 1920s as "architects of corporate diplomacy," all working toward open doors for American investments throughout the world. It also included Washington's protection of American enterprises in other countries and contributed with corporate-friendly experts to administrations in other countries. As an example, Smith describes how the American economist Arthur C. Millspaugh worked as Director General of Persian finances between 1922 and 1927 and, at times, had "dictatorial powers." Eventually, an increasing number of Persian officials opposed him, because he and his staff "were not willing to accommodate Persian customs," "his disregard for the dignity of government (. . .) overshadowed all of Millspaugh's good qualities," and the Shah wanted to be the sole ruler of Persia. Smith's historical account demonstrates how corporate diplomacy lacks legitimacy when the dignity of the people and its government is not respected, even if the foreigners believe that they create a win-win situation.

Transnational corporations may be tempted to use their technical and economic resources to help solve problems in a country but then, as a by-product, influence politics and negate the authority of the legitimate (elected) government. It is relevant to discuss, if power founded on money and expertise legitimize such a political role, and if so, what the difference is between the new norms for corporate diplomacy and the Millspaugh example.

Ad 3

This leads to the recent discussion of whether transnational corporations should play a more extended role in solving problems across the world. In the literature, this discussion does not focus on aid and development programs, like those sponsored by Bill & Melinda Gates Foundation, but on how corporations intervene in societal problems beyond “narrowly confined commercial interests” (Riordan 2003, quoted by Macnamara 2012). Scholars do not agree on the extent to which corporate leadership should play an extend role in the political sphere.

The following discussion implies a distinction between the economic and the political spheres, even though these are social constructs and not all scholars agree with the distinction (Deblonde 2001). Deliberative democracies have developed different norms and standards for the two spheres. The norms for the economic sphere are similar to the market and industrial order of worth, e.g., price, cost, technical efficiency, expertise, and monetary, while the norms for deliberate democracies are civic, e.g., collective welfare, equality, solidarity, fundamental rights, rules, and regulations (Patriotta et al. 2011). From this perspective, it is a responsibility for national governments to create rules and limitations for corporate world, so that, e.g., the economic sector contributes to the collective welfare, that citizens can trust financial institutions, and that the food products do not contain too much poison.

It may seem obvious to include corporate world in the formulation of such rules and regulations, because they have the expertise, an argument drawing on the industrial order of worth. For example, Sako (2016) writes that corporate diplomacy is relevant both where there is a functioning government and that it is “equally needed where governments are absent due to deregulation or weak law enforcement capacity (. . .) a mind-set that sees the role of business as working with governments to create societal roles that governs the conduct of business.”

The question, of course, is to what extent such rules formulated by the corporations also satisfy the public’s ideas of how society should be organized. Corporate leaders are, after all, not elected by the public, but by the shareholders, and unlike democratic elected politicians, CEOs cannot be exchanged by the public. Worldwide, the growth in corporate power (Bloom 2016; Garsten and Sörbom 2017) seems to have been in parallel with a growth in – quoting The Guardian – “gap between the super-rich and the remainder of the globe’s population” (Neate 2017, see also Shorrocks et al. 2017). Some scholars have analyzed cases, where the environment was damaged by corporations (Schroeder 2011; Mirvis et al. 2014), but there are few known cases where corporations, solemnly out of idealism, have strengthen the civic and green values (environment friendly, sustainably) in host countries. Corporate social responsibility activities are generally introduced, because customers find corporate ethics important and not out of idealism.

Increasing the political role of corporations, Westermann-Behaylo et al. (2015) suggest that “corporate diplomacy can play a role in resolving social or political conflicts” such as peacemaking and peacebuilding, especially in “less developed and potentially conflict-prone host countries.” Other scholars also point to the larger societal role of transnational corporations in host countries (Ordeix-Rigo and Duarte 2009; Mirvis et al. 2014). This thinking seems to cast corporate CEOs as patrons and the citizens of host countries as clients. While there is no doubt that the corporations have power and expertise, it is conflicting with the civic values of equality. Such thinking, therefore, leads to moral questions such as: Why do people with access to money and technical expertise have a legitimate right to more influence in the political sphere – national or international – than other citizens? And what is the evidence that they will use their economic and technical strength in the interest of the collective welfare if it conflicts with the interests of their shareholders? So far, the literature on corporate (public) diplomacy has not attempted to answer these questions.

Henisz (2016) writes that for good historical reasons, citizens are often suspicious of foreign managers, who are not familiar with the local language, culture, and societal norms, so to build trust and legitimacy, they need not only to demonstrate their economic legitimacy but also to build sociopolitical legitimacy. In Myanmar, analyses of communication between corporation and the local community showed a conflict between the villagers' domestic and the corporation's international norms (Mogensen 2017). The corporation would refer to international standards and goals, while the protesters would refer to the domestic order of worth, e.g., the value of living on their ancestral lands and in accordance with traditions. Such conflicts in worldview may for a time be hidden, using measures like persuasion and economic incentives like job creation and infrastructure, but, from a legitimacy perspective, the conflicts about fundamental values are not easily solved, which leads to the next topic about the legitimacy in imposing foreign values on the public in host countries.

Conflicting Ideologies

There is an ongoing discussion of how to overcome the differences in values between transnational corporations and their host countries in practice. There are different positions in that argument. One perspective is that corporations are responsible for improving life of people in host countries, while others find that they should adapt to values in host countries.

Transnational corporations can claim to have core values that they hold on to no matter where in the world they operate. Such values can, for example, be linked to human rights and democracy. For a corporation, it makes economic sense to act in accordance with civic values, because in the social media age, everything they do anywhere in the world contributes to their reputation, and ethical behavior makes their products more attractive to customers in some countries. When transnational corporations communicate an image of ethical behavior, it creates an expectation that transnational corporations will contribute to reducing human right abuses and other social problems in host countries (GlobeScan, reported in Mirvis et al. 2014). Corporate public diplomacy is from a normative perspective in line with Western democratic thinking.

However, some scholars question the right of transnational corporations to enforce Western values, comparing it to missionaries who have already for centuries tried to tell people in developing countries what to do. For example, Ottaway (2009) writes:

> Can't shut down Big Oil? Then browbeat companies like Shell and ExxonMobil into preaching the gospel of human rights and democracy to their developing-world hosts. As appealing as this strategy seems to global do-gooders, it won't work.

Summarizing her argument, Ali (2009) writes about corporations trying to enforce Western values in other parts of the world: "they evoke an image of colonization and superiority."

The alternative is to adapt corporate values to local norms. Tam and Kim (2017) write that "corporate diplomacy could enhance the legitimacy of TNCs in foreign markets" by "aligning their corporate values with the societal values of the foreign countries in which they operate." It makes sense to adapt to cultural norms in host countries, for example, European countries expect transnational corporations from Africa or Asia to adapt to Western values when operating in Europe, but the same European countries do not appreciate if their corporations adapt too much to business norms in countries with, e.g., corruption and inhuman working conditions.

The conduct of business is affected by ideologies that differ. Some countries support free trade, while others do not. The vast opportunities faced by transnational corporations are based on free market principle, but when corporations control huge resources, it may be tempting from the perspective of a market order of worth to negotiate an agreement that prevent any other corporation from competing on equal term. However, from an ethical perspective, such behavior is questionable. Wang (2005) writes about multinational corporations (MNC) that "it is impossible, if not outright against free market principles, for any MNC to manipulate and control the competitiveness of a certain product category in a foreign market." In a global society where corporations benefit from free market principles, a solution cannot be perceived as legitimate if it creates a monopolistic situation where local competitors are faced with unreasonable high entrance barriers to a market.

Often the discussions about conflicting values center around rich transnational corporations working in poor developing countries. However, Miller's (2009) analyses of reactions to four US-based corporations aiding Internet-based censorship in China illustrate the core dilemma in a context where the actors are all powerful and based in rich countries. The USA and China differ in their understanding of human values related to free speech. The corporations act in accordance with market values; they want to sell their equipment. The power balance between them does not allow any of them to enforce their ideology on the other by use of coercion. When the corporations sell censorship equipment, their behavior reflects on the reputation of the USA. It sends two signals to people around the world: (1) that the USA's insisting on free speech is relative and (2) that USA corporations have freedom to act in ways that are not in accordance with the nation's official ideology.

As complex as it is when two superpowers are involved, the legitimacy issue becomes even more complex, when corporations negotiate with civic society. On the one hand, transnational corporations may express civic values such as democracy and free speech. On the other hand, many local societies rely on domestic and green values such as tradition, spirituality, and nature, as experienced by corporations in the Niyamgiri Hills and Kachin.

Imbalance in Power and Expertise

Actors enter the negotiations with different resources, e.g., the largest corporations control huge resources compared to poor countries. Such inequality needs to be taken into consideration when discussing the legitimacy of the bargaining process (Strange 1992). Ali (2009) writes that executives should "avoid any temptation to take advantage" of the lack of resources and experience to negotiate effectively when dealing with developing countries, and similarly, the literature generally warns corporations against using their superior power and technical expertise to manipulate the public into agreements that contradict their interests, because such agreements are not socially sustainable in the long run. If the public is not included in the decision processes, they can make protests and boycotts and use their democratic rights during elections and/or shopping power to undermine an agreement.

Macnamara (2012) describes processes-related issues in his comparative analysis of corporate and organizational public diplomacy versus public relation. The following list of norms for corporate public diplomacy is derived from his argumentation:

1. Ongoing dialogue with publics, even "in the face of complete disagreement and hostility" (except during war). Long-term perspective and relation building that require patience. Interpersonal communication preferred.
2. Mechanisms in place to compensate for power disparities, e.g., meetings on neutral ground, equal size delegations, equal time in discussions, return visits, and – when relevant – equal votes.
3. Diplomatic etiquette, "ensuring courtesy and civility," a preferable formal protocol with rules for meetings, e.g., reciprocal arrangements, turn-taking, and right to reply.
4. Acceptance of different interests and perception conflicts being not a sign of breakdown in the negotiations. It may not be possible to reach a win-win solution: "Even a 'win-win' position can sometimes involve publics having to give up their position to move to a mutually accepted position."

To avoid misunderstanding, the concept of "win-win" solutions may need to be extended, so that negotiations leading to a satisfactory result can be considered win-win even when all stakeholders have had to move their position to a mutually agreed. As an example, in Kachin the corporation wanted to build a big hydropower dam at a place considered sacred by the public. Kachins suggested instead to build two smaller dams at nearby places. It was not the preferred solution from the corporate point of view, but it might have produced the needed electricity. If it worked, such a solution could have been perceived as a win-win, but the corporation was either not interested in negotiations with the public at that time or had been told by Myanmar's government not to do it.

It may sound like a cliché to suggest that the stakeholders involved should perceive solutions as win-win, but the literature give examples. For example, Miner (1969) presents an analysis of the negotiations between the directors of two American railway companies in 1880–1882. While they were competitors, each of them celebrated the result as a great victory, because they both gained from the agreement. Miner (1969) writes that both "accomplished their ends by diplomacy not violence. . .the force used was diplomatic pressure and manipulation of interests, not cut-throat competition and rate wars," and he adds that the negotiators from the two railroad companies later became well-known diplomats.

Conclusion

Based on a review of peer-reviewed articles on corporate diplomacy, this article has briefly discussed four areas of legitimacy issues: legitimacy of civil society representatives, legitimacy of corporations as political actor, conflicting ideologies, and imbalance in power and expertise.

Corporate public diplomacy is highly relevant in a global economy. When it fails, it is costly for corporations and brings misery to communities. However, academia has so far shown little interest in exploring this field empirically. The few existing case studies are interesting read, because they bring light to new aspects of corporate legitimacy. As a start, case studies could explore the practice related to the four topics of special interest for discussions on legitimacy in the diplomatic process involving civic society: (1) who can be perceived as legitimate representatives of civic society? (2) to what extent is it legitimate for corporations to seek political power and fill government gaps in host countries and in international politics, considering that CEOs are not elected by the general public? (3) how do transnational corporations handle legitimacy issues related to the many different ideologies expressed by people in the countries where they operate? and (4) how do corporations deal with disparities in power and expertise between them and the stakeholders so that less powerful and knowledgeable stakeholders perceive the solutions as legitimate?

While accepting that humans have different values, negotiations and cooperation may increase the chance of finding socially sustainable solutions and limit expensive delays and cancellations of projects due to local protests and anti-corporate activism.

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Political Corporate Social Responsibility (CSR), Development, and Business Legitimacy

69

Sameer Azizi

Contents

Abstract

The chapter focuses on the "political turn" in the CSR literature that has emerged in recent decades and focuses particularly on the debate about Political Corporate Social Responsibility (PCSR) in relation to developing countries. The main features of the PCSR literature are presented with an emphasis on the claim about the changing nature of businesses as political actors driven by a shift from instrumental motives towards moral legitimacy in the era of globalization. The chapter highlights some of the key critiques of the PCSR debate in regards to their claims about the changing nature of the businesses and assumptions about the role of business in promoting democratic global governance. It is argued that the PCSR claims and assumptions are empirically weak and theoretically flawed due to the biased normative ideals and conceptualizations of legitimacy and the political role/responsibilities of businesses. A call for contextualized studies grounded in empirical realities of the variances across "developing countries" is presented in the chapter for future studies.

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Introduction

The CSR literature has in recent decades experienced growing interests in the political dimensions of CSR that is typically referred to as the "political turn" in the CSR literature (Scherer and Palazzo 2007; Mäkinen and Kourula 2012; Frynas and Stephens 2015). A recent review of this broad field documents the importance of institutional theory and stakeholder theory in this field and defines the political debate on CSR as the intended or unintended political impact of CSR activities or vice versa (Frynas and Stephens 2015). However, the focus of the paper is on Political Corporate Social Responsibility (hereafter PCSR) as the most debated dimension of the field. Through a series of articles and books various scholars have made claims that businesses — with a particular focus on Multinational Corporations (MNCs) — are playing a political role through Corporate Social Responsibility in society given specific conditions of globalization (Matten and Crane 2005; Moon et al. 2005; Scherer and Palazzo 2007, 2008, 2011; Crane et al. 2008; Scherer et al. 2016). The common understanding of legitimacy as "the generalized perception that the actions of an entity are appropriate within some socially constructed systems of norms, values, and beliefs" (Suchman 1995) plays a major role in the claims and assumptions of the PCSR arguments. The proponents of the PCSR debate seek to argue that businesses will/have shifted from an instrumental lens on legitimacy towards a more morally informed legitimacy, which will imply a political role and responsibility on businesses to engage in democratic governance in developing countries given the conditions of the era of globalization. Building on various points of critique of PCSR, the chapter attempts to argue the PCSR debate is currently theoretically flawed and empirical biased to make such claims and assumptions in relation to the developing countries. The aim of the chapter is not to provide an exhausted review of all studies related to the PCSR debate, but to provide the reader a general overview of both the claims and assumption made by the PCSR proponents and the related critique that the debate has triggered in the academic community.

The chapter will initially present the key features of the PCSR debate that will be followed by the main critique of the claims and assumptions in relation to developing countries. Finally, the conclusion section will summarize the key challenges of addressing and conceptualizing the political role and responsibilities of business in developing countries with brief indications to relevant future studies.

Introducing Political Corporate Social Responsibility

The PCSR debate generally argues that the globalization era has changed the classical understanding of business-society relations, and proposes revision of the role of business in a global society (Scherer and Palazzo 2007, 2008, 2011). The mainstream CSR debates are criticized for implying a neoclassical distinction between the political and the economic spheres in understanding business-society relations. The states are perceived to provide the conditions for well-functioning markets by providing legal rules, contract enforcement, public goods, and reduction or avoidance of negative externalities from business investments in society, whereas businesses are viewed as pure economic actors that provide services and goods that generate profit (Scherer and Palazzo 2007). However, the PCSR proponents argue that the era of globalization has changed the traditional distinction between "business" and "society" for various reasons implying that the boundaries between the political and economic spheres can no longer be differentiated as such. First, it is argued that globalization has led to the "shrinking of the state" that has diminished the ability of the state to provide public goods and/or the necessary regulatory framework and enforcement (Matten and Crane 2005; Scherer and Palazzo 2011). This is particularly seen in many nation states across the developing countries, as such states do not have the capability or even interest in providing democratic regulatory frameworks and/or basic public goods. Second, the international business landscape has changed due to the increasing number of MNCs that operate in multiple locations within and across national boundaries. The complex and dispersed operations of MNCs challenge nation states to regulate MNCs beyond national boundaries and have resulted in a "vacuum of regulation and social responsibility" throughout global markets, as the powerful MNCs force developing country states into a "race to the bottom" in order for them to attract foreign investments, technology, and know-how from MNCs (Matten and Crane 2005; Scherer and Palazzo 2008). Hence, a conceptualization of the "political" is required in the CSR debates that takes point of departure in changing conditions of globalization in order to make the core argument that corporations are increasingly taking on various political responsibilities and roles traditionally attached to the functions of nation states (Scherer and Palazzo 2007, 2011). However, it is important to note that what is referred to as the "PCSR" in the CSR debates consists of two distinct approaches conceptualizing the nature and drivers of the new political role of business through CSR.

The initial arguments about a political role for business through CSR emerged from the corporate citizenship approach that employed the "citizenship" metaphor from the political science literature (Moon et al. 2005). Advancing the concept of citizenship for CSR debates to a focus on citizenship and rights led to the "extended corporate citizenship" version as a descriptive conceptualization of the political role of corporations in society (Matten et al. 2003; Moon et al. 2005; Crane et al. 2008). The argument is that the process of globalization has enabled corporations to not only act as "citizens" as previously framed (Matten et al. 2003), but has also enabled a space for corporations to act as a channel for providing and/or enabling political, social, and civil rights through their CSR engagements for the public in general (Matten and Crane 2005; Crane et al. 2008). In this way the nature and role of corporations is reconceptualized from being purely economic into a political role in society, as corporations can potentially act beyond profit-maximization to address issues of citizenship and rights in society (Matten et al. 2003; Moon et al. 2005; Crane et al. 2008). The extended corporate citizenship approach, however, aims to be a descriptive framework eluding normative claims as to what the nature and political role of business in society should or should not be.

The political CSR approach, in contrast, aims to provide a normative framework inspired by the Habermasian theory of communicative action to emphasize the need for deliberation towards mutual understandings between businesses, civil society, and the nation state in a postnational global context (Scherer and Palazzo 2007). In other words, corporations need to adapt to globalization as a postnational era, as nation-states have limited capacity to tackle global "governance gaps" or "regulatory vacuums" (Scherer and Palazzo 2011). There is a need for collaborative solutions to be driven not only by the state but increasingly in cooperation with international and local civil society organizations (CSOs) and businesses to solve issues of global governance (Scherer et al. 2009; Scherer and Palazzo 2011). The emphasis on deliberation and collaboration implies a shift from a neoclassical view of business as purely profit-maximizing actor that is solely driven shareholder interests towards a political nature of corporations (Scherer and Palazzo 2007, 2011; Scherer et al. 2009) that utilizes collaborations to govern market mechanisms through democratic principles and/or provide public good (Scherer and Palazzo 2011). MNCs are particularly relevant for this claim due to global reach given their operations across nations on the one hand and their increasing economic and political power that makes them relevant global governance actors on the other hand. MNCs can influence global governance processes through "soft laws" as means to achieve private regulation (Vogel 2009). The PCSR debate highlights multistakeholder initiatives as promising initiative by corporations to involve citizens, businesses, and governments to achieve collaborative solutions (Mena and Palazzo 2012), but industry standards that address ethical challenges of, for example, global supply chains across nations are also indicators of the rule-setting engagements by MNCs (Lund-Thomsen and Lindgreen 2014). Furthermore, it is known from other studies that MNCs engage in the provision of public goods through CSR programs such as access to health service, education, clean water (Blowfield 2005; Newell and Frynas 2007).

A key argument in the new political role of corporations in society is that corporations can no longer gain and maintain self-interested instrumental legitimacy in society. Globalization has resulted in disability of the state to regulate business activities across nation states on the one hand and has enabled heterogeneous values and lifestyles globally on the other – these two conditions problematize the presumed rules and norms that once guided legitimate corporate conduct (Scherer et al. 2009, 2016; Scherer and Palazzo 2011). Instead, PCSR argues that corporations seek moral legitimacy in order to be able to collaborate with various actors in a postnational governance context (ibid). Hence, the nature of the businesses has changed from that of solely economic actors to that of increasingly political actors in society where CSR acts as an instrument to gain and maintain moral legitimacy that result in democratic governance of collaborations in order to identify and implement solutions to regulatory and public good deficits across nations (Scherer and Palazzo 2007, 2011; Scherer et al. 2013, 2016). The most recent PCSR 2.0 agenda argues that studying the political role of corporations in the new postnational setting is even more relevant after a decade of debates, but acknowledges that further empirical studies are needed to shed light on diverse governance settings throughout the world (Scherer et al. 2016).

Critique of PCSR in Relation to Developing Countries

The PCSR debate has triggered critique of their assumptions and claims about the changing nature of corporations and their political role in global governance that has particularly been raised in relation to context of developing countries.

Critique of the PCSR Claims About the Changing Nature of Business

The first point of critique relates to the claim by the PCSR debate that businesses – MNCs in particularly – are no longer solely driven by profit-maximizing but engage as morally driven political actors in global governance (Scherer and Palazzo 2011; Scherer et al. 2014, 2016). The PCSR proponents have been successful in provoking a debate on instrumental vis-à-vis moral legitimacy within the CSR literature. However, such claims have faced critique by scholars that empirically work with developing countries for various reasons.

First, it is worth noting that a specific "development-oriented CSR" debate was already established prior to the PCSR debate (see, e.g., Fox 2004; Blowfield and Frynas 2005; Prieto-Carrón et al. 2006; Newell and Frynas 2007; Banerjee 2008a). This debate was triggered by the mainstream claims in the CSR literature on how and why CSR led to social development with primary interest in CSR by MNCs operating across developing countries. One of the key arguments in this debate is that CSR essentially consists of both a business case (e.g., the financial, reputational, and strategic gains for the corporation) and development case (the societal gains). The problem is, however, that corporations either neglect or transform the "development case" of CSR into a managerial logic embedded in the profit-maximizing structure of particularly large corporations (Blowfield 2005, 2007). Such critique is relevant for the claims that corporations can administer citizenship rights and/or take a lead on democratic governance through collaborations with other non-business actors. The PCSR debate is criticized to merely focuse on multistakeholder initiatives and in particularly resting on the empirical example of the Forest Stewardship Council (FSC), which is presented as evidently proving a common interest among various actors in engaging in collaborative processes that hold actors accountable for their engagements (Scherer and Palazzo 2007). The PCSR takes for granted that the deliberative dialogue between the corporation and various stakeholder will encompass the demands of the local stakeholders, which will also force an internal legitimacy process to adapt the organization to external cultural norms, values, and beliefs (Kostova et al. 2008).

However, this attempt at empirical grounding is criticized for relying more on exceptions than on the rule in both developing countries and developed countries, since the process (e.g., collaboration to further a common interest), the output (e.g., standards and certificates), and the impact (e.g., increased accountability) may not be in the interests of corporations and/or local power-holders in developing countries (Banerjee 2014).

Another critique of the PCSR relates to the interests of corporation in collaboration and lack of understanding of power relations between corporations and other stakeholders. Scholars have long highlighted that corporations lack both the necessary capacity to identify the vulnerable segments of the society and the strategic interest in including such stakeholders in their CSR programs, which has resulted in exclusion rather than inclusion of marginalized social groups in CSR programs (Jenkins 2005; Newell 2005; Prieto-Carrón et al. 2006; Utting 2007). In addition, Banerjee (2001, 2008a, b, 2010, 2014) has among several other critical scholars pointed out the incommensurable differences between the interests of MNCs and certain groups of civil society in developing countries. Such marginalization is seen for instance in relation empirical examples of clash between the interests of the MNCs vis-à-vis the local community in accessing and utilizing land and/or resources in developing countries. At the end what appear to be legitimate actions by MNCs, end up excluding resilient voices in local communities leading to severe negative impact on the livelihood of such communities (Banerjee 2001; Ehrnström-Fuentes 2016). Similarly, studies on MNC and local suppliers in global value chains suggest that the compliance paradigm (e.g., corporate codes of conduct or ethical and labor standards) has not had the intended and idealized improvements on work conditions or laborers in export-oriented industries across developing countries (Lund-Thomsen and Lindgreen 2014). The findings also suggest that the recent move towards the cooperative paradigm (e.g., multistakeholder initiatives as proposed by the PCSR) – where MNCs and civil society actors engage in collaborations to build capacity of local firms and workers – has yet to improve the income and work conditions for workers in developing countries (ibid). The core critique relates to power asymmetries in the global value chains, as large international buyers (typically MNCs) constantly push local suppliers and finally the workers on the ground to reduce costs in order to stay competitive in highly competitive markets (ibid).

In other words, the interests of the corporations overshadow the interests of resilient stakeholders due to asymmetric power relations between vulnerable communities on the one side and MNCs and the national institutional power bases for MNCs on the other (Edward and Willmott 2008 p. 421). Hence, what may appear to be collaborative and morally informed business conducts to overcome governance gaps through private regulation and/or provision of "public goods" are at best driven by a process of excluding critical voices to overcome the incommensurable differences between corporate interests and the interests of heterogeneous group of stakeholders.

Both the extended corporate citizenship and the deliberative democracy approach (Scherer and Palazzo 2007) do not acknowledge the limitations in the abilities and interests of corporations in addressing societal concerns in the era of globalization

(Banerjee 2008b; Hanlon and Fleming 2009; Fleming and Jones 2013) and are rather led by normative assumptions about how and why corporations *should* act beyond profit-maximization, though neither of such claims have been theoretically or empirically proven (Banerjee 2008a). Further critical scrutiny of the theoretical foundation of PCSR is required to conceptualize the political role of business in relation to developing countries.

PCSR and Biased Democracy and Governance Ideals

The second type of critique relates to the general "political turn" in the CSR debates including the PCSR debate relates to the ideals and assumptions about conceptualizing the political role of corporations in era of globalization, which has triggered scholars to identify alternative theoretical frameworks for conceptualizing the political role of corporations.

One of the key points of critique in this regard concerns the assumptions about "shrinking state" and the conceptualization of "globalization." Whelan (2012) argues that the PCSR debate has taken important steps in their attempt to move beyond existing theoretical perspectives such as stakeholder theory and the corporate political activity debate towards a reconceptualization that is *"embedded in democratic mechanisms of discourse, transparency, and accountability"* (Scherer and Palazzo 2007 p. 1110). However, the assumption about a diminishing state capacity is problematic, as it is seen as a consequence of a somewhat universal process across the world, which has enforced corporations to engage in former state responsibilities (Whelan 2012). However, the PCSR debate lacks to understand that globalization is not simply a question about whether state functions and capacities have diminished or not, but is a matter of more complex processes of power relations within each nation state that cannot be generalized as presumed by the PCSR debate. Furthermore, it is even more problematic to claim that corporations will "fill in" such gaps left out by the state, as it is unclear why corporations should be motivated strategically in substituting the political role and responsibilities of the state rather than supporting or complementing state regulations and governance in general whenever preferable for strategic gains (ibid). Therefore, the proposed PCSR assumptions and claims seem to be biased by particular multistakeholder networks and initiatives such as the empirical example of certification through the Forest Stewardship Council (FSC) (Edward and Willmott 2008) without acknowledging that such examples indicate certain *forms of governance* in a globalized world rather than the *consequence of globalization* on nation states and corporate political responsibility (Whelan 2012).

Critical political-economy scholars have long highlighted that the new governance space for corporations is not a natural consequence of the "era of globalization" but should be seen as a result of the neoliberal process of privatization and deregulation across the world (Shamir 2008; Fleming and Jones 2013). Djelic and Etchanchu explore and compare the development of contemporary CSR in relation to paternalism in nineteenth century Europe and the North American managerial trusteeship in early twentieth century in order to argue that the political role and responsibility of businesses is not a new phenomenon driven by "globalization" (2017). In similar veins, it is argued that the PCSR debate cannot escape an instrumental logic of CSR embedded in the neoliberal ideology through the Habermasian concept of deliberative democracy – unless the institutional design of basic structures of society embedded in classical liberal system is problematized (Mäkinen and Kourula 2012 p. 665). CSR by MNCs have long been seen as a by-product of the neo-liberal ideology (Harvey 2007; Shamir 2008; Cederstrom and Marinetto 2013) that has not only enabled the privatization and marketization of public good in both developed and developing countries (Fox 2004; Fleming and Jones 2013; Mäkinen and Kasanen 2016), but has also constructed the voluntary nature of CSR in opposition to the mandatory regulation of corporate responsibility (Vogel 2006, 2009; Banerjee 2008a). The emphasis on voluntary nature of corporate engagements and multi-stakeholder collaborations lead to a supervising authority role for corporations, where corporations can hold other societal actors accountable without being held accountable themselves (Hussain and Moriarty 2018). The main challenge is not to provide such ideal intermediate role for corporations, but to change the governance role of corporations in ways that turn corporations into functionaries that accounts for the acclaimed provision of public goods, democratic governance (ibid). Unless the PCSR debate addresses the issues of neoliberal ideology that leads to asymmetric power relations and accountability mechanisms, CSR continues to be a smokescreen that is legitimized through private self-regulation in order to enable profit maximization throughout the world as CSR is embroiled in structural tensions and contradictions when corporations with the primary goal of maximizing profit claim to promote societal and/or environmental development. Hence, a debate about PCSR is therefore not a matter of providing democratic ideals about what role and responsibilities corporations "should" take, but to discuss how to overcome the "parasitical" (Fleming and Jones 2013), "predatory" (Hanlon and Fleming 2009), and "necrocapitalist" (Banerjee 2008c) structures that enable corporations throughout the world to create and sustain social and economic inequality. The key question for critical studies, therefore, is not *whether* corporations act as political actors with specific interests in developing countries but *how* businesses as political actors are enabled, and what such a political role implies for the various actors of society (Banerjee 2010; Fleming and Jones 2013). As a response to these critiques, Banerjee offers an alternative framework for global governance that seeks to provide more democratic decision-making forms and process by embedding the analysis of CSR and the corporations into the political economy context in order to overcome barriers imposed by corporate rationality (Banerjee 2014).

Another critique on the "political turn" of CSR and in particularly the PCSR debate is the postcolonial lens that mainly argues that the current PCSR debate paradoxically seeks to enforce a biased Western perception of business-society and business-state relations to a global one. The aforementioned "development-oriented CSR" debate has long called for the necessity of contextualizing the CSR-development relationships, as the taken-for-granted umbrella view on "developing countries" is misguided (Blowfield and Frynas 2005; Prieto-Carrón et al. 2006; Halme et al. 2009; Jamali et al. 2015a, b). Contextualization here means understanding the specificities of diverse national contexts including the formal and informal institutions (Brammer et al. 2012; Jamali 2014; Azizi and Jamali 2016), because "developing countries" vary in terms of state capacity, the form, and nature stakeholders across developing countries (Chapple and Moon 2007; Gond et al. 2011; Jeppesen and Azizi 2015). Furthermore, contextualization also relates to embedding the PCSR debate into the historical development of statehood, civil society, and private sector across developing countries in order to address the question as to what the responsibilities of corporations are when the presumed (former) responsibilities of the state have never existed in certain contexts of developing countries. The theoretical foundation on Habermasian deliberative democracy anchored in the PCSR debate is criticized for having historical and geopolitical roots in the realities of the modern societies of the West derived from realities of a bourgeois society in Europe failing to acknowledge and grasp with multiple realities beyond the biased understanding of the "modern" world (Mir et al. 2008; Ehrnström-Fuentes 2016).

Conclusion and Call for Future Studies

The chapter has briefly introduced the "political turn" in the CSR literatures by highlighting the debates about extended corporate citizenship as a precondition for the emergence of current PCSR agenda. The key assumption in the debate is that governments across nation states fail to fulfill their expected role as regulators and public good providers in the era of globalizations. Such global restructuration of governance configuration has enabled a governance space for corporations that operate globally and have sufficient resources to enact as political actors by filling in regulatory vacuums through CSR programs. The PCSR proponents claim that such political role is driven by shift from instrumental motives for gaining and maintaining legitimacy towards a morally informed legitimacy, as corporations need to engage in collaborative engagements with civil society and in some instances the governments in nation states in order to provide solutions for the global governance challenges.

The chapter has, however, also presented critical voices in the debate by highlighting the critics that perceive PCSR as a continuation of the instrumental logic that support and advance management tactics for profit-maximization in corporations. The PCSR claims a changing nature of corporations into a morally driven political actor is argued to be rather a contradiction to both with the core economic rationale that drives corporations and with the nature of corporations as authoritative and hierarchically organized entities that aim at maximizing profit and efficiency (Fleming and Jones 2013). Other scholars highlight the postcolonial biases in the assumptions about globalization and deliberative democracy that is foundational for the PCSR debate and argue for a contextualized understanding of power relations in the heterogeneous socio-political institutions of "developing countries" (Mir et al. 2008; Banerjee 2014; Ehrnström-Fuentes 2016). Hence, there appears to be a common understanding that corporations enact as political actors in global society – not least across developing countries – but how to conceptualize that political role has triggered scholars to apply various and very different normative assessments (Frynas and Stephens 2015). Regardless of the presented normative theories and assessments, the “political turn” in the CSR literature seems to share a common assumption that globalization has been precondition for the political role and CSR in general (Djelic and Etchanchu 2017). This precondition is problematic as it is biased by the contemporary embeddedness within the modern liberal political system that assumes particular understanding of public and private, business and society, economy, and politics (Mäkinen and Kourula 2012, 2016). The Habermasian deliberative democracy and the solely focus particular on multistakeholder initiatives are in other words criticized for being a “silver bullet” for conceptualizing the political role and responsibilities of corporations. Such theoretical grounding, however, lacks to acknowledge the multiple structures and actors that condition and drive the CSR-development relations within national, subnational, and industry contexts within and across developing countries (Frynas and Stephens 2015; see also Jamali and Karam 2016). Such contextualization is necessary to address the question as to what the responsibilities of corporations are when the presumed (former) responsibilities of the state have never existed in certain contexts of developing countries.

The chapter acknowledges the academic focus on the political role and responsibilities of business in societies of developing countries (Matten and Crane 2005; Scherer et al. 2009, 2014; Scherer and Palazzo 2011; Whelan 2012); however, in line with the critical views summarized above, the chapter finds the debate about the role of business in providing public goods and democratic governance in developing countries to be theoretically flawed and empirical inconsistent. The chapter argues that the complexity of assessing the political role of corporations through CSR calls for further conceptual development (Fleming and Jones 2013; Banerjee 2014) and that empirical studies representing the complex realities of developing countries are crucial for advancing the PCSR debate (Banerjee 2010; Frynas and Stephens 2015; Ehrnström-Fuentes 2016).

The recent review of the broader political CSR field highlights the increasing focus on developing countries, but calls for studies that (a) empirically include the diverse settings of developing countries in the PCSR literature and (b) integrate theories and analytical domains to advance the conceptualization of the political role of business in developing countries (Frynas and Stephens 2015). Future work on the “political turn” in the CSR literature therefore needs to reflect upon the realities and challenges of governance in many developing countries by overcoming the Western-biased ideas and assumptions about ideals for democratization that is embedded in current extended corporate citizenship approach (Matten and Crane 2005; Moon et al. 2005; Crane et al. 2008), Habermasian deliberative democracy approach (Scherer and Palazzo 2007), and even the recently suggested Rawlsian reading of political CSR (Whelan 2012). The chapter underlines the importance of understanding the political role and responsibility of corporations in accordance to multilevel governance realities in and across developing countries that includes multiple interests, views, and understanding based on interdisciplinary work that exceeds the current dominant theories (Frynas and Stephens 2015).

Such multilevel analysis of governance can draw upon recent concepts from political science literature such as the debate on governance in areas of limited statehood that highlights the need to advance beyond a nation state view in order to encompass the various governance forms that take place in different areas within nation states (Risse 2011; Börzel 2013). Recent review of CSR in developing countries has already suggested that localized analysis of multilevel governance offers a much more complex contextual understanding of political role and responsibilities of business depending on the degrees of statehood (Jamali and Karam 2016). Empirical studies have problematized the taken-for-granted dualism between corporate responsibility and irresponsibility and instrumental vis-à-vis morally informed legitimacy of CSR programs when applying a polycentric view on stakeholders to indicate that ideological differences exist between conventional and much more controversial stakeholders in areas within nation states (Azizi and Jamali 2016; see also Azizi 2017).

The presented critique has not only a reference to current PCSR, but the general understanding of mainstream and universal conceptualization legitimacy (Edward and Willmott 2008) as common values and beliefs and systems of norms (Suchman 1995). As pointed out in the chapter, future academic studies need to conceptualize and understand what legitimate business conduct and practices means in situations where businesses face incommensurable interests, values, and norms by local stakeholders. Should we expect businesses to engage in the acclaimed political role and responsibilities to ensure democratic governance given their for-profit structures and logics – if so, what role does business legitimacy play in this regard – if any? These questions provoke key puzzles for not only the specific debate on political CSR but also the general debate on legitimacy of business in a global society. In other words, future studies need empirical grounding to critically advance the exiting conceptualization of legitimacy and the political role/responsibility of business in order to encompass the heterogeneous realities of MNCs operating across regions, nation states, and industries in the era of globalization.

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Eco-justice Perspective and Human Rights-Based Approach to Responsible Business in the Indonesian Mining Industry

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Unang Mulkhan

Contents

Abstract

This chapter presents the eco-justice perspective and human rights-focused discussion of responsible business in the Indonesian mining industry. As a case-study of business legitimacy, this chapter relies on desk research and interviews of four mining companies located on four Indonesian islands. Findings revealed that restoring ex-mining sites is mostly conducted by mining companies in regard to comply with rules and regulations from the government. Corporate Social Responsibility (CSR) programs are used by the companies as a mechanism to engage with the community. However, the companies' practices regarding their responsibility toward the community and natural environment mostly reflect economic logic or an instrumentalization of responsibility, rather than a moral rationality or awareness in the sense of eco-justice and human rights perspectives. Factors such as unclear and changing government policy and the industrial context create more complex issues in the mining companies. This chapter, therefore, provides some proposal for different aspects of good mining practices,

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such as using UN guiding principles for human rights integrated with the UN Sustainable Development Goals (SDGs).

Keywords

Eco-justice perspective · Human Rights–Based Approach (HRBA) · Corporate Social Responsibility (CSR) · Sustainable Development Goals (SDGs) · Mining companies · Indonesia

Introduction

Mining makes a significant contribution to national economies generally (Bird 2016; Kemp et al. 2011). Even so, they have to deal with environmental problems, since they are extracting mineral resources from the ground. The location of many mining sites in remotes areas, often of wild forest, means that there is a high level of societal attention to the natural environment and increasing challenge to the companies. Major concerns relating to the mining industry have been the effects of mining on the environment and the impacts of mining operations on the local community (Bird 2016; Kemp et al. 2011). Complaints are often received that mining companies destroy the environment and dump waste, and that they compromise the health and access to natural resources of workers and local communities. Furthermore, since mining sites are explored and developed in remote areas, mining companies often enter into conflict with indigenous people who prefer to remain in their natural environment and claim their human rights as indigenous populations (Bird 2016). The mining industry in any country, therefore, faces problems in terms of social and environmental concerns (Welker 2009). This sector is complex, both socially and environmentally, as well as being subject to potential conflicts between mining companies and local communities (see Calvano 2008; Jenkins 2004). The issue of the environment and work safety, and relations to the community, are embedded in the characteristics of the mining industry (Bird 2016; Cragg and Greenbaum 2002; Kapelus 2002). This chapter, therefore, recognizes that the mining industry is inherently problematic from human rights and environmental perspectives.

Business organizations are expected to take responsibility which is consistent with societies within which they operate, such as respecting the natural environment, not creating pollution and destroying the environment (Blackstone 1990) as well as taking part in the issue of climate change (Besio and Pronzini 2014). Furthermore, based on the argument that business organizations exist with an implicit contract with society (Cragg 2000; Buchholz and Rosenthal 1997; Frederick 1986), they recognize that society has the power to pressure them to act ethically (Johnson 2016). For instance, societal pressure demands that companies be responsible for creating impacts on damage far outside their boundaries (Ladkin 2015). Consequently, companies have obligations to a variety of groups outside the companies, who are affected by their business operations.

Through considering several concepts or frameworks on business and human rights such as eco-justice approach, the democratic legitimacy of the UN "Protect, Respect and Remedy" Framework, and the corresponding Guiding Principles, as developed by the former UN Special Representative for Business and Human Rights, Professor John Ruggie, this chapter aims to understand how do mining companies in Indonesia address the social and natural issues posed by their operations? Do mining companies incorporate aspects of people, ecosystems, and non-human animals in their business planning and decisions? What are the potential challenges of implementing the Human Rights–Based Approach in the mining industry in Indonesia? This chapter presents the eco-justice perspective and human rights–focused discussion of responsible business in the Indonesian mining industry. Four mining companies have agreed to take part in this research; they are located on four different Indonesian islands. To anonymize these companies, they are referred to as the Yellow, Blue, Orange, and Mauve Companies. Thus, the significance of this chapter is to clarify what framework or approach, reflecting the democratic ideal of equality, participation, and accountability, fits well with the Indonesian mining sector and governance context of Indonesia. This chapter is structured as follows: First, the industrial context of the Indonesian mining industry will be explained with the aim to explain how the industry has progressed in terms of supporting economic growth of the country and what are its challenges and potentials in terms of social and environmental issues. Second, existing concepts and frameworks from business ethics and human rights are discussed. Third, research findings from empirical data will be presented and discussed. The fourth part of this chapter is conclusion and recommendation for future research agenda.

Industrial Context

This chapter is concerned with the mining industry in Indonesia as a case-study of business legitimacy. The Indonesian mining industry plays a vital role in the country's economy; Indonesia is still a significant player in the global mining industry producing coal, copper, gold, tin, and nickel (PwC 2016). The industry has a significant impact on export earnings, economic activity, and employment, and supports regional development. The global economic crisis in 2008 affected the industry in causing a very significant falloff of the commodity price. The industry slowly recovered in 2009 as a result of the high demand for coal from emerging economies, especially from plants in China and India (PwC 2016). However, the industry faces increasing social and environmental problems where almost all mining deposits or reserves in the country are located in tropical rainforests which have significant biological and environmental value. Furthermore, high demand from local communities for greater economic benefits sometimes leads to conflict between them and the mining companies. The creation of a worker-friendly working environment is still an issue. Thus, consistent with International Council on Mining and Metals (ICMM 2006), the issue of the environment and work safety, and relations to the community, are embedded in the characteristics of the mining industry.

The Indonesian mining industry is operated by state-owned, domestic, private, and international companies: however, domestic companies dominate the industry. The industry is expected by stakeholders to shoulder its responsibilities in securing social harmony and economic growth for local and national communities. For instance, in the case of Indonesia, often local communities surrounding the mining operations demand to be the companies' first priority in receiving benefits from the mining, including direct employment and business opportunities. Companies aim to achieve this through Corporate Social Responsibility (CSR). Thus, mining companies spend most of their social expenditure on that development, compared to other expenditures such as reclamation costs and employee training (PwC 2016).

In the Indonesian context, there are regulations which demand that the extractive industry operates CSR. By Law 40/2007 concerning Corporate Law, companies as legal entities have their responsibilities on CSR as stated under Article 74: (1) Companies which run their business in the field of and/or in relation to natural resources must put into practice social and environmental responsibility. (2) The social and environmental responsibility as referred in paragraph (1) constitutes an obligation of the Company which shall be budgeted for and calculated as a cost of the Company performance of which shall be with due regard to propriety and fairness. (3) Companies who do not put their obligation into practice as contemplated in paragraph (1) shall be liable to sanctions in accordance with the provisions of legislative regulations. (4) Further provisions regarding "Environmental and Social Responsibility" shall be stipulated by government regulation. Thus, there are efforts through mandated CSR to engage with communities. This included environmental responsibilities where natural resources were concerned. The law also required work safety, environmental management, and good business ethics. For State-Owned Enterprises (SOEs), there was already Law No. 19/2003 requiring CSR programs, Law No 05/MBU/2007 for partnership program with the Small and Medium Enterprises (SMEs) and for Community Development program. Mining companies therefore work with local governments in the implementation of development in areas where they operate. In short, the Indonesian mining industry benefits national and local economy, especially in the area of mining operations.

Eco-justice Perspective

The definition and development of eco-justice are deeply informed by the work of Gibson (1985, 2004), where he defines eco-justice as justice in the context of a new ecological awareness, which is ecological wholeness, economic and social justice. Therefore, eco-justice is beyond "social justice" and "environmental justice," where the only defensible rights are for humans and animals. Eco-justice includes protecting cultural and communal differences and biodiversity. Hessel (2004) considers that the idea of eco-justice fosters ecological sustainability as part of, and simultaneous with, social and economic justice. Thus, Washington et al. (2018) simply define that eco-justice is justice for nonhuman nature. In addition, eco-justice can be used as a lens to understand cultural assumptions or patterns of thinking of justice toward the natural world. The idea of eco-justice, therefore, provides an understanding that it is important to have fairness among humans, nonhumans, and the Earth (Gibson 2004; Hessel 2004). Business organizations, such as mining companies, are expected to take responsibility which is consistent with the societies within which they operate, such as respecting social and natural environment (Crane and Ruebottom 2011). Ethics between business organizations and society is founded on an implicit social contract where justice and fairness should be maintained (e.g., Hasnas 1998; Buchholz and Rosenthal 1997). Thus, concerns about natural issues are commonly brought into companies' consideration.

According to Gibson (2004), there are four basic norms of eco-justice which can be listed as follows: first is solidarity with other people and creatures in the sense of respect for diverse creation. The oneness of all human beings is reflected through caring people with the priority of mutually supportive, harmonious, and integrating relationship of humankind with the rest of nature. Second is ecological sustainability where environmentally fitting habits of living and working are aimed to flourish. Third is sufficiency as a standard of organized sharing through fair consumption. Fourth is socially just participation in decisions in order to achieve the good in common and the good of the common. Thus, ethical businesses do not violate justice and the members of a society will authorize the existence of companies only if these agree to maintain justice (Hasnas 1998). This view argues that business organizations are ethically obligated to understand what constitutes a fair or just agreement, between companies and society – refraining from violating accepted standards of justice and human rights. Companies have a responsibility to safeguard human rights and ecology in their business operations (Blackstone 1990).

Corporate Social Responsibility (CSR) is considered as actions of companies to make contributions to society (Maclagan 1998) by means of activities, such as helping communities through health and education (Johnson 2016), taking care of the natural environment and ecology which all these are viewed as the social contract of living in harmony in the community. In other words, corporations are asked not only not to cause harm to society, but also to contribute actively to human well-being. Thus, following the idea of Gibson (2004), CSR in the sense of a good relationship between companies and communities may reflect a mechanism to allow cooperation and productive relationships.

Human Rights–Based Approach

Bishop (2012) has convincingly argued that companies have a responsibility to respect freedom and human rights. The company will lose its power to operate if it does not act responsibly (Shaw and Barry 2016). As companies are a part of the social system, they must live up to society's standards (Jones 1980). The international human rights system developed its own approach to CSR through the UN Protect, Respect and Remedy Framework (UN 2008) and the UN Guiding Principles on Business and Human Rights (UN 2011). The three pillars of the UN Framework clearly state that the state duty is to protect against human rights abuses by business enterprises, the responsibility for companies is to respect human rights, and there is the need to have effective access to remedies. Thus, the Framework and the UN Guiding Principles (UNGPs) provide conceptual guidance and clarifications, involving the scope of business responsibilities on social and even environmental issues. Human rights' due diligence is the operation concept in the UN Framework and guides companies to identify and address their adverse impacts on human rights, including those of workers and local communities (UNGPs Principle 17). In other words, UNGPs target the conduct of economic actors to limit adverse impacts caused by their business operations (▶ Chap. 27, "Business, Human Rights, and Reflexive Regulation: Multi-stakeholder Development of Standards for Responsible Business Conduct").

The UN Sustainable Development Goals (SDGs) also clarify the role of the private sector in achieving the developmental targets by 2030. In the para 67 of SDGs, it clearly states the benefits from business activities in achieving sustainable development goals (UN 2015):

> Private business activity, investment and innovation are major drivers of productivity, inclusive economic growth and job creation. We acknowledge the diversity of the private sector, ranging from micro-enterprises to cooperatives to multinationals. We call on all businesses to apply their creativity and innovation to solving sustainable development challenges. (SDGs para 67)

The SDGs also refer to UNGPs and other international soft law instruments such as the Guiding Principles on Business and Human Rights and the labor standards of ILO, the Convention on the Rights of the Child, and key multilateral environmental agreements in protecting labor rights and environmental and health standards (SDGs para 67). Furthermore, the UN Framework and the Guiding Principles influence the adoption of human rights in the Sustainable Development Goals and other guidelines on CSR such as UN Global Compact, the ISO 26000, and OECD Guidelines for MNEs. All these initiatives and guidelines are legally non-binding. In other words, they are authoritative but still voluntary frameworks to promote human rights and corporate social responsibility of business entities through interactions among companies, managers, policymakers, and stakeholders.

The International Council on Mining and Metals (ICMM) formulated the framework on the integrated mine closure and practice guide. The framework provides mining companies with guidance in order to promote integrated planning closure and the uniformity of good mining practices through considering social, economy, and environmental issues in every stage of mining operations (ICMM 2019). This framework has similar principles with UN Guiding Principles on Business and Human Rights, stated as follows: "The responsibility to respect human rights requires that business enterprises: (a) avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; (b) seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products, or services by their business relationships, even if they have not contributed to those impacts" (UNGPs in Business and Human Rights, p. 15). In sum, concepts and frameworks for responsible business especially in the context of mining industry could help identify the existence of eco-justice and human rights in a specific context. In fact, the UNGPs in Business and Human Rights state that "the responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure. Nevertheless, the scale and complexity of the means through which enterprises meet that responsibility may vary according to these factors and with the severity of the enterprise's adverse human rights impacts" (UNGPs in Business and Human Rights, p. 16).

Government Rules and Regulations

Environmental issues are particularly understood as an essential issue for mining companies because they are taking resources from nature. Not only are resources being taken from the ground, but mining operations result in myriad adverse consequences, such as local environmental degradation and spreading coal dust and chemical pollution. All these occur at all mining companies studied. They therefore recognize the great environmental problems that result from their business operations, and companies have to find a way to manage them. All companies are aware that mining is considered a business that impacts the environment. Caring for the environment is important for mining companies through "green mining" practices. This practice means reclamation of ex-mining sites. Reclamation is a systematic strategy to recover the natural environment. After the mining operations have come to a close, mining companies provide humus or topsoil, and they reclaim or re-vegetate the land.

Mining companies' concern for environment includes the responsibility for reclamation projects. However, the Indonesian government has created rules in this regard; the companies recognize that it is essential to comply with these rules as good mining practice. Based on regulation of the Indonesian Ministry of Energy and Mineral Resources Number 7 Year 2014, mining companies in Indonesia "have to conduct reclamation, which shall be an activity executed during the phase of mining business, to arrange, restore and improve the quality of the environment and the ecosystem so as to be able to function again, in accordance with the purpose agreed" (PwC 2016). For this purpose, a deposit has to be paid at the start of mining to ensure that mining companies reclaim the areas mined. This means that the government requires a reclamation deposit to be paid by mining companies.

Rules and regulations in the industry entail compliance of the mining companies with every mandatory requirement for conducting good mining practices, including paying a fee or deposit to mine. As a result, companies have mining contracts with the government which depend on this compliance. Mining companies must obey environmental regulations. This reflects companies taking primary responsibilities, which refer to duties and obligations in the sense of honoring contracts (Byerly

2013; Guthrie and Parker 1989), a responsibility to safeguard ecology (Blackstone 1990) and complying with laws once mining companies get licences to mine (Melé 2009). Mining companies can operate their business if they agree to perform various environmental actions in relation to the contract. In this case, responsibility of the mining companies involves a duty inherent in the characteristics of the mining industry.

Mining companies' goals and mission statements provide guidance and principles for action in accordance with planned reclamation. Companies understand that when they obtain mining permits from the government: a reclamation project is recognized as their responsibility. For them, therefore, reclamation is designed and implemented to minimize environmental damage. Mining companies associate their ethical concerns with the very nature of mining by accepting that they are responsible for degrading the environment and so for reclaiming it. In addition, authorities have to approve mining companies' plans for their post-mining programs. When the companies have reclaimed and totally handed over some ex-mining areas to local government, the community is expected to be economically self-sufficient once the companies are officially out of the area. This action is considered as part of respecting human rights by companies when there is a diligent process of closure, enabling the community to sustain itself. It was claimed by mining companies to go beyond their legal responsibilities, which are limited to reclaiming the natural environment of the former mining area.

All companies accept that a physical impact from mine water pollution is inevitable, since those waters eventually go into the river. However, Blue Company, for instance, explained that they have systems such as quality management, environmental management, risk management, safety management, and laboratory management. All these are their own corporate commitments and systems. The government demands that the company has good mining practice such as managing water pollution. Indeed this is a legal requirement so it's a matter of compliance with law and not merely Corporate Social Responsibility (CSR). In addition to legal sanctions, there would also be other consequences if the company does not follow environmental standards, for instance, the public will resist and the company can no longer operate. Thus, complying with rules and regulations is the mechanism shaping the issue of dealing with the environment. Furthermore, the company has contracts with the government which depends on this compliance. So the company is always in the spotlight. This means that it must maintain the principles of good mining practice (i.e., reclamation) contained in their contracts with the government. Environmental concerns are clearly a question of attitude where the company claims to do more than simply abide by rules and regulations.

In sum, restoring the natural environment is required by laws and regulations of Indonesia. Further, regulations in the industry entail compliance of the mining companies with every mandatory requirement for conducting good mining practices, including paying a fee or deposit to mine. As a result, companies have mining contracts with the government which depend on this compliance. Companies tend to comply with national rules and regulations. Further mechanism may also be a wish to avoid complaints from the local community. A decision to conduct environmental restoration, including managing waste and pollution from business operations, is morally problematic if the policy employed by companies may simply be to avoid costs in the future. This reflects the risk management logic that is used to define companies' benefits over their environmental responsibility. A calculative assessment of cost and efficiency in order to minimize risks as well as to obtain good performance and reputation leads to the emergence of moral issues. The language of cost/benefit analysis often appears in calculations on whether companies' actions cause environmental impacts. A decision to conduct environmental restoration, including managing waste and pollution from business operations, is morally problematic if the policy employed by companies may simply be to avoid costs in the future. Thus, the borderline between companies considering the environment and avoiding potential complaint is often unclear. Acting in compliance with just laws expresses a legal perspective derived from the authorities (Ladkin 2015).

Challenges of Good Mining Practices

There is a different attitude between large scale and smaller mining companies in the matter of reclamation. Smaller mining companies abandon their mining sites after the completion of operations, claiming that they have complied with the regulation on paying a reclamation deposit to the authorities. Smaller mining companies would rather just pay the compulsory reclamation guarantee than reclaim their own mining sites. And then, after finishing their operations, they argue that they have given a reclamation deposit to local government who thus appears to be responsible for clean-up and reclamation. Conducting reclamation is actually imposed under government laws, including in relation to good mining practice. However, there are common issues on the different role of central and local governments in giving mining permits, resulting in the complexity of business arrangements in the Indonesian mining industry.

The system organized by central government was claimed by interviewees to be working well, but mining companies feel that they suffer from the decentralization system. This is because they have to follow the bureaucratic systems of both central and local governments. But often the policies of these two do not match, in the sense that local government also controls the issuing of mining licences. Often, the political gap between central and local governments is very wide, resulting the arrangement and decision of getting a licence or permit to mine is a very long process. In the Indonesian system, mining licences for foreign mining companies are given directly by the central government, through the Minister of Energy and Mineral Resources. As a result, foreign companies have relatively few problems with the local authorities, since it is clear that they receive their legal documents centrally.

Based on Indonesian Government regulations (Indonesian Law Number 4/2009), Mining Permits are given by a mayor if a mining area is located in their territory. A governor can also grant a mining licence if it is located in their province, and it is given by the Minister of Mineral Resources if it spans more than one province. All these permits are valid for a maximum of 5 years and can be renewed. As for foreign mining companies, a mining permit (the contract of work = *Kontrak Karya* / KK) is granted directly by the Minister for 20 years and can be renewed every 10 years. This gives an enormous advantage to the multinational companies as the Indonesian government wants to encourage investment. National, private, and state-owned companies, on the other hand, must obtain mining permits from the local government as well as from the central government. As a result, they sometimes struggle to obtain permits from the local government. Companies recognize a dilemma as to how to deal with licences to operate their mining sites.

In addition, there are several cases where licences or permits for mining operations have been issued to one company, but then local governments have given that same permission to another company. Although central government makes good decisions in terms of mining licences, the local governments' decisions might be different. This is an example of the friction caused by the bureaucracy, as a result of the decentralization system. In short, the complexity of business arrangements in obtaining from central and local government licences and permits to mine leads to the question of social, economic, and environmental aspects. This has made it more complex for companies to respect and implement human rights principles and guidelines.

Local Community Engagement

Mining is an industry which brings people together from a wide area. Mines in developing countries such as Indonesia were originally operated in the middle of forests, and when they were developed, it was like sugar-attracting ants. There was a common understanding among interviewees that their companies do not just mine minerals from the area but also develop the community. Over time local communities have grown up around mining companies and become much larger. This means that where there was wild forest, because of the mining companies there is now a sizeable community. Often, mining companies claim that they have good collaboration with their local communities, especially in the areas of mining sites which have been operating for a long time. Local communities have grown up together with companies from the beginning. But in some areas, especially in new areas of mining operations, companies really need to make a great effort to achieve collaboration. Thus, the process of engaging the community often takes time.

Relationships between mining companies and local communities are claimed to be very strong because communities are dependent on mining companies for jobs, contracts, and CSR programs. This is especially when mining sites are located in remote areas, where they are a local source of power that people can go to for help. People are prepared to ask the company for help with their personal problems. This kind of respect for power in the community is relevant to Indonesian paternalistic culture. In mining operations on remote areas, a lot of community matters are addressed to the companies. Often, the community communicates with the companies rather than with the local government. People have more confidence in the company than in the local government. This relationship is strengthened because both the company and the local community live close together in the same area. The company has removed all fences in their housing complex, in order to increase interaction with the community. There are no barriers between employees' houses and the community. There is also a traditional market in a public place, which everyone in both community and company can access. This is one way in which the company can live together with the community.

Involvement of companies with communities mainly takes place through their CSR programs. CSR has evolved in terms of how companies organize and structure their CSR management through a special department. Previously they undertook CSR as a simple "firefighting exercise"; meaning that when a new problem arises, companies respond. But now, their CSR programs provide answers or preventive actions to deal with social problems and needs of the community, showing effort to be proactive socially through theirCSR. Mining companies provide economic benefits to the local community by giving business opportunities for local people and creating a skilled workforce, for example, giving priority to local people to improve economically and providing opportunities for local contractors to work for the company's projects. Companies purchase their food supplies from the surrounding community. Light engine spares for machines and fertilizer for the reclamation process are also purchased from the local community. All this means that there is a multiplier effect when mining companies empower communities in the economic sector.

Involvement with local communities is thus seen by the companies as relevant to human rights issue especially when they have mining sites in remote areas, where infrastructure and market activity are relatively underdeveloped. Companies are, in their rhetoric, ultimately trying to be "a prosocial force in the community" by giving it practical help. They provide guidance for small and medium enterprises, and assistance and training or education to groups of farmers, so that they can continue working when companies are no longer there. To this end, companies conduct programs for small businesses giving opportunities for local contractors to handle company projects and to learn work safety. Mining companies accept their responsibilities to benefit local communities by focusing on empowering them economically. They live in close proximity to each other so companies consider communities' norms. This view is related to the nature of the companies, where many groups of stakeholders in society have a moral claim on them, because they have the potential to harm or benefit them (Freeman 2010). This argument indicates that society has a power to pressure mining companies to act in accordance with social demands. Demands from the community mean that there is the public expectation of acting ethically, and business organizations will lose their power to operate if they do not act responsibly (Buchholz and Rosenthal 1997; Jones 1980).

The issue of community engagement arose in relation to how the local community was advantaged by the companies. There was a correlation between community engagement and business sustainability. The company-community relationship through CSR reflects companies' desire to help the local community including through its own initiative. For instance, the Yellow Company has a program of dairy farming, and the company provides milk to schools in the mining sites. However, companies' actions in relation to what some regard as obligations to society appear to result from external forces. Often, stakeholder mapping is a means to benefit companies, when it identifies groups of people who have the power to stop companies' business operations regardless of whether they are ethical or not (Maclagan 1998).

Prioritizing different stakeholders is often a way for companies to identify who are the most powerful stakeholders and how to manage them. Thus, stakeholders are considered as resources to be managed in the interests of companies. In fact, it is difficult for companies to satisfy all of their stakeholders at the same time or to specify in advance which stakeholders are more deserving when companies' resources are limited (Ladkin 2015). As a consequence, this raises an issue of power, where a decision to please stakeholders depends on who have powerful voices in society; then their interests are generally given priority. This kind of relationship between companies and stakeholders can be interpreted as being transactional (Maclagan 1998). In other words, companies' social policy depends on need. In fact, companies have difficulty satisfying all the demands of the community, and social problems with the community can occur if companies do not take into account and respond to all its needs. In the end, people in the community could ask companies to close their mines. Whether companies have had a positive attitude towards the community will determine its response.

The sense of control is evident when mining companies' social policy, for instance, depends on the priority as to who will be helped, being based on the power of stakeholders and limited resources of the companies. A company sometimes prioritizes stakeholders based on their power or influence. Stakeholders are often considered as resources to be managed in the interests of companies. In this context, stakeholders are regarded instrumentally in pragmatic ways. It was found that selecting which people in the community will be given more attention and help by the companies is a pragmatic policy when it means fitting with the companies' economic interests, rather than a way for them to really maintain human rights responsibility. How the companies implement an assessment of who will be helped in the community is based on criteria of calculation; therefore, cost/benefit analysis is often maintained in the sense that helping the community is equivalent to gaining profit or return (Fisher and Lovell 2009) or at least to avoiding conflicts (Snoeyenbos and Humber 2002). So, instrumental intentions are not sufficient to qualify a company as moral. In other words, it is more about community management rather than community engagement, showing "a company-centric way" of dealing with risks and complaints from stakeholders. This contradicts with the UNGPs in the sense that although the principles are based on risk management they are risks to human rights, not risks to the company.

However, there is best practice from the Yellow Company when it meets global and national standards on Corporate Social Responsibility (CSR) programs. The company refers to ISO 26000 in conducting CSR through seven aspects and one of them is community empowerment. Understand that CSR is the way a company adds value to the surrounding community. ISO 26000 is the international standard for addressing and assessing organizational social responsibilities related to a corporate mission and vision, operations and processes, and environmental impacts, as well as for considering all stakeholders (PwC 2016). The company provides a sustainability report under international standards which are the GRI and the UN Global Compact, and the International Organization for Standardization (ISO) 26000 on social responsibility. In this sense, mechanisms that shape the emergence of the companies-communities relationship are companies' proactive policies and practices on corporate social responsibility guided by international standards, so that the human rights responsibilities of corporations could be maintained.

Conclusion

This chapter has discussed that responsibility of mining companies involves a duty inherent in the characteristics of the mining industry. A mechanism appears in relation with restoring the environment and land in the mining sites that is rule and regulation from central and local governments. Although companies are practicing business responsibility toward the community and natural environment, the practices mostly reflect economic logic or an instrumentalization of responsibility rather than a moral rationality or awareness in the sense of eco-justice and human rights perspectives. Moreover, factors such as government policy and political practices at national and local levels create more difficult and complex for the idea of eco-justice and human rights based-approach to be exercised in the industry. The interactions of business organizations with communities and social structures are complex (see e.g. Buchholz and Rosenthal 1997; Sethi 1975). Thus, ethical issues in business organizations cannot be fully understood except in relation to that complex context. The business organization is part of the whole economic community, and the social responsibility of companies includes to play their role of serving larger social purposes. This chapter, therefore, suggests the Indonesian mining companies to support the HRBA with both insights from eco-justice perspective as well as with managerial mechanisms. Moreover, the discussion of UN guiding principles for human rights integrated with the UN Sustainable Development Goals (SDGs) for responsible business conduct therefore yields novel insights into some proposal for different aspects of good mining practices where the mining industry is a sensitive industry and has unique social and environmental challenges.

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Part XIX

Business Legitimacy, Electronic Economy, Digital Work Life, and Surveillance

Electronic Economy, Internet, and Business Legitimacy

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Wenceslao J. Gonzalez

Contents

Abstract

Among the central issues of the electronic economy related to the Internet is business legitimacy. Electronic economy includes scientific, technological and social aspects. These are the three realms of the Internet where the problem of the legitimacy of business firms arises. Legitimacy can be linked to human actions, social norms and ethical values, and has an internal and an external perspective.

The analysis starts with the theoretical framework of electronic economy and of legitimacy in the Internet. Then, it presents the configuration of electronic economy through the Internet and how it relates with economics – the scientific, technological and social realms – and then clarifies of the philosophico-methodological status of "electronic economy." Thereafter the attention goes to

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business legitimacy as a precondition of business firms and the role concerning the Internet. Thus, the paper deals with legitimacy in the context of layers of the Internet (the network, the Web, and the cloud) and the business firms available. In addition, it makes an analysis of legitimacy in terms of action theory, law and ethics. Subsequently, it focuses on the relevant case of copyright laws, before the final reflections are offered in the coda.

Keywords

Electronic · Economy · Internet · Business · Legitimacy · Realms · Layers · Action · Law · Ethics

Theoretical Framework of Electronic Economy and of Legitimacy in the Internet

A key feature of the Internet as the network of networks (the technological infrastructure, the Web, and the cloud and practical applications [apps]) is the presence of the *electronic economy*, which has had an extraordinary development in recent decades. The situation has grown intensely since the analysis made in Ehret et al. (2004). In this regard, it is important to highlight the transition of the Internet from its public origins as a technological platform focused on information – with pluralistic tendencies – to an increasingly commercial network of networks (see Greenstein 2015).

The phenomenon studied here is a *complex* one, because electronic economy has scientific, technological and social ramifications. These are the three main aspects of economics related to the Internet (Gonzalez forthcoming). Each aspect can be connected to business ethics, when the network of networks is considered through rationality and responsibility (Gonzalez 2019). On the one hand, the *impact of the electronic economy* on the Internet can be seen from the scientific approach, the technological facet and the social dimension of the network of networks. This economics related to the Internet receives several names, which will be discussed in this paper (this case has similarities with the communication sciences and their relation to the network of networks, see Gonzalez and Arrojo 2019). On the other hand, electronic economy can be linked to *business ethics*, where legitimacy has an important role.

This triple relevance of the electronic economy – scientific, technological and social – leads to the problem of the *legitimacy*, which can be especially important for the Internet, because it might be linked to human actions, social norms and ethical values. Initially, legitimacy is related to the kind of actions to be displayed, the task of the regulations proposed and the contributions of the values in terms of fairness. Thereafter, when the focus is on the business firms, in general, and the corporations, in particular, some issues related to the organizations are discussed. Then there is “a tension between a strategic and an institutional definition” of legitimacy (Rendtorff 2019, p. 47).

An influential definition of legitimacy as socially constructed, which seeks to integrate cognitive, evaluative and social factors, is in Marc C. Suchman: "Legitimacy is a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman 1995, p. 574). In addition, it seems clear that legitimacy becomes more important where there are crucial changes for the society as a whole. In this regard, "economists are wary of regulation in times of considerable technological change" (Küng et al. 2008b, p. 174), which was the case during the extraordinary expansion of the network of networks.

If the focus of legitimacy is on electronic economy as related to business firms, then the analysis requires a philosophico-methodological standpoint to have an adequate theoretical framework. Thus, two aspects should be highlighted: (a) that in electronic economy is involved in economics as *applied science*, which is oriented to the solution of specific problems; and (b) electronic economy is an area of the *application of science*, which uses scientific knowledge for solving problems within a concrete context. In their methodological spheres, they require prediction of the possible future and prescription of the course of action to be taken for the solution of the problem at stake (Gonzalez 2015a, pp. 32–40).

Regarding the application of science, which is where the business firms commonly worked, legitimacy should pay a key role, especially in the case of the firms related to the diverse layers of Internet (the network, the Web, and the cloud and the apps). Legitimacy has been studied from *internal* and *external* angles of business firms related to the Internet (Wu et al. 2019; Schultz et al. 2014). There are also studies on the use of the *network* an instrument for legitimacy (Castelló et al. 2016). In addition, the governance of the Internet has been studied from the perspective of legitimacy (Collins 2007).

Moreover, legitimacy can be considered as a *precondition for central aspects* of business firms: (i) of the business license to operate in society, and (ii) of the supply of necessary resources (Rendtorff 2019, p. 45). In addition, this legitimacy in the economics connected to the Internet is twofold: internal and external. This dual character has consequences of various types for business firms related to the Internet.

On the one hand, there is an "internal" legitimacy of the *economic system in this complex* network of networks, which deals with actions, norms and values. This internal legitimacy has received enormous impact due to the recent developments of the Internet. On the other hand, there is also the "external" legitimacy of complex economic system in this artificial sphere (infosphere, whose characteristics have been analyzed by Floridi [2014]), which comes with its *relation with the environment* (natural, social or artificial). This external legitimacy was shaken by the social impact of the economic crisis which started around 2007 and became noticeable in 2008.

Undoubtedly, the intersubjective elements (the socially constructed system of norms, beliefs and definitions) are relevant in the *internal legitimacy* of a business firm (Suchman 1995, p. 574). But "it is also important to go beyond mere institutional analysis and propose a normative perspective of applied ethics" (Rendtorff 2019, p. 48). This task can be done in terms of a search for some objective basis for actions, norms and values in the sphere of business firms. This can start with a discussion about values and goals, which belong to the sphere of evaluative rationality, and thereafter discuss key elements of a rationality of means, to being able to elaborate a business ethics that can emerge "as a kind of normative economics to accomplish the insights of business economics" (Rendtorff 2019, p. 48).

Obviously, there are intersubjective elements in the *external legitimacy* of a business firm, because the environment around a company or a corporation changes over the time, especially in the social and artificial components. This leads to the presence of the historicity in at least three ways: (a) the business firms often have *variations within themselves* due to a new management, either due to new agents or to novel ways to address the problems that arise from the context (economic, social, cultural, political, ecological, etc.); (b) the business firms are in a competitive framework where mere adaptation to the environment is not good enough and *creativity* is needed in order to get innovation; and (c) the business firms are under constant pressure from *technological innovations* that can make the objectives, undertakings or products of the company or corporation complete obsolete.

The Configuration of Electronic Economy

Before the electronic economy related to the Internet, it was a previous stage in the case of electronic commerce "in sectors such as retail automotive, electronic data exchange (EDI) for application-to-application interaction is being used regularly. For defense and heavy manufacturing, electronic commerce lifecycle management concepts have been developed that aim to integrate information across larger parts of the value chain, from design to maintenance, such as CALS (Computer Assisted Lifecycle Support or Computer Aided Logistics Support)" (Timmers 1999, p. 3). Thereafter, the configuration of electronic economy changed with the network of networks. Thus, within the theoretical framework of the electronic economy and of legitimacy in the sphere of the Internet, there are two main aspects to consider.

First, the Internet is a complex system that includes the scientific approach, the technological facet, and the social dimension. Economics interacts with these constitutive elements of the Internet. Its structure and dynamics is a network of networks. According to David Clark, "as the Internet ecosystem has expanded, the creation of the global experience no longer depends solely on a single interconnected Internet. Today, there are other global networks that are based on the same Internet technology but no directly interconnected with what we think of as the public Internet. These other networks have become part of the application development ecosystem, along with cloud computing, CDNs [content delivery networks], and the like. For example, cloud providers use these networks to reach their enterprise customers, thereby shielding that traffic from various attacks and fluctuations in performance" (Clark 2018, p. 307).

Second, the status of the "electronic economy" is based mainly on the scientific approach and certainly connects to the technological facet and the social dimension. Its philosophico-methodological status includes semantic, epistemological, methodological and ontological elements. These are intertwined with the axiological and ethical elements, which are those directly related to the issue of the legitimacy of business ethics.

Semantically, a clarification of the language is needed, because there is a plethora of denominations for this area (new economics, network economics, Web economy, digital economy, etc.). Epistemologically, in an electronic economy the main features of applied science and of the application of science are available. Methodologically, there is a contribution of "electronic economy" to the sciences of the Internet (network science, Web science, Internet science, etc.), the technological support of the network, and the social dimension. Ontologically, there are differences between the business firms at the level of the infrastructure (the network), the Web and the realm of the cloud and the apps.

Internet and the Three Realms of Relation with Economics: Scientific, Technological and Social

Constitutively, there are three main realms of the Internet – scientific, technological and social – and all have a relation to economics. As regards the *scientific approach*, there are three major groups of sciences related with the network of networks: (I) the "sciences of the Internet;" (II) the disciplines that, based on the use of the layers of the Internet as instruments for their development, are focused on new objectives; and (III) the disciplines which deal with properties emerging from the Internet, such as data due to the use of the network of networks. Economics as science has a clear role in the second of the options (with the Internet as a support for the new economy, in general, and electronic economy, in particular), but it is also present in the third of the possibilities (economics due to the use of the network by individual agents, social groups, organizations, etc.).

(I) Scientific disciplines in the sphere of the "sciences of the Internet" are the first group. They are at least the network science (Börner et al. 2008), the Web Science (Berners-Lee et al. 2006; Hendler and Hall 2016), and the specific Internet Science, which is at the service of the technological platform. Each of these *sciences of the Internet* is interdisciplinary (Tiropanis et al. 2015). Thus, the presence of economics would be, in principle, as a rather collateral element. In this regard, economics may be required if economic considerations are needed insofar as the sciences of the Internet are applied sciences. This would involve attending to economic factors when predictions are made regarding the possible future or when considering the prescriptions necessary to solve the specific problems raised.

(II) In the second group of sciences are those disciplines that, wholly or in part, are sciences of the artificial. More specifically, they are design sciences, so that Artificial Intelligence and bounded rationality can play a role in these disciplines (Gonzalez 2007). Thus, it happens that economics makes use of the layers (network, the Web and the cloud) as instruments for its development. In this regard, economics is focused on new objectives, as is the case with the financial economy or the electronic economy, which lead to horizontal or longitudinal novelty (enlargement of the field) or vertical or transversal novelty (something that has no real precedents).

That economics is a design science is usually seen when considering the economics of the Internet, in particular it is noted in the denominations like digital economics, Internet economics or electronic economy. In the Internet sphere (a virtual world, different from physical reality or the social environment) economic designs – not just digital auctions with artificial adaptive agents – (Duffy and Ünver 2008) follow new processes and reach new results. Phenomena of this style are often seen in new forms of financial economics, not only in cases such as the "artificial markets" or "online auctions," but also in designs of corporations related to the network of networks, such as Amazon, Alibaba or Facebook.

(III) Another type of sciences – the third – related to the Internet are those disciplines that deal with emerging properties from the network of networks, such as data. This is also the case of the economics, which has to work with "massive data" or "big data," whether structured or still unstructured. Current economics has to deal with a huge amount of data of very different origins, to develop ordinary activity (e. g., for organizations such as the European Central Bank or the Federal Reserve of the United States). There are several aspects involved: (i) the volume of the data, (ii) its variety, (iii) the speed with which it changes, and (iv) its degree of validity or veracity (Feijóo et al. 2016, pp. 510–525; especially, p. 511).

Meanwhile, the *technological facet* of the Internet is at least dual from a structural and dynamic viewpoint. Both epistemological and ontological modes have a direct relation to economics (see Gonzalez 2015b on the role of economic values in the configuration of technology.) In addition, we need to consider an epistemological-methodological distinction between data, information and knowledge, where "knowledge" is more than "information" and "data," insofar as knowledge categorizes and organizes information and gives the context for data.

(1) There is a *background technology*, which is able to carry out the data and information through the network, using electrical signals, radio waves or pulses of light. Initially, the technological infrastructure relied on existing telephone networks. Increasingly, that kind of support was changed, making that data and information were shared through high-speed fiberoptic cables. (2) There is *information and communications technology* (ICT), which has been crucial in the development of the Internet from a network connecting a few computing centers to a global network, which carries massive amounts of data and information. This "was facilitated by continuous technological change in component technologies, including semiconductors, fixed and wireless networking technologies" (Bauer and Latzer 2016, p. 5).

Furthermore, there is the contribution of computer sciences, which are design sciences. They have facilitated the digitalization of content (data, text, music, images, etc.). In this regard, digitalization of information flows has promoted two waves of convergence between scientific and technological parts: first between computing and telecommunications, which is known as "telematics," and thereafter between telematics and media, which receives the name of "mediamatics." The joint development of the technological and the scientific aspects mentioned "have resulted in a rapid decline of the costs of transporting, processing and storing digitized information and the ability to pack increasing computing power into smaller and mobile devices" (Bauer and Latzer 2016, p. 5). Moreover, "as traffic migrates to next-generation-networks (NGNs) the legacy specialized voice, data, audio, and video networks are gradually being replaced and retired" (Bauer and Latzer 2016, p. 5).

Telematics and mediamatics are related to the economics developed through the Internet, which usually serves as a point of confluence between scientific contents and technological contributions, because the "digital economics" is precisely the type of economy based on digitalization of information and the use of the corresponding information and communication infrastructure (Zimmermann 2000, p. 729). In turn, audiovisual media can serve as an element of the marketing of the products. This commonly occurs in what is known as "electronic commerce" (e-commerce) and "electronic economy" (e-economy), which are generally used through the Web and show audiovisual support, in addition to having text.

Clearly, there is a *social dimension* in the relations between economics and the scientific approach and the technological facet of the Internet. This is very noticeable nowadays through the Web and the cloud and apps. (i) There is a bidirectional relation between the scientific approach and the social dimension of the Internet, because economics is a dual science: artificial as well as social (Gonzalez 2008, 2015a, p. v). (ii) There is a bidirectional nexus between the technological facet and the social dimension of the network of networks. It happens that "the Internet arrived at a particularly critical junction in economic history, for its exploitation is closely intertwined with the powerful force of the globalization of finance, corporate governance, and trade" (Kogut 2003, p. 2). Although the present and the future of the Internet is commonly thought of in global terms (Winter and Ono 2015), "its economic and business development was molded in the context of prevailing national institutions" (Kogut 2003, p. 2).

The Philosophico-Methodological Status of "Electronic Economy"

For the philosophico-methodological status of "electronic economy," the first approach is the semantic clarification of the denominations used about economics in its relation to the Internet. In this regard, "electronic economy" is an expression that competes with a large list of names, which includes at least new economics (Evans and Wurster 2000), Internet economics (Brousseau and Curien 2001), network economics (Economides 2006), networked economy (Schwartz and Leyden 1997), digital economy (Unold 2003, pp. 41–49), Web economy (Unold 2003, p. 42), and Internet electronic commerce (Timmers 1999, especially, Chaps. 2, 3, 4 and 7).

These denominations emphasize aspects of the economic perspective related to the network of networks, either in terms of the internal vision of the *economic activity* of the Internet or in the *external connection with other human activities*, which are interrelated with the network, the Web or the cloud and apps. These internal and external aspects are relevant epistemologically and methodologically.

Although the expressions mentioned above might be seen as synonymous of *the economics of the Internet* (mainly, new economics or Internet economics), it seems that, to some extent, they might be considered as specifications or delimitations of this broad field (such as Web economy or Internet electronic commerce). In this regard, the sense and reference of these denominations can highlight some aspects that are also important in epistemological, methodological and ontological terms. Furthermore, they can be of relevance for axiological and ethical terms and, consequently, for the issue of legitimacy.

First, there is the knowledge, methods and reality of the *specific economic activity* made through the Internet, where the electronic commerce (e-commerce) seems central and generates big data. Second, the social dimension of the task made by the *ontological subjects* – organizations or entities – related to the economy through the network, such as the innovative business firms (start-ups) with their models for doing business electronically (e-business) and a type of management different form the conventional one or previous to the Internet. Third, the contribution of the electronic component related to the *technological infrastructure* of the network, which includes the costs of design, development and maintenance (e-business infrastructure).

We might assign these main aspects to electronic economics, digital economics or Internet economics (in the case of digital economics, see Mesenbourgh 2001). However, they are commonly focused on the first endeavor – the specific economic activity in this area – or on the second (the task of organizations and management) rather than on the third, because all of them assume, in principle, the existence of the technological platform as *support* for other things as well as the *condition* for its viability, especially when they prepare the economic designs for the Internet. This leads us to think of in terms of thematic convergence.

Ontologically, these denominations commonly share features of the Internet electronic commerce, which is made through a "combination of interactivity, networking, multimedia and data processing" (Timmers 1999, p. 4). It does business electronically, which "includes electronic trading of physical goods and intangibles such as information. This encompasses all the trading steps such as online marketing, ordering, payment, and support for delivery. Electronic commerce includes the electronic provision of services, such as after-sales support or online legal service. It also includes electronic support for collaboration between companies, such as collaborative online design and engineering, or virtual business consultancy teams" (Timmers 1999, p. 4). All these tasks are included in electronic economy through the network of networks.

Generally, electronic economy and the other denominations on economics related to the Internet confer special importance to the *application of science*. This philosophico-methodological orientation can be seen in several aspects: (i) they try to improve the markets, which in this case have an important artificial component in addition to the social part; (ii) they transform organizations or generate new ones for novel economic practices, according to the contexts of use; and (iii) they redefine those organizations to adapt them to the new times due to novel aims. Through these aspects we can get what Ilkka Niiniluoto calls a "scientification" of a practice (Niiniluoto 1993, pp. 1–21; especially, p. 9), which originates applied science in the case of the design sciences.

Usually, this "scientification" consist of a fact, such as the existence of business models that emerged from the creativity of economic agents (individuals, groups or organizations). In this regard, once a practical activity is consolidated in a type of business linked to the network of networks (as has happened with Apple, Microsoft, Google [or Alphabet], Facebook or Amazon), it is then possible to extract the procedures followed to solve the problems raised in each context of use. Thus, the processes utilized to solve the problems can be systematized as procedures and methods of applied science (see Gonzalez [2015a, pp. 250–252, 255–273] on the methodological distinction between procedures and methods in science). With these procedures and methods, in addition to systematic guidelines to solve specific problems within a domain (in this case, electronic economy), progress can be made to meet new contexts of use, thus achieving the application of science in these new territories.

Normally a role of human agents is assumed for scientific creativity and technological innovation associated with *the economics of the Internet*. The link between scientific creativity and technological innovation is crucial for the Internet (Gonzalez 2018). But there is an *Internet based economy* that is proposed, in principle, apart from human agents. It is the approach that deals, among other things, with carrying out transactions in a very short time or with economic entities located at great distance. This raises some philosophico-methodological issues that are relevant from the viewpoint of the values that must accompany economic activity, which are of special interest from the perspective of the problem of legitimacy. In this regard, some authors (such as Jaron Lanier 2017, who is especially known for his work on virtual reality) consider that it is human beings and not algorithms that should be at the center of the Internet economy (and, therefore, in electronic economy).

It is important that this scientific area where electronic economy is located is human made. It is artificial in the sense of a constructed territory that enhances human dealings. Thus, economics in a science of the artificial, in the sense of Herbert Simon (1996). More explicitly, economics is a *design science* (Gonzalez 2008), which is also the case of electronic economics. This discipline is goal-oriented, because it is aimed at specific goals, which seek to expand human possibilities or to create new ones. Consequently, economic designs in the case of the Internet look towards deliberately sought goals, which give rise to new processes, in order to achieve new results.

Business Legitimacy as a Precondition and the Internet

Based on the philosophico-methodological configuration of electronic economics as a design science, within the sphere of the sciences of the artificial, the problem of business legitimacy can be better understood. In addition, electronic economics has also a side as social science, especially in the economic relations between the Internet and the social environment, which is also relevant for legitimacy. In this regard, business firms, in general, and corporations, in particular, "must take into the consideration of legitimacy to be able to exist and prosper in a society: legitimacy is a precondition of business license to operate in society, and of the supply of necessary resources –ranging from investments, committed employees, business partners, and sales/consumption, to political support and support from an increasing range of diverse stakeholders" (Rendtorff 2019, p. 45).

Legitimacy in the Context of Layers of the Internet and the Business Firms Available

Although an analysis of the legitimacy of the Internet can be made focused on the network as such, taking into account the role of economics (Sylvain 2010), it seems more reliable to address the issue considering the layers, because "the Internet was designed in a layered fashion — the goal was that the applications running on top of the packet forwarding service should not be able to affect it" (Clark 2018, p. 37; see also Schultze and Whitt 2016). These layers are the network, the Web, and the cloud computing as well as apps. From an *internal* viewpoint, they are mainly in realm of the artificial and all have connection to economics; and from an *external* perspective, they have a clear social component and are linked to the business firms, which commonly worked applying economics in each layer of the Internet.

At the bottom of the Internet are "all the protocols that allow different sorts of networks and devices to exchange information, or 'internetwork' (hence internet). At that level, it is still largely decentralised: no single company controls these protocols" (The Economist 2018, p. 5). The next layer up, because everything happens on top of the network itself, is the Web. "It has become much more concentrated. This is particularly true of the web and other internet applications, which include many consumer services, from online search to social networking. Centralisation is also rampant in what could be called the 'third layer' of the internet: all the extensions it has spawned. Most people use one of two smartphone operating systems: Apple's iOS or Google's Android. Cloud computing is a three-horse race among Amazon, Google and Microsoft" (The Economist 2018, pp. 5–6).

To some extent, each layer has different kind of problems in terms of legitimacy, where its internal and external aspects have their specific features. Thus, the issue of legitimacy can be addressed in the context of the layers of the Internet. In the case of the network is mainly related to two kinds of technologies and developed by companies and corporations of national or international character. Meanwhile, Web and Cloud computing (as well as apps) require technological support, but also a large amount of scientific contributions. Thereafter, legitimacy can be addressed regarding the business firms available in the three main layers, which includes the realm of the social dimension in a more explicit way than in the case of the network. These business firms are especially important in the case of the Web, which has had an extraordinary expansion, and have moved to the third layer in recent years.

There are some *key issues of the Internet for business*, especially in the level of the Web, which have also clear implications: (1) Availability, because it is 24 h per day and with immediate access, (2) ubiquity, insofar it is accessible from any place; (3) global, when there are no physical borders for access; (4) local, when it is a vehicle to reinforce local physical experience and personal business relationships; (5) digitization, because the Internet and the ICT connected to it process digital information ("digital information can be easily stored, transmitted, processed, mixed, transformed, [. . .] in many ways, independent of its source or carrier" [Timmers 1999, p. 15]); (6) multimedia, which provides new opportunities in design, consultancy and entertainment; (7) interactivity, which improves traditional customer service at an affordable price; (8) individualization of the customer service, insofar as it makes one-to-one marketing possible; (9) networking, which leads to network effects as well as to network externalities (network effects "are positive or negative influences of the networked market that *are* reflected in the market price" [Timmers 1999, p. 17]); "network externalities are external benefits or losses of the presence of products in the market that are *not* reflected in the market price, that is, for which there is no compensation through the price" [Timmers 1999, p. 17]); and (10) integration, which is the combination of information that increases the value chain of the business, insofar as the total is more than the sum of its parts (Timmers 1999, pp. 9–19; especially, p. 10).

Some of these key issues of the Internet for business – availability, ubiquity, global, local, digitization, multimedia and integration – are mainly based on the *scientific* design of the Web. They are mainly focused on the *internal* component of the activity itself of the Internet. Meanwhile, other features are predominately *technological*, insofar as they depend on the network, such as interactivity, individualization and networking. They are commonly worked on the second layer (the Web) or the third layer (the cloud and the apps).

Furthermore, legitimacy can be addressed from the point of view of the *external component*, which is the kind of organization considered for the network and its relations with the environment. They can be at the micro, meso and macro ontological levels. In the case of electronic economy, this leads to three main possibilities: intranets, extranets, and the public Internet. (a) Intranet is when the "business processes can happen within the company with access provided via the internal Internet" (Timmers 1999, p. 19). (b) Extranet is the relation between businesses that is "giving preferred business partners partial access to internal company information" (Timmers 1999, p. 19). (c) Public Internet is where the information regarding businesses is commonly recorded and stored electronically.

Legitimacy in Terms of Action Theory, Law and Ethics

Legitimacy as a *precondition* of business license needs to be analyzed in philosophico-methodological terms in order to make explicit what it involves for the electronic commerce and its business firms. In this regard, legitimacy can be considered regarding *the activity* itself and concerning the economic *organizations* (at the micro, meso or macro levels). It is an issue that is connected with at least with three aspects: (i) the authenticity of an activity in the sphere of the action theory, (ii) a juridical consideration based on regulations, and (iii) an ethical evaluation related to fairness. These aspects can be interconnected in corporations related to the digital economics through the Internet.

1) Legitimacy can be a feature in the epistemological side of *action theory*, which is the previous step for the acceptability of the correctness or genuine character of an activity in a given context. In this sphere, legitimacy comes from the authenticity or genuine character of an action made by an individual (a practitioner or expert), a group (like an endorsement made by professionals in a formal event or of a family regarding an heir), an organization (like a decision made by a business firm in a topic of its specific competence), etc. Thus, the activity developed should have a purpose that is not spurious, false or deceptive but rather trustworthy, proper or valid, and the agent (individual, social or institutional) should act according to that purpose.

2) From a *juridical perspective*, legitimacy is a recognition that can follow from legality. In this sense, which has a long tradition, legitimacy is the acceptability of something that is in accordance with the rules (local, regional, national or international). Thus, the novelty proposed might be accepted precisely because it follows the regulations (like a new kind of business firm, a novel economic institution, etc.) and, consequently, the novelty has some rights based on these rules.

Within the realm of business firms, if legality is understood as the mere fact of being within the existing legal framework, then legitimacy seems to be a more precise and accurate concept than legality. (The principles for regulation of the digital world considered by the House of Lords are these: parity; accountability; transparency; openness; privacy; ethical design; recognition of childhood; respect for human rights and equality; education and awareness-raising; and democratic accountability, proportionality and evidence-based approach [House of Lords 2019]).

3) From an ethical viewpoint, legitimacy certainly has a broader meaning than legality, insofar as its sense and reference go beyond the mere laws (i.e., regulations officially approved and published) to endorse some values, mainly related to justice. Within the sphere of legality, it seems clear that *regulations* are goal oriented: "Regulation is the use of laws and rules to alter economic and social behaviours and outcomes in accordance with some policy objective; regulation may be reactive or proactive, that is, it may seek to prevent something from happening or promote certain behaviour that otherwise not come about" (Küng et al. 2008a, p. 27).

Meanwhile, *legitimacy* of an activity is then *what is fair* regarding its aims, its processes or its results. From an external perspective, legitimacy involves some social acceptance in terms of validity, which is a credibility of being considered as right and it is different from a proper recognition in the public arena (e.g., of some business innovations). Thus, legitimacy is a feature of something related to a human action (individual, social, institutional, etc.), whereas recognition involves explicit support or public approval. In addition, it might be the case of something be legal (or, at least, not illegal or allegal) whose legitimacy could be questioned based on ethical grounds. When legitimacy is related to the *institutions* connected with economic matters, then the three meanings count here:

a) The legitimacy comes with the kind of ends, means and results of the activity displayed by economic agents (individual, social or institutional). This can be considered in terms of the *economic activity* itself or in the area of the *economics as activity* among other human activities (social, cultural, ecological, political, etc.). This distinction between "economic activity" and "economics as activity" among other human activities is developed in Gonzalez (2015a, pp. 179–185).

b) The legitimacy depends also on the *laws* (local, regional, national or international) concerning the activities of the business firms. Their activity in a given territory should be compatible with the regulations available. In this regard, the case of the cryptocurrencies is particularly interesting insofar as they do not depend, in principle, on laws relating to a territory. "The virtual currency and payment project Bitcoin intends to challenge the current monetary and payment system that finds itself in a legitimacy crisis in the aftermath of the financial market turmoil of 2008" (Weber 2016, p. 17).

c) There is also an ethical aspect of legitimacy, where the distinction between *potestas* and *auctoritas* applies. Because an institution (a government, a court of justice, etc.) can have the power to make some decisions on economic matters, whereas the moral authority comes from the way of how things are done (regarding the ends sought, the means used, and the expected results, with its consequences).

In this regard, some authors maintain that "the legitimacy of the European Union, and Western democracies at large, has been seriously questioned in the past years. Central to the challenge is the sentiment that decisions involving societal values are not taken sufficiently transparently and inclusively. One of the institutions participating in such societal decision-making is the Court of Justice of the European Union (CJEU), which must increasingly decide upon value-conflicts in the EU law disputes brought before it. EU copyright law is an example of a field where, in the digital age, values fundamental to individuals, diverse economic actors and cultural and societal developments are at stake" (Kalimo et al. 2018, p. 282).

The Case of Copyright Laws

An interesting case for legitimacy in electronic commerce is that of copyright laws. First, it has many theoretical and practical consequences related to the three aspects of legitimacy mentioned, which are connected to the accepted actions, the juridical factors and the ethical values. Second, "copyright law seems to be one area in which the Internet has had a notable impact" (Freedman et al. 2008, p. 120). This impact has at least two sides. On the one hand, individual or groups (authors, composers, artistic creators, film makers, etc.) receive credit, payment and protection of their works as holders of the intellectual property. On the other hand, the consumers that access the contents online are affected in their economic interest while using copyrighted works. Third, it is a key issue for electronic economy, insofar as "copyright has been a central but controversial part of the EU's digital agenda from the outset two decades ago" (Kalimo et al. 2018, p. 283).

Commonly, copyright laws are originally national regulations (Freedman et al. 2008, p. 117). This leads to variations in the contents, due to the kind of legislation according to groups of countries: "Copyright law in the Anglo Saxon tradition applies to both authors, performers and 'publishers' — the companies, such as producers of sound recordings and films. In the European civil law tradition, authors' rights pertain to human creators and neighbouring rights to the other groups" (Küng et al. 2008a, p. 29).

These laws become of a European interest when the items consider (books, music, films, etc.) have repercussions in an international level, in terms of credit, payment and/or protection for the creators (individuals, groups, organizations, etc.). The creators, the consumers and the institutions in the electronic economy linked to the Internet deal with the issue of legitimacy in a setting where previous regulations are de facto obsolete, insofar as they face a completely new economic sphere. Thus, the holders of the intellectual property (authors, composers, movie-makers, etc.) are in this digital economy in a quite different environment in comparison with the economy previous to the network of networks.

It seems clear that "the Internet has presented a strong challenge to copyright law, one it has met by extending the same principles but doing so possibly in ways that change the nature of the long-established fundamental freedom to use protected works for private purposes" (Freedman et al. 2008, p. 120). But there are variations between countries regarding the legality of some processes related to copyright. At least some years ago, "one notable difference is the treatment of exceptions and limitations to copyright with respect the legality of private use by individuals of material downloaded from the Internet, especially in the case of music and increasingly also with film. While it is illegal to upload copyright works without authorization, in many countries it is not illegal to download works for reasonable private use or to copy for one's own use items" (Freedman et al. 2008, p. 117).

Besides the variations in the national legislations on copyright laws regarding the Internet (some of them due to the technological changes [Küng et al. 2008a, pp. 30–31]) and in the style of legislation (common law jurisdiction in Anglo Saxon nations and civil law in other countries), there have been changes to copyright laws due international treaties (such as the World Copyright Treaty [WCT], the World International Property Organization Performances and Phonograms Treaty [WPPT]. . .), which were later on assumed by the European Union (Directive 2001/29/EC), . . .(Freedman et al. 2008, pp. 118–119). These regulations and more recent ones, such as the Directive on Copyright in the Digital Single Market (7 June 2019), emphasize the epistemological and methodological differences between legitimacy and legality, because the kind of knowledge needed in each case and the type of processes that follow from legitimacy and legality are not the same:

a) In addition to being in tune with the established regulation (or, at least, not be contrary to it), *legitimacy* is related to the action performed as authentic or genuine and its value assumed in terms of fairness. Certainly, it goes beyond the mere adjustment to the available legislation at every historical moment. b) Legislations can change at quite different levels (regional, national, international) and the *differences in regulations* from one nation to another can be particularly relevant, especially outside the countries of the European Union (such as in the cases of Russia or China). Thus, mere legality cannot be the key point of a business firm that deals with copyright laws.

Consequently, legitimacy adds new features to what is to be done by the business firm. These features are related to the actions to be performed and the fairness to be seek while acting within the context of the law. From an "internal" viewpoint, one of the additional factors is responsibility on behalf of the subject of the actions (individual, group, organization, etc.), because legitimacy is in the realm of human agents that can choose freely (Herbert Simon [1991 (1997)] insisted in the difference between markets and organizations). From an "external" perspective, legitimacy includes the social milieu where the persons of the business firm live. They are in a dynamic of historicity, which introduces changes over the time, some of them could be revolutionaries. (Regarding the dynamic in terms of historicity, see Gonzalez 2011; on the role of historicity in the case of Artificial Intelligence, see Gonzalez 2017.)

Both sides of the legitimacy require *ethical values* (1) as the basis for the internal and external forms of responsibility and (2) as to evaluate the rationality of the aims sought, because rationality cannot be merely instrumental, a pure rationality of the means. Thus, there are differences between the evaluative rationality, which is focused on ends, and the instrumental rationality, which is devoted to means (Rescher 1988).

These aspects that connect legitimacy to responsibility and rationality can be considered according two main *kinds of values*, which are analyzed in Rescher (1999): (i) values rooted in human *needs*, which can have then objectivity from an ethical point of view; and (ii) values related to human *preferences*, which gives them an optional character in order to consider what is "preferable" – and, therefore, rational in practical terms – instead of merely "preferred."

Corporate legitimacy includes the acceptance of actions of the social entity – a business firm – as something desirable within a system of values, which should be the basis for social norms. These actions of the economic organization should be appropriate for the aims sought, and these objectives should be according to some ethical values related to fairness. Thus, from an *internal* viewpoint, modern corporations are now aware of the "values-driven management taking all the firm's stakeholders into account" (Rendtorff 2019, p. 50). Meanwhile, from an *external* perspective, ethical should be the basis for economic actions of a corporation in any social milieu. In addition, "there is a need for external political and legal constraints on economic markets" (Rendtorff 2019, p. 49). In this regard, "legitimacy is founded on the social community and the human lifeworld based on views of justice as fairness, protection of rights, and the promotion of the common good of the society" (Rendtorff 2019, p. 50; see also Ulrich 2008, p. 416).

Therefore, the analysis of the legitimacy of the copyright laws should be based on the values rooted in human needs, where fairness has a key role, instead of being reduced to the consideration of values related to human preferences. Two sides of the legitimacy – internal and external – should be taken into account in the analysis: on the one hand, in order to deliberate on the proper actions and the suitable norms of the copyright in the sphere of the economic activity; and, on the other, to contemplate the kind of actions to be accepted and the adequate norms for the copyright in the realm of economics as activity among other activities, within the social milieu. Both sides are required to offer an approach of legitimacy to the controversial issue of the copyright laws.

Coda

According to the analysis made of the electronic economy, this is one of the denominations of the role of economics in the Internet. Semantically, it emphasizes the way of the relation – electronic – instead of the content (digital), the primary stance (the network), the second layer (the Web) or the novelty (new economics). Electronic economy shares epistemological, methodological and ontological elements with other characterizations of the kind of economics that is related to the network of networks. In this regard, when the problem of the business legitimacy is raised, there are several aspects that should be highlighted:

1) The legitimacy should be seen with the background of the Internet as a complex system, both structurally and dynamically, where the scientific approach, the technological facet and the social dimension are intertwined. 2) In the scientific approach, the problem of the legitimacy of the business firms commonly belongs to the area of application of science, which is connected to applied science. In this field, electronic economics is a science of the artificial as well as a social science. In particular, it is a design science that has enlarged human possibilities due to new aims, processes and results.

3) In the technological facet, electronic economy is related to network in two ways: a) in the technology more "traditional," insofar as information is carried through the network as electrical signal, radio waves or pulses of light; and b) in the information and communication technologies, because ICT are connected to the network of networks in the three main layers of the Internet. 4) In the social dimension, electronic economy has large range (individuals, groups, organizations, etc.), which now reaches half of the world population (Meeker 2019).

5) Business legitimacy is a precondition for a good electronic economics. It is related to proper actions, suitable norms and ethical values, which go beyond the mere adjustment to the legislation available in any given moment. 6) The values can be the ground for the business legitimacy if they are rooted in human needs, such as justice, instead of in mere human preferences (of individuals, groups or organizations). 7) The copyright laws exemplify the conflict among what is preferable – and, therefore, reasonable – and what is preferred in a social context or in historical moment. In this regard, business legitimacy should be with what is preferable and based on ethical values related to fairness.

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The Future of Work, Digital Labor, and Business Legitimacy

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Contents

Abstract

The increasing trend of Internet technology platforms and its offerings of digital labor have revolutionized the world of work. Companies that compete in this so-called gig economy are breaking away from traditional work arrangements and using a business model that challenges current employment and labor laws. While gig economy employers boast the benefit of work flexibility, their workers face compromised fairness in regard to compensation, working conditions, and career development. This chapter discusses how the gig economy redefines the future of work, by focusing on the current state of gig workers, and then explores opportunities for ways in which the gig economy can mutually benefit the employers and its workers.

Keywords

Digital labor · Gig economy · Working conditions · Career development

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Introduction

In the past decade, there has been a rapid growth of the so-called gig economy, which refers to commercial activities where people use digital platforms to sell their labor (Taylor et al. 2017). The size of online labors engaging in the gig economy is estimated to be about 4.4% of adults in the UK (Lepanjuuri et al. 2018) and 20% in the USA (Petriglieri et al. 2018). The gig economy consists of both online- and offline-mediated work via on-demand service platforms such as Amazon Mechanical Turk, Fiverr, Upwork, or Clickwork for the online gig work and Uber, deliverwoo, or task rabbit for the offline gig work. Despite measuring the overall size of the gig economy appears to be difficult as there are loop holes in such labor market that a large number of activities fall outside of measurement tools (Duggan et al. 2019), the rise of utilization of gig work worldwide is estimated to be about 26% annually on average (Kassi and Lehdonvirta 2016).

The gig economy boasts that this new form of work offers work opportunity to individuals who want flexibility and those who are otherwise unable to achieve employment (De Stefano 2016). However, more recently the gig economy has been described less as a new form of work and more as a newly packaged version of Taylorism, in which productivity is fostered via fragmented labor and hyper-temporary microtasks on virtual assembly lines (Aloisi 2015). As employment tasks are revised and employment relationships are redefined in order to transform more and more employees into independent contractors, more and more are left with “flexibility” but no protection from labor and employment laws (Stone 2006).

One of the main advantages companies have when they are at the forefront of a trend, a market, or an entire economy, like the gig economy, is that existing regulations may be outdated, which gives companies a great deal of flexibility of what to comply to this new form of labor (Dudley et al. 2017). Particularly, with the help of technology, such as algorithmic management, firms can structure their business in a more transactional manner with limited personal interactions with the digital laborers. In addition, firms that partake in the gig economy typically experience the pressures of following tactics to drive down their costs resulting in misclassifying workers, regime shopping, and employing economically vulnerable individuals – all of which contribute to the rise of neoliberal industrial relations (Zwick 2018). By enacting on the neoliberal playbook, the gig economy operates in ways that free firms from legal responsibility of labor and employment laws, transfer risks from employers to contractors, and reduce middle-class employment at the benefit of shareholders and consumers (Zwick 2018).

Under the neoliberal playbook, firms rely on short-term and insecure employment relations, where workers can be “fired as quickly as they are hired” (Sporton 2013: 405). In exchange, contractors or subcontractors have the “freedom to choose one’s own job and negotiate one’s own conditions of work” (Cahill 2004: 73). However, due to disproportionate negotiating power between the firm and the individual, the terms and conditions of the employment contract are often non-negotiable (Zwick 2018), which is a common issue in the algorithmic-based management like platforms. That is, digital labors sign up for task assignments via a digital interface, where terms and conditions are given with no opportunities to interact with the platform management for discussion. Thus some view the gig economy as a mean to normalize precarious work relations through the discourse of capital exchange and altruistic social values (Cockayne 2016).

The New Employer-Employee Relationships

As work moves beyond the boundary of the firm, employment relationships become more flexible, and an increasing variety of alternative work arrangements have emerged (Spreitzer et al. 2017). General categories of alternative work arrangements include *direct employment*, *co-employment*, and *direct contracting* (Pfeffer and Baron 1988; Cappelli and Keller 2013), where the dimensions of flexibility range from standard employment to shorter-term work assignments (Johnson and Ashforth 2008). These types of work arrangements have varying similarities and differences in the way each impact employer-employee relationships.

Direct employment is commonly associated with standard workers, full-time employees who work on-site with a fixed or agreed schedule. Full-time employees are the "standard" employment relationships to that which researchers compare with alternative work arrangements (Spreitzer et al. 2017). However, overtime this category has also become more flexible with limited physical, temporal, and administrative attachments (Pfeffer and Baron 1988). Firms may offer flexible work schedules to full-time employees to help employees juggle work and family demands (Kossek and Michel 2011). By offering flextime, firms are more likely to attract and retain high-skill workers who reciprocate higher levels of productivity, engagement, and quality work and lower levels of absenteeism or turnover (Kossek and Michel 2011). Flextime, however, can come at a cost for full-time employees, for example, in the form of autonomy paradox (Mazmanian et al. 2013). In the case where firms view flexible schedules as burdensome, allowing workers to have the autonomy to work where and when they want can make workers feel inclined to be available all the time through electronic communication. This increased stress of being always "on" (Barley et al. 2011; Perlow 2008) may cause workers to feel pressured to intensify their work effort (Kelliher and Anderson 2010). Full-time employees who use flextime may also be stigmatized as less motivated by their employer (Rogier and Padgett 2004), and, as such, studies have shown employees may experience lower wage growth (Coltrane et al. 2013) and receive poorer performance reviews (Judiesch and Lyness 1999).

Other work classifications under direct employment include part-time workers. They often do the same work as full-time employees but receive less salary and benefits and little career advancement (Spreitzer et al. 2017). Part-time workers, for example, can be seasonal employees and on-call employees, who have the power to accept or decline work offers but have little power over the conditions in which they work in, such as when shifts are cancelled or added last minute with little advance notice. Some may prefer a part-time schedule over full-time to attend to their education and their family or to fulfill their desire to be mentally engaged while retired (Dingemans and Henkens 2014). Thus, these part-timers may exhibit similar levels of supervisor satisfaction, social integration, and affective commitment as full-time employees (Spreitzer et al. 2017). However, schedule flexibility for part-time employees tends to mean they receive less benefits compared to full-time employees (Wittmer and Martin 2010). This can negatively impact the life satisfaction of workers who are forced into part-time status or are forced to work multiple, low-paying part-time jobs to make ends meet (Sturman and Walsh 2014).

A growing alternative work arrangement is *co-employment* or agency work, where the employment relationship is between the client organization, a staffing agency, and the worker. Agency work can be in the form of temporary work on a short-term contract or a long-term contract (Barley and Kunda 2006). Firms may use co-employment to reduce administrative costs by hiring employees with specialized skills for specific projects, while individuals may work for a staffing agency to have more flexibility, to use as a mean for employment after being laid off, or to leverage the chance of finding a full-time opportunity with a client firm (Spreitzer et al. 2017). Agency workers with career development opportunities have been found to share similar levels of affective commitment to full-time employees and higher levels of satisfaction with supervisor-coworker relationships (Broschak et al. 2008). However, when agency workers see little probability for securing full-time employment, their job satisfaction and organizational commitment decrease (DeCuyper et al. 2009). While flexible employment relationship offers firms more agile business models, such flexibility can cause significant challenges for workers when it comes to fairness, well-being, and career development. These implications become more complex under the category of *direct contracting*, where employment relationships are mediated by platforms.

Considering employer-employee relationships in terms of the gig economy is challenging, because workers are labelled as independent contractors, not employees. An independent contractor is defined as a direct relationship involving just the client organization and the worker as his/her own employer controls the work process (Cappelli and Keller 2013). With the independent contractor classification, businesses utilizing the gig economy normally recruit workers with no entitlement to a fixed number of working hours, minimum wage, overtime, paid sick or annual leave, notice in case of termination, or anti-discrimination laws. Therefore, platform businesses often totally or partially do not cover Social Security costs, Medicare, Affordable Care Act, worker compensation, and unemployment insurance (Aloisi 2015; Stone 2006).

This said, some firms operating in the gig economy face strict labor and employment laws and therefore must adjust their standard practices in order to remain competitive in certain countries. Uber, for example, has faced criticism from Australian politicians regarding its meal delivery service, Uber Eats, for not providing its drivers and cyclists with appropriate gear, for not offering paid sick leave, and for having low wage rates (Brook 2018). Uber responded to this by arguing that if they were to accommodate for gear and sick leave, in addition to increased wage rates, it would have to sacrifice its flexible work arrangements – which Uber defended is an important reason why many of its drivers and cyclists work for Uber in the first place (Brook 2018). Due to Uber's deliberate choice to not improve working conditions and compensation, restaurants in Australia have banned Uber Eats (Brook 2018), rendering Uber Eats less competitive in the Australian market.

Another international meal delivery company, named Foodora, has taken a different approach. In Norway, for example, Foodora's services remain competitive due to the adjustments it made to meet certain Norwegian laws such as providing paid sick leave, health insurance, and holiday pay to its workers (Foodora 2018). On the other hand, Foodora is still criticized for its working conditions and wage levels. Foodora's operations manager responded to this by stating that the company has taken into consideration personal costs for its couriers by creating partnerships with companies to provide cheap alternatives for telephone subscription plans and bicycle maintenance services (Greenhouse 2016). The working conditions workers face from Foodora in Scandinavia can be argued as better relative to its competitors. However the question is whether or not the working conditions are good enough.

Some pointed out that the undefined employer-employee relationship is detrimental to the platform's as well as gig workers' well-being. For instance, while the digital laborers are often seen as independent contractor and are solely responsible for the task output, they on the other hand do not have direct relationship with the clients (only via the respective platforms with restricted interaction possibilities), which effectively shrink their contractual freedom, nor they have an entire control of the work process as an independent contractor would have (Aloisi 2015). These provisions are inconsistent with the declared independent contractor status of turkers (De Stefano 2016). With this being said, a bulk of business risk is shifted to workers, and potential costs such as benefits or unemployment are avoided (Aloisi 2015). Currently, most of gig workers if not all are not considered (by legal definitions) employees, and whether a worker should be considered an employee of a contractor often depends on facts emerging from the employment relationship (Stone 2006). Researchers and authors, such as claim that, in contrast to claims of platform business representatives, many platforms actually have relatively traditional employment relationships, asserting that they should therefore be treated as such. Workers are starting to confront some platform companies for inappropriately classifying them as contractors although they do not enjoy the amount of freedom that the label is supposed to entail.

These challenges virtually all reflect a seemingly unfair distribution of power between the worker and the platform (Kingsley et al. 2015; Fieseler et al. 2017). Some digital laborers have attempted to improve these challenges with additional platforms/software (Irani and Silberman 2014; Fieseler et al. 2017), such as Turkopticon, which serves as a place to pose and answer questions from peers in the same workforce (Irani and Silberman 2014), or to change the currently unequal employment dynamics (Fieseler et al. 2017). Others report that legal benchmarks should be enforced in regard to pay, such as minimum wage standards (Fieseler et al. 2017) or mechanisms that allow for negotiations between requesters and workers (Kingsley et al. 2015). Further, representation is considered necessary to ensure ethical and mutually beneficial work settings (Fieseler et al. 2017). Taken together, the complexity of employer-employee relationship due to the triangular relationships between the platform organizations, the clients (task providers), and the gig workers needs to be addressed, and modifications of the current employment practices based on traditional models are needed (Spreitzer et al. 2017).

A possible solution that has been proposed, in the USA, to fill the regulation gap affecting the gig economy is to introduce a new form of work that acts as an intermediate category between employment and independent contractors (De Stefano 2016). For instance, researchers, such as Harris and Krueger (2015), have advocated for new legal classifications for independent workers to help balance these employer-employee relationships. A so-called "dependent contractor" employment classification has been suggested in several countries to provide on-demand platform workers an intermediate status (Weber 2015). The proposal suggests that this new category of workers would be subject to certain regulations, while the employers would be responsible for certain costs, such as reimbursement of expenses and workers' compensation but not Social Security and Medicare taxes (De Stefano 2016). In countries like Germany, Canada, and France, such a proposal has already been rewritten into law, as a mean to expand on worker categories and challenge the boundaries of existing labor protection laws (De Stefano 2016). However, there is an ongoing discussion around whether the dependent contractor employment classification, which often covers those who derive all or most of their income from a single client, would be appropriate for the gig economy (Kuhn and Maleki 2017). More recently, a modification of independent worker employment classification, under which firms would be required to cover some employment benefits such as Social Security taxes, has been suggested (Harris and Krueger 2015).

Such an approach may take relatively long time to effect changes and complicate issues surrounding classification, especially in terms of legal definitions, along with changing criteria based on national regulations (De Stefano 2016).

Hence, for workers in the gig economy to be rightfully protected, the gig economy should not be woven into the law as a separate silo in the economy, but rather the gig economy should be used as a reference point in comparison with the broader trends in the labor markets "such as casualization of work, demutualization of risks, and informalization of the formal economy" (De Stefano 2016: 499). There also needs to be cooperation between regulators and labor market operators to ensure that opportunities of development and employment do not happen at the expense of decent work conditions. Yet at the forefront of advocacy for labor protection is the dire need to have jobs in this sector, first and foremost, be recognized as work, in order to prevent workers from being perceived as extensions of a mediated platform – to essentially combat dehumanization.

The Impact on Individual Career Development

In a traditional job setting, careers are seen as a process that requires deep personal investments in one's work and mark one's achievements not only through monetary gain but through advancement within a particular field or across fields (Savickas 2005). Rewards of a career often include money, benefits, healthcare, career satisfaction, and opportunity to progress (Parker et al. 2016). While we may see our career using some objective career criterion (Savickas 2013), such as the sequence and sum of positions one occupies from school through retirement, we may also see our career using a subjective lens, through which patterning job experiences into a cohesive whole to impose meaningfulness and that guides, regulates, and sustains their work behavior (Savickas 2005). Individuals repeatedly revise their identity to adaptively integrate significant new experiences into this ongoing perception (Heinz 2002).

For much of the twentieth century, the prevailing employment paradigm was that employees had a long-term relationship with a firm and enjoyed long-term job security. The gig economy somewhat sidesteps, and firm commitment to career-long relationships is relatively low, leaving employees to fend for themselves but still required to revise and constantly upgrade their skills. Workers need to retool, learn new skills, and/or reposition themselves in relation to the changing requirements of work, and when considered contractors, they are expected to do all of this themselves (Stone 2006).

The anonymity involved in many digital labor platforms has been reported to impede the development of the social capital necessary for career and skill progression (Fieseler et al. 2017). It is important to differentiate between different types of digital labor. This work can range from projects where the purpose and the scope of potential contributions are clearly communicated to projects where the laborer is unaware of the impact of his or her contributions (Zittrain 2008). When involved with the latter, which are common, critics argue that workers do not know the value or purpose of their work and have no ability to organize or appeal the decisions of employers (Horton 2010). Their anonymity hinders their ability both to network, to build work references, and to seek organizational support. The effect of gig economy participation on long-term career outcomes is particularly unclear. A defining attribute of gig economy jobs is that opportunities for advancement within the firm are limited. These jobs might therefore stagnate workers' career progression (Greenwood et al. 2017).

Flexibility is perhaps the most prominent benefit of gig work, and this flexibility may allow the worker to pursue other opportunities outside the gig economy (Greenwood et al. 2017). However, research mentioned thus far has highlighted that this alleged benefit is not entirely beneficial. Additionally, this flexibility may not be as characteristic of this work as claimed. For example, workers are not required to work regularly or to accept any particular task, but they are typically required to follow rules and guidelines and, in some cases, a certain percentage or number of tasks (De Stefano 2016). This further emphasizes the idea that gig work may not differ as much from traditional work as was once thought – the main and perhaps only difference is that the platform aspect enables organizations to redefine workers in potentially beneficial and potentially harmful ways.

The workforce engaged on digital on-demand service platforms is often characterized by commodification, low cost, minimal institutionalization, and increasing anonymity (Ashford et al. 2018). Digital workers are not paid by working hours or hierarchical position, but based on the timely completion of granular work tasks, and their working conditions are largely the responsibility of the platform provider (Fieseler et al. 2017). Theories associated with digital labor tend to fall into idealized, oppositional binaries. On the one hand are celebrations of user-generated content emerging out of the free time and willful contributions of millions of people (Fish and Srinivasan 2011). In this light, digital labor can be described as a coordinated system of collective intelligence that fosters fulfillment through work (Terranova 2000). On the other hand are accounts of exploitation that highlight the dystopic impacts of capitalist labor and outsourcing (Fish and Srinivasan 2011). These descriptions liken the digital economy to "electronic sweatshops" or "free labor" (Terranova 2000), claiming that digital labor is used as a toll for organizational profit and power (Fish and Srinivasan 2011).

Fieseler et al. (2017) explored the relationship between employers, workers, and platform providers, focusing on the power of platform providers to design settings and processes that affect workers' fairness perceptions, focusing on workers' awareness of the new institutional setting, frames applied to the mediating platform, and a differentiated analysis of distinct fairness dimensions. One of the most marketable and favorable structural features of digital work is autonomy (Kost et al. 2018). However, many other structural features of digital labor are lacking.

Researchers report worker issues with unaccountable and arbitrary rejections, low pay (Irani and Silberman 2014; Fieseler et al. 2017), uncertainty about payment, fraudulent tasks, prohibitive time limits, long pay delays, and uncommunicative requesters and administrators (Irani and Silberman 2014). Further, on many platforms, workers have limited options of seeking recourse in cases of unfair treatment. Accordingly, digital labor is held to be susceptible to a number of labor abuses (Kneese et al. 2014).

Fairness as the New Currency for the Employment Relations in the Gig Economy

Labor conditions must be fair to ensure reliable and optimal economic outcomes. Individuals remain loyal and committed to an organization, even if the outcomes are less desirable, if the process of deciding on these outcomes is perceived as fair (Fieseler et al. 2017). Platform providers exert significant influence over the quality and quantity of tasks available to microworkers as well as overall working conditions (Kingsley et al. 2015). Therefore, the perceived fairness of work facilitated by digital labor can be expected to be shaped by the features of these platforms (Fieseler et al. 2017). Variance in influence, autonomy, or voice ultimately affects the perceived fairness of the labor facilitated by these platforms (Fieseler et al. 2017). Past research has examined how contract workers' perceptions of human resource management (HRM) systems from their client and contractor organization may affect performance, intrinsic motivation, service-oriented citizenship behavior, and organizational commitment to both the client and contractor organization (Coyle-Shapiro et al. 2016; Kuvaas and Dysvik 2009; Kuvaas et al. 2012). Future research should explore to what extent digital workers are affected by the lack of training and development opportunities in the gig economy if their work outside the gig economy has better opportunities.

More specifically, does the HR architecture outside the gig economy buffer the negative effects from the absent HR architecture in the gig economy? Another important aspect is time; tasks and projects are rather short in the gig economy, while other nonstandard work arrangements are longer. The question arises regarding how long a project has to last for companies to provide HRM support and for workers to feel entitled to receive HRM support. Furthermore, we have to ask what effect incongruence, between perceptions of whether workers are entitled to HRM support, has on working relationships. Workers could feel entitled, while companies feel they do not have to provide HRM support. Time is an important factor that is independent from the workers' skill level, uniqueness, or strategic value, but will increase in importance alongside the increase of the online labor market.

There are evident differences between employees native to the platforms' home country and employees who are being "empowered" by these platforms and who are native to countries with less robust infrastructure. Fish and Srinivasan (2011) expressed concern that both of their organizations of interest tackle their social goal through scale-driven approaches that lack attention to the diverse agenda of the communities they aim to empower. Some argue that access to labor in less-developed countries promotes dignity and that an infusion of money can empower a poor society (Fish and Srinivasan 2011). Virtual work poses no physical threat to workers, has no environmental impact, and does not require robust host country institutions of local entrepreneurial talent (Horton 2010). Others argue that these platforms are based in San Francisco, one of the most expensive cities in the world, at the center of one of the densest populations of managers of digital content and venture capital. Their recruitment of global labor speaks less to empowerment and more toward a desire to evade regulation and overhead costs (Fish and Srinivasan 2011).

With these differences in mind, it is interesting to find that across studies with workers of different demographics, they all tend to view their chances of being treated fairly online as being as good or better than what they can obtain offline (Horton 2010). Most microworkers report an uncritical, even positive view of their relationship with the platform. Individuals are glad that the platform exists as a source of income (Fieseler et al. 2017; Irani and Silberman 2014). That being said, worker perceptions of fairness are not measures of actual fairness (Horton 2010). As the gig economy grows and as firms increasingly operate in a market with undefined regulations, ethical considerations can be a source of guidance for how firms assess fairness in their currently established or developing business model.

Conclusion

The emergence of a gig economy calls for our society to reevaluate and redefine current work arrangements and employment regulations. The current business model adopted by many employers within the gig economy forces a vulnerable group of individuals to accept low pay, poor working conditions, and in general unfair practices. As demand for digital labor increase, the gig economy would only sustain by ensuring higher fairness standards to combat potential mistreatment and dehumanization.

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Video Surveillance in Working Contexts and Business Legitimacy: A Foucauldian Approach

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Contents

Abstract

This book chapter explores the dynamics of video surveillance on the bodies of workers from the spectrum of a subjectification process. Offering a theoretical progression in line with managerial considerations, this study plunges the reader into a consideration of the *captured body* through a reading of Foucault to open a reflection on business legitimacy. Because of the visual nature of the technique of discipline at stake here, e.g., video surveillance, we mobilized Merleau-Ponty's approach to perception to serve our investigation. Far from questioning the disciplinary potential of video surveillance, this study first argues that, by nature, only an incomplete reality of the surveilled body can be captured by the camera. The study then reconstructs the logic of an electronic eye as a mediator of power participating to a limited extent in the object-subject dynamic. Our investigation

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demonstrates how video surveillance can be approached as a provocation, since it gives the worker the impetus to access a knowledge of parcels central to the individual's attention to himself, the other, and the world. It finally discusses the role of a moral legitimacy to preserve the consciousness at stake in the subjectification process that we analyze.

Keywords

Foucault · Video surveillance · Legitimacy · Subjectification · Merleau-Ponty · Body · Worker

Introduction

Contemporary organization is characterized by a centralization of practices of evaluation and control to serve profitability (Nolan 2017). In a context of *fusion of technologies* (Schwab 2016), companies can exercise continuous control over workers, even outside the office (Tarafdar et al. 2015). If today surveillance is considered deeply unobtrusive, sophisticated, and ubiquitous (Wood and Webster 2009), 20 years ago, it was conceived of as invasive of privacy and intimacy (Rothstein 1999).

Also, if research has long discussed how employees experience a continuous pressure related to boundaryless control, the most sensitive question raised remained the extent to which workers' privacy is still respected or not (Rosenberg 1999; Andrew and Baker 2019). Unsurprisingly, the use of ICT in the form of cyber surveillance to control workers has been addressed by the law, especially in answer to governments' concerns regarding the preservation of people's rights through regulations (Bohnenberger 2016). Yet the right identification of the actors to protect remained challenging to reach (Newkirk 2018). While surveillance practices at work were subject to strong normative framework, legal disputes growingly discussed the idea of resisting surveillance at work (Clawson and Clawson 2017).

The protection of workers' privacy initiates public debate around the question: Do we control the work, the workplace, or the workers? This question is not only of interest to the law. Several disciplines – such as surveillance studies, management, and psychology – have also questioned the phenomenon of surveillance practices in the workplace. While the approaches tend to be slightly different, the starting and junction points remain related to the accepted definition as cyber surveillance – e.g., the idea of more than an *extended form of social control declined into new media* (Bennett et al. 2012). Speaking of social control undeniably places the individual at the center of the reaches of cyber surveillance and the power it may have on the one on whom it is exercised, but not only. Indeed, in a globalized context, where public morals are gaining growing importance (Willke and Willke 2008), media growingly play an important role in the assessment of what is legitimate or not from an ethical approach (Aerts and Cormier 2009). The growing extension of this legitimation process to social media and society in general is impressive (Castelló et al. 2016). Actually, the more people are connected through social media, the more they can reverse power dynamics at stake to expose any illegitimate surveillance measure adopted by companies.

Surveillance is at the frontiers of moral legitimacy, and respecting laws will not ensure companies that any measure adopted remains ethical and legitimate in the eyes of external audiences.

Research in organization studies deeply explored the concept of legitimacy (Suddaby et al. 2017). Actually, legitimacy is the result of a constructed social order (Suddaby et al. 2017). Therefore, and as the context in which the social order takes form is subject to change, legitimacy should be apprehended as a non-fixed outcome (Zimmerman and Zeitz 2002) that evolves in a complex system. And if legitimacy may appear as a quite generic term (Oliver 1991), some nuances have been marked with work realized in order to classify the different types of legitimacy. Suchman (1995) has defined a pragmatic, a cognitive, and a moral form. In the present contribution, we rather see in the rise of new technological developments, an opportunity to elaborate on moral legitimacy. The fact, for instance, that moral legitimacy is more focused on the person (Skitka et al. 2009) resonates with the new paradigm brought by surveillance in a modern work context.

Studies exploring the individual impact of cyber surveillance are flourishing (see, e.g., Akhtar and Moore 2016; Wright 2015; Jena 2016;). We believe that connecting philosophical with managerial disciplines in the present contribution may open a window on the investigation of a new form of dynamics of the surveillance on the bodies of workers. More specifically, our contribution intends to reveal the importance of exploring how the worker can actually recreate their relationship to the material environment in a context of video surveillance through their consciousness. As surveillance technologies become growingly infused in organizational routines, the traditional boundaries of business legitimacy and the cases where it applies should benefit from a fresh look. The rapid growth of new technological developments is already changing the organizational structures (Brynjolfsson and McAfee 2014). Many of these innovations are mobilized to serve the objectives of firms in most sectors (Malec et al. 2013), including the way workers are managed. Technologies deeply influence the way we apprehend both values and norms ((Cole and Banerjee 2013). Since these are at the core of moral legitimacy (Suchman, 1995), the latter will not only be more complex to define but may also be impacted in practice.

In order to structure our analysis – and since philosophy may cover various approaches and questions – we decided to mobilize the philosophy of the technique. Indeed, the latter is mainly concerned with the relationship between people and technique and may raise considerations that appear to be naturally linked to surveillance.

Philosophy of Technology and Ethics in Foucault's Work

Technology cannot be defined as ethically neutral since tools are an integral part of a system, shaping individuals to fit the norms and values of that system (Hunyadi 2015). Control is infused in the system itself, defining the flows of power relations. It is therefore not surprising that Foucault's thought, even if it considered as a "philosophy of displacement" (Bert 2016), has been mobilized to serve surveillance practices. Indeed, if Foucault is neither essentially a philosopher of technology nor of ethics, within structural analysis, the capitalist logic of the exercise of power and control is of interest to organizations (Manokha 2018; Amintas 2002).

Questions of ethics and technology are not separately thematized in Foucault's thought. Nevertheless, we find these approaches in different works he produced. For technology, we refer mainly to *Discipline and Punish* (1975) to recapture the logic of a transition to a biopower – that is to say, the appearance of specific techniques of discipline exerted on individuals. As for ethics, connecting volumes 2 and 3 of *The History of Sexuality* (1984) with lectures given during the last years of Foucault's life is of interest to our analysis. Of course, one can argue that establishing a connection between technology and ethics in Foucault raises the issue of temporality. But the diachronic approach in Foucault's work, as Donatelli remarks, renders the author not only relevant to his contemporaries but also to all those today who try to give a new form to philosophical ethics (Lorenzini et al. 2013).

The Philosophy of Technology and Governance in Foucault

Foucault does not approach the question of technology as a separate philosophical object:

> What interests me more is to focus on what the Greeks called *techne*, that is to say, a practical rationality governed by a conscious goal [. . .]. The disadvantage of this word *techne*, I realise, is its relation to the word "technology" which has a very specific meaning [. . .]. One thinks of hard technology, the technology of wood, of fire, of electricity. Whereas government is also a function of technology: the government of individuals, the government of souls, the government of the self by the self, the government of families, the government of children and so on. (Foucault 1982: 1104)

As highlighted by Willcocks (2006), this quote from Foucault from an interview with Rabinow captures his dichotomy between a restricted and material technology and an expansive technology encompassing immaterial concepts such as forms of government. However, Foucault does not dwell much longer on the concept of technology in this passage. *Discipline and Punish*, for its part, draws upon a line of thought that is particularly fertile for the philosophy of technology:

> The great book of the man-machine was written simultaneously on two registers: the first, anatomo-metaphysical, of which Descartes had written the first pages and which the doctors and philosophers have continued; and the second, technical-political, which was constituted by a whole set of military, school, hospital regulations and by empirical and thought processes to control or correct the operations of the body. (Foucault 2010a: 187)

Foucault insists on the importance of details, especially in the techniques of control and use made by people throughout the ages (Foucault 2010a). Also, bodies can be approached in their interactions and in what those can produce in a context of power relations, where power goes beyond repression, censoring, and excluding, and where its function is above all to produce reality. Power is constitutive of humanity and people's way of apprehending the world (Foucault 2010b).

As a corollary to his analysis of power, Foucault takes a closer look at the disciplinary aspect of the governance of people and bodies and their intertwining with a coercive control process of the body's operations. The constant subjugation of the body generates a docility-utility; it is precisely in this that discipline consists, according to Foucault (2010a). In this perspective, technologies can be conceived as means that allow discipline to extend to the entire society (Foucault 1977).

ICTs, NICTs, and Video Surveillance

Technique appears in the history of the individual as a tool that serves the subjugation of the body. Today, a level of disciplinarization never equaled in the past is increasingly infusing power (Holland et al. 2015). Indeed, in recent decades information and communication technologies (ICTs) and new information and communication technologies (NICTs) have profoundly transformed our world and the workplace. The power of new information and communication technologies, their variety of functionality, their speed of evolution, and the fact they are easy to implement have given them strategic importance in the economy and in contemporary management (Moraes and Michaelidou 2017). These technologies deeply refine the logics of employee monitoring (Chory et al. 2016). Companies still increasingly mobilize them to get better new business opportunities (Avadikyan et al. 2016),

However, as the organization's viability strongly relies on its ability to remain legitimate (Deephouse and Suchman 2008), these new monitoring practices cannot be apprehended as isolated practices that escape the normative system. They need to be in line with a set of normative guidance and values (Deephouse and Suchman 2008).

ICTs are a major factor of change in companies and are related to the evolutions of organizational structures (Klein and Ratier 2012). But behind these tools themselves, the nature of the surveillance internalized by workers may nurture an undermining of trust with managers (Wright 2015; Tabak and Smith 2005). Indeed, *keeping an eye* on someone reveals to the surveilled that they could be considered deviant (Staples 2013). Nevertheless, this more individual-level analysis is somewhat subdued by a more macro perspective. This leads to the focus on the fact that the uses of ICTs meet the demands of the organizational strategy to an extent: maintaining productivity, protecting company's interests, and preserving legal integrity (Ball 2018). Therefore, and as long as the measures adopted suggest that these go beyond the sole aim of protecting private interests, they remain morally legitimate and acceptable by external audiences (Díez-de-Castro et al. 2018).

In the era of the spread of ICTs (Monahan 2006a), technologies offer to prevent non-appropriate employee behaviors (Cantoni and Danowski 2015; Lee and Kleiner 2003). But this use of ICTs insists, again, on the idea that surveillance is, before all, about maintaining order and producing subjects (Monahan 2017). One cannot deny that ICTs have also transformed temporality in the control of work. ICTs do not only serve the efficiency of the organization when they offer crucial indications on the hourly turnover of a store and the placement rate of a product in real time (Klein and Ratier 2012). They also affect the way time applies to the worker, strengthening the individualization of surveillance. The traceability of all exchanges and the real-time monitoring of workers and productivity tend to generate drastic change in the management of employee failures, putting at its center a subject that is now controlled day-to-day, minute by minute.

Cyber Surveillance: Time, Production, and Vision

Disciplinarization not only runs through an organization to make monitoring both possible and optimal, it also impacts the economic and instrumental dimensions that control individuals and their performances (Pezet 2004). Disciplinary techniques are at the origin of docile bodies (Stewart 2017). The subject is therefore fabricated by the forces of subjugation and control, where different techniques of coercion act on the bodies in order to *correct* them and produce a standardized behavior (Foucault 1977).

Through his analysis of factory discipline, especially in his overall project of a history of power, Foucault establishes a link between discipline and, through capitalistic considerations, the formation of the disciplinary society (Hatchuel 2005). There are three ways of exercising discipline: surveillance, examination, and the normalizing of sanctions (Foucault 2010a). The links that can be established between discipline and the world of work can occur at three dimensions of crucial importance for organizations: time, production, and vision (Foucault 2010a).

Today each of these is served by an electronic monitoring that, as suggested by Samaranayake and Gamage (2012), allows the continuous and sometimes secret surveillance of employees. But the surveilled are not just *tracked* through space and time (Monahan 2018). ICTs directly reshape temporality to reinforce the effect of time on the pace and intensity of work. For example, workers in firms that use enterprise resource planning (ERP) software often report that their work rate is imposed by a machine (Greenan et al. 2012)

Technology also allows us to have a precise idea of productivity levels at every moment and to monitor every movement or operation performed by workers. From an organizational perspective, this could help prevent negative behaviors, leading to positive results for the company (Pierce et al. 2015), though this productivity *guidance* has a cost for workers. However, ICTs that serve the company are not constrained to the same hierarchical channels as workers. In the ultra-visibility of work, the traces left by the computer, such as messaging control, are not only a top-down control but a bottom-up one (Greenan et al. 2012). Colleagues at the same level can control each other's work. Based on Foucault's approach, and from the perspective of a logic of power relations, one can interpret it as a *microphysics of* *power* in action – that is to say, the phenomenon that power, in a society, is no longer controlled by the state but by every single stratum of society, which imposes control on the individual everywhere and by everyone (Foucault 2010a).

The appeal behind the mobilization of surveillance may lie in its bidimensional approach: producing information on a population and directing supervision of it (Monahan 2006a). Companies argue for the usefulness of surveillance data in the workplace. However, even from the sole perspective of the outcomes surveillance offers organizations, that could, for instance, be read from the *Hawtorne effect* (Stand 2000), one can argue that it does not always provide good or mitigated results but can actually lower the quality of work (O'Donnell et al. 2013). In his contribution entitled *The Transparency Paradox*, Bernstein (2012) shows that a permanent visual control of workers would be counterproductive. Workers who know they are observed adopt behavior more in line with instructions but experience a decrease in productivity of up to 15%, reinforcing the idea that working practices are undeniably compromised (Ball 2018). The explanation for such a significant loss is that without permanent control, workers tend to use personal productive techniques (Bernstein 2012). Indeed, work does not consist of programmable operations but a succession of adjustments and subjective choices. But cyber surveillance offers an entirely different perspective on work: structured, objectified, and depersonalized (Klein and Ratier 2012) leaving no space for creativity (Ball 2018).

Undeniably, reflection on subjectivity and its ways of expression can neither be absent nor disconnected from the logic of surveillance. As suggested by Foucault, "any form of subjection gives rise to a process of objectification whose task will be to diffuse and instill norms" (Rojas 2012: 11). Self-disciplined, aware that they are always scrutinized and controlled in their activity, the worker faces the company's will to normalize their working processes and that of their co-workers. They are deprived from engaging their subjectivity in the proper performance of their tasks. But power is not only about structuring; it is structure in itself (Foucault 1982). It therefore participates in an elaborate reality. Discipline cannot be limited to its acceptation as a simple modality of power – it is an art, that of shaping bodies and their actions.

While ICTs have offered several tools to serve this art, not all may appear conceptually easy to intellectualize, even to the individual who knows that they are used, in a way or another, to assess, control, evaluate, and/or discipline them. This is why we believe that legitimacy and its normative system remain underconnected with the analysis of specific forms of surveillance.

Indeed, legitimacy evokes the idea of a transparency, which is paradoxically governed by a thick impenetrability, where being *legitimate* is more apprehended as a whole. Of course, the concept covers various aspects and takes several forms (Deephouse and Suchman 2008). However, the understanding of the raison d'être of these forms really makes sense when analyzed through practices rather than just being applied as top-down logics that ensures organizations have gain the *right t*o operate (Baumann-Pauly 2017).

The Eye of the Camera: Its Reach, the Body, and the Norms

The camera as an architecture of control is considered as the most modern and performing version of the eye; it reminds the individual of a practice dated from the origins of humanity: a gaze that follows what is of interest. If a visible gaze has the power to discipline bodies, a discrete one has for its part the ability to capture the subjective tracks left by an individual who has the pretention to think *they* have drawn *them* secretly. For sure, video surveillance inspires a disciplinary power that finds its way through the internalization of standards (Lebrument and de La Robertie 2019). However, trying to elaborate or assess the extent to which an organization may remain aligned with the values and objectives encapsulated in a system – and therefore *legitimate* – (Epstein and Votaw 1978) may transpire the idea of a fixed legitimacy. Such an idea cannot in a time of technological explosion remain realistic.

Therefore, what attracts our attention is more accurately what this eye penetrates, e.g., the relation to oneself and its processes. While surveillance can be captured in three dimensions – our *perceptions of surveillance*, the *depth* of surveillance, and our *exposure* to surveillance (Wood and Webster 2009) – the analysis of (an aspect of) the depth of surveillance is the one that interests us.

Before going further, we would like to reaffirm that in a world where various constraints and forces coexist and structure the strategic objectives of companies, a Foucauldian ethics does not have the pretention of liberating the individual. Foucault did not even suggest any form of modus operandi, which would have induced normative prescriptions (Leclercq-Vandelannoitte 2019). Rather, his work can be approached as increasing the individual's understanding of how to govern oneself when shaped by external forces (Foucault 2001). Such a position leads us to the question of how, rather than whether, we want to be governed by technology.

Also, and while legitimacy brings to the table normative expectations, it also recreates at the same time a logic of power and order (Weber 1978) that reconnects with the very nature of surveillance.

In late capitalism, surveillance is about bringing order its effectiveness varying according to where it is practiced and what it targets (Wood and Webster 2009). Certain forms of technologies are better applied in specific contexts. This is the case for what Lyon (2006) calls the *voyeur gaze* within companies. In fact, this type of surveillance is so perfectly integrated, it has become almost natural within the culture, which tends to support decisions made by companies to install surveillance technologies (Lyon 2006) and solve problems related to surveillance (Koskela 2003).

While describing this disciplinary technique, Foucault connects the visibility of architecture with the economic logic of profitability (Hatchuel 2005). From an organizational perspective, the *electronic eye* (Lyon 1994) posed on workers' bodies is in line with the logic of detecting and correcting the slightest imperfections in employee performance. When repeated every day, this can harm both the profitability and stability of the company. The camera therefore is conceived as a crucial economic operator (Foucault 2010a).

Video surveillance directly touches upon different issues concerning individualism as a value for privacy, even when the aim is to protect citizen. The empirical study by Monahan found that respondents expressed uncomfortable feeling when subjected to a scrutiny (Monahan 2006b). The idea of power is always at stake. It also sounds obvious at first to say those who conduct surveillance have more power than the surveilled (Hagen et al. 2018). But what kind of power are we talking about? Or more precisely, the power to capture what?

Constant and invisible, the device that constrains by glances (Foucault 2010a) is served by highly developed cameras that improve everyday (Kolekar 2018). It serves the immaterial potential of a "generalization of panopticism" revealed at its peak in late capitalist society (Foucault 2010a). But beyond its architecture, and so behind the object itself, is its mode of penetration of power, which reveals much of interest. It specifically responds to two main characteristics. First, as suggested by Foucault, video surveillance exercises a power that is indiscreet because present in any place and in any instance. Second, it operates mainly in silence, rendering it discrete at the same time (Foucault 2010a).

The discretion-indiscretion dynamic is tinted with an interesting symbolism when exercised within the workplace. Today, one cannot reduce video surveillance to the digital information it captures. As technology allows the eye to control everything at the lowest cost (Hagen et al. 2018), it potentially allows the observer to exercise a force on the body of the observed (Huey et al. 2006). But this power is not only *disciplinary* charged. Indeed, who would deny the sensual dimension that lies behind video materials (Endrissat et al. 2019)? The camera caresses every single move of these bodies as much as it looks at them. Looking closer shows a banalization in the workplace of the manifestation of the desire to engage with that which has always driven the individual: the idea of possessing a body. As Lyon emphasizes while investigating the scopophilia dimension inside and beyond visual surveillance, what he calls the "viewer society" is driven by the pleasure of looking (Lyon 2006). However, in a workplace where the contractual relation between the worker and the employer is legally framed, bounded, and restricted – e.g., a place of prohibition – the eye and its desire embody an even more complex dimension. Such a dimension is a taboo, and as it is difficult to conceive, it is even more difficult to constraint or even assess.

As long as legitimacy is reduced to perceptions and assumptions (Suddaby et al. 2017), it leaves no space, to any analysis of what is almost unseen.

There is nevertheless a moral potential here that could be reached through approaches that seem to be more related to the silent aims pursued by video surveillance. For instance, psychoanalytical approaches reveal that since the gaze is not a vision (Lacan 1973) but a creation that finds its origins and pleasure in deeper dimensions than the optical surface, the gaze in turn emerges *in* a *field* of vision (Cowie 1997). The compulsory gaze of the company could, to a certain extent, be connected to its will to form a unity with *its* workers. Of course, video surveillance builds upon a strong culture of voyeurism (Monahan and Wood 2018). But the individualization of careers, the tendency of workers to pursue their professional development outside the structures drawn and expected by an organization, breaks for its part, the vow of solemn commitment, since it creates a loss wide enough to justify the company hosting a compulsory gaze through surveillance. Successful or not, the resulting need to recreate an osmosis through a fusion of the bodies with the electronic eye procures at least the enjoyment of a capitalistic scopic pleasure in observing employees working for the attainment of the company's objectives. It would be hard to apply any moral legitimacy if this, as suggested by Aldrich and Fiol (1994), remains focused on value judgments. The immaterial dimensions, which are part of the process of surveillance, would render any analysis useless.

As part of the immaterial dimensions, one can cite the camera's silence, for instance. It cannot be sensed; it nevertheless reinforces the diffusion of the intangible power of the *eye that nothing escapes* (Noël-Lemaître 2007). Also, since the eye seeks to reach the body (Foucault 2010b), in its process of seizing an inner grip on it and its subjectivations, power becomes operated by movements that aim at lodging into every inch of what it captures. From a Foucauldian approach, this generates a relationship between people and truth and can be captured as an objectification process in which the individual shapes themselves (Foucault 1997). But at the very moment, the individual can also host this movement drawn by power; they irreversibly become a "place," entering a ubiquitous dynamic where they are now understood as the subject of desire.

In the context of video surveillance specifically, one instinctively acknowledges that the body is more than observed and scrutinized. Questioning what this body is cannot be nonsense. Plunging into Foucault's volume *La volonté de savoir* (*The Will to Knowledge*, the first volume of *The History of Sexuality*), Potte-Bonneville emphasizes the myriad bodies, pleasures, and kinds of knowledge in Foucault, as well as the undeniable changing nature of these bodies, where the kind of body evoked at the end is not the same one found initially (Potte-Bonneville 2012).

In his analysis of Foucault, Vihalem (2011) describes a body that is considered the object neither of autonomous knowledge nor of distant power. Rather, it is a field of application of the involvements that come from both knowledge and power, revealing the body's potential to be the *place* where these intersect (Vihalem 2011). More than a point of convergence where every optical beam ends, the body is also the place from which everything begins.

We should say that we are less interested in the polymorphous definition of the body than in its potential to be, as evoked by Potte-Bonneville's reading of Foucault's *The Will to Knowledge*, the "from where" we perceive things in their place, revealing a subject that is both the "source" and the "rule" (2012:84). As recalled by Bardon and Josserand (2018), Foucault refuses the perspective of any fixed binary opposition that could exist between the subject and the object. Therefore, the body is not only the *place* enveloped by the electronic eye. Rather, behind the object, silently infused and disciplined by power, it is a subject from where *everything* starts inhabiting space(s).

Subjectification and Visual Potential: Behind the Incompleteness of Surveillance

Since technology is an operator in video surveillance, the eye of the camera, as the product of both technology and surveillance, could be approached as what mediates attention. Thinking of video surveillance as a mediator of attention makes it conceptually easier to intellectualize its potential to focus attention on specific moments and places and to conceive how this may be integrated in the subjectification process.

In *The History of Sexuality*, Foucault describes subjectification as an "opération artiste" (Foucault 1984) implying threefold attention – to oneself, to others, and to the world. What are the mechanisms at stake if this dynamic were to be transposed into the context of video surveillance? To answer this question, we should interpret subjectification's threefold attention from the perspective of the material origins of the glance, its surface of application: the vision itself.

The individual is mingled both with the world and the other (Merleau-Ponty 1964b), and our very relationship to the world comes through the flesh (Merleau-Ponty 1964a). The body thus is more than simply visible; it does not only represent "our anchorage in the world" (Merleau-Ponty 1962: 167). As suggested by Vihalem (2011), the body is where the world anchors. The body is subjectified, liberated from its corporality, and subjugated at the same time all while keeping its flexibility (Vihalem 2011).

One could therefore redefine Foucault's idea of attention as constructed around a movement where the self-seer is the embodiment of an attention to the self, the seen; an attention to the other, the seeing; and the attention to the world – all three forms of attention intertwined at the same time, since the visible is endless, nurtured by the invisible (Merleau-Ponty 1964a). Attention communicates itself with a movement from the inside to the outside and vice versa (Hoffmann 2010).

The body is at the same time flesh and place, in an intertwining that embraces the threefold nature of attention. But when the eye of the camera enters into action, it observes the body apprehended in its function, contextually situated in the working environment. The monitoring is then based on a strict frame of reference which, from its perspective, will assess what is within the norm or not. Thus, surveillance in itself is no longer simply about identifying and reporting deviant behaviors, though it still definitely does such tasks (Wood 2012). Rather, it is about imposing its dichotomic charge through its capability of evaluating whether the individual sticks to the rules or not (Lyon 1994). As Foucault indicated, the apparatus labels the subjects (Foucault 1977). From these very separations, individuals render the values and meanings of what they do (Foucault 1985). But most importantly, the camera becomes the expert in these assessments. Therefore, it will also impose a system of norms on workers, becoming a sort of black box that is external to the legitimacy system. This black box, in turn should be understood in its immaterial form, which seems to be only accessible through moral legitimacy.

Indeed, the camera is perceived as the savant gaze, the one that Merleau-Ponty (1964b) described as defining scientists who describe realities according to the acceptation of a univocal truth, leaving no space to perception or experience. In the workplace, the eye of the camera and its disciplinary project seizes from its perspective a visible body to observe unruly features and practices and to correct them, while, through its movement, infusing norms that are in turn internalized by the flesh.

But then what, in the last analysis, does such an eye capture? What it emphasizes its attention on. Thus, rather than a behavior, or a malleable body that becomes docile under the weight of the eye's movement, what is captured is the internalization *by* the worker of the sole perspective of the camera's savant eye.

However, the individual is "the principle of their own subjection" (Foucault 1977). At the same time that they are an object, they are a subject. Since they cannot only rely on their own perspective, they also cannot only rely on the perspective drawn by the electronic eye and what it suggests. The structure of the camera infuses discipline; however, from its sole perspective, it cannot really infuse power, since this power is just a movement in the world, a part and not a whole, to which the individual also draws their attention and to which they are intimately linked. As Lacan suggests, the individual is not only a punctiform being. In other words, I am in what I observe, just as what I observe is in me (Lacan 1973).

The eye of the camera is also bounded in the subject-object dynamic in which the individual is involved. However, it is a victim of the exacerbation of attention it draws on them, since it cannot capture the individual in its other places, those that both surround the individual and penetrate them at the moment when the movement of the eye is in action. While the eye of the camera is on them, other envelopments are at stake, but these are unknown by the camera.

But the permanent movement of the object within the subject (Merleau-Ponty 1964b) is not just a matter of place. It is also a matter of temporality. For Merleau-Ponty, the subject is in what precedes as it and in what follows, anchored in a before and an after (Petitdemange 2008). The eye of the camera seizes the worker at a point in a specific place, restricted to a specific time, while the subject-object relation is for its part integrative of the attention to the self, the other, and the world.

The body is therefore declined into places that are anchored in a before and an after which cannot be seized by the eye of the camera.

How can we now translate this from a visual perspective? When the eye of the camera is on the worker, what the worker sees and what contributes to their construction escapes the eye of the camera. If the camera directs its attention on the individual as an object to exercise a disciplinary effect and then generates the internalization of a control exercised on their body, the only way the camera captures them as a subject is in this place, which hosts what they can apprehend from the coercive power their body can reproduce. In other words, only the seen is captured from this perspective.

As long as the eye of the camera is on the body, it is deprived from access to the entire reality and subtleties of the individual's world, constructed around what their gaze perceives and what their eyes envelop in those places at the same time that they are impregnated by them. Visually speaking, the position of the individual's eyes determines what places these will embrace. Between the electronic eye (Lyon 1994) and their eyes – which are their point of observation – lies a gap in the eye of the camera. This space could, for its part, host the constitutive parcels of subjectification. This gap is the place of an experience beyond what is sensible, in which power cannot assert itself.

The Provocation and Its Logic

Attention to others is essential in the constitution of oneself as a subject (Brugère 2003). Self-knowledge is intrinsically linked to knowledge of the world and to the governance of others. As a matter of fact, the knowledge of the parcels the worker's eye can access, but which cannot be reached by the eye of the camera, are also part of this self-knowledge. The eye of the camera can only access the visual residue left by these unattainable parcels, and that includes what is beyond the vision of the camera.

However, if only visual residues are captured by the camera, there could be no need to warn that companies should be careful about their surveillance practices. If the extent of their practices is technically limited, companies can remain perceived as legitimate actors and get what Baumann-Pauly (2017) would refer to as social acceptance. Nevertheless, it is not the case. Video surveillance still manages to exert a certain control and discipline on a body, despite this sensitive flaw. Technical failures have already been connected with surveillance technologies. As an example, one can refer here to the case analyzed by Wood, where incorrect identification of criminal profiles occurred, showing to a certain extent the fallibility of technology (Wood et al. 2006). However, our idea of a sensitive flaw, for its part, is more interested in putting a name on that which cannot be seen by nature.

Indeed, the relationship of the individual to their world spontaneously comes through the flesh (Merleau-Ponty 1968). The worker, in fact, only conceives themselves as the object or the subject, disconnected from the dynamic movement in which they are engaged. They are thus well-involved within their flesh but not within the *place* they occupy. As a consequence, their attention to themselves, the other, and the world is articulated in a timely progression rather than anchored in a dynamic movement. Broken, the dynamic movement which is at stake in the subjectification process will allow the camera to emphasize the specific attention the latter requires for the infusion of discipline.As a condition, the self must undergo the determinations suggested by the emphasis drawn by the electronic eye's attention. As noted by Potte-Bonneville's reading of Foucault, the determinations do not only come from the outside; the self is nurtured by society but it also nurtures itself (2009).

The Eye of the Future and the Place of Moral Legitimacy

Technology is undeniably part of the world of the individual. Since the subject remains immerged in matter and cannot escape it (Merleau-Ponty 1964b), we would like to pursue this investigation with a fictional case that may be in line with what could be called the *eye of the future* in the workplace. The aim is to challenge our approach and see how still relevant (or not) the visual reading we suggested earlier may be.

The improvement of technology creates incredible ways to provide absolute surveillance at the service of an organization. From this perspective, the eye of the camera may be relocated within our eyes in the future. This would confer onto video surveillance the privileged place of our point of observation. The eye of the camera would then have access, at the same time as we do, to the reality we embrace. However, if this becomes so, several problems would occur.

One should be reminded that video surveillance, in order to control the worker and discipline their body, requires the camera to capture the individual in their *direct working environment*, for which it needs an external perspective that builds the known context. Otherwise, the visually captured worker, *deprived* from the context of their working environment, escapes the very aim drawn by the gaze of the camera. The external contextual elements are at the core of the relevant exercise of the electronic eye's power. In this context's absence, rather than being captured as a worker, the individual would only be seized as an individual.

In workplaces, the raison d'être of video surveillance (or the main one out of many) is to assess the right application of norms set in accordance to a specific guide that can only make sense in the environment it is entitled to preserve – here, the organization. As a result, the electronic eye may thus only offer a continuous monitoring without any disciplinary outcome.

Of course, one may think that in addition to the camera located into the eyes of the worker, other cameras could be located in the physical environment, connecting all of the information in real time. However, if the eye of the camera is located in the eye of the worker, it undeniably becomes part of the *place* to be surveilled, creating the paradox of a surveillance system *surveilled* itself. The interesting fact with this fictional case is that it shows that video surveillance cannot technically reach an absolute monitoring of workers. Nevertheless, one should not take for granted this practical fact, but rather think of the consequences exposed earlier and which relate more to the "internalization" of this surveillance by workers. In a context of technological developments, the pressure to control workers would be even greater. However, the legitimacy logic remains encapsulated in a system that oversees the importance of the moral dimension. Therefore, as long as companies engage in surveillance practices that do not visibly harm workers, there are great chances that insidious practices that hurt the subjectivation process remain silent as these do not have any negative *measurable* reach.

This sheds light on a crucial point: as long as the legitimization of surveillance practices depends on measurable actual facts, the values and norms to be applied to surveillance in the workplace will remain hard to conceive. However, if we extend the spectrum of moral legitimacy to immaterial aspects exacerbated by technology – for instance, human consciousness in the dynamics of subjectification – what is now considered as acceptable practices would fall out of a system of values and norms.

As a result, in order to rethink the system in itself, the immaterial impacts of practices allowed by video surveillance, new approaches to legitimacy should be applied. If moral legitimacy can only exist if the actions of the organizations are in line with social values (Suchman 1995), there is a need to think of the values induced by new surveillance technologies, to be able, in turn, to analyze new moral paradigms.

Discussion

This contribution opens a new window into the analysis of video surveillance in the workplace. Driven by philosophical as well as ethical considerations, our approach dives into the subjectification process, in a context of electronic surveillance as well as the logic and implications drawn by this. We propose a visual reading of power and its infusion, including Merleau-Ponty's philosophy of perception.

Video surveillance at work has long been approached as a managerial version of the panopticon; the idea of its ubiquitous control pushing workers to self-discipline, shaping bodies to stay in line with the organizational logic of profit, is no longer questioned. Indeed, video surveillance seems to respond perfectly to what Foucault described as the ideal of capitalistic control: allowing maximum surveillance at the lowest cost (Noël-Lemaître 2007) and reinforcing the docility of bodies for the sake of the capitalist system.

But this contribution was not interested in assessing or resisting the effective coercive control video surveillance may have on the body. We were interested in investigating the depth of surveillance through a case that offers a visual reading of the attention surveillance pays to the self, the other, and the world while an electronic eye scrutinizes the worker.

Surveillance technology cannot be limited to a threat from the sole perspective of the power infused by it. We adopted the Foucauldian approach of a technology acting as a provocation to elaborate on the role video surveillance plays. We therefore focused on the knowledge of what we identified as a gap: the constitutive parcels of subjectification that escape the electronic eye, but which remain at the core of the subjectification process even in a coercive context.

In that sense, the present contribution reconciles with the Foucauldian invitation to go further than the current acceptation of video surveillance, reiterating that the body cannot be reduced to a simple and flat materiality (Vihalem 2011). Just because video surveillance serves as a means of social control (Lyon 1994) does not mean that its extent should be limited to this function. The individual may draw from it and from the spaces of creation it enables.

As argued by Sewell (2012), there is an inconsistency behind the fact of solely distinguishing whether the surveillance is prophilactic (aiming at serving everyone) or coercive (Sewell 2012). Rather, as part of our ethical position, we questioned the technology in terms of its potential *for* the individual.

We have entered an era where the importance of a knowledge transcending the sole materiality of the flesh has been revealed, ironically, by technology.

There is still, we believe, this striking paradox in surveillance. Nothing of what it *observes* escapes it. Without a doubt, a part of the individual relationship with the world, its places, and its things, which are actively involved in our subjectification

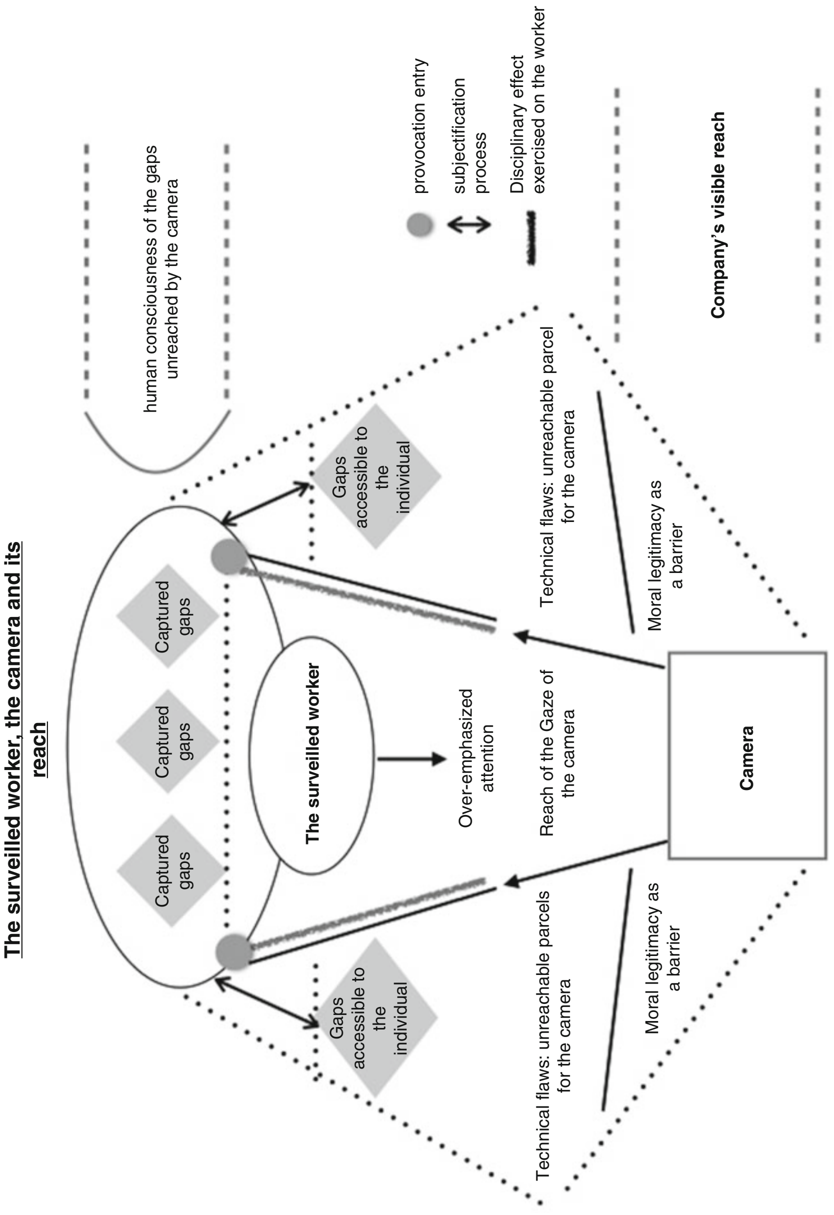

Fig. 1 Moulaï Videos Surveillance Ethics Model (MOVISEM)

process, slip between the eye of the camera and the scrutinized worker. This reveals what we called a *technical flaw* in video surveillance. The individual needs to conceive of the overattention drawn by the camera to find that it provokes the knowledge of those parcels and their dynamic. These are, in turn, constitutive of the individual's world and invites them to rethink their relationship with themselves.

It is precisely here, we believe, that moral legitimacy has a role to play. With our analysis, and the unsuspected extent of these gaps, we identify the need to offer moral legitimacy a fresh look. Under the impetus of technological developments, workers will engage in new strategies to escape their condition of surveilled bodies and reconnect with themselves in a subjectification process. While the organization cannot access these *gaps*, one of the main roles to be played by moral legitimacy in the future is to ensure that the (human) consciousness of these gaps will escape the company's control. This disambiguates moral and ethical forms of legitimacy.

While our fictional case, the "eye of the future," proves that any intrusion in workers' gaps, is technically impossible, we believe that new technologies will allow at least the internalization in workers' minds that these gaps *are* accessible. Therefore, surveillance practices and the aforementioned threat can only be refrained with moral legitimacy. The non-fixed nature of legitimacy will indeed allow to integrate new values inspired by constraints induced by new technical developments. These can make the protection of human consciousness a core prerequisite in what, as would suggest Deephouse and Carter (2005), organizations should or not do. Finally, we have created our own model in order to summarize our findings and analysis. Our analysis allowed us to develop the Moulaï Video Surveillance Ethics Model (MOVISEM) (Fig. 1).

Conclusion

The issue of surveillance is not only critical and controversial. Deeply influenced by the creation and use of some forms of technologies, especially ICTs, within corporations, it has become more than ever both a philosophical and ethical question, especially when it comes to the subjectification process. However, the project of this investigation was not to elaborate on a subjectification logic to be investigated in the margins of video surveillance. We rather approached the moral *black box* to look more closely at video surveillance in terms of its *potential* for the individual.

We conducted a theoretical investigation that starts with the invitation made by the Foucauldian approach to disciplinary power and subjectification. The conceptualization of video surveillance as an architecture of control has been progressively transcended and reconnected with a perceptual reappropriation of surveillance's intertwining threefold attention with the worker's subjectivity. Elaborating on a dynamic of *parcels* at the core of the attention to the self, the other, and the world, we demonstrated that the electronic eye can only capture an incomplete reality of the surveilled body. We then showed that technology acts, as suggested by Foucault, as a provocation for human consciousness. We finally argued that this logic which is growingly emphasized by technological developments needs more than ever to be supported and included in the matrix of moral legitimacy to be embraced by companies.

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Legitimacy of the Right to Form Digital Labor Union/Association in Developing Economy

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Prabir Kumar Bandyopadhyay and Bhavna Pandey

Contents

Abstract

The platform economy is the buzzword in today's world. Platform worker, particularly the transportation sector, is affecting the daily life of people in cities around the world. It started with great promise for the actors, the drivers, and there

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was a rush to join. Gradually the drivers realized the power of the operators and how they control the whole business without taking much responsibility. Resentment started, across the world. The cry for an institution to raise their voices is very loud. In this context the present chapter examines the legitimacy of forming a union by the gig drivers. It is argued that while there is a need to bring the drivers under a union, a lot need to be done to gain the trust of both the drivers and the users in its value of delivering social justice.

Keywords

Gig economy · Legitimacy · Trade union · ILO

What Is Legitimacy?

There exists no single construct or definition of legitimacy in literature. Huge amount of discussions, debate, and deliberation on legitimacy exists in extant literature. Our objective is not to derive a rational definition of legitimacy out of the literature but to find out a practical approach of establishing legitimacy in our day-to-day work. In the process we consciously avoid philosophical discourses.

According to Maurer organizational legitimacy is a process whereby the organization justifies its right to exist to its peer group and also to the larger societal institutions, which he called as superordinate system (Maurer 1971). In other words, legitimacy is an assumption that the actions of an entity are desirable and appropriate within societal norms, values, and beliefs. As different societies are having different norms, values, and beliefs, what is legitimate in one society may not and need not be legitimate in another society. Perrow has justified occasional departure from societal norms by an otherwise legitimate organization without losing legitimacy as such departures do not draw public disapproval (Suchman 1995). Thus, legitimacy is a function of collective value and belief independent of individual observer. As, for example, in India, often it is reported that the private healthcare units do not release dead body of a patient without getting the financial dues cleared (NDTV 2011). Many health workers and individuals believe that such actions are unethical but the organizations do not lose its legitimacy as such actions do not result in reprisal by regulatory authorities, though in many occasions courts and government authorities disapproved such actions. One Indian state, West Bengal, has passed a bill, which prohibits hospitals from taking such actions (Times of India 2017).

Suchman defines legitimacy as “Legitimacy is a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions.” Analyzing divergent views of legitimacy, Suchman identifies three forms of legitimacy: moral legitimacy, pragmatic legitimacy, and cognitive legitimacy (Suchman 1995).

Moral Legitimacy

An activity attains moral legitimacy from its positive effect on societal welfare – from the social benefit point of view whether the activity is “the right thing to do,” and its alignment with the socially constructed value system (Aldrich and Fiol (1994) and Parsons (1960)). Suchman brought two subtypes of moral legitimacy: c*onsequential* and *procedural* moral legitimacy (Suchman 1995).

Consequential legitimacy is judged based on what an organization has accomplished in terms of the criteria that are specific to that organization. Procedural legitimacy is earned by an organization by adhering to socially formalized and accepted procedures (e.g., regulatory oversight).

Pragmatic Legitimacy

Pragmatic legitimacy concerns with the activity’s beneficial effect on its immediate audience. It boils down to the expected value of an organization’s policy to a particular set of constituents (Wood 1991). It examines whether the organization achieves its intended outcomes. In other words, pragmatic legitimacy rests on the self-interests of an organization’s constituencies.

Cognitive Legitimacy

Cognitive legitimacy is defined as the acceptance of the organization as necessary or inevitable, like schools, hospitals, and agriculture. “The antecedents of cognitive legitimacy of an organization are the history and prevalence of its particular organizational form” (Bitektine 2011). Cognitive legitimacy is defined as the acceptance of the organization as a primary requirement for the society.

Definition of Trade Union

As per the International Labour Organization (ILO), “A trade union is an organization based on membership of employees in various trades, occupations and professions, whose major focus is the representation of its members at the workplace and in the wider society. It particularly seeks to advance its interest through the process of rule-making and collective bargaining” (Robert L. Morris 2002).

Levine describes labor unions are nonprofit associations but also coercive economic agents; working-class communities but also powerful special interests; and embodiments of rights but also incompatible with certain individual freedoms (Levine et al. 2001).

At the global level, the International Labour Organization (ILO) is the only tripartite UN agency that brings together governments, employers, and worker representatives of 187 member states with an objective to develop policies and promote decent work for all. All the 187 countries which are signatory to the decent work agenda have some form of legally recognized trade union/labor union. Considering the role of ILO, we may consider ILO's definition as the standard definition of trade union. The legal definition of trade union varies from country to country, and each has set rules and code of conduct for trade unions.

By and large the main objective of a trade union is to promote the interest of its members, due to justice being paid to the interest of the total labor force maintaining the greater national interest in view.

Though the legitimacy of trade unions is both rooted in history and institutionalized by law, the legitimacy of trade union is questioned by different governments time and again. Dufour and Hege have argued that the crisis of trade unionism is more from internal legitimacy (Dufour and Hege 2010). Hence, a discussion on legitimacy of trade union in the context of business is required before we deal with issue of legitimacy of trade union in gig economy.

The Concept of Legitimacy in the Relation Between Trade Union and Business

Gary Chaison and Barbara Bigelow establish legitimacy of trade unions analyzing five case studies: the UPS strike, the organization of clerical workers at Harvard, the AFL-CIO associate membership campaign, the fight against NAFTA, and the Massachusetts Nurses Association Campaign for Safe Care (Chaison and Bigelow 2002). They argued that there exist reasons for “trade unions to move beyond pragmatic concerns and link their activities to the broader interests of their constituencies, demonstrating not only that they offer something tangible in return for support (pragmatic legitimacy) but also pursue goals of social value, which are seen that they are doing the right thing (moral legitimacy)”. The authors stressed that legitimacy is established more strongly when union plays bigger role in addressing the social cause in addition to the pragmatic concerns, while it may start from pragmatic view. They even argued that unions can loose on their pragmatic gains, but win when they “fight the good fight,” thereby gaining moral legitimacy.

There are quite a few instances from India as well, when trade unions have shown their concerns over bigger issues that the country is facing. On 23 October 2018, representatives from different trade unions discussed the challenges posed by governments' trade agenda at WTO, FTA, and bilateral investment treaties (BITs) to employment, trade union rights, and national sovereignty (psi 2018). The five unions of Coal India wanted the outsourcing policy revoked (Singh 2013). Ten lakh employees of various public sector and some of the private and foreign banks under UFBU, an umbrella organization of nine unions, including the All India Bank Officers' Confederation and the All India Bank Employees' Association went on a daylong strike in January 2019 to protest against the proposed merger of Vijaya Bank and Dena Bank with Bank of Baroda. The unions are claiming "This merger will see a large number of branches getting closed and customers will have to face hardships as already banks are burdened with the implementation of various government schemes such as Jan Dhan Yojana, Mudra, social security insurance, and Prime Minister's housing scheme, among others," and will be detrimental for both customers and bank (Economic Times 2019).

There are other parts of the story as well! Enough evidences are there in the case of India, and with the introduction of contractual workers, the quality of jobs and average wage comes down heavily. It is also a fact the trade unions are not sensitive enough toward the issues of contract workers, in India. Therefore, in quite a few instances, contract workers have fought against the trade unions, which may otherwise be interpreted as the question of legitimacy from the utilitarian and moral approach (Ness 2016). Unions' inaction against the violation of environmental rules and regulations by their respective employers is conspicuously visible (Bandyopadhyay 2019). Thus, there is a possibility of losing moral legitimacy of trade union in Indian context. Public sympathy toward trade union activities is declining (Sharma 2019).

Ambiguous Legitimacy Status of TU in India

India has 11 national-level trade union organizations, and apart from these, there are numerous trade union organizations operating at local levels as Trade Unions Act 1926 allows any 7 persons to form a trade union. There is a provision of registration of trade union, but it is not compulsory. In the absence of registration, it is not possible to get a reliable figure on the number of trade unions. We have to keep in mind that no matter a TU is legally valid or not, what matters at the micro level/unit level is the recognition of a TU by the employer organization with whom an organization may engage in negotiation on matters related to working condition or wage or terms of employment. When such is the importance of recognition of TU, there is no central legislation on recognition of TU in India even after the enactment of TU Act in 1926. In the absence of any statute toward TU recognition, recognized TU does not enjoy any legal legitimacy, and withdrawal of recognition by the management does not violate any law (Karpagam 2019). Though several commissions were constituted to examine the issue, some of the commissions have recommended that TU registration and recognition of trade union by employing organizations must be made mandatory. There are a few states of India which have brought regulation on recognition of TU, but there is no parity among the state laws, and still the process of recognition of TU is at the discretion of management. 1947 TU Amending act provided compulsory recognition of the representative unions by the employers, but this has not been brought into force as it was not notified. It is in this context ratification of ILO Conventions 151 and 154 by India is so vital, which India has not yet done.

Gandhi as a Trade Union Leader

History of trade union movement in India goes back to 1918 when M.K. Gandhi led the first worker strike in Ahmedabad Textile Mills. He examined the demands of the workers after studying the financial positions of the mills and demanded 35% wage rise. He sold the idea of tripartite arbitration, which was the first of its kind, and convinced the mill owners to agree on this arrangement. Thus, he first introduced the role of arbitration in industrial relation. But the process of arbitration failed due to noncooperation of the mill owners. At this point workers declared strike, and Gandhi agreed to lead them. When he found that workers' morales were going down, he decided to go for his first satyagraha, "fast unto death," which forced the mill owners to meet the workers' demand. Gandhi stressed that the strikes shall be nonviolent and based on "truth." Gandhi's idea was labor and capital are supplementary to each other and both are trustees of the resources including capital and both should work for the common good. He also elaborated the duties of trade union:

(a) "To make arrangement for educating both men and women. This is to be regularly undertaken through night schools.
(b) Children of the labourers should be educated.
(c) There should be a hospital and creche and a maternity home attached to every centre
(d) Labour should be able to support itself during the strikes." (Varghese (2019) and Nanda (2004))

Thus, Gandhi's views on trade union support the *pragmatic legitimacy* of trade union.

Truly speaking Gandhi's concept of trade union, though very unique, is nowhere totally followed including in India. Some of jobs, which were earlier under the purview of the Trade Union are now being taken over by the Human Relation Department of the organizations and also by NGOs. In fact, there are cases where NGOs and the unions have fought court cases to settle the matter.

Legitimacy of Trade Union in Global Context

Levine pointed out that the legitimacy of union needs to be established against the utilitarian's argument that trade union undermine social welfare as it hampers market efficiency and also libertarian' argument that unions override individual's rights of expression and contract.

People can express dissatisfaction with the organization in two ways, according to Hirschman's theory – by using "exit" or "voice." The option of exit is very limited with the working class. Working class as a whole will benefit from a strong voice when they are organized, though an individual member may lose the rights of expressing their individual opinion. Trade union as an interest group is valuable to the society as a whole as they can generate strong debate. In the absence of union, the corporation and individually wealthy persons predominate. Thus, union insures more balanced debate in a democratic society. There are ample evidences across the world that trade union may force mass media and legislators to debate issues that may otherwise be ignored. It is for the union issues like minimum wage, job security, and safety at workplace are on the national agenda. Apparently increase in inequality in the USA since 1973 is partly due to the result of shrinking unions. Levine argued that "if investors can create corporations, then perhaps ought to be able to form bargaining units." Thus, existence of unions allows workers to discuss the economic conditions of their own lives, to debate on coming to consensus on actions for bettering their situations in their mutual interest (Levine et al. 2001).

Levine concluded

> Unless one adopts radical and controversial moral principles or contentious interpretations of the empirical data, it appears that unions are at least as legitimate as other institutions are. Workers have the right to join them and to form new ones by majority vote. Indeed, unions are good for the nation because of their civic, economic, and political effects. (ibid.)

Thus, Levine justifies the legitimacy of union from morale legitimacy theory.

Onaran et al. have argued that growth in the European Union, including the UK's economy, is "wage-led," and they also claim that decline in union density has reduced UK GDP by 1.6%. Thus, the UK has paid a heavy price for anti-union policy. They suggested that trade union must be made as an essential part of sound economic policymaking body (Onaran et al. 2015). Burnett argued that the type of union activities in the USA in the twentieth century, which gave them prominency in industrial relation and even in legitimacy, will not work in the twenty-first century with decline of US labor participation in economy. Burnett also argued that trade unions should reinvent themselves with new mission of satisfying the needs of both of its members and the companies for which they work (Burnett 2015). Here we find a great semblance with Gandhi's views on trade union which he professed exactly a century ago. Though issues like unions may not benefit poor people outside of their jurisdiction when conflict arises with their own members, their apathy toward the contract workers and freedom of dissenting workers remain to be resolved. Perhaps organized union should ponder on these issues more logically and reflect on the role they play in different situations.

What Is Digital Worker

Digital worker is commonly known as "gig worker." In this chapter we will use both the terms synonymously. In order to understand digital worker/gig worker, we have to understand what is gig economy. Donovan et al. (2016) have defined gig economy as "The gig economy is the collection of markets that match providers to consumers on a job in support of on-demand commerce." As gig economy invariably uses technological platforms, we include "platform" in this definition. Thus, we define gig economy as "The gig economy is the collection of markets that match providers to consumers on a job in support of on-demand commerce using technological platforms where platforms play the role of an intermediary at some transactional cost." The nature of the job done by digital workers varies from intangible to tangible like transportation in which Uber is the most visible platform. In this chapter we will consider the issue of Uber/platform drivers as they are the largest homogeneous group of gig workers. Another reason to consider in this group is "Uber technologies Inc. does not treat its drivers expressly as external suppliers of an outcome: the control of drivers is strong even though managed by an automated system."

The companies that manage gig work opportunities are characterized by the below activities:

Collect a portion of job earnings.
Control the brand.
Control provider-client relationship.
Thus, gig work is different from freelance work as the gig worker is not building their own brand or their own "business" (ibid.).
So, gig work is not time-based employment, and profit-based self-employment makes gig work difficult to classify in traditional models.

Why Transportation Sector?

Aggregators in personal transportation sector are the most impactful platform work, and the Ola and Uber are the best-known cases in India (Rina and Anjali 2018).

Transportation is the sector, which involves largest number of gig workers. In transportation sector Uber is the most visible platform around the world. In this chapter we are focusing only on transportation sector.

Uber a ride-hailing app has contributed in a major way in disrupting conventional taxi business around the world since its start in 2009. It is the most prominent player in the gig economy. Globally 15 million Uber trips are completed each day in 65 countries including India over 600 cities. Apart from Uber there are a couple of other operators too like Lyft, Grab, Didi Chuxing, and Ola, which are quite big in market size. Uber has about 3 million drivers around the world, Lyft has 1.4 million drivers, and Didi Chuxing has 1 million drivers. In India Uber and Ola are the major players (Uber revenue and usage Statistics, 2018). In Mumbai the number of conventional taxis has come down from 55,000 to 20,000 on roads. According to the Mumbai taxi union leader, this decline is largely for two reasons: the aged taxi drivers are selling their permits to online cab operators, and young drivers are facing difficulty in getting the mandatory license badge for not having 15 years of domicile certificate. He feared that a large number of taxi licenses will be sold to the fleet cab operators. Ola and Uber control 90% of cab market in India (Chatterjee 2018). A study shows that there is a fall in income of about 10% among conventional taxi drivers, but it resulted in 50% rise in the number of platform taxi drivers in a city. Therefore, platform-based taxi services created more jobs than it has destroyed (Gaskell 2017). An interaction with Ola and Uber drivers also reveals that due to cab aggregator, the number of taxi users has gone up. The most prominent driving factor of increasing the market size may be attributed to the taxi scheduling algorithm, which facilitated better matching between demand and supply and capacity utilization, in terms of paid journey time at affordable price (ibid.).

Working Condition and Income of Platform Drivers

Initially the Uber/Ola driver's income was relatively high. There are instances where a driver has earned INR 100,000 in a month, and it varies from 20,000 to 60,000 (Rina and Anjali 2018). Discussions with a limited number of Uber/Ola drivers in Pune and Mumbai indicate that in Pune if a driver works for 12 hr and drives about 250 km, in all the days in a month, he can earn about INR 35,000 net of commission and EMI and fuel cost, while in Mumbai the net earning is INR 15,000–16,000 PM by working 6 days in a week. At Pune the anecdotal evidence suggests the net income of a gig driver is about 17,000 PM with 6 days of working. According to a driver in Delhi, his net income per day is INR 1000 per day after working 14–15 hr at present. The income was much higher earlier, he informed, and the incentive was also high (Times of India (May 2019)).

The main motivations to join aggregators are as per conversations with a few drivers and literature:

1. Easy to on-board
2. No fixed duty, no boss. Easy to log-in and log-off
3. Opportunity to work more and earn more

But just after joining, soon they realize the scenario is different, though theoretically all the above three points are valid, but in practice they have to work continuously and cannot take a break as per their wish if they want to earn the money they expect and the incentive. If they cancel trips, then their rating comes down resulting in getting less number of trips. Thus, the system destroys the flexibility of working hours and earnings, and mostly, they are pushed to work round-the-clock to meet targets and get eligibility to earn incentives (Rina and Anjali 2018).

Users' Experience

Compared to usual metered taxi services, users, particularly the young groups who do not have issue in using the apps, are largely happy – the easy availability, relatively less fare and comparatively polite drivers as most of them have bitter experience of rogue practices of auto and taxi drivers – arbitrary fares, refusal to go (ibid.). To the extent it is an issue that in Kolkata there are taxis known as no-refusal taxi, but experience suggests they also refuse. Even people are preferring Uber/Ola instead of auto. This has resulted in a lot of disputes with auto drivers and Uber and Ola are now registering auto as well and more and more auto drivers are registering with Uber/Ola in Pune. In Pune, a short survey was conducted among 25–30 years of frequent users, both male and female. Total number of respondents were 100 – 42% are in favor of forming unions of the drivers, 36% are not in favor of forming union, and 22% are neutral.

Resentment

Johnston H and Kazlauskas C have pointed out several key concerns on the quality of gig work – lack of employee protection under the existing labor law, low earnings, nonpayment, lack of social protection, and lack of voice (Johnston and Kazlauskas 2018). And there is enough evidence of unhappiness of the Uber drivers around the world including India.

Uber drivers in Qatar went on strike in 2017 to protest a 15–20% rate cut of passenger fares, which cuts the earning of the drivers. They are also unhappy over the cash payment as several passengers are skipping out on fares and Uber does not compensate. Uber taxi drivers have announced a "wildcat" strike in Rome, Turin, and Milan (Yvkoff 2017).

Uber drivers went on a 24-hour strike by not signing into the app in October 2018 in London, Birmingham, and Nottingham (Reuters 2018).

Uber drivers across several US cities had gone on strike in November 2016 demanding to be paid minimum wage. "Protests are supposed to be taking place in cities such as Denver, Boston, Miami, Chicago, Los Angeles, New York City, and San Francisco." "Uber drivers will march in solidarity with others and aim to disrupt service, thereby highlighting to riders the important roles these service people play in daily life" (OfficeChai Team 2017).

In October 2018 Ola and Uber drivers went on strike over the issue of low fare in Delhi and Mumbai. "The companies don't understand the issues drivers face . . . they have reduced fares when they should be paying a higher rate," said Sunil Borkar, secretary at Mumbai taxi drivers' union Maharashtra Rajya Rashtriya Kamgar Sangh. The strike went on for 10 days (Sen (2018) and Shah (2018)).

The key unions in Mumbai are Maharashtra Rajya Rashtriya Kamgar Sangh, Maharashtra Navnirman Kamgar Sena, and Marathi Kamgar Sena. In March 2019, Uber and Ola drivers again went on strike.

"Drivers are in huge debt," said Sanjay Naik, president of the Maharashtra Navnirman Sena political party's transportation union, which organized the strike. At the beginning Uber was asking 10% commission for each ride, which now varies from 20% to 30%. At the beginning, drivers said, companies took a 10% commission from each ride. Now, drivers say they're forced to give back up to 30% (Erickson 2018).

Global Trend of Trade Union Formation by Gig Drivers

The status of gig drivers, employee versus entrepreneur, is largely unsettled across the globe. It varies even within a country-state to state. In UK GMB, a general trade union could convince the authority the "worker" status for the platform drivers and could get a favourable ruling – "The ruling provided 30,000 drivers across the UK access to basic employment provisions including holiday pay, minimum wage, and breaks." In the USA, the New York Taxi Worker Alliance (NYTWA) could convince worker status in specific acses but the issue in general is not settled. The Independent Drivers Guild (IDG) could bring 50,000 Uber drivers under its umbrella and is pursuing the issues of the drivers except collective bargaining. Their strategy is to go in steps. It is a type of union, without collective bargaining. In Europe many unions are working around the rules to cover the unorganized workers including platform drivers under their scope and getting reasonable benefit to them. In Italy Mario Grasso of Sindacato Networkers UILTuCS is taking the sides of the drivers irrespective of their membership status. In Germany, IG Metall, a traditionally export-oriented union, is taking aggressive outreach program to cover the platform drivers under their membership (Johnston and Kazlauskas 2018).

The issue of forming union by unorganized sectors, which include gig workers, is a complex one – it depends on the history of the country, general perception of trade union by the society, and the legal structure of the country. But there is a growing consensus on the need of organizing the platform drivers across the world.

One thing which is really creating obstacle due to lack of "worker" status of the platform drivers is the right to collective bargaining. This is a worldwide phenomenon including India. Apart from the issue of status of employment, consumer interest and antitrust law are also a hindrance for implementing the right to collective bargaining.

The only country which has recognized the issue of gig economy laborers and taken action proactively is Norway. In 2016 it formed "Sharing Economy Committee" by royal decree. The Committee proposed "that service providers in the sharing economy who do not set selling prices directly, and have to comply with prices set by the platform that is used, should have the opportunity to negotiate collective agreements with platform operators, even if they cannot be deemed to be employees" (ibid.). The implementation status is not clear as on date.

Seattle, Washington, USA, passed an ordinance that would enable independent contractors working for transportation network companies (Uber and Lyft among them) to form unions with the purpose of engaging in collective bargaining. Because of multiple lawsuits, the ordinance is yet to be implemented.

In India, there is no problem in forming trade union by gig drivers, but the right to collective bargaining is a big challenge. To have the right to collective bargaining, the union must be recognized by the employer, which Ola and Uber are opposing. Their argument is, as it is anywhere in the world, the drivers are not employees and they are driver partners of business.

The definition of trade union as per the Trade Union Act Section 2(h) is as follows: "Trade Union means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen or between employers and employers for imposing restrictive conditions on the conduct of any trade or business and includes any federation of two or more Trade Unions." As per this definition, even the employers can form trade union though there is none! There are unions of unorganized workers like domestic worker. But as mentioned in section "Ambiguous Legitimacy Status of TU in India," the right to form trade union does not automatically give the right to collective bargaining.

Examining Legitimacy of Trade Union by Gig Drivers

Looking at the work condition of the gig drivers, it is felt that a formal organization for the drivers may help their voice to be heard by the appropriate authorities. The legitimacy is derived from the moral and pragmatic legitimacy. This will help the commuters also from the chaotic strikes that often create huge problem. But legitimacy is to be gained from within and outside. Conversation with the drivers in Pune indicates that though the drivers realize that there should be a formal union for them, they do not have much trust to the so-called leaders. Quite a few drivers said that "strikes are called and we are off the road but with some promise the strikes are withdrawn-may be this is a game that both the operators and leaders play with them as no results is obtained ultimately. The only result is loss of income." They are also of the opinion that Uber is so big an organization that even a successful strike will not result in meeting their demand. They may absorb loss of revenue from one city or even one country! From the user's point of view, users are getting a good service – less rate and polite drivers with minimum refusal. Users anticipate that once they form a union, all these benefits will be gone and these drivers will start behaving like the metered taxi drivers, with whom many have a lot of issues.

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Part XX

Business Legitimacy in Different Parts of the World

Configurations of High Corporate Environmental Responsibility with Regard to Business Legitimacy: A Cross-National Approach

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Abstract

This chapter identifies configurations of CR programs associated with high environmental responsibility. The approach elaborates how institutional fields, particularly regulative and stakeholder pressures, and firms' CR orientations (employee, community, and consumer CR) influence firms to adopt high environmental CR. We present a sample of 573 firms in four European Union (EU) countries: Denmark, Estonia, Finland, and Latvia. The chapter identifies CR program configurations associated with high environmental performance and how this can vary across societal contexts. This chapter contributes to the existing literatures on corporate responsibility and business legitimacy as well as provides insights on environmental strategies adopted by firms.

Keywords

Ambidexterity · Corporate responsibility · Configurations · Environmental responsibility · Institutional approach legitimacy · Stakeholder pressure

Introduction

Since the beginning of the twenty-first century, corporate responsibility (CR) has become an issue that is actively promoted, thereby increasing pressures on firms to adopt CR. Two primary theoretical approaches have emerged to understand and explain corporate social and environmental behavior as an externally driven practice. This research stream relies on stakeholder theory which argues that firms' CR strategies are responses to pressures exerted by various stakeholder groups (Buysse and Verbeke 2003; Darnall et al. 2010; Kassinis and Vafeas 2006; Sharma and Henriques 2005). In general, this research has focused on identifying which stakeholders are perceived as salient by managers and how this then affects firm performance. However, these studies have not directly examined the conditions under which firms are likely to act in socially responsible ways in relation to their stakeholders. Such conditions have been elaborated on in studies adopting an institutional theory perspective to understand cross-national contexts that engender corporate responsibility (Campbell 2007). The institutional approach posits that firms' environment drives their commitment toward CR through formal regulative means and through informal means embedded in norms, incentives, and rules advanced by various stakeholder groups. Advocates of the institutional approach then argue that firms adopt CR strategies in order to secure their legitimacy (Campbell 2007; Gjølberg 2009, 2010; Hartmann and Uhlenbruck 2015; Jackson and Apostolakou 2010; Marano and Kostova 2016; Matten and Moon 2008). However, the institutional approach accords less weight on how different stakeholders influence and pressure firms to act according to certain norms and expectations.

Fundamentally, both institutional theory and stakeholder theory are about business legitimacy. For example, stakeholder theory links the success of companies with their ability to maintain trusting and mutually respectful relations with various stakeholders, whereas institutional theory emphasizes judgments of legitimacy as a precondition for businesses to operate and obtain resources. Because the notion of business legitimacy can be based on fluid and ambiguous norms across societies (Rendtorff 2019), the chapter argues that various configurations of high environmental CR are likely to differ between societal contexts. What remains less emphasized in the previous literature is how both institutions and stakeholders influence the CR orientations of firms, and what types of institutional/stakeholder configurations are likely to result in high environmental CR. For example, social and environmental CR build on different motivations. Even though these motivations are not necessarily conflicting (Hahn et al. 2016), these motivations and their legitimacy for business activity can vary across societies (Kuznetsov et al. 2009). In addition, the complementary effect of different practices and external pressures on firms' CR programs has rarely been examined (e.g., Ni et al. 2015). Thus, much remains to be learned about the possible configurations of external pressures and firm-level CR program orientations that support high environmental responsibility in firms.

The chapter seeks to contribute to the business legitimacy and CR literatures by combining institutional and stakeholder perspectives (Delmas and Toffel 2004; Lee 2011) with firm-level CR orientations (Hahn et al. 2016). Our study is based on a sample of 573 firms in four European Union (EU) countries: Denmark, Estonia, Finland, and Latvia. The EU has aimed to reduce disparities in environmental and social CR across member countries by imposing common legislative standards for all member states (European Commission 2003, 2004, 2013, 2014; Knopf et al. 2011). Whereas this would suggest minimal differences across EU countries, there remains considerable heterogeneity in the economic and institutional environments of these countries. Denmark and Finland have traditionally been regarded as environmentally and socially proactive developed economies, where CR is a prerequisite of business legitimacy and Scandinavian firms often ranked as corporate responsibility leaders (Campbell 2007; Gjølberg 2009; Halme et al. 2009; Koos 2012; Strand et al. 2015). In contrast, corporate responsibility has been argued to enjoy lower business legitimacy in post-socialist transitional economies such as Estonia and Latvia (see Alas and Tafel 2008; Khanna and Palepu 2006; Kuznetsov et al. 2009; Longhofer and Schofer 2010; Steurer and Konrad 2009). The chapter presents these ideas using regression analysis and fuzzy-set qualitative comparative analysis (fsQCA; Fiss 2011; Ragin 2008) to yield a more nuanced understanding regarding the CR program configurations for a high environmental CR orientation.

The chapter contributes to recent scholarly literature by identifying the CR program configurations associated with high environmental performance. Specifically, the chapter identifies how stakeholder pressures and other CR practices increase the likelihood of high environmental responsibility and the requirements for business legitimacy in various contexts.

Conceptualization of Corporate Responsibility Orientations

The conceptualization of CR practices has evolved from a social orientation which encompassed economic, legal, ethical, and philanthropic types of responsibility (Carroll 1991) toward a triple-bottom-line model of economic, environmental, and social corporate responsibilities. As a result, scholars and policy makers generally acknowledge that CR consists of corporate self-regulative activities that contribute to social and environmental welfare beyond solely economic welfare (European Commission 2003; Furrer et al. 2010; Halme et al. 2009; Koos 2012). However, what is regarded as self-regulative/voluntary activity can depend greatly on national frameworks and regulative institutions (Matten and Moon 2008) and whether CR is addressing firms' core activities or are external philanthropic initiatives (Halme and Laurila 2009). These issues have led to calls for a more nuanced theorization of the nature of CR practices and contextual factors.

One main rationale for firms to engage in CR activities is legitimacy. Legitimacy is understood as societal acceptance or the "generalized perception or assumption that the actions of an entity are desirable, proper or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman 1995, p. 574). In order to respond to the needs and interests of stakeholders, firms have increasingly adopted various types of CR practices. In the early days, CR activities were considered to emerge as a reactive response to stakeholder pressures and institutional demands in order to ensure business legitimacy (Wood 1991). Currently, firms are regarded as more proactive actors who are not only actively pursuing multiple strategies for adopting CR, but who are simultaneously shaping the demands of stakeholders and institutions (Banerjee 2003).

Accordingly, research has since focused more on firms' underlying rationale for CR engagement (Aguilera et al. 2007). This approach focuses on how CR orientation can be based on either moral conviction (moral orientation), economic rationalities (instrumental orientation), or social cohesion (relational motives). A moral orientation justifies prosocial behavior as responding to stakeholder demands (Campbell 2007), whereas an instrumental orientation builds on "a business case" that demonstrates the pragmatic legitimacy and financial benefits of social initiatives (Yuan et al. 2011). Lastly, relational motives stem from the desire to promote social cohesion, and government bodies in some countries actively promote partnerships between businesses and societal groups (Aguilera et al. 2007; Campbell 2007).

A recent theoretical extension is provided by Hahn et al. (2016), who proposed a conceptual model that acknowledges the simultaneous existence of motives with the concept of ambidexterity, defined as the "ability to perform differing and often competing, strategic acts at the same time" (Simsek et al. 2009, p. 865). They also modified the model developed by Aguilera et al. (2007) by adding a combined orientation of CR, which explains how certain CR practices adopted by firms do not merely follow instrumental or moral logics but are built on both orientations. The chapter contends that Hahn et al.'s (2016) CR typology is consistent with our argumentation which posits that firms do not engage in CR only because of institutional pressures from coercive rules or shared social norms and beliefs, but also because of the demands of salient stakeholders for managerial action (see Lee 2011). Accordingly, managers can be obliged to seek a balance between demands from multiple, critical stakeholder groups (stakeholder scrutiny) as well as institutional conditions (environmental (un)certainty).

Table 1 depicts the differences and interrelations of moral, instrumental, and combined CR orientations in terms of focal stakeholder issues. This table addresses these three orientations by focusing on four CR practices: customer CR (instrumental), local community CR (moral), and environmental CR and employee CR (combined orientations). This implies that environmental CR and employee CR have embedded ambidexterity that requires a combination of both moral and instrumental logics, albeit with somewhat different emphases (Hahn et al. 2016). Environmental CR initiatives build on moral initiatives used to compensate or enable instrumental initiatives. Specifically, environmental CR combines a long-term moral orientation (e.g., addressing climate change and well-being of future generations) with shorter-term goals (e.g., reducing energy consumption and compliance with environmental standards). In contrast, employee CR initiatives mix short-term orientations and a business case rationale (e.g., reducing insurance and health-care costs) along with moral orientations (e.g., equity, fairness).

Table 1 Orientations of CR

Orientation	Logics, drivers, organizational skills, and time frame	CR orientation	Principal stakeholder groups
Instrumental orientation	Commercial logics, extrinsic drivers, strategic issue orientation and functional integration, short-time orientation	CR activity that benefits for the firm by fulfilling market expectations particularly with a short-term expectation of a payback Example: Customer CR	Primary
Moral orientation	Moral logics, intrinsic drivers, stakeholder engagement and dialogue, long-term orientation	CR activity that addresses stakeholders' well-being on a long-term basis. Example: Local community CR	Societal
Combined orientation	Combined commercial and moral logics which result in combination of extrinsic and intrinsic drivers, both long and short-term logics, link firms more tightly to their operational environments and enable links between strategic initiatives and stakeholder expectations	CR activities that mix long and short-term expectations and combine instrumental rationales (cost savings, minimizing organizational risks and hazards) and moral rationales (common good, environmental and social well-being) Moral > instrumental environmental CR Instrumental >moral employee CR	Primary and societal

Note. Adapted from Hahn et al. (2016)

However, various CR orientations or their acknowledged ambidexterity do not yet explain what leads to firms' high CR performance. The chapter therefore turns the focus to a configurational approach.

A Configurational Approach to Corporate Environmental Responsibility

Institutions are generally understood to be "comprised of regulative, normative, cultural and cognitive elements that, together with associated activities and resources, provide stability and meaning to social life" (Scott 2008, p. 48). Institutions include both formal rules (laws and regulations) and informal constraints (customs, norms, and cultures) that create different institutional pressures for firms to gain and maintain legitimacy (DiMaggio and Powell 1991). Scott (1995) identified three basic "pillars" that structure organizational behavior: regulative, normative, and cognitive. Through explicit guidance, regulations inform the rules, controls, rewards, and sanctions related to firms' behavior. The normative pillar refers to the less explicit system of standards and values, whereas the cognitive pillar includes cultural elements that govern choices often made without conscious thought. According to Scott (2005), the regulatory and normative dimensions deserve special attention from researchers considering the influence of institutional pressures on firm behavior. Research has since found that regulative pressures on firms are positively related to CR adoption (Marano and Kostova 2016). However, regulative pressure is often not enough (Sharma and Henriques 2005); normative pressures are needed for managers to acknowledge the importance of a CR practice (Park and Ghauri 2015) and to generate a common moral consensus that an issue is societally important and addresses societal well-being in the long run.

Whereas institutional theory examines the external forces that lead to organizational isomorphism (i.e., becoming more similar) and enforcement of organizations' legitimacy (i.e., exhibiting socially desired and approved qualities and actions), stakeholder theory is more concerned about firms' interactions with various entities that have the ability and capacity to influence organizational decisions and practices. In particular, managers attend to the expectations and demands of those stakeholder groups that are viewed to be more salient in terms of being powerful, legitimate, and urgent (Kassinis and Vafeas 2006; Suchman 1995). Stakeholder theory proposes that a business can only exist through the interaction, transactions, and exchanges with its stakeholders (Näsi 1995). The firm is then understood as a web of relations among stakeholders (Rowley 1997), with a business being an organizational entity through which numerous and diverse participants seek to accomplish multiple, and sometimes contradictory, purposes (Donaldson and Preston 1995). As such, a business must deliver stakeholder value. Ultimately, the more dissatisfied stakeholders are with business activities, the more likely they will exert pressures on the firm to respond to their demands (Freeman 1984; Näsi 1995). As such, according to stakeholder theory, stakeholders are the main drivers for firms to adopt CR practices.

Stakeholders are particularly important groups in activating normative pressures toward firms, as normative influences typically come from professional organizations and other focal social actors, which define appropriate behavior and standards for group members (Scott 2005). Accordingly, we see stakeholder and institutional approaches as complementary in the sense that stakeholder pressures can be used as a proxy for normative pressures faced by firms (e.g., Berrone et al. 2012). Pressures on firms to adopt various CR practices largely originate from two different stakeholder groups. *Primary stakeholders* are groups or individuals with direct influence on the organization's economic performance (Buysse and Verbeke 2003; Donaldson and Preston 1995). These include internal actors (e.g., management, employees, and shareholders) and external market actors (e.g., competitors, customers, financial institutions, and suppliers). Primary stakeholders have been found to have a positive impact on CR implementation in general (Helmig et al. 2016; Park and Ghauri 2015) and specifically on environmental CR (Darnall et al. 2010; Sharma and Henriques 2005).

Societal stakeholders (e.g., NGOs, mass media, labor unions, and trade associations) represent societal interests and mobilize public sentiment, change public norms, and influence public policy about social and environmental responsibility (Campbell 2006, 2007). Societal stakeholders are not directly involved in the economic transactions of the firm but provide information regarding actual or expected behavior of the firm and whether the firm conforms to expectations of legitimate societal behavior (Sharma and Henriques 2005). The role of societal stakeholders has been argued to be dependent on contextual and temporal issues alongside influence strategies used. For instance, media exposure has been associated with more corporate disclosures of environmental and social activities (Bansal and Clelland 2004; Marquis et al. 2016), but is less influential when media only channels environmental groups' voices instead of being active in opinion formation and agenda setting (Helmig et al. 2016; Sharma and Henriques 2005).

Environmental CR Adoption by Firms

In developing study hypotheses, we combine institutional and stakeholder approaches that highlight the compensatory dynamics in firms' environments that result in high environmental CR adoption by firms.

Regulative Pressure

Governments and regulatory pressure can play an important role in firms' CR adoption decisions by sending a clear signal of their endorsement of environmental practices and by reducing information and search costs associated with the adoption of environmental practices (Delmas and Toffel 2004). However, research on the role of regulatory pressures for environmental CR has yielded particularly mixed findings. Government and regulatory institutions have been found to have a positive relationship (Darnall et al. 2008, 2010; Henriques and Sadorsky 1999) as well as a negative relationship (Hartmann and Uhlenbruck 2015; Kassinis and Vafeas 2006) with environmental CR adoption. More specifically, previous research suggests that flexible legislation for environmental issues facilitates the strategic choice of innovative approaches to environmental protection (Majumdar and Marcus 2001). However, other research has found that regulatory pressures have a significant positive effect on the level of a firm's environmental innovation (Berrone et al. 2013), and that the government promotion of environmental action has a significant spillover effect in firms' adoption of environmental CR practices (Arimura et al. 2011). Dögl and Behnam's (2015) study further suggests that firms' responses to pressure from regulatory stakeholders to adopt environmental CR are not significantly different between developed and transitional economies.

Marano and Kostova (2015) provide a more nuanced explanation by suggesting that regulatory pressures are more consequential in countries that are recognized as CR leaders, or in homogeneous institutional fields where similar attitudes toward CR engender consistency in CR demands. Further, Gjølberg (2010) found support for the influence of regulatory pressure on the development of CR under conditions of high number of critical stakeholders. Such pressure has particularly increased in countries through governing bodies such as the European Union. For example, the recent EU non-financial reporting directive (2014/95/EU) mandates social and environmental reporting for firms with over 500 employees (European Commission 2016). Hence, CR has increasingly become a requirement of business legitimacy. The chapter therefore argues:

1. Regulatory pressures are positively related to firms' adoption of environmental CR practices across countries.

Primary Stakeholder Pressures and Environmental CR Adoption

Research shows that firms respond to the pressures of primary stakeholder groups on whom they are highly dependent (Kassinis and Vafeas 2006; Marano and Kostova 2016). Primary stakeholder pressure is vital for CR practices which are at the core of businesses' focal activities and address firms' instrumental role in yielding economic benefits. As environmental CR combines both moral and instrumental orientations, there is more complexity. For example, managers, investors, and customers tend to be influential stakeholder groups for firms in both emerging economy contexts (Park and Ghauri 2015) and in developed economies (Helmig et al. 2016: Jackson and Apostolakou 2010). In uncertain environments, firms are more likely to emphasize short-term outcomes because of situational dynamism and acquiring information can be more costly (Hitt et al. 2004; Peng 2003). Yet in the case of environmental CR, a practice can be strongly reinforced by primary stakeholders who seek to reduce uncertainty regarding the firm's behavior. Alternatively, frequent interactions between primary stakeholders and a firm can be an institutionally enforced norm and requirement of legitimacy (Campbell 2007; Hahn et al. 2016). Thus, it is possible to expect primary stakeholder pressures to exert significant influence across national contexts.

2a: Perceived primary stakeholder pressures are positively related to firms' adoption of environmental CR practices across countries.

Societal Stakeholder Pressures and CR Adoption

Research on the influence of societal stakeholder pressures on CR practices has yielded conflicting results. (Dögl and Behnam 2015 Helmig et al. 2016; Jackson and Apostolakou 2010; Park and Ghauri, 2015; Toffel et al. 2015). This suggests that the influence of societal stakeholders is often temporally and contextually bound (Bansal and Clelland 2004) and depends on the prevalence of critical stakeholders in a given institutional context (Campbell 2007). We posit that the role of societal stakeholders can be more influential for firms' CR activities that are more strongly embedded in a moral frame, such as environmental CR. This is because moral issues and firm behavior tend to become more publicly acknowledged if and when societal stakeholders deem the firm's performance as unacceptable (Suchman 1995).

We propose that there is a compensatory institutional dynamic with respect to the influence of societal stakeholders in adopting environmental CR practices. The existence of critical societal stakeholders is high in Nordic countries and their role is enforced by regulatory arrangements. It is then likely that their salience and legitimacy are significant to firm managers. However, the higher environmental uncertainty in Baltic transitional countries may result in societal stakeholders exerting more direct influence on firms, thereby increasing their salience to managers. For example, after joining the EU, environmental NGOs have gained a more solid foothold in post-communist countries due to increased funding opportunities and expansion of international networks and research on Baltic environmental activism (Agarin and Grīviņš 2016). Hence, it can be argued:

2b: Perceived societal stakeholder pressures are positively related to firms' adoption of environmental CR across countries.

CR Practices and Configurations for High Environmental CR

As previously argued, institutional fields entail compensatory dynamics, which then influence firms' responses to regulative and normative pressures to adopt environmental CR. The important question then is how environmental CR is complementary (or not) with other facets of CR programs, and how this may vary across institutional fields even though firms might perceive stakeholder pressures similarly. Accordingly, a more nuanced view is needed to understand firms' CR orientations. Although a holistic and integrative CR strategy recognizes the interconnections among various stakeholder interests (Ni et al. 2015), there can be variability in strategic configurations.

The chapter argues that similar orientations in CR programs reinforce one another. For example, institutionalized norms and rules enforce one another thereby increasing the legitimacy of an issue for managers (Agle et al. 1999). Accordingly, CR programs that emphasize a moral orientation (such as local community CR) are more likely to reinforce practices with similar dominant logics, i.e., combined logics with a foremost moral imperative such as environmental CR (see Henriques and Sadorsky 1996).

Conversely, CR practices primarily based on instrumental logics (customer CR and employee CR) are less likely to be associated with high environmental CR. This is because a strong commitment to an instrumental orientation tends to marginalize a moral orientation (Hahn et al. 2016). Although Hahn et al. (2016) further argue that compensatory fit between moral and instrumental orientation can be achieved, we suggest that there is a trade-off mechanism in corporate responsibility (Hahn et al. 2010) in terms of which orientations play a core or peripheral role in achieving high environmental CR. Accordingly, the chapter proposes:

3: High environmental CR is positively associated with the adoption of local community CR.

However, another important question is what kinds of configurations reinforce high environmental CR and how these may vary across institutional fields. In institutional fields that are more mature in promoting environmental issues, there are fewer legitimate paths for firms to achieve high environmental CR. More specifically, certain practices become more legitimate over time and this results in greater isomorphism of organizational processes and structures (DiMaggio and Powell 1991). In contrast, organizations in less mature institutional fields with respect to environmental issues are operating in stakeholder environments that are more uncertain and heterogeneous (e.g., Baltic transitional countries; Petersons and King 2009). This is then likely to result in multiple and more diverse paths for high environmental CR because it is not yet clear which stakeholders and CR issues are most important for business legitimacy (Scherer et al. 2013). As a consequence, there may be greater variability in CR programs associated with high environmental CR. Accordingly, the chapter argues:

4: There is more diversity in configurations for high environmental CR in transitional than in mature institutional contexts.

Case Example

The study sample consisted of 573 companies located in Denmark ($n = 201$), Estonia ($n = 103$), Finland ($n = 182$), and Latvia ($n = 87$). The sampling frame was a random sample of companies with 50 employees or more collected from equivalent sources: Dun and Bradstreet Million Dollar Database for Denmark (1500 companies), the Estonian Statistical Office database for Estonia (750 companies), the Balance Consulting Kauppalehti Database for Finland (1500 companies), and the Chamber of Commerce for Latvia (1200 companies). Researchers sampled medium- and large-sized companies which are more likely to have more formalized corporate policies and programs as well as resources (financial and personnel) for various CR activities included in the survey. What makes these four countries an interesting

Table 2 Country characteristics

	Denmark	Finland	Estonia	Latvia
Population (millions)[a]	5.543	5.263	1.275	2.218
GDP per capita (ppp, US$)[a]	$43,314	$40,251	$23,955	$19,451
Income inequality (gini)[a]	24.7	26.9	35.8	37.7
Human development index[b]	0.895	0.882	0.835	0.805
Responsible competitiveness index (rank 108 countries)[a]	81.0 (2)	78.8 (3)	65.0 (22)	60.3 (35)
Regulatory institutions				
EU membership	1973	1995	2004	2004
Societal governance[b]				
Voice and accountability	1.49	1.54	1.11	0.74
Government effectiveness	2.29	2.24	1.18	0.68
Regulatory quality	1.93	1.84	1.44	0.95
Control of corruption	2.39	2.15	1.00	0.21
Environmental governance[c]	1.59	0.78	1.40	0.48
Civil liberties[d]	1	1	1	2
Political rights[d]	1	1	1	2
Freedom of the Press[e]	13	10	18	26
Trust in institutions (% tend to trust)[h]				
Trust EU	58%	51%	65%	43%
Trust national government	54%	57%	50%	14%
Trust regional or local authorities	71%	67%	59%	42%
Trust public authorities to protect your rights as a consumer	75%	77%	56%	55%
Economic system				
Economic freedom index[f]	78.6	74.0	75.2	65.8
Total expenditure social protection per person[a]	$12,567	$9176	$1475	$1039

Sources: [a]WDI 2011, http://data.worldbank.org; [b]http://hdr.undp.org/;
[h]Eurobarometer surveys (ave. 2008–11), http://ec.europa.eu/public_opinion;
[a]http://www.accountability.org/research/responsible-competitiveness/index.html;
[b]http://info.worldbank.org/governance/wgi;
[c]http://sedac.ciesin.columbia.edu/data/set/esi-environmental-sustainability-index-2005;
[d]Freedom House (1 = best to 7 = worst) https://freedomhouse.org/report/freedom-world
[e]Freedom of the Press (0 = most free to 100 = least free) https://freedomhouse.org/report/freedom-press/
[f]http://www.heritage.org/index/; [1] http://www.kpmg.com/

research setting is that there remains considerable heterogeneity in the economic and institutional environments of these countries (see Table 2).

Invitations to participate in the study were sent to the firms' highest executive (Chairman, CEO) listed in the databases. The survey questionnaire packages consisted of a cover letter, self-addressed and prepaid return envelope, and a separate envelope for respondents to send their business cards in order to receive a summary of the study findings. Survey participants were assured anonymity and confidentiality of their responses and were asked not to provide any self-identifying information on the returned questionnaires. Reminder mailings were sent 2–3 weeks after the first mailing. After accounting for undeliverable surveys, response rates were 14% in Denmark, 11% in Estonia, 18% in Finland, and 7% in Latvia, which are comparable to mail survey response rates for top executive respondents (Cycyota and Harrison 2006).

The survey material was developed in English and standard translation and back translation procedures were used in each country (Brislin 1986). Survey questionnaires were pretested with samples of 20–30 managers and business academic colleagues in each country to confirm the suitability of translations.

Dependent Variables

Corporate responsibility practices were measured with 25 items developed based on a review of related instruments and the CR literature (e.g., Egri and Hornal 2002; Maignan et al. 1999). For environment CR (6 items), customer CR (5 items), local community CR (6 items), and employee CR (8 items), respondents were asked to indicate the extent to which their organization systematically implemented each CR practice (9-point Likert scale, 1 = strongly disagree to 9 = strongly agree).

Independent Variables

This measure of stakeholder pressures related to 11 stakeholder groups from previous stakeholder research (Agle et al. 1999; Darnall et al. 2010). (Surveys for the Latvia sample had 11 stakeholder pressure items, whereas surveys for the Denmark, Finland, and Estonia had 12 items including employees. Subsidiary analyses (factor analyses and regressions) with the 12 items for the three countries did not show substantively different results than analyses with the 11 items.) Respondents rated the pressures of each stakeholder group on their organizations to consider social and environmental issues using a 5-point Likert scale (1 = very high importance to 5 = very low importance, reverse-scored for analyses).

Control Variables

Control variables were organizational characteristics and business performance identified in previous research as related to the implementation of CR practices (e.g., Darnall et al. 2010; Hoogendoorn et al. 2015). Organizational characteristics were: firm size (1 = less than 100 employees, 2 = 100–499 employees, 3 = 500–999 employees, 4 = 1000–4999 employees, 5 = 5000–9999 employees, 6 = 10,000 employees or more); multinational status (1 = operating in two or more countries, 0 = domestic-only operations); ownership status (1 = publicly traded, 0 = private and other); and industry (dummy-coded manufacturing and resource-based variables; services as reference category).

Business performance was measured with a 5-item scale adapted from Samiee and Roth (1992) that asked respondents the extent to which their organization's performance (ROI, growth in market share, sales growth, profit growth, and ROA) had been substantially better than their most relevant competitors over the past 3 years (9-point Likert scale, 1 = strongly disagree to 9 = strongly agree).

To assess the convergent and discriminant validity of the CR practices and perceived stakeholder pressures sets of measures, we conducted confirmatory factor analysis (CFA) for the total sample (using counterweighted country samples) and then conducted multigroup CFAs to assess cross-cultural measurement invariance (Steenkamp and Baumgartner 1998). Assessment of model fits focused on indices (CFI, NNFI, RMSEA) that are not systematically influenced by sample size (Cheung and Rensvold 2002), with acceptable model fits indicated by CFI and NNFI values above 0.90 and RMSEA values below 0.08 (Keith 2006). We followed Cheung and Rensvold's (2002) guidelines for model fit comparisons such that a ΔCFI <0.01 indicates a nonsignificant difference and ΔCFI >0.02 indicates a significant difference.

For the CR practices measures, the initial 4-factor 25-item CFA model showed low factor loadings (< 0.40) for one customer CR item and one environmental CR item. The revised 4-factor, 23-item CFA model had a good model fit [$\chi^2_{(224)} = 930.33$, CFI = 0.953, NNFI = 0.947, RMSEA = 0.075], whereas the 1-factor model fit was not acceptable (CFI = 0.853). As shown in Table 3, the internal consistency of CR measures is indicated by the item-standardized estimates (0.49–0.77, all $p < 0.001$) and composite reliabilities higher than 0.70 (Raykov's $\rho = 0.73$ to 0.85).

In respect to cross-cultural measurement invariance, the configural (unconstrained) model had an acceptable fit [$\chi^2_{(896)} = 1592.25$, CFI = 0.949, NNFI = 0.941, RMSEA = 0.077]. The metric invariance model with factor loadings constrained was not significantly different (ΔCFI = −0.004), but the subsequent scalar invariance model was significantly different (ΔCFI = −0.044), as was the partial scalar invariance model fit with nine unconstrained intercepts (ΔCFI = −0.013). As this could be attributed to cross-cultural differences in scale response styles, we used Hanges' (2004) within-subject standardization procedure to adjust scores for analyses. The range of scale of composite reliabilities (Raykov's ρ) were: Denmark, ρ = -0.78– 0.86; Estonia, ρ = 0.60–0.80; Finland, ρ = 0.67–0.85, and Latvia, ρ = 0.80–0.91. Although two customer CR scale reliabilities were below 0.70, these are consistent with the 0.60 cutoff level reported in previous cross-cultural studies (e.g., Parboteeah et al. 2009).

For perceived stakeholder pressures, researchers first conducted principal components factor analysis, given variability in categorization of stakeholders (Buysse and Verbeke 2003; Darnall et al. 2010). This analysis showed one item (industry/trade associations) cross-loaded on the two emergent factors. Removal of this item resulted in one factor (Eigenvalue = 3.05, 30.5% variance explained) consisting of six primary stakeholders (competitors, corporate management, customers, financial institutions, owners/shareholders, and suppliers) and a second factor (Eigenvalue = 2.44, 24.4% variance explained) consisting of four societal stakeholders (government regulators/legislators, local communities, mass media, and

Table 3 Measurement scales

Items for each construct[a]	Standardized estimate	t-value	ρ_C [b]	AVE[c]	Sq. root AVE
CR practices [$\chi^2_{(224)} = 930.33$, CFI = 0.953, NNFI = 0.947, RMSEA = 0.075]					
Environmental CR			0.84	0.52	0.72
EV1. Incorporates environmental performance objectives in organizational plans	0.71				
EV2. Conducts environmental life cycle and risk assessments of all organizational activities	0.72	15.67			
EV3. Financially supports environmental initiatives	0.75	16.66			
EV4. Measures the organization's environmental performance	0.76	18.23			
EV5. Voluntarily exceeds government environmental regulations	0.65	16.78			
Local community CR			0.85	0.49	0.70
LC1. Communicates with local communities about business decisions that they are affected by	0.63				
LC2. Financially supports community activities (e.g., arts, culture, and sports)	0.72	13.50			
LC3. Financially supports education in the communities where we operate	0.70	14.65			
LC4. Gives money to charities in the communities where we operate	0.73	14.81			
LC5. Helps improve the quality of life in the communities where we operate	0.71	13.67			
LC6. Stimulates the economic development in the communities where we operate	0.71	13.83			
Customer CR			0.73	0.40	0.63
CU1. Provides all customers with a very high quality service	0.71				
CU2. Adapts products or services to enhance the level of customer satisfaction	0.62	12.53			
CU3. Provides all customers with the information needed to make sound purchasing decisions	0.64	8.86			
CU4. Satisfies the complaints of all customers about the company's products or services	0.56	10.46			
Employee CR			0.83	0.38	0.62
EM1. Provides procedures that ensure safe and healthy working conditions for all employees	0.63				

(continued)

Table 3 (continued)

Items for each construct[a]	Standardized estimate	t-value	ρ_C [b]	AVE[c]	Sq. root AVE
EM2. Financially supports all employees who want to pursue further education	0.63	9.12			
EM3. Provides all employees with compensation (salaries and wages) that properly and fairly reward them for their work	0.64	10.53			
EM4. Provides for equal opportunity in the hiring, training, and promotion of women	0.49	8.24			
EM5. Provides for the training and development of all employees	0.76	10.57			
EM6. Provides policies and programs that support employees to better coordinate their work and personal lives	0.54	8.29			
EM7. Treats all employees equitably and respectfully, regardless of ethnic or racial background	0.58	9.12			
EM8. Voluntarily exceeds legally mandated employee benefits (e.g., contributions to health care, disability, education, and retirement)	0.65	9.27			
Perceived stakeholder pressures [$\chi^2_{(34)} = 167.00$, CFI = 0.955, NNFI = 0.941, RMSEA = 0.086]					
Primary stakeholders			0.81	0.42	0.65
PS1. Competitors	0.66				
PS2. Corporate management	0.58	11.73			
PS3. Customers	0.73	15.02			
PS4. Financial institutions	0.67	13.69			
PS5. Owners/shareholders	0.56	10.82			
PS6. Suppliers	0.66	13.08			
Societal stakeholders			0.77	0.46	0.68
SS1. Government regulators/legislators	0.53				
SS2. Local communities	0.66	11.82			
SS3. Mass media	0.73	11.84			
SS4. Nongovernmental organizations/interest groups	0.77	11.87			
Business performance [$\chi^2_{(4)} = 29.23$, CFI = 0.986, NNFI = 0.984, RMSEA = 0.106]					
Return on investment	0.83		0.87	0.57	0.76
Market share growth	0.63	15.42			
Profit growth	0.81	21.11			
Return on assets	0.84	21.89			
Sales growth	0.65	15.99			

(continued)

Table 3 (continued)

Items for each construct[a]	Standardized estimate	t-value	ρ_C [b]	AVE[c]	Sq. root AVE
Perceived stakeholder pressures [$\chi^2_{(34)} = 167.00$, CFI = 0.955, NNFI = 0.941, RMSEA = 0.086]					
Primary stakeholders			0.81	0.42	0.65
PS1. Competitors	0.66				
PS2. Corporate management	0.58	11.73			
PS3. Customers	0.73	15.02			
PS4. Financial institutions	0.67	13.69			
PS5. Owners/shareholders	0.56	10.82			
PS6. Suppliers	0.66	13.08			
Societal stakeholders			0.77	0.46	0.68
SS1. Government regulators/legislators	0.53				
SS2. Local communities	0.66	11.82			
SS3. Mass media	0.73	11.84			
SS4. Nongovernmental organizations/ interest groups	0.77	11.87			
Business performance [$\chi^2_{(4)} = 29.23$, CFI = 0.986, NNFI = 0.984, RMSEA = 0.106]					
Return on investment	0.83		0.87	0.57	0.76
Market share growth	0.63	15.42			
Profit growth	0.81	21.11			
Return on assets	0.84	21.89			
Sales growth	0.65	15.99			

"conducts surveys to measure customer satisfaction and complaints"; perceived stakeholder pressures "industry/trade associations"

[a]Items not retained for analyses: Environmental CR "issues a formal report regarding corporate environmental performance"; Customer CR

[b]Composite reliability (ρ_C) is Raykov's rho

[c]AVE is average variance extracted

nongovernmental organizations/interest groups). For the two perceived stakeholder pressures measures, the 2-factor, 10-item CFA model had an acceptable fit [$\chi^2_{(34)} = 167.00$, CFI = 0.955, NNFI = 0.941, RMSEA = 0.086], whereas the 1-factor model fit was not acceptable (CFI = 0.844). As shown in Table 3, the item standardized estimates (0.53–0.77, all $p < 0.001$) and composite reliabilities (Raykov's ρ = 0.81 and 0.77) support the internal consistency of these measures.

Multigroup CFAs testing for cross-national measurement invariance showed an acceptable fit for the configural invariance model [$\chi^2_{(136)} = 288.27$, CFI = 0.930, NNFI = 0.907, RMSEA = 0.092], and the metric invariance model was not significantly different (ΔCFI = −0.004). There was a significant difference for the scalar invariance model (ΔCFI = −0.074), but not for the partial scalar invariance model with five unconstrained intercepts (ΔCFI $= -0.010$). Hence, raw scores were used in analyses for these two variables. For each country, the composite reliabilities (ρ) for the primary and societal stakeholder pressures measures were, respectively, 0.61 and 0.65 Denmark; 0.80 and 0.77 Estonia; 0.79 and 0.78 Finland; and 0.78 and 0.80 Latvia.

For the business performance covariate, the total sample CFA found that the item standardized estimates (0.63–0.84, all $p < 0.001$) and composite reliability (Raykov's $\rho = 0.87$) support the internal consistency of this measure (see Table 3). Multigroup CFAs testing for cross-national measurement invariance showed an acceptable fit for the configural invariance model [$\chi^2_{(19)} = 46.71$, CFI $= 0.985$, NNFI $= 0.975$, RMSEA $= 0.102$]. There was a significant difference for the metric invariance model (ΔCFI $= -0.019$), but not for the partial metric invariance model with two unconstrained factor loadings (ΔCFI $= -0.008$) or for the subsequent partial scalar invariance model with two unconstrained intercepts (ΔCFI $= -0.004$). Hence, raw scores were used in analyses for the business performance variable for which the composite reliabilities (ρ) were 0.87 Denmark; 0.86 Estonia; 0.86 Finland; and 0.90 Latvia.

Common Method Variance

A potential issue in self-reported survey data is common method variance (Podsakoff et al. 2012). To address this issue, we took several preventive measures, including providing confidentiality and anonymity to study participants and using different item-response formats (Podsakoff et al. 2012). As per Fornell and Larcker (1981), the discriminant validity of the seven scale measures is indicated by the square roots of the average variance explained (AVE; range of 0.62–0.76) being greater than the shared variance between constructs ($r = 0.02$–$r = 0.49$).

Researchers also assessed the presence of common method bias using the CFA marker technique (Williams et al. 2010) for the total sample. Our marker variable consisted of two personal subjective well-being items ("my life in general," "my job in general"; 1 = very dissatisfied to 10 = very satisfied; $\rho = 0.80$) from Diener et al.'s (1985) satisfaction with life scale. Subjective well-being is an indicator of affectivity or transient mood state that are sources of common rater effects (Podsakoff et al. 2012).

The baseline comparison model with the seven factors for scale measures had an acceptable fit [$\chi^2_{(720)} = 2420.50$, CFI $= 0.933$, NNFI $= 0.928$, RMSEA $= 0.063$]. Compared to the baseline model, there were nonsignificant differences in model fits for both the method-C model that tests for the presence of equal (noncongeneric) method effects (ΔCFI $= 0.005$) and the method-U model that tests for unequal (congeneric) method effects (ΔCFI $= 0.005$). The method-R model that tests for the biasing effect of the marker-based method variance on substantive factor correlations had a similar fit to both the method-C and method-U models (each ΔCFI $= 0.005$). Compared to the baseline model, factor correlations in the method-U model were very similar (average $\Delta r = 0.021$, range: -0.009 to 0.064). In sum, these analyses indicate that common method bias is not a significant issue.

Analyses

Hierarchical moderated regressions were conducted to test Hypotheses 1 and 2 regarding relationships between perceived stakeholder pressures and environmental CR practices. The first step entered the organizational characteristics control variables, and the second step entered the set of three dummy-coded country variables (Latvia was the reference group). The third step entered the primary and societal perceived stakeholder pressures variables (mean-centered), and the fourth step entered their country interaction variables to test for country differences in these relationships. For the model that included the main and interaction effect variables for both types of stakeholder pressures, the collinearity statistics were maximum VIF = 6.62 (above 4.0 cutoff) and some low tolerances (<0.20) which indicate a multicollinearity issue (O'Brien 2007). Therefore, separate analyses were conducted for primary and societal stakeholder pressures with the main effect added in the third step and the country interaction variables added in the fourth step (maximum VIF = 3.88, minimum tolerance = 0.30). To interpret the nature of significant country interactions for these relationships, we plotted country scores at high and low (+/− 1 s.d.) levels of stakeholder pressures.

Fuzzy-set qualitative comparative analysis (fsQCA; Fiss 2011; Ragin 2008) was used to test Hypotheses 3 and 4 regarding configurations of CR practices associated with high environmental CR practices adoption. In these analyses, the outcome variable was environmental CR and the explanatory variables were the other three CR practices (customer, employee, and local community), the two perceived stakeholder pressure variables (primary and societal), and significant covariates in the regression analyses (which were found to be firm size and industry).

The first step in the fsQCA analysis was the calibration of continuous variables which defines meaningful anchor points within the item distribution for cases (Ragin 2008). Variable membership scores can range from 0 (full nonmembership) to 1 (full membership). Researchers used the indirect calibration method (Ragin 2008) for continuous variables to recode cases (firms) into categories of membership (90th percentile), crossover (50th percentile), and nonmembership (tenth percentile) (see Fiss 2011; Ragin 2008). For industry category, we used a binary variable (1 = services, 0 = manufacturing/resource-based).

Because of the different country sample sizes, different frequency thresholds were set for cases to be included in a configuration to ensure that a sufficient proportion of cases (75%–80%) were included in analyses (Ragin 2008). The frequency threshold of three observations was used for Denmark and Finland which had larger sample sizes, and the frequency threshold was two observations for Estonia and Latvia which had smaller sample sizes. For consistency scores which assess the proportion of a causal configuration that is consistent with an outcome, researchers used a minimum threshold value of 0.80 (Meuer 2017; Ragin 2008). The chapter reports the results of the complex solutions (necessary and sufficient conditions) as well as the parsimonious solutions (core conditions). For a set of configurations, the solution consistency score indicates the consistency with the outcome variable, whereas the solution coverage score indicates the proportion of variance explained in the outcome variable.

Categorizations

Table 4 presents the descriptive statistics for the total sample (means, standard deviations, and correlations), and Table 5 presents the results of the regressions testing H1 and H2.

H1 proposed that perceived primary stakeholder pressures are positively related to firms' adoption of environmental CR practices across countries. As shown in Table 5, primary stakeholders were positively related to environmental CR ($\beta = 0.19$, $p < 0.001$; M3a), but there was a significant country-by-primary stakeholder pressures interaction ($\Delta R^2 = 0.014$, $p < 0.05$; M3b).

Figure 1 illustrates country differences in relationships between primary stakeholder pressures and environmental CR practices. Whereas there are significant positive relationships for firms in Finland ($p < 0.001$) and Latvia ($p < 0.01$), this relationship is not significant for firms in Denmark and Estonia. Hence, H1 was partially supported.

H2 proposed that perceived societal stakeholder pressures are positively related to firms' adoption of environmental CR practices across countries. H2 was fully supported in that societal stakeholder pressures was positively related to environmental CR ($\beta = 0.23$, $p < 0.001$; M4a), and there were no significant country differences in this relationship ($\Delta R^2 = 0.000$, $p > 0.10$; M4b).

Table 6 presents the results of the fsQCA analyses to test H3 and H4 regarding configurations for high environmental CR. The presence of a condition is indicated by a black circle (●), the absence of a condition is indicated by a crossed circle (Ø), and a blank space indicates that a causal condition may be either present or absent (i.e., irrelevant). Core elements of a configuration are denoted with large circles and peripheral elements with small circles.

The fsQCA analyses produced two solutions for Finland, three solutions for Denmark and Estonia, and six solutions for Latvia. Whereas all three solutions for Denmark related to manufacturing/resource-based firms, there were alternative solutions for both manufacturing/resource-based and services firms for the other three countries.

Hypothesis 3 proposed that high environmental CR is associated with the adoption of local community. Consistent with H3, for the total number of configurations (14) across countries, high environmental CR is most often associated with the presence of community CR (79%), with the absence of community CR in only two configurations (D1, L5) and irrelevant in one configuration (F1). In sum, strong support was found for H3, which proposed a complementarity between moral-motivated CR practices, i.e., high environmental CR with high community CR.

Hypothesis 4 proposed that configurations for high environmental CR would be more diverse in transitional contexts, i.e., Estonia and Latvia. Consistent with H4, Latvia has a diverse set of six configurations for high environmental CR that represent both the presence and absence of community, customer, and employee CR practices. The three configurations identified for manufacturing/resource-based firms in Latvia (L1, L2, L3) are similar in terms of the presence of community CR and absence of customer CR, but vary with respect to the presence/absence of

Table 4 Descriptive statistics: means, standard deviations, and correlations

		Mean	SD	1	2	3	4	5	6	7	8	9	10	11	12	13	14
1.	Environmental CR	5.41	1.35														
2.	Local community CR	5.34	1.50	−0.27													
3.	Customer CR	7.56	0.52	0.02	−0.23												
4.	Employee CR	7.03	0.53	−0.18	−0.04	0.15											
5.	Primary stakeholders	3.20	0.81	0.14	−0.04	0.01	−0.08										
6.	Societal stakeholders	3.02	0.80	0.23	0.08	−0.11	−0.15	0.49									
7.	Denmark	0.25		−0.02	−0.09	0.28	0.42	0.22	0.12								
8.	Estonia	0.25		−0.00	−0.11	0.09	−0.16	0.09	−0.08								
9.	Finland	0.25		0.02	0.28	0.05	0.01	−0.48	−0.21								
10.	MNC	0.55	0.50	0.06	0.01	0.02	−0.01	0.11	0.05	0.09	−0.01	0.02					
11.	Publicly traded	0.33	0.47	0.02	0.08	0.15	0.24	0.12	0.06	0.58	−0.21	−0.12	0.21				
12.	Firm size	1.89	0.78	0.14	0.12	−0.03	0.06	−0.07	0.05	0.07	−0.11	0.25	0.37	0.29			
13.	Manufacturing	0.33		0.05	0.01	0.09	0.06	−0.07	−0.03	0.14	−0.05	0.07	0.08	0.09	0.14		
14.	Resource-based	0.17		0.10	0.10	−0.07	−0.04	0.08	0.06	0.07	−0.11	0.04	0.04	0.07	−0.02		
15.	Business performance	5.95	1.66	−0.02	0.03	0.06	0.03	0.16	0.11	0.12	−0.08	−0.05	0.18	0.09	0.05	0.01	−0.02

Note. Sample size $N = 573$ (Denmark $n = 201$, Estonia $n = 103$, Finland $n = 182$, Latvia $n = 87$). Country samples were counterweighted to be equal size. Correlations $r \geq |0.08|$ significant at $p < 0.05$ level. Country dummy coded variables with Latvia as reference category; industry sector dummy coded with services as reference category

Table 5 Moderated regression: environmental CR practices and perceived stakeholder pressures

	M1	M2	M3a	M3b	M4a	M4b
MNC	−0.01	−0.01	−0.03	−0.03	−0.01	−0.01
Publicly traded	−0.05	−0.03	−0.03	−0.03	−0.02	−0.02
Firm size	0.19***	0.20***	0.19***	0.19***	0.17***	0.17***
Manufacturing	0.08†	0.09*	0.09*	0.09*	0.09*	0.09*
Resource-based	0.13**	0.14**	0.12**	0.12**	0.12**	0.13**
Business performance	−0.02	−0.01	−0.04	−0.04	−0.04	−0.03
Denmark		−0.06	−0.06	−0.02	−0.05	−0.04
Estonia		−0.01	0.00	0.02	0.03	0.03
Finland		−0.06	0.03	0.12†	0.01	0.01
Primary stakeholders			0.19***	0.21**		
Denmark x primary				−0.06		
Estonia x primary				−0.07		
Finland x primary				0.11†		
Societal stakeholders					0.23***	0.23*
Denmark x societal						−0.01
Estonia x societal						0.02
Finland x societal						−0.01
Model R^2	0.048***	0.051***	0.077***	0.091***	0.099***	0.099***
ΔR^2		0.003	0.026***	0.014*	0.048***	0.000
Model comparison		*v.* M1	*v.* M2	*v.* M3a	*v.* M2	*v.* M4b

Note. $N = 573$. Standardized beta coefficients shown. Latvia is the country reference group
$^{\dagger}p < 0.10$, $^{*}p < 0.05$, $^{**}p < 0.01$, $^{***}p < 0.001$

employee CR. In contrast, the three configurations for services firms in Latvia (L4, L5, L6) are similar in terms of an absence of employee CR, the presence/irrelevance of customer CR, but vary in the absence/presence of community CR. Consistent with H4, there were only two high environmental CR configurations for firms in Finland. Both configurations had low customer CR as a core condition, with an absence of employee CR for manufacturing/resource firms (F1) and a presence of community CR for services firms (F2). Inconsistent with H4, Denmark and Estonia had three configurations each with two types of CR configurations in common. Whereas both of these configurations had the presence of community and absence of customer CR, one type had the absence of employee CR as a core condition (D2, E1, E2) and the other type had the presence of employee CR (D3, E3). In addition, Denmark had a unique configuration with the absence of community CR and presence of customer CR. In sum, these findings provide mixed support for H4 with more diversity in CR configurations for high environmental CR for firms in Latvia than in Finland, and more similarities for firms in Denmark and Estonia.

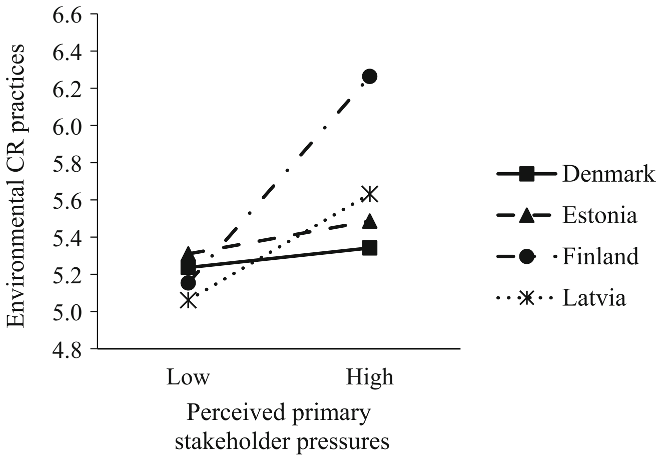

Fig. 1 Country differences in relationship between perceived primary stakeholder pressures and environmental CR practices

The fsQCA solutions also confirm the regression results for the relationships between perceived stakeholder pressures and environmental CR. As shown in Table 6, primary stakeholder pressures were core conditions for high environmental CR in both Finland solutions and in five of the six Latvia solutions. For the Denmark and Estonia solutions, the weaker relationship with high environmental CR is indicated by primary stakeholder pressures conditions being high peripheral (D3, E2), low core (D1, E3), and low peripheral (D2, E1). With respect to the positive relationship between environmental CR and societal stakeholder pressures, the found solutions indicate that societal stakeholder pressures are particularly important for firms in Estonia (core condition for three solutions) and Latvia (core condition for four solutions and peripheral condition for one solution). For both Denmark and Finland, the set of configurations for high environmental CR included both high and low societal stakeholder pressures.

Discussion and Conclusions

This chapter of corporate responsibility in four EU countries examined the adoption of high environmental performance of firms using an integrative configurational approach (Lee 2011). Specifically, our study contributes to the existing literature on corporate responsibility and business legitimacy (e.g., Buysse and Verbeke 2003; Darnall et al. 2010; Dögl and Behnam 2015: Henriques and Sadorsky 1999; Kassinis and Vafeas 2006) by identifying alternative CR program configurations associated with high environmental CR in different national contexts. First, researchers identified how stakeholder pressures increase the likelihood of firms' high environmental responsibility and how this varies across societal contexts. Across these four

Table 6 Configurations for high environmental CR

	Denmark			Finland		Estonia			Latvia					
Configurations	D1	D2	D3	F1	F2	E1	E2	E3	L1	L2	L3	L4	L5	L6
Community CR	Ø	●	●		●	●	●	●	●	●	●	●	Ø	●
Customer CR	●	Ø	Ø	Ø	Ø	Ø	Ø	Ø	Ø	Ø	Ø		●	●
Employee CR		Ø	●	Ø		Ø	Ø	●	●	Ø	●	Ø	Ø	Ø
Primary stakeholders	Ø	Ø	●	●	●	Ø	●	Ø	●	●	●	Ø	●	●
Societal stakeholders	Ø	Ø	●	●	Ø	●	●	●	Ø	●	●	●	●	●
Size	●	Ø	●	●	●	●	●	Ø	Ø	Ø	●	Ø	Ø	●
Industry services	Ø	Ø	Ø	Ø	●	Ø	Ø	●	Ø	Ø	Ø	●	●	●
Raw coverage	0.150	0.131	0.154	0.224	0.090	0.106	0.123	0.107	0.068	0.094	0.072	0.147	0.132	0.084
Unique coverage	0.076	0.051	0.086	0.224	0.090	0.106	0.070	0.054	0.022	0.043	0.034	0.077	0.061	0.030
Consistency	0.821	0.809	0.829	0.897	0.903	0.984	0.833	0.796	0.805	0.988	0.952	0.907	0.810	0.844
Solution coverage	*0.315*			*0.314*		*0.283*			*0.394*					
Solution consistency	*0.792*			*0.899*		*0.859*			*0.839*					

Notes: ● – core condition present; Ø – core condition absent; ● – peripheral condition present; Ø – peripheral condition absent. A blank space indicates may be either present or absent countries, perceived societal stakeholder pressures had a significant positive influence on the adoption of environmental CR practices. The influence of primary stakeholder pressures was less consistent with these being a significant positive influence for firms in Finland and Latvia, but not significant for firms in Denmark and Estonia. Further insights about the role of stakeholder pressures in advancing environment CR were provided in our analyses identifying configurations for high environmental CR. In Finland, primary stakeholders are a core condition for high environmental CR. In Latvia, researchers found that, overall, both primary and societal stakeholder pressures are core conditions for high environmental CR. Interestingly, we found more variability in the role of primary and societal stakeholder pressures being associated with high environmental CR for firms in Denmark and Estonia.

In sum, such configuration analyses indicate that firms in Finland have the most homogenous paths to high environmental CR adoption. This finding suggests that CR strategies in highly developed institutional environments are relatively similar and that there are more limited options for business legitimacy. Conversely, the most heterogeneous paths were found for firms in Latvia. This finding lends partial support to Hahn et al. (2016) in terms of how stakeholder uncertainty in transitional environments may result in heterogeneous CR strategies. However, Estonian firms had more homogeneous paths compared to Denmark. As such, our study shows that there is not one pathway to high environmental CR that fits all, but that variations in business environments require firms to both balance and combine instrumental and moral motivations for high environmental performance (Hahn et al. 2016).

Second, the chapter contributes to the literature on ambidexterity and CR (Hahn et al. 2016) by showing that pursuing instrumental and moral-motivated CR initiatives is dependent on societal context. Notably, our configuration analyses did not reveal a balanced CR program where all types of CR practices were highly emphasized. Instead, we found that the adoption of high environmental CR is most often supported by local community CR (11 of the 14 configurations across countries; only 2 configurations had low community CR). This finding is different from Ni et al. (2015) who found that local community CR and environmental CR were not complementary for firms in China. Although our study found strong evidence for morally motivated CR, researchers also found variations in motivational emphases of CR programs across countries. A strong moral motivation is evident in CR program profiles for which high environmental CR is associated with high local community CR, but low (or nonsignificant) customer CR and employee CR. This CR program profile was most prevalent across countries (one each for Denmark and Finland, two each for Estonia and Latvia). Researchers also found evidence of combined moral/instrumental CR program orientations. One such profile consists of high environmental, community, and employee CR along with low customer CR (one each for Denmark and Estonia and two in Latvia), while another profile consists of high environmental, community, and customer CR along with low employee CR (one for Latvia). These combined profiles are most indicative of a trade-off mechanism between moral and instrumental motivations in firms' strategies for high environmental responsibility. Although limited to only two configurations (one each for Denmark and Latvia), we also found evidence of instrumental orientated CR programs, wherein high environmental CR is associated with high customer CR, but low local community CR and low/nonsignificant employee CR.

The chapter also has managerial implications. Regulatory context may also impose limitations on the development of CR programs that are considered as legitimate. In contexts with stronger CR-related formal institutions, managers' situational sensitivity for CR may be lower such that managers are less responsive to CR-related issues not directly linked to existing formal institutions. That is, strong regulatory contexts may lack incentives for the adoption of new CR practices unrelated to existing and well-established regulatory institutions. For example, the homogenous paths particularly in the Finnish context can be an indication of this. Thus, the "implicit" approach to CR favored by Nordic firms may possibly be too "passive" for a global business environment where there is a multiplicity of strategic and operational requirements (Midttun et al. 2015; Vidaver-Cohen and Brønn 2015).

Conversely, there may be fewer constraints on CR strategies in less developed regulatory contexts where firms are more likely to address a wide range of CR issues but not necessarily in depth. One implication is that this approach can complicate the development of CR practices that are foundational for long-term stakeholder relationships.

The chapter provides directions for future research directions. Previous research suggests that explicit CR is likely to develop especially among large companies with extensive portfolios of foreign investors (Höllerer 2013). However, the findings do not indicate that MNCs and publicly traded firms are more or less responsible than privately held firms or those with domestic-only operations. Rather, we see the need for further CR research that focuses specifically on the role of firm size (Darnall et al. 2010; Koos 2012). Höllerer (2013) noted that explicit CR is most likely to be adopted by younger, larger, and highly profitable companies with dispersed ownership and capital-intensive product technologies. As large firms are more likely to be global actors, we would expect that more research on the CR practices of SMEs would advance the explanatory power of a configurational approach. For instance, smaller firms are more likely to be locally embedded and managed by owner-managers which affect their stakeholder salience processes (Siltaoja and Lähdesmäki 2015). Even so, it should be noted our study was based on cross-sectional data, so caution is needed regarding conclusions about causal relationships. As leading firms are more likely to participate in questionnaire surveys, sample representativeness of firm populations may be a concern, although such a bias would be consistent across the four countries.

In sum, the chapter found that CR should not be regarded as a unitary approach across contexts and multiple pressures are needed for firms to adopt a holistic CR strategy. Cross-national studies with a larger sample of countries are clearly needed to investigate how the drivers of environmental and social CR differ across and within business environments and how this corresponds to conceptions of business legitimacy.

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Evolution of the Russian Digital Media Market: Legitimacy of the Illegal

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Maxim Storchevoy and Konstantin Belousov

Contents

Abstract

The chapter explores the difficult search for legitimacy in using unlicensed media content by the Russian social network, VKontakte, and other Russian Internet companies. Russia's economy and society went through several stages, from complete negligence of intellectual rights to step-by-step shaping of new compromise principles to make consumers to pay at least something and to persuade right holder to accept at least something for music. For a better understanding of the cultural background of this story, we look back to the evolution of Russian intellectual property rights and observe similar "legitimacy of the illegal" phenomenon during several stages of its development. Two important generalizations are: (1) when deciding to act illegally, the actor wants to maximize the happiness

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of its most important stakeholders, and (2) the decision to change the business model and search for new legitimacy almost never comes from moral arguments, but is always made under external pressure.

Keywords

Business ethics · Copyright · Intellectual property rights · Piracy · VKontakte

Introduction

Business legitimacy is a necessary condition for the company's license to operate in society. If all stakeholders consider a company legitimate, it can obtain necessary resources, from consumer and employee loyalty to political support (Rendtorff 2013, 2019). At the same time, business legitimacy is not the same as being legal. In many cases, business legitimacy defines *to what extent a business corporation can diverge from the law*. Although this phenomenon or discrepancy between legitimacy and legality may be found in all societies, it is especially important in traditional societies with informal cultures and rules by law (instead of rule of law).

Historically, Russia was one of these countries. In all periods of its development, it had a special regime of law, whereby legal norms were applied selectively by the state, depending on the personal political loyalty of business actors (Avtonomov 2006). Protection of property rights was always weak, which had critical influence on economic development (Pipes 1999). Business and political legitimacy in Russia always depended more on tacit agreements between people, business, and government than on written laws and formal institutions (Frye 2017).

During the transition to a market economy in 1990s–2000s, once more Russia underwent a long process of shaping new legitimacy in many areas of the economy. There is a number of academic research devoted to the search of legitimacy in various forms and markets: e.g., the search for business legitimacy of corporate social responsibility (Kuznetsov et al. 2009, Kuznetsova 2010), new legitimacy in the retail market (Radaev 2004, 2018), legitimacy for women in business (Tsetsura 2012), for legitimacy of private high education (Suspitsin 2007), legitimacy of the mafia as a security provider (Varese 2001; Volkov 2016), the role of political connections in obtaining business legitimacy in the absence of legal regulation for new pharmaceutical firms (Klarin and Ray 2019), legitimacy of illegal behavior of small firms (Mannila and Eremicheva 2018), search of legitimacy of legally questionable privatization (Frye 2006), and even legitimacy of the Russian government (Huskey 2012).

One interesting case study of this process of shaping new legitimacy is the story of intellectual property rights, especially in the online distribution of music and videos, in the Russian social network platform VKontakte (means "InContact"). VKontakte appeared 2 years later than Facebook but was able to attract the majority of Russian users and became Russia's largest social network. Its daily audience is twice larger than audience of the second largest network Odnoklassniki and five times larger than the daily Russian audience of Facebook (WEB-Index:The audience of Internet projects. October 2019. Mediascope.net). The success of VKontakte was built on several factors and one of them was possibility to share copyrighted music and video without any limitations. In this chapter, we consider the evolution of intellectual property rights policy of VKontakte, from complete denial of copyright, to the step-by-step search for a compromise between the old regime and new realities of digital society and new business models in music market.

Russian Facebook

In 2006, Pavel Durov, a young graduate from a technical university, decided to create a national student website (The story is described in Kononov (2013).). He hardly understood the business perspectives and importance of his project and was interested in creating a new forum where students would communicate under real names and could easily understand who was coming from which university. At the same time, an old friend of Pavel's returned from the United States and told him about a new social network of leading universities (Facebook), where students were identified by their university emails. Pavel decided to launch a similar project, although he had to develop its principles and architecture independently, taking into account Russian realities. The main idea was to create a website that would help students recognize each other on the Internet.

In October 2006, the main functions of the site were ready for testing. Initially, registration was by invitation only, but soon it was opened to all comers. The number of users began to snowball, and by November 2007 the number of accounts reached three million. In the following years, this phenomenal growth continued. In 2015, epythe number of VKontake users was already 64 million comparing to only eight million of Russian users of Facebook and total of 87 million of Internet users in Russia (Baran and Stock 2015).

The Factors of Success

Why was VKontakte able to outperform its competitors? In 2007, VKontakte had competitors, but they all seemed less attractive. In the English-language sector, Facebook was actively crowding out MySpace, but at the same time, both platforms were poorly understood by Russian users and could not compete with VKontakte. In 2006, Odnoklassniki was already in active development, but they aimed at a different age category – people of 40 and older years looking for their high-school and university classmates. In May 2007, one of the largest email providers Mail.ru launched their new social network My Mir@Mail.ru, which was assembled from several already existed services (photos, videos, user profiles, etc.), but it seems that the architecture of the project was less convenient than VKontakte.

How did VKontakte managed to achieve these results? There are several factors explaining its comparative attractiveness over Facebook (Baran and Stock 2015). An important factor was Pavel Durov's talented approach to interface development. VK was incredibly convenient to use: minimum information, convenient layout, and nice design. During the first years Durov even refused to allow advertising on the website, which was odd for a platform with free access. It seems that users and their satisfaction were so important for Durov that he was ready to sacrifice everything else for this sacred purpose (Kononov 2013).

However, there was another important factor for success beside a convenient interface. VKontakte users could easily upload and share all types of media content: photos, music, and videos. Uploading and sharing of images was also possible on Facebook, but there was no free exchange of music and videos, making this competitor to VKontakte much less attractive to Russian users (Kiriya and Sherstoboeva 2015). Odnoklassniki also added music sharing, but only in 2011, 4 years after VKontakte, and it was less convenient for users.

Therefore, VKontakte became a paradise of free music and movies. Users could upload, send, and download any music or video file to their computers with the help of plug-ins and third-party programs. Moreover, any user could use global search in music or video files of all users (unless they closed access to their collections, which was rare) and copy any music or video to his or her library. A survey of users supported that "free music and video sharing" was crucial factor in popularity of the network (Baran and Stock 2015, p. 579). It was a revolution in the market for music and movies that made everything literally free. In 2011–2012, the VKontakte social network became one of the world's largest music and movie repositories (Omidi 2013).

This was a flagrant violation of Russian and international copyright laws, because terabytes of commercial music and video were freely available via any smartphone or computer. If one had an account with VKontakte (which anyone can get for free in 5 min), one immediately had unlimited access to illegal audio and video that no one could prevent. Tens of millions of ordinary people enjoyed illegal music and movies without concern for intellectual property rights. Moreover, the Russian government knew about this and appeared to not care – this problem did not appear as a topic in any public speeches or statements of Russian politicians or civil officers. This could be seen as an example of the legitimacy of illegal behavior which lasted for about 10 years (2008 to 2018).

A Long Road to Adoption of Copyright Law in Russia

Historically, copyright protection in Russia was always a problem. The country went through several cycles, from denial of international copyright law to the gradual establishment of respect to copyright, and then falling back to weak enforcement of it.

Russia published its first printed book only in 1564 (a century after the invention of book printing), but for two next centuries printing was limited and controlled mostly by the state. In the beginning of the nineteenth century, the number of private printers increased the threat of unauthorized publication and distribution of works.

Soon, Russia enacted it first copyright law, the Censorship Code and Statements on the Rights of the Writer of 1828. However, this law protected only Russian authors. All Russian publishers were free to publish any foreign work, both in the original language and in translation. In 1857, the Russian government extended copyright protection to foreign authors, but only if they first published their work in Russia and left without the protection of all works published originally in Europe. The main reason for this limitation was the unwillingness to pay royalties to foreign countries. In 1886, European countries decided to switch to a multilateral agreement and signed the Berne Convention. Russia refused to sign because of the large amount of pirated translated literature being published in the country. Signing this convention would force Russia to stop its policy of free translations, but the Russian government believed that this had great social value for the population. However, Russia tried to develop bilateral agreements with some countries. In 1911, a government commission developed a new Copyright Act and foreign authors received additional protection. It was prohibited to publish their works in Russia in the original language, but there was full freedom to translate and publish works in Russian.

This step-by-step process likely would have provided full protection to foreign authors over time, but this evolution was stopped by the Bolshevik Revolution in 1917. The new regime wanted to abandon all private property, including intellectual property rights, because a key Bolshevik goal was to nationalize all property and transfer ownership to “the people.” According to Marxist ideology, all existing international agreements served capitalistic publishers at the expense of authors; therefore, the Bolsheviks cancelled all international bilateral agreements. The government decided to put the interest of public education above commercial interests of authors and to disseminate classic Russian literature and music to people as widely as possible. Therefore, the new government abandoned the 1911 law with its 50 years of protecting Russian authors. In the late 1920s, the communist regime realized that killing all private initiative was not a productive idea, as it was impossible to feed the country by expropriating all the output of all producers; expropriation, it turned out, did not provide incentives for much production of food or other output. In response and to help rebuild the country after the Civil War, the Bolsheviks announced the New Economic Policy, which include elements of market exchange and, as a part of this new program, national authors were allowed to keep the copyright for their new works and to license them to publishing houses. However, they were not allowed to sell their works, and the state retained the right to nationalize the works of any author without their consent. In this case, the state could disseminate the nationalized works as widely as needed, but the author would receive compensation according to standard rates. Further, the law denied protection to any foreign authors unless they first published their works in the Soviet Union. Paradoxically, the communist government restored the legal order of Tsarist Russia of discriminating against foreign authors.

For the next 30 years, the USSR remained isolated in respect to international intellectual property agreements. However, in the 1960s, the situation changed due to economic factors. First, the Soviet state never had shown much respect for protection of intellectual property. As for China today, Soviet enterprises before and after Second World War copied Western engineering products without permission. After some time, several large countries refused to deal further with USSR if it would not join conventions for the protection of intellectual property. In 1968, Soviet Union had to sign Paris Convention for the Protection of Industrial Property.

The copyright law required a bit more time, and here the United States played a key role. There was serious domestic political pressure on the American government from authors who lost royalties because their copyrights were not recognized in the Soviet Union. Therefore, the USA invested a good deal of effort to convince Soviet leaders to join the Universal Copyright Convention ("UCC") and to modify existing copyright laws accordingly. In 1973, the USSR did this in exchange to tax concessions. As a result, Russia abolished its freedom of translation policy for the first time. However, the problem was not completely removed – foreign authors received the same protection in Russia as Russian authors, but the scope of this protection was smaller than that which foreign authors enjoyed in their home countries.

Later, the United States continued to work with USSR to cajole them to join the Berne Convention and reached a bilateral agreement with Mikhail Gorbachev in 1990 in exchange for international trade facilitation. The USSR suddenly collapsed right before enactment of this agreement, but the new post-Soviet Russia was ready to play by rules of the global the market. In 1993, it adopted the new law on Copyright and Neighboring Rights and, 2 years later, joined the Berne Convention.

Piracy in 1990 and 2000s: Illegal but Legitimate

However, adoption of new laws did not change the behavior of ordinary people overnight. In the 1970s and 1980s, at lower levels of Soviet society, all forms of free exchange and circulation of music, books, and movies was seen as legitimate. Probably, it was again explained by the Marxist idea that all compensation should be paid for live labor, and simple copying of an intellectual product of another person was not seen as live labor which required compensation. Therefore, free unlimited copying of texts or music was not necessarily or always seen as something bad or wrong. When tape recorders became popular in 1980s, millions of Russian citizens started copying Russian or Western popular or rock music. Partly it was explained by the fact that there was real shortage of legal supply of these records, which often could be only brought from abroad by tourists. Partly it was explained by the fact that some content (songs, literature) had anti-Soviet character and so could only be distributed in private, shadow exchange to get around censors.

When Russia turned to market economy in the 1990s and adopted the law on Copyright and Neighboring Rights in 1993, the country was psychologically not ready to change attitudes about accessing music and movies in cheap and available pirated formats. Another problem was that there were no good laws protecting intellectual property rights and offering an effective mechanism for their protection. A mass market for software appeared only in 1990s but it followed the same pattern – for example, the use of pirated versions of Microsoft Windows and similar applications. Further, the digital revolution switched pirated music and movies from VHS and tapes to CDs and DVDs. An important factor in this process was appalling poverty of Russian people in the 1990s and the relatively high price for legal versions of Microsoft, Corel, Adobe, and other software. For example, in 1995, pirated versions of Windows 95 were sold on CDs for only $3, in contrast to the official recommended retail price of $200. Taking into account that the average monthly salary in Russia was about $100–150, we see one reason why many Russians accepted pirated software: they saw it as legitimate situation and did not have much doubt about it.

The absence of law enforcement, high prices for legal content, and appalling poverty led to the astronomic size of the market in pirated content in Russia in the 1990s. The International Intellectual Property Association estimated that in 1997, piracy in Russia resulted in losses of $312 million for movies; $400 million for software; $165 million for music; and $45 million for books.

The American government was not happy about this legitimate piracy, but in the 1990s the USA could not introduce sanctions out of fear that Russia would revert to communism if President Boris Yeltsin's economic policies failed. This was a battle for hearts and minds of Russian citizens, and so the American government did not want to create antagonism against Western civilization and a market economy. Therefore, the United States opted to tolerate Russian abuses of property rights for a time.

In the 2000s, the revolution of broadband access led to a different revolution in the Russian media market: people could download any software, music, or movie through the Internet. Torrents became a new common tool and even in experienced users learned how to use it to get access to pirated music, movies, and software. The culture of unlicensed media content continued to flourish.

Copyright Challenges of the Internet Era

However, even in the West, the new era of digital content and Internet required a rethinking of traditional copyright norms of the twentieth century. First, the traditional culture of copyright allowed legal sharing of previously purchased books or movies between close friends and relatives. Now, however, users had the opportunity to instantly share a media file with hundreds of friends and relatives, or even with strangers in the same internet network. Second, much more content was produced and buying all this content at usual prices were just impossible. Third, availability of free pirated content became an attractive option for people in many countries. All these changes made industry actors rethink their business models in search of more convenient, fair, and sustainable terms for using copyrighted content.

The idea of music sharing was exploited by Napster, a peer-to-peer file sharing platform created by Shawn Fanning and Sean Parker in 1999. The platform was specially oriented to sharing MP3 files. The user-friendly interface was a success and soon Napster attracted millions of users (Honigsberg 2001). Users shared not only new commercial music but also older songs, unreleased studio recordings, and bootleg concert recordings that were otherwise difficult to obtain. Soon, more than

50% of external Internet traffic in college dormitories was MP3 file transfers. However, soon the most active commercial musical projects started worrying. In March 2000, heavy metal band Metallica filed a lawsuit against Napster that was soon joined by other musicians and major record labels. However, it was not obvious to the multitudes outside the artistic world that Napster did any real harm (DeVoss and Porter 2006). In October 2000, Shawn Fanning appeared on the cover of *Time* as a person who changed the world, and Napster was compared with the invention of email or messengers. At the same time, Larry Page and Sergey Brin, the future founders of Google, met Shawn at one conference and said that they envied his success. However, court experts predicted that the music industry would almost certainly win its lawsuit. After some consideration, Napster estimated its future revenues and offered to pay record labels Sony, Warner, BMG, EMI, and Universal Music Group $150 million annually for 5 years in exchange for dropping their copyright infringement lawsuit. To collect this money, Napster planned to implement monthly subscription fees, ranging from $2.95 to $9.95. The labels were almost offended by the suggestion to license their millions of songs to a pirate and added that $150 million a year was not good enough. In April 2000 Napster started to develop a technology of "digital print" to automatically find copyrighted content. In July, they presented this technology and claimed that it could filter about 99.4% of unlicensed songs. The judge was not impressed and decided that Napster should shut down its operation until the filter could screen out 100% of unlicensed material. It was Napster's legal duty to restrict full access to infringing material. The judge made Napster to pay$26 million of damage for past, unauthorized uses of music, and $10 million as an advance against future licensing royalties. However, Napster was not able to comply with this decision (it had already about 26 million users worldwide) and had to close its operation in July, 2001.

Interestingly, that along with accusations that Napster hurt sales of commercial music, there were opposing views who saw a positive impact of file sharing. One bit of evidence was the influence of Napster on the sales of Radiohead's album Kid A (Cohen 2000). The album was widely circulated on Napster months before sales, and at the same time there were no singles released or almost no radio airplay. Three million people downloaded the album on Napster. However, after official release the album was still actively sold, and on October 2000, it reached the top position on the Billboard 200 sales chart. (Radiohead never entered the top 20 in the US before this.) Many musical artists who did not have contracts with labels or access to radio or television also suggested that Napster helped get their music heard, spread by word of mouth, and may have improved their sales in the long term.

Another factor which made Napster attractive for users was the opportunity to download only 1–2 songs from an album. This opportunity was very important because in the commercial music industry it was the norm that a typical album had only one or two good songs, and all other material was less valuable. Of course, this opportunity made the major labels angry at Napster.

However, the battle with labels for freedom to purchase separate tracks took a new turn in 2003, thanks to Steve Jobs. After the huge success of iPod, Jobs decided to launch the iTunes Store platform, which would allow users to access music content legally. Jobs saw that buying entire albums of legal music was too difficult or troublesome for Internet users, which pushed them to piracy. It was necessary to offer a more flexible and simple model. Jobs suggested buying and downloading tracks individually. Again, the major labels demonstrated their opposition, because historical music was sold by albums, and often users bought the entire album to gain access only to a few interesting compositions. However, the spread of Internet piracy was so active that the labels decided to tryout this proposition. Jobs promised that iTunes would be available only to Mac users, who accounted for only 5% of the total market, and the labels decided to take a chance. The success of iTunes was phenomenal: one million songs were bought in 6 days instead of the planned 6 months (Chen 2010). In 2011, the number of songs sold reached more than ten billion. At the end of 2012, iTunes became available in Russia as well, and users could buy or rent music or movies. Prices were adapted to Russian realities, for example 22 rubles per song (in contrast to €0.99 in Europe).

However, soon it was Jobs whose model and legitimacy were challenged by a newcomer. In 2006, young Swedish entrepreneurs Daniel Ek and Martin Lorentson came up with Spotify, whose goal was to sell *streaming music*. At first, they tried to legalize the project as a form of radio, but soon lawyers convinced them that they would have to conclude contracts with all copyright holders. Again, rights holders were reluctant to accept a fraction of a cent for each audition, but piracy in Europe was growing at an ominous pace, so in the end they agreed to the experiment. It took 2 years to develop the system and conclude all necessary contracts, and in 2008 Spotify was launched in Europe. The project began to gain popularity and provided serious competition for iTunes, as users began to switch to a more profitable model. In 2011, Spotify was launched in the USA (as it took two additional years to sign contracts). All this happened to Jobs' great displeasure, as he had made a strategic bet on downloading music and his application (one tool to compete with Android). At the same time, Spotify remained unprofitable for a long time, as payments to copyright holders significantly exceeded the income from the service, but Spotify managers firmly believed in their idea and continued to scale up.

As we can see from this overview, online platforms were already actively developing in the West, searching for new business models that suited all parties in this process, and eventually, they provided legal access to copyrighted music. It was a painful process with deaths and failures.

VKontakte and Search for New Legitimacy

What was happening in Russia during these years? Here, musical communism was built "in a single country." Russian users had access to an enormous free music library at vk.com, with which no other paid or free service could compete. Obviously, VKontakte violated copyright regime of Western countries because it offered the same copyright freedom as Napster ("Socialism in one country" was a theory put forth by Bolsheviks in 1924 (and best associated with Joseph Stalin) when it was clear that the communist revolution in European country would not follow in the nearest future. It replaced the theory of world revolution or world communism.). How did VKontakte explain its position about this problem? Did they feel wrong about it and how they were going to develop their model the future?

Pavel Durov, founder, leader, and director of VKontakte for several years, refuted all accusations of piracy and insisted on the legitimacy of his model. He claimed that the position of VKontakte was absolutely ethical and that this position should be recognized as a new legitimate business model. What arguments did he use to support this claim?

In 2012, Durov expressed his arguments in an occasional discussion about copyright issues started in VKontakte. First, he assumed that Russian users are not ready to pay for music online. He said that VKontakte conducted market research and focus groups and found that paid online music could never exist in Russia. Second, he claimed that the business model of the music industry had changed. Now, online circulation of music was used to create awareness about musicians and to generate demand for live concerts. These concerts, whether in public clubs or in special closed corporate events and venues, brought large revenues to musicians. This is why the latter are actually interested in putting their music online, and VK seemed to be the best channel for this. Durov cited various facts when Russian and foreign musicians created their public pages in VK to disseminate information about their music and to generate demand for it. He even said that musical producers in Russia were afraid that their music might become unavailable in VK. Third, he claimed that copyright holders' real desire was not to remove music and videos from VK, but to make money from the platform. However, he emphasized that they did not deserve these payments because they were "slaveholders" and collected a good deal of money from the public without compensating artists. Durov sincerely believed that he was ideologically correct and was ready for a conflict with copyright owners.

Soon, this conflict began. In December 2012, popular singer Sergey Lazarev complained that his new album was available for free download on VK immediately after it went on sale on iTunes (Pavel Durovostavil «VKontakte» bez pesen Sergeya Lazareva [Pavel Durov left VKontakte without Sergey Lazarev's songs]. BFM.ru, December 12, 2012. https://www.bfm.ru/news/202298). He publicly promised to sue VKontakte, and he invited other artists to join this motion against the illegal distribution of music on VKontakte. These statements infuriated Durov, and in response he made sure that on that same day, all of Lazarev's songs were blocked on the site; when someone tried to play any of them, the user received the message, "This song was removed from public access because of its low cultural value." Interestingly, no musician decided to join Sergey Lazarev and to sue VKontakte after this *tour de force*. It seems Durov won this round, and the majority of musicians believed that having a presence on VK was more important for their commercial success that being blocked.

It seems that many young musicians in Russia agreed with these new rules of the copyright game and built their musical careers in this new environment. They created groups in VKontakte and distributed their music free in these venues. Many popular rappers or indie rock musicians became famous in this manner. A funny fact is that for a long time, their new albums had exactly nine songs, as this was the maximum number of files that they could attach to a post. In any case, their strategy confirmed the fundamental fact that one needed to become famous first and only then could charge money for music, and now musician could obtain access to a good channel to become famous, which did not exist before the emergence of social network platforms. Therefore, they were able to become popular without relying on major labels. This created a revolution in the music industry. As a price for this opportunity, musicians agree to accept free distribution of their music on VK and build their monetization strategy through live concerts – exactly as Durov had predicted.

However, there were also opposite facts. Research has shown that Internet piracy did have a negative impact on music sales. Research by Zentner (2006) found that legal sales of CDs decreased by 14–23% because of file sharing. American market research company NPD found a similar result: a quarter (26%) of the decline in CD units in 2005 was due to music consumption via illegal file-sharing. A study by IFPI/Jupiter conducted among European Internet users in November 2005 found that more than one third (35%) of illegal file sharers were buying fewer CDs as a result of their downloading (IFPI 2006). A 2009 Jupiter study found that the net effect of illegal file-sharing was negative. “Although it is possible that file-sharing functions as some sort of discovery tool for those digital music buyers that also file-share, it is reasonable to assume that their expenditure would be higher if they were not file-sharing. The overall impact of file-sharing on music spending is negative” (IFPI 2010).

Who Is Responsible: A New Battle for Legitimacy in 2010–2013

While Pavel Durov promoted a new theory of the legitimacy of music sharing, American and European labels remained unhappy that their products were distributed via VK (Chto proiskhodit s muzykoy v kontakte[What happens to Vkontakte music?]. *Afisha Daily*, June 17, 2013.). A representative of Universal Music, Dmitry Konnov, said in 2013: “Our patience is over. VKontakte is inseparable from music, and the network owners have mastered the monetization of their audience perfectly. Tens of millions of advertising revenue would not be possible without pirated content followed by the audience on VKontakte. Now the patience of big players almost simultaneously is over. It is easy to understand why – even such piracy harbors as India and China (not to mention Brazil) demonstrate convincing growth of legal music market. Only our sales in Russia has been falling for the fourth year in a row by at least 20% a year. The reason is simple – all music is available free. Just click and listen.”

Why did these labels not use the courts to defend their rights? They tried, but the Russian judicial system was not ready to enforce copyright law and prevent unlicensed circulation of music. In 2010, there were several attempts to sue social networks, including VKontakte. First, Gala Records, representing the interests of the recording company EMI, filed a lawsuit against Mail. Ru and VKontakte for posting music by singer Maxim and the Infinity group. Russian TV-channel VGTRK sued VKontakte for posting the movie “Piranha Hunt.” As a defense the attorneys of VKontakte did not use Durov’s arguments about the new legitimacy of free music but claimed that social networks are not responsible for this content, because it was uploaded by users. This strategy was good for the courts but was morally risky. First, Durov placed the interests of his users above all, but now it looked as he wanted to put them into jail instead of himself. Second, it was an obvious lack of integrity or hypocrisy to say one thing to users and another to the courts. However, this conflict of interests resolved, luckily both for the network and its users. The litigations failed because the courts sides with the networks and decided that users should be held responsible. Punishing users was technically difficult because sometimes it was not easy to understand who owned an account, and moreover, it created enormous legal costs for record labels, who now had to sue millions of users instead of a small number of networks.

Who should be held responsible for putting licensed content online? This was not clear in the law, and in 2010, three big groups of stakeholders started to fight for establishing new legitimacy in this area (Videosayty vystupili protiv krupneyshikh ploshchadok runeta [Video sites opposed the largest sites of Runet]. *Vedomosti*, October 22, 2010). The first step was made by the five largest Internet platforms (VKontakte, Yandex, Google, Mail.ru, and Rambler), who published an open letter to legislators claiming that it was impossible to monitor the content of millions of users, and so, they asked not to be held responsible for this. Then, the three largest websites to provide paid access to licensed music and video content (Tvigle, Zoomby, and TvZavr) also published their own open letter requiring the main search engines (Yandex, Google, and Rambler) to remove pirate sources from search results, and requiring all advertisers signing the statement about the absence of their advertisements in unlicensed online content. Soon, the Association of TV and movie producers published a list of 3000 movies and TV programs protected by law, and the list of about 300 websites that violated these restrictions – which included VKontakte. The association claimed that it also cannot be responsible for monitoring all these resources and that search engines and social network platforms should be held accountable for this.

This open debate had not real consequences for the legislator’s side. After copyright holders understood that they could not sue the platforms themselves, they decided to conduct several demonstrative trials against individual users of the networks. In January 2011, the first litigation started, and a 26-year-old resident of Moscow was accused of “violation of copyright and related rights” for posting 18 audio recordings of a music group, the number of downloads of which by other users exceeded 200,000. The label estimated damages to be 108,000 rubles, and the suspect was threatened with the possibility of 6 years in prison. However, this suit was a failure. The case was dropped because the police could not identify the person who owned this account on VKontakte and thus could be prosecuted. Later, there were several other attempts to sue particular users, but they were also hindered by the same problem. Even when VKontakte agreed to disclose users’ IP-addresses, it was not possible to identify real persons with this information.

Eventually, record labels understood that a strategy of litigation would not work in the Russian judicial system and could bring more harm than good. The director general of Universal Music Russia commented: “Users are not guilty and it makes no sense to prosecute them. Moreover, after such litigation, people become very mad to copyright holders and start using pirated resources more actively.” Obviously, this was a dead end, as the Russian legal system could not effectively stop piracy (*Politsiya ne nashlapirata v. setiVKontakte* [The police did not find a pirate on the Vkontakte network]. Vedomosti, May 27, 2012.). Social networks and search engines insisted on putting responsibilities on final users, but at the same time they did not wanted to lose users’ loyalty. Record labels and legal music and video providers insisted on making search engines and social networks responsible. And around 50 million users of VK were happy with free music and video and mostly knew nothing about the legal issues.

What about the state? Maybe it was disinterested because the major right holders were foreign companies? As we remember from historical survey above, the state for centuries discriminated against foreign authors. However, there was also a good deal of *Russian* copyrighted content on VKontakte and other networks, and so this explanation is not entirely correct. A more realistic explanation could be that social networks and search engines, who did not want to lose their users, successfully lobbied the government for protections. At the very same time, in 2010 the court decided to block the domain name *torrents.ru*, the largest Russian torrent tracker service that allowed downloading almost the same musical and video content for free. The difference was that this website was a small project with no resources for influencing the government; it also allowed pirating of software produced by large and influential Russian software developers.

Conclusion

This situation of legitimate free circulation of copyrighted content could have continued, but there was another phase of change in 2013. Again, as with Tsarist Russia and Soviet Union, the main factor was international pressure of trade partners. In 2012, Russia joined the WTO and accepted obligations to harmonize its laws for protection of intellectual property. In 2013, Russia adopted a new “anti-piracy law” that gave courts the right to block an entire website even if unlicensed content was uploaded by a particular user. This marked a radical change in the behavior of social networks and search engines, who previously were talking about the impossibility of monitoring a million users but now decided to develop the technology of “digital print” to do this job automatically. Hundreds of suits were filed against VKontakte to remove copyrighted music, its top managers understood that their musical library would soon be significantly reduced (*Mail.ru Group zaymetsya legalizatsiyey muzyki* v. *sotsial’nykh setyakh* [Mail.ru Group will legalize music on social networks]. Vedomosti, October 23, 2014.). They started new negotiations with major record labels which took several years, and finally in 2016 Mail. Ru Group, the new owner of VKontakte, signed agreements with Universal, Sony Music, and Warner Music to make annual payment to each of around $2–2.5 million («V kontakte» poyet za den'gi [Vkontakte sings for money]. Vedomosti, October 2, 2017.). Without generating revenue from users, this model would be unsustainable, so in 2017 VKontakte began inserting advertisements between songs during playback and limiting the duration of playback at 30 min per day. At the same time, it introduced paid accounts for users without advertising and unlimited playback for about $3 per month.

This case illustrates an interesting phenomenon of searching a new legitimate business model by various marker actors in the situation of new technological change. This new legitimate model may contradict to laws but if everyone agrees the model may persist for years. Two important generalizations may be made. First, a company may choose illegal behavior if it maximizes happiness of its most important stakeholders (users for social network or search engine) and is viewed as legitimate by them. Second, the decision to change a legitimate business model almost never comes from moral arguments, but always made under external pressure. VKontakte used many arguments to justify piracy for many years and decided to change its strategy only after 2013 when serious external pressure was made from foreign companies and government.

While VKontakte and other Internet platforms are changing their business models under external pressure, the majority of Russians still consider free unlimited circulation of new music and movies as legitimate. According to the national public opinion pollin August 2018 (Russian Public Opinion Research Center, https://wciom.ru/index.php?id=236&uid=9243), 81% of Russians do not believe that the creators of music or movies should receive payments for every copy of their work downloaded or consumed; 47% believes that after music or movies appear on the web, the producers do not have right to prohibit their free circulation; 66% prefer to watch for free low-quality copy of movie than to pay for a licensed copy; and 71% justify piracy by the low level of incomes in Russia. Therefore, the free consumption of licensed music and video is still considered by the majority as legitimate.

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Japan, Business Ethics, and Business Legitimacy

77

Shinji Horiguchi

Contents

Abstract

This chapter discusses a significant gap between the apparent wholesale adoption of CSR policies by Japanese companies and their actual thinking. In the last two decades, Japanese companies have enthusiastically adopted CSR policies even though they have been skeptical about the effectiveness of such CSR policies. To explain this façade of business ethics, most of the existing academic debate tends to focus on the cultural differences between the West and Japan. In other words, these academics are of the thinking that CSR policies are ineffective in Japan because Japanese companies cannot accept the Western-oriented values associated with the idea of CSR. In this way, they have attempted to trace back to Japan's own traditions to search for a model which is more suitable to Japanese management. However, this is an oversimplification of the situation. In order to understand business ethics in Japan fully, both aspects of this gap between outward appearance and reality should be addressed: how Japanese companies have adopted CSR policies while at the same time they are skeptical about their effectiveness. It is important because it is this kind of discrepancy that

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characterizes Japan's business ethics. To achieve this aim, this chapter firstly explains the development of CSR practices in Japanese companies, by utilizing the concept of "legitimacy," especially influenced by institutional theory. Secondly, this chapter reveals the reason why Japanese managers have been skeptical about their effectiveness, by reviewing the unique history of civil society in Japan. Consequently, an inconvenient fact will be revealed that Japanese companies hastily adopted CSR policies to legitimatize their businesses not for the benefit of society in Japan but for the business community in the USA.

Keywords

CSR · Japanology · Isomorphism · Civil society

Introduction

Most research on business ethics have focused on Western countries, and the theory and practice of corporate social responsibility (CSR) has often been associated with American and European management systems. Research on these topics in Asian countries, in particular their own perspectives on them, is still an emerging field (Fukukawa 2010). Although the Japanese management system has been well-studied since its glory days in the 1970s, relatively little is known about how they understand these CSR issues and what their motives to handle them are. This is partly because these issues arose from the business context in the US. Given the US origin of the term, it is not surprising that Japan has been positioned as somehow lagging behind in this development process. For that reason, the academic interest in the influence of these issues on other countries, particularly on non-Western countries, is still in its infancy. Another reason for this situation comes from the fact that Japanese CSR has been thought of as implicit. Matten and Moon (2008) classified Japanese CSR among the implicit CSR systems along with European ones, in contrast to the explicit US model of CSR. While US companies have articulated explicitly their policies, European companies, in addition to Japanese ones, had not articulated these policies at their companies' own discretion until recently.

However, in this age of globalization, the situation seems to be changing. Companies in the latter countries have also come to adopt more explicit commitment to CSR, which resembles those of the US companies. Japan is no exception. Japanese companies, especially among multinational companies, have developed such explicit CSR in the last two decades. According to a survey conducted in 2017, 95.7% of 1,413 Japanese major respondent companies articulate CSR policies (24.3% of 749 in 2006), 72.0% of respondents established a CSR section or department (25.6% in 2006), and 70.6% of respondents had appointed a director for CSR activities (35.2% in 2006) (Toyo Keizai 2018, compared with Toyo Keizai 2006). The number of companies publishing reports on CSR issues has also increased dramatically. According to KPMG domestic survey 2017, 96% of NIKKEI 225 companies published CSR reports (KPMG 2017a). KPMG global survey 2017 also revealed that Japanese companies are the second most likely to engage in sustainability reporting after US companies (KPMG 2017b).

Although the academic debate on Japanese business ethics is still in a primitive stage, some important research on the subject has appeared in recent years. These articles provide many insights into how Japanese companies have adopted these practices and adapted themselves to such new operations. However, the majority of these studies tend to focus on the cultural uniquness of Japanese practices in comparison with Western ones. For example, Wokutch and Shepard (1999) identified a unique characteristic of "micro moral unity" within the Japanese business. This characteristic implies that business activity in Japan is linked to its social moral values but only within carefully circumscribed communities of interest. And they asserted that this unique characteristic arose from several aspects of Japanese culture: the within-group/out-of-group distinction; the Confucian sense of duty to those with whom one has a specific relationship; and the strong emphasis placed on the value of loyalty (Wokutch and Shepard 1999: 532). According to them, these aspects of Japanese culture distinguish Japanese thought from those of American and European countries. Todeschini (2011) also identified the notion of "web of engagement" in order to clarify what the Japanese term "responsibility" means, through her own anthropological experience in a medium-sized Japanese company. She explained the subtle meaning of the notion based on the Japanese original concepts of "*ba*" (field) and "*kokoro*" (heart), which derive from Japanese "*Zen*" philosophy.

Moreover, some studies have emphasized the advantageous aspects of Japanese original business ethics influenced by its tradition, such as "kyosei" and "moralogy," instead of adopting the Western-oriented CSR practices uncritically. Today "kyosei" is one of the well-known concepts of business ethics; it was originally a Japanese idea. In 1987, the then chairman of Canon Inc., Kaku, introduced the idea of "kyosei" into business context to describe its vision: "individual and organizations live and work together for the common good" (Kaku 1997: 59). When the Caux Round Table developed a comprehensive set of principles for business leaders in 1994, Kaku played an important role based on the very idea of "kyosei." As Kaku noted, the roots of application of "kyosei" into business can be traced back to the Japanese house codes in the early seventeenth century. Actually, there is even an essay which revealed a connection between Confucianism, on which "kyosei" is based, and its adaptation and application to business in the sixteenth century (Boardman and Kato 2003). Another example can be observed in the introduction of a unique Japanese approach to business ethics: "moralogy." "Moralogy" is thought of as an indigenous Japanese approach to business ethics since about 100 years ago, which aims at "a comprehensive, scientific study of the transcendent qualities essential for enabling both individual and societies to achieve ultimate peace and happiness" (Taka and Dunfee 1997: 507). Taka and Dunfee (1997) argued that this "moralogy" has been particularly influential among a set of middle-sized to small business companies in Japan. As they observed, these companies prefer to conduct business ethics under this indigenous concept rather than Western

CSR influenced by ideas such as "theory of justice," "stakeholder theory," or "integrated social contracts theory."

Interestingly, the tendency to emphasize the cultural difference, or to appreciate Japanese tradition, instead of accepting Western models uncritically, has been typical for academics of Japanese management, not only in business ethics but also in management studies in general. It is well-known that Hofstede drew on the essential distinction between Western and Eastern culture based on the ideas of individualism and collectivism, and these distinctions have been often used by other scholars who compared Western and Japanese management systems (Hofstede 2001). In the field of knowledge management, Nonaka also has placed great value on tacit knowledge over explicit knowledge, based on the similar contrast between Western and Japanese cultures (Nonaka and Konno 1998).

However, as a British historian of Japanese economic thought noted, such a stark contrast between the West and Japan is not necessarily helpful. Sometimes there can be a risk of misunderstanding.

> Not so many decades ago, it still seemed plausible for a British writer to contrast a 'Western' with an 'Oriental' mode of economic thought, the latter being based on conceptions of logic which differ markedly from those of the West. . . .. . .In such contrasts between Japanese and Western thought, however, 'the West' often becomes no more than an idealized antithesis – either a heaven or a hell – which is used (according to the preconceptions of the author) to damn or glorify the existing state of affairs in Japan. (Morris-Suzuki 1989: 1)

In other words, by referring to such contrast, they have attempted to divide the Japanese system into traditional and nontraditional categories. However, it is misleading, because the Western ideas also have already been absorbed and incorporated in various ways into Japanese consciousness and have stamped their indelible mark on its culture.

Keeping these remarks from "Japanology" in mind, this chapter will shed light on the reason why Japanese management has dramatically made their business ethics explicit in the last two decades, even though they still do not place much value on these activities. As some recent research has revealed, Japanese companies appear to embrace CSR rhetoric and practice on the one hand, yet equally there is a sense in which companies find themselves uneasy about its uncritical adoption (Fukukawa and Teramoto 2009: 134). In order to understand the Japanese view on CSR fully, a clear explanation of the gap between such outward appearances and their actual thinking is necessary. Because, it can be said, it is this kind of discrepancy that characterizes current business ethics in Japan. To achieve this aim, this chapter will explain the reason why CSR has been widely adopted in Japanese companies regardless of the fact that their managers are skeptical about its effectiveness, without resorting to cultural differences, which often involve unfamiliar Japanese jargon. Instead, the concept of "legitimacy," especially influenced by new institutionalism in organization theory (Powell and DiMaggio 1991), which is more familiar to Western readers, will be utilized for this purpose. According to the theory, even if the actors themselves are skeptical about its rationality, organizational change happens when it is legitimatized for its institutional conditions. It will provide some valuable insights on the recent striking change of business ethics in Japan.

The Legitimatization of Japanese Business in Its Institutional Conditions

The concept of legitimacy has been important in analyzing the relationship between companies and the society in which they are operating. In particular, the concept has been central to new institutionalism in organization theory (Powell and DiMaggio 1991). According to this theory, an organization will change its structure to conform to the society's expectation about what form or structure is acceptable. For example, when the majority of other organizations in the same industry have a particular governance structure, there might be an institutional pressure on an organization to also have such a structure in place. Thus, organizations are under this kind of pressure from society to legitimatize their activities in order to conform to its expectations.

By using this framework, DiMaggio and Powell (1991) explained why there is a startling homogeneity of organizational forms and structures. According to them, in the initial stages of their life cycle, organizations display considerable diversity in approach and form. Once its institutional condition becomes well-established, however, there is an inexorable pressure toward homogenization. Interestingly, such organizational change occurs as the result of a process that makes organizations more similar without necessarily making them more rational. Organizations may change their goals or develop new practices. But in the long run, organizational actors who have made rational decisions construct an institutional condition that constrains their ability to change further. Early adopters of organizational innovations are commonly driven by a desire to improve their performance. However, as the innovation spreads, a threshold is reached beyond which adoption provides legitimacy rather than improves performance. Strategies that are rational for some organizations may not be rational for other organizations. Yet, the very fact that they may be normatively sanctioned increases the likelihood of their adoption. In short, once disparate organizations in the same line of business are structured into an institutional condition, powerful forces emerge that lead them to become more similar to one another.

According to them, the concept that best captures the process of this homogenization is "isomorphism" (DiMaggio and Powell 1991: 66). This is a constraining process that forces one unit in a population to resemble other units that face the same set of environmental conditions. Based on this biological concept, they identified three mechanisms through which organizational isomorphic change occurs: (1) coercive isomorphism, (2) mimetic isomorphism, and (3) normative isomorphism. Actually, it is these mechanisms that demonstrate well the process of the adoption of CSR policies by Japanese companies.

1. Coercive isomorphism results from both formal and informal pressures exerted on an organization by other organizations upon which it is dependent. Such pressures may be felt as force, as persuasion, or as invitations to join in collusion. For example, organizational change may be a direct response to government mandate. Manufacturers may adopt new pollution control technologies to conform to environmental regulations. As a result, organizations are increasingly homogeneous within given domains and increasingly organized around rituals of conformity to wider institutional conditions. Actually, this was the case in the development of CSR policies in Japanese companies. As Lewin et al. (1995) observed, the administrative guidance issued by the government was an important driver of CSR activities in Japan. For example, each of the relevant ministries was actively engaged in examining and disseminating guidance on CSR policies. The Ministry of the Environment organized a meeting to study CSR practices in 2005. Consequently, the ministry announced a definition of CSR similar to that employed by the European Commission and the World Business Council for Sustainable Development (WBCSD). Furthermore, the ministry repeatedly emphasized the importance of communication process with multiple stakeholders. The Ministry of Health, Labor and Welfare also published guidance on CSR issues, especially concerning labor issues, and encouraged companies to comply with it. The Ministry of Economy, Trade and Industry also released statements on CSR, including on issues such as sustainability, human rights, and the disclosure of nonfinancial information to stakeholders. In this way, governmental suggestion, or administrative guidance (gyosei-shido), was an important driver of the adoption of CSR activities by Japanese companies.
2. Not all institutional isomorphism, however, derives from coercive authority. Uncertainty is also a powerful force that encourages imitation. When goals are ambiguous, or when the environment creates symbolic uncertainty, an organization may model itself on other organizations. That is, modeling is a response to uncertainty. According to DiMaggio and Powell (1991), one of the most dramatic instances of modeling was the effort of Japan's modernizers in the late nineteenth century to model new governmental initiatives on apparently successful Western prototypes. The imperial government sent its officers to study the courts, army, and policies in France, the navy and postal system in Great Britain, and banking and art education in the US (for further information about the Japanese modernization, see Westney 1987). Apparently, this was also true of Japanese adoption of Western CSR. Since the substantial increase in the value of Japanese yen after the Plaza Accord in 1985, Japan's direct investment in the US surged. Consequently, through the contact of Japanese companies with local communities in the US, their interests in "philanthropy" and "good corporate citizenship" were enhanced significantly. Actually, major business associations, such as Keidanren (the Japan Federation of Economic Organizations) and Doyukai (The Japan Association of Corporate Executives), promoted a number of programs on CSR, including study groups and seminars. For example, Keidanren established the Council for Better Corporate Citizenship in 1989 as a coordinating organization for corporate contributions overseas. Keidanren also organized the 1-Percent Club (for

donations) in 1989 to promote corporate and individual philanthropic efforts (for further information about the 1-Percent Club, see Keidanren's site (https://www.keidanren.or.jp/1p-club/ Accessed Aug 20 2019), as compared with the development of 5-Percent Club in Minneapolis, St. Paul (Galaskiewicz, 1991)). Also, Doyukai published a report of Market Evolution and CSR Management in 2003 and introduced the concept of CSR by referring to the practices in the US. Not only practitioners' commentary on these CSR issues but also academic interests in such topics trailed that of the US. Since the first important publication of *Business Ethics* (De George 1982) in Japanese in 1995, several American textbooks have been translated into Japanese (Taka 1997: 1503). Due to the effort of these translations of Western ideas, business ethics has been recognized as an independent field in Japan too. Today, several technical terms, such as CSR, sustainability, and SRI, can be seen in the media without any detailed explanations. In this way, organizations tend to model themselves after similar organizations in their field, even in other countries, if they perceive them to be more legitimate.

3. A third source of isomorphic organizational change is normative and stems primarily from professionalization. Professionalization is the collective struggle of members of an occupation to define the methods of their work and to establish a cognitive base of and legitimation for their occupational autonomy. As DiMaggio and Powell (1991) pointed out, the major recent growth of such professionalization has been observable particularly in managers and specialized staff of large organizations. Apparently, the Japanese major business associations (Keidanren, Doyukai) above illustrate this process well. These associations have taken important roles in leading individual corporations in this normative direction. In order to explain this normative isomorphism in a more concrete way, DiMaggio and Powell described two aspects of the professionalization: the first is the resting of formal education and of legitimation in a cognitive base produced by university specialists and the second is the growth and elaboration of professional networks that span organizations and across which new models diffuse rapidly (DiMaggio and Powell 1991: 71). Again, these two aspects illustrate the development of CSR in Japan well. The formation of the Japan Society for Business Ethics Study (JABES) is one such encouraging development in this aspect. Reitaku University also has played important roles in advancing business ethics theory and practices in Japan. More importantly, professional businesses, such as consulting firms and auditing firms that could support the process of drawing up CSR reports, have rapidly developed to assist CSR activities during this period (Tanimoto 2010: 47). Needless to say, these are good examples of the second aspect of this normative isomorphism. Consultants and think tank researchers have been working actively to meet the needs of this CSR movement. Such professions have become vehicles for the definition and promulgation of normative rules about new organizational behaviors.

The fact that these changes may be largely ritualistic or ceremonial does not mean they are inconsequential. Rather, the important implication of this theory is that each of the institutional isomorphic processes may proceed in the absence of evidence of whether or not it increased its real rationality. Therefore, from an organizational point of view, less rational forms do persist. It is this kind of double standard that is quite useful to understand the institutional conditions in which Japanese companies have adopted CSR policies without any expectations of their effectiveness. Japanese companies just imitated the practices in the US to legitimatize their presence in the US business community. Now, the remaining question is why were Japanese companies not able to rely on CSR policies? To answer this question, it is necessary to understand another institutional condition in which Japanese companies have never been able to initiate the CSR within the Japanese context. This is the main topic in the next section.

CSR in the Absence of Society?

The notion that corporations have responsibilities with regard to society beyond only making profit has existed for a long time. However, it is generally accepted that the social unrest generated in the 1970s, particularly in the US, increased interest in CSR and pressure on firms for numerous societal demands. These demands became organized in various movements which took shape ranging from the civil rights movements, the anti-war movements, the women's movement, consumer movements, to environmental movements (Vogel 2006). Over the years, at least in the US, a kind of consensus has emerged that business should assume certain social responsibilities, for either ethical or long-term profit reasons. Now, there is much less debate whether firms have any social responsibilities other than maximizing profits. Rather, attention has been shifted to a matter of what these responsibilities are or how they should be managed (Freeman 1984; Carroll et al. 2018).

However, the development of CSR in Japan raised a question about this general understanding. It is because the social movements which had presented such formidable challenges to US companies had only weak counterparts within the Japanese context. For example, Japan did not have an organized national environmental movement comparable to that which existed in the US. Minority rights movements in Japan also have little representation because minorities comprise such a miniscule portion of the population. The women's movement in Japan has been equally ineffectual. The consumer movement in Japan has also been relatively weak even in the early postwar years when products were notoriously poor. Shareholders also pose a weak force for change in Japanese corporations. Therefore, Japanese companies could not initiate CSR because their businesses had faced a much more placid environment in Japan than businesses did in the US. However, when it came to the recent rapid growth of Japanese CSR, researchers jumped to the hasty assumption: "it is reasonable to expect that continuing increases in economic prosperity and the fulfillment of basic economic needs in Japan will bring about greater demands for CSR by the Japanese people" (Wokutch 1990: 61). In short, they thought that Japanese society had also become matured.

However, this was not the case. As mentioned above, Japanese people seem to be skeptical about the effectiveness of the Western-oriented CSR even after its successful adoption, and some managers attempted to revive their traditional ethics instead of adopting it uncritically. In addition, more importantly, Japanese people had always had a feeling of being victimized by the process of industrialization and embraced the demand to change its society long before the recent adoption of the CSR policies. Actually, in the 1960s, social demands increased such as massive lawsuits against the environmental damage caused by rapid industrialization and the intense protests against the renewal of the US-Japan Security Treaty. Therefore, it is misleading to take the view for granted that economic prosperity in Japan automatically brought about greater demand for CSR, let alone that their demands have been heard by the companies. Rather, it is this point that should be explained more precisely without using simple generalizations. This has a direct link with the development of civil society in Japan.

Civil society is a term with deep historical roots, and it generally consists of social activities that occur outside the state and the market. Such activities create a public sphere in which individuals engage in ongoing debate on matters of common good (see Habermas 1989). However, it has been repeatedly pointed out how narrow the sphere that lies outside the state and the market in Japan is. For example, Hardacre, through his observation of civil society in Japan, noted that "both [the state and the market] have shaped and molded public discourse on the public good in such a way that it is extremely difficult to discern the existence of the public sphere standing between the two" (Hardacre 1991: 219). However, this does not necessarily mean that civil society has never existed in Japan or that the Japanese people have never demanded to change their society. In fact, Japan has a unique history of citizen activism. Pekkanen (2006) characterizes it as a "dual civil society": on the one hand, there are many small local groups, and on the other hand the number of large professionalized groups is quite few.

In Japan, nearly everyone is formally a member of a neighborhood association (NHA) which is a form of civil society spreading throughout the country. It is based on residential proximity, most often comprising from 100 to 300 households. The members pay dues, choose leaders, and participate in a variety of activities, ranging from cleaning up local parks to organizing children's local festivals. The direct and indirect benefits of NHA are to produce social capital and to assist in administration by communicating local issues to and make demands on local government. However, in contrast to issue-oriented civil society organizations, NHA has constrained their advocacy functions to challenge the state. Because of its geographical limitations, NHA could not develop the professional staff needed to research issues, influence mass media, or lobby politicians. Hence, they often worked with the authorities and rarely became instruments of citizen protests. In short, Japanese civil society lacks staff and does not have the expertise and ability to make their presence felt in national debates (Pekkanen 2006).

On the other hand, Japan's legal system had had a strong bias against civil society organizations, especially those seeking to be independent from the state. At least until 1998, when the so-called NPO (nonprofit organization) Law was enacted in

Japan, access to legal status as a civil society organization, or specifically Public Interest Legal Person (PILP), had been highly restricted. This strict regulation had been based mostly on Article 34 of the Civil Code which was promulgated in 1896. Under Article 34, the category PILP had been strictly confined to organizations such as social welfare corporations, private school corporations, and religious corporations. This legal situation, however, created a blind spot. Most groups that were non-state and nonprofit but not in the "public interest" could not have a legal basis whatsoever to form. It is no surprise that there have been many such groups, especially when the meaning of "public interest" is interpreted by the bureaucracy in a narrow or arbitrary way. For such groups, there was simply no legal category for them, and as a result, they were reduced to operating as informal, voluntary groups (Pekkanen 2006: 52). The important point here is that PILP had to operate for the "public interest" and had to win permission from the state authority to gain its legal recognition. Without such support, to get the approval as a PILP was very difficult. Therefore, most PILPs were heavily dependent on public support, and they had operated as quasi-governmental organizations, subcontractors that were established to perform tasks entrusted to them by the national and local governments. Apparently, institutional barriers were higher in Japan and prevented the development of large independent civil society organizations. From this point of view, it is easily understandable that the reason why Japanese social movements in the 1960s, which were massive in scale, failed either to institutionalize or to achieve their stated objectives. In this institutional condition, only few could have professional staff capable of producing research and gain media attention for their views.

As is well-known, such a legal system changed dramatically in 1998, when the so- called NPO Law was enacted. The term NPO/NGO caught national attention, especially among political and business elites as well as in academic writings, particularly after the surge of volunteerism following the great earthquake in Kobe on January 17 in 1995, which killed 6,430 people and forced 310,000 people to evacuate their homes. At that time, approximately 1.3 million volunteers acted to aid victims of the horrific disaster. In the face of the disaster and the marvelous voluntary effort, they began to imagine the potential of civil society organizations in Japan. As a result, the NPO Law was passed on March 25 and went into effect in December of 1998. After the NPO Law, the incorporation process for NPOs became quite simple. People who want to establish an NPO have only to fill out the template for the necessary documents. As a matter of fact, since the law's enactment, more than 50,000 NPOs have been incorporated, and the number has increased dramatically, from 1,274 in 1999 to 51,605 in 2018 (https://www.npo-homepage.go.jp/uploads/kiso_ninsyou_nintei_insatu.pdf. Accessed 20 Aug 2019).

However, even if the Japanese legal system opened up space for non-state or nonprofit organizations, could civil society actors step in to fill this gap? Could civil society successfully be constructed by such a legal change? According to an anthropological research of civil society activities in Japan (Ogawa 2009), the institutionalization of NPO seems to be a success, if it is looked at from the policy makers' perspective. It is because the government could successfully take advantage of this type of civil society organization, by using the enthusiasm for volunteering, in order to streamline the social system generated in the current framework of public administration. However, if it is looked at from the grassroots point of view, it is likely believed to be a failure of civil society, because people have been just conveniently mobilized for the authorities' purpose under the name of civil society. People, labeled "shi-min" (citizen), are forced to become apolitical under the NPO Law, and they are expected to be collaborative partners with the state and co-opted as subcontractors to the government. Actually, the central government defines the boundaries of volunteer activities, the scope of their involvement, and the nature of their work environment through regulations and guidelines. That is, "a volunteer in Japan is someone who is unpaid, not necessarily someone who is independent from the state" (Schwartz 2003: 18). Today, one of the serious problems in Japan is the declining of social capital, or disappearing of the NHAs, due to a seriously aging population. The government is also encouraging people to incorporate them into NPOs to maintain the social capital by replacing the functions of NHAs (https://www.cao.go.jp/regional_management/doc/common/h_leaflet.pdf. Accessed 20 Aug 2019). There is no doubt that such encouragement of incorporation accounts for a certain percentage of the increasing numbers of NPOs. Therefore, it is said that, "the institutionalization of NPOs is a calculated reorganization of the Japanese public sphere designated to establish a small government in the postwelfare state through the transfer of social services originally delivered by the state to volunteer-driven NPOs" (Ogawa 2009: 174). From this point of view, even though the legal system has changed, Japanese civil society still limits its function as a dynamic social and political participation process.

Conclusion

Behind the ostensibly successful adoption of CSR policies by Japanese companies, there was an important real intention which cannot be ignored. As Fukukawa and Teramoto (2009) revealed, while Japanese companies successfully adopted CSR policies, it seems that they do not necessarily agree with the Western-oriented values associated with the idea of CSR. That is, Japanese companies' adoption of CSR was just a façade. Behind the façade, their actual thinking has never been addressed fully. In order to understand the Japanese perspective on CSR, a clear explanation of the gap between outward appearances and reality was necessary. It was because it is this kind of discrepancy that characterizes current business ethics in Japan. In this regard, existing research tended to attribute this façade of business ethics to the cultural differences between the West and Japan. In other words, they have thought that CSR is ineffective in Japan because the Japanese cannot accept the Western-oriented values associated with the idea of CSR. In this way, some studies have attempted to trace back to its own tradition to search for a model which is more suitable to the Japanese management systems.

Instead, this chapter has discussed this significant gap not by resorting to explanations such as cultural difference but by keeping the focus on its institutional condition. Firstly, it was demonstrated how Japanese companies have adopted

CSR policies without any expectations of them, by utilizing the concept of "legitimacy." It revealed an interesting process in which Japanese companies imitated the US model of CSR under the three types of institutional conditions. Secondly, this chapter addressed the reason why Japanese people could not rely on the effectiveness of the CSR policies, by reviewing the unique history of civil society in Japan. It revealed an inconvenient fact that civil society organizations in Japan still limit their social and political participation in public debate, even after the dramatic changes to its legal system, with the enactment of the new NPO Law in 1998.

If the current situation of civil society in Japan is accepted as such, it is unrealistic to assume that there has been a direct channel of communication from its society to corporations through which social demands are being heard. It occurs only indirectly when government policy reflects them. However, if the serious problems regarding civil society in Japan are considered, such as the decline of local associations because of its aging population and exploitation of social capital by the government in the name of volunteerism, it seems that the obstacles for civil society actors in Japan are still quite high, especially when their interests are independent from the state and the market authorities. As Hardacre (1991) attributed the reason for the narrowness of Japan's civil society to the power of such authorities, it is questionable whether or not Japanese civil society groups have been able to figure in the public debate beyond a limited number of industry or professional groups.

In fact, it was Keidanren that lobbied for the NPO Law. As Pekkanen (2006: 143) noted, Keidanren's interest in NPO began in the late 1980s. With an increase in Japanese direct investment in the US, Japanese companies were often faced with requests for donations or other support from US civil society organizations. At first, the Japanese companies were not sure how to deal with these kinds of organizations, which were not so active in Japan. Keidanren formed a study group on the NPO and then adopted the 1-Percent Club in 1989. This study group became an advocate for the views of the NPO within Keidanren; meanwhile it led it to lobby for the new law. It must be ironic that it was not civil society actors themselves but business elites who powerfully lobbied for the NPO Law in Japan, in the process of legitimatization of their activities for US business communities.

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Business Legitimacy in Asia: Focus on China 78

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Contents

Abstract

China is a country with a long-standing and rich history spanning over 5000 years. Its two most prominent philosophies, Confucianism and Daoism, shaped social, political, and legal perceptions over centuries. Moreover, the introduction of Communism and Socialism further influenced these perceptions, as well as economic, legal, and political practices. All these aspects taken together differentiate China from the West and its perceptions and practices. In the context

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of business legitimacy, it is thus important to identify differences and investigate how these play out under the current political regime. Furthermore, beyond aspects of compliance that constitutes an indispensable part of business legitimacy, it is vital to understand what Chinese philosophy can contribute in terms of ethical principles and practices to the concept of business legitimacy in a Chinese context.

Keywords

China · Business · Legitimacy · Compliance · Ethics

Introduction

China is a country with a long-standing and rich history spanning over roundabout 5.000 years from the earliest dynasties built on feudal structures, over the first empire unified under emperor Qin and the collapse of China's last imperial dynasty, Qing, in 1911, to revolutions leading to the establishment of the Communist Party in 1949, which is ruling China until today (Wang 2017). What evolved in China is not just a different political system – "Socialism with Chinese characteristics" –, which doesn't know any role model. Social structures and ethics are also different, being influenced by China's most prominent indigenous philosophies Confucianism and Daoism that spread across all Asia (Hill 2007). Thus, in light of many concepts having emerged in the West, we need to question whether these also unconditionally apply to other sociocultural and political contexts such as China.

In this context, this chapter investigates the concept of business legitimacy and related aspects of responsible business and Corporate Social Responsibility (CSR) and its applicability and actual practice in China.

The chapter is structured as followed: The first section provides a brief historical overview of responsible business and CSR in China. Here, two aspects are especially important: First, to understand the "ethical climate" in China and how it became increasingly eroded. Secondly, how the Chinese government responded to this erosion by formulating its sociopolitical vision to enable more responsible conduct among businesses. By giving several examples of social and environmental challenges in China today, the second section illustrates that the government's measures could not bring back more responsible behaviour so far. The third section discusses what specifically constitutes business legitimacy in China in light of China's powerful state apparatus, the current social and environmental challenges to its stability, and its sociopolitical vision to fight against a potential instability, which – so far only on paper – required all, society and businesses alike, to contribute to the realization of this vision. The fourth section provides inspiration beyond compliance measures with regard to how to maintain business legitimacy in China by introducing values and virtues derived from Chinese philosophy. The chapter finishes with a conclusion.

Business Responsibility in China: A Brief Overview

What is driving responsible business (and in that sense also Corporate Social Responsibility (CSR)) in China? According to Matten and Moon (2005), CSR is a "cluster concept" that overlaps with "business ethics, corporate philanthropy, corporate citizenship, sustainability, and environmental responsibility" (p.335). In this paper, CSR is more concretely defined 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" (European Commission 2011, p.3).

Emphasizing more responsible business was recognized by the Chinese government only relatively recently (Raynard et al. 2013). In 2006, a former president of the People's Republic of China (his term lasted from 2002 to 2012) called for a "harmonious society" in light of growing environmental pollution and social inequality resulting from more than 20 years of economic reform (Hofman et al. 2015; Zhao 2014). Under that president, the government enacted an amended "2006 Company Law of the People's Republic of China" and the "2008 Guide Opinion on the Social Responsibility Implementation for State-Owned Enterprises," both explicitly emphasizing responsible business and recognizing CSR (Raynard et al. 2013). Yet, in this context it is important to understand that private businesses in China did not exist until the introduction of major economic reforms after Mao's death in 1976 (ibid.). State-owned enterprises (SOEs) established by then were to serve the government's sociopolitical objectives driven by Marxist ethics and "communist morality" (Lu 1997). Accordingly, back then it was self-evident that SOEs had social responsibility since they had to serve public interests.

In the 1980s, the economic opening-up reform spurred the emergence of private businesses especially through the setup of Special Economic Zones (SEZ) in Shanghai, Shenzhen, and other cities at China's east coast (Raynard et al. 2013). Yet, this reform also led to an emphasis of profit over "serving the nation" undermining previously prevalent values anchored in "communist morality" or in prevailing traditional values (Ip 2009b; Lu 2008; Li and Zheng 2018). Although there was a first introduction of CSR measures in the mid-to-late 1990s by multinationals during the "anti-sweatshop campaign" that targeted unacceptable labor conditions in developing countries (Myllyvainio and Virkala 2006; Yin and Zhang 2012), Chinese firms were not convinced by the effectiveness of Western standards when applied to their corporate environment. This eventually led to merely symbolic action and decoupling (Yin and Zhang 2012). Generally, a reformulation of moral rules by that time was overlooked, and the environmental, social, corporate, and legal regulatory framework was insufficient due to the prioritization of economic objectives during this economic transition (Hong 2001). This negligence led to corruption, cronyism, vast environmental pollution, and increasing social inequality (Ip 2009b, Lu 2008).

Upon China's WTO entry in 2002, the country had to start complying with international norms, and some laws had to be amended, such as the mentioned Company Law (Ip 2009b, Lu 2008). In addition, the president's sociopolitical vision of a "harmonious society" was incorporated in the 11th Five-Year plan in 2006

(Ip 2009b, See 2008). Thereby, the CCP (Chinese Communist Party) sought to reinforce its social legitimacy, which was challenged by negative social and environmental impacts (Yin 2015; Li et al. 2016). This sociopolitical vision also required businesses to contribute to a harmonious society in order to gain legitimacy (Lam 2014; Hofman et al. 2015). Yet, a number of controversial issues emerging around 2008, such as diverse food scandals (e.g., melamine-tainted milk powder), product (e.g., lead contamination), service quality, and labor rights issues (e.g., Foxconn) highlighted that businesses apparently have not realized their responsibility with regard to the previous president's (2002–2012) vision of a better society. These scandals signaled prevalent corruption (Lu 2008; Raynard et al. 2013), rampant misconduct and normlessness (Zheng et al. 2014), and greed and dishonesty characterizing Chinese business behavior by that time (Lu 2008). The profit-making motif of Chinese managers, regardless of the company type that was encouraged since the economic opening-up reform, still took precedence over everything else, with minimal attention to social or environmental issues (Wang and Dou 2012). The social responsibility of businesses was viewed as only (or mainly) a philanthropic activity (ibid.), and it came with the expectation of profiting from favorable governmental policies in return (Yin and Zhang 2012). This mindset together with the unethical behavior coming with it could spread unimpeded due to a still insufficient regulatory environment with lax legal enforcement or punishment (Lu 2008).

Until today, this moral degradation expressed in money worshipping is still prevalent, implying Chinese managers are mostly concerned with advancing their self-interest and personal gains (Li and Zheng 2018), abusing their power for personal benefits (Lu and Koehn 2014). Many Chinese companies are still mostly focused on short-term gains leading to a superficial implementation of CSR (Yu and Choi 2016). Yet, some especially export-oriented SMEs have apparently realized the value of CSR to maintain their global competiveness. They finally became compliant instead of merely circumventing International Codes of Conduct and similar measures (Cheung et al. 2015; Hofman et al. 2015; Yin and Zhang 2012).

Socioenvironmental Challenges in China

Two social challenges are currently especially pressing: rising social inequality and aging demographics. The Chinese government achieved an immense reduction in poverty (86% between 1980 and 2015), which the IMF calls "the most rapid reduction in history" (Jain-Chandra et al. 2018, p.6). Yet, the fast industrialization also led to rising social inequality (Piketty et al. 2017; Xie 2016). This issue was already recognized as a problem under the previous president (2002–2012) who introduced his sociopolitical vision of a "harmonious society" back then. Besides income inequality, the IMF identified three more driving factors related to inequality of opportunity, such as inequality with regard to access to education, health, and financial services (Jain-Chandra et al. 2018). Especially social benefits such as access to education and health are tied to a person's household registration, *hukou*, and linked to the birthplace. The *hukou* system leads to nonaccess in case of moving somewhere else for work and hence inequality of access. However, the question is to what extent these inequalities are a result of mere regional disparities (ibid.) or "interregional and intergroup inequality" (Xie 2016, p.331) as a result of the still prevalent system of work units, *danwei*, and the household registration system, *hukou*. Taking a more sociocultural view, Xie (2016) highlights that inequality is accepted in China on the basis of hierarchy and therewith legitimate privileges, and as a result of propaganda promulgating inequality as the "necessary cost of economic development" (Xie 2016, p.330) since the opening up reform (Naughton 1993).

Aging demographics in China is a result of the "one-child-policy" introduced in the 1980s in the course of the opening up reform (Campbell 2019). Curtailing population growth was seen as a necessity to realize economic growth on a large scale (Johnston 2019). While this policy helped China to grow economically, eventually becoming the second largest economic power globally, it also had a dark side: a significant gender imbalance, a large proportion of elderly population, and generally a precipitous decline in population. Yet, the recent abolishment of the "one-child-policy" and the introduction of a "two-child-policy" cannot fix this demographic crisis. The latter does not seem to take off, as for most one-child couples a second child is just too costly (The Economist 2018). Aging demographics is not only a social issue, but also the biggest economic issue the Chinese government is facing. A shrinking labor force will significantly impact the economy; consumer spending will be affected too, and the younger generation will be disproportionally burdened with funding the pensions for the larger elderly population (Myers et al. 2019; Campbell 2019). The major problem is China's population will grow old before becoming rich (The Economist 2018).

Environmental issues in China are ubiquitous; water, soil, and air are all affected by pollution (World Bank 2007). Water issues due to pollution are diverse; they range from 54% of rivers being contaminated (ibid.) and roughly 70% of groundwater not suitable for consumption (Reuters 2018), over acid rain to groundwater depletion and water scarcity (World Bank 2007). Soil contamination caused by chemical production and heavy metals (sometimes with up to 14 different substances to be found in the soil) affects almost one-fifth of China's farmland (Standway 2019). Costs for full remediation are estimated at RMB 9tn (more than EUR 1.1tn) (Zhang and Lin 2018). The costs of water and soil pollution are estimated with 2.1% and 1.1% respectively of China's GDP between 2000 and 2010 (Crane and Mao 2015). Lastly, air pollution is a persistent issue and also regularly covered in the media as it also started to cause social unrest (Geitner 2019). Since China has joined the WTO, carbon dioxide emissions have been constantly on the rise, with China being the major CO_2 emitter globally since 2007, responsible for 30% of global carbon emissions (Kearns et al. 2018; Yin et al. 2019). Economic costs of all sorts of air pollution causing health impacts and reductions in labor productivity have been estimated with 6.5% of China's annual GDP between 2000 and 2010 (Crane and Mao 2015). The costs currently caused by PM2.5 pollution alone are about RMB 267bn (appr. EUR 34bn) equal to 0.7 of China's annual GDP, as resulting in premature deaths (1 million each year) and lost food production (Kao 2018). Although the Chinese government has put a number of measures in place, has improved enforcement, and is investing amounts in green and clean energy (Kearns et al. 2018), significant improvements with regard to a PM2.5 reduction have been rather erratic, with levels jumping up again in some regions recently (Geitner 2019).

Apparently, the pollution problem is pervasive and severely impacting society and the economy. Hence, fighting environmental pollution of all sorts (also waste issues) is crucial in order to maintain social and political stability and to prevent further social unrest. In this context, businesses are best advised to be compliant with all environmental regulations.

Business Legitimacy in China

What makes a business "legitimate" in China? As apparent from the first section, the Chinese government actually requires businesses to contribute to the realization of its sociopolitical vision. Yet, as the second section illustrated, China is facing a number of social and environmental challenges. And although these issues are results of the government's (insufficient) regulations, lack of enforcement, etc., businesses, through their own lack of "ethical conscience," further contributed to this situation. Hence, they play a major role here. China's sociopolitical stability depends on the government's ability to recognize, understand, and remedy those issues; and businesses are supposed to act in accordance with the government's policies to remedy demographic issues in labor and environmental pollution. Thus, what constitutes business legitimacy in China is different compared to the Western concept of business legitimacy as organizational legitimacy due to the specifics of the Chinese sociopolitical system. This section explains why the Western model of organizational legitimacy may not be fully applicable to China and introduces the concept of "political legitimacy."

In the West, companies formerly could gain and maintain legitimacy through conformity with legal rules based on Weber's concept of legitimacy,i.e., rational or legal legitimacy (Weber 1922, Chap. 3, §2–3, WG124-WG125). Today, however, legitimacy is foremost a question of adaption to external social pressures, requiring "organizational legitimacy." There are two major theories: the more strategic Resource Dependency Theory or Resource-Based View (henceforth RBV) (Dowling and Pfeffer 1975; Pfeffer and Salancik 1978; Ashforth and Gibbs 1990) and the Institutional Theory (Meyer and Rowan 1977; Powell and DiMaggio 1991). The two theories share the assumptions that an organization is facing various external pressures; that it can only survive if it responds to external expectations and demands; that obtaining legitimacy is vital for the access to resources (e.g., natural resources, human resources) and for being perceived as socially worthy (Oliver 1991; Bromley and Powell 2012). This access to resources in turn ensures business stability, continuity, and growth (Lülfs and Hahn 2013; Palazzo and Scherer 2006). RBV views an organization as a rational agent and legitimacy as a source to be extracted from its cultural environment through active management, control, and influence thereof (Suchman 1995; Palazzo and Scherer 2006). Attaining legitimacy requires adherence to the values of the larger social system the organization is embedded in, that is, a publicly perceived congruence between the organizational and societal value systems (Parsons 1964, 1956; Dowling and Pfeffer 1975). In contrast, Institutional Theory views reality as being socially constructed (Berger and Luckmann 1991). The organization is seen as an "enactment of social beliefs" (Bromley and Powell 2012, p.5), rather than as a rational agent or as a "system of coordinated and controlled activities" as under RBV (Meyer and Rowan 1977, p.340). Legitimacy in this context is attained when "the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman 1995, p.574), which emphasizes compliance and conformity to validated practices.

The Importance of "Political Legitimacy"

Organizational legitimacy, however, is "largely based on public judgments about whether or not certain actions can be considered socially acceptable" (Zheng et al. 2014, p.408). Yet, in China due to the absence of a civil society (Hofman et al. 2015), mechanisms of public pressure for example by peers, communities, or consumers are limited (Zheng et al. 2014; Lam 2009). The absence of a civil society is also a result of the specific political configuration in China: a centralized one-party-state that is representing the people. Correspondingly, initiatives to induce more responsible business are almost exclusively state-driven in a top-down manner with virtually no opportunities for companies to proactively engage in the development of these initiatives and measures (Zhao 2012; Lam 2014; Raynard et al. 2013). However, as illustrated by the previous section on responsible business, the government's sociopolitical vision – although requiring businesses' contribution – did not fully materialize due to a lax enforcement thereof under the previous president (2002–2012). The current president of the People's Republic of China (in power since 2013) replaced the "harmonious society" with his own sociopolitical vision of the "Chinese Dream" (Li et al. 2015). Yet, compared to his predecessor's approach, the current president planned accordingly and set up a framework to ensure the realization of his vision by implementing a so-called social credit system for both individuals and companies (Zhou and Xiao 2019). This system is supposed to measure individuals' and companies' contributions to this vision, including punishment for those who go against it.

Accordingly, under this specific political configuration of a powerful state apparatus "political legitimacy,"i.e., being in line with the articulated sociopolitical vision, is absolutely vital in order to gaining access to state resources like bank loans or property amongst others (Zhao 2012; Lau et al. 2016; Lam 2014) that are crucial for any business survival. This also indicates that in the case of China Institutional Theory seems to be more suitable, since there is a strong emphasis on compliance with the state's sociopolitical vision. Furthermore, business actors have actually no means to influence governmental decision-making; hence, the RBV view of a rational and active agent does not apply here.

The Current President's Sociopolitical Vision and Its Implications for Responsible Business and Business Legitimacy in China

Since the current president came into power in 2013 (BBC 2018), the Chinese government has introduced a number of measures to further promote sociopolitical stability. These also affect business behavior since "political legitimacy" requires companies to being compliant with government measures. The most important ones are outlined in this section.

By the end of 2012 at the 18th National Congress of the Communist Party of China, the current president first articulated the "Chinese Dream," his Socialist sociopolitical vision for a "new era" under his presidency to come (China Daily US 2014). According to China Daily US (2014), the mouthpiece of the Chinese government, "The Chinese Dream is President Xi Jinping's integrative and transformative vision for China, an overarching unifying principle for the Chinese people." The vision rests on three major objectives: building a "moderately prosperous society," "rejuvenating the nation," and "happiness for the citizens" (China Daily CN 2014; cf. the current president's speech at the 13th National People's Congress in 2018, China Daily HK 2018).

To realize his vision and maintain social and political stability, one important step was to implement more effective environmental laws after a social unrest in 2013 caused by massive air pollution (Xu and Faure 2016). The environmental protection law (EPL) implemented in early 2015 that finally included harsh penalties was perceived "as the most progressive and stringent law in the history of environmental protection in China" (Zhang and Cao 2015, n.p.). Enforcement, independent supervision, and conflict of interests with economic growth targets on the local level of implementation, however, may eventually hamper its success (ibid., Xu and Faure 2016). Yet, the current president seems to be pushing for more effectiveness regarding environmental protection with a major campaign in 2017, penalizing 30,000 companies and some 5700 officials in the course of a crackdown on environmentally irresponsible behavior (Corne and Broeways 2017) and two more laws in 2018 (Zhang 2018).

Furthermore, the government's current 13th Five-Year Plan (2016–2020), which came into effect under the current president, emphasizes a number of environmental and social measures. With regard to the environment, these are clean production and transition to a low-carbon economy, managing water resources, forest protection, promotion of e-vehicles, environmental monitoring and emission permit system for the industrial sector, and more control of officials implement and enforce environmental measures. Social measures introduced aim at reforming the household registration, *hukou*, system, improvement of urban livelihood, further poverty alleviation, and the improvement of social welfare measures, which all contribute to reducing social inequality (National Development and Reform Commission (NDRC), Peoples' Republic of China 2016).

More concretely on the economic/business level, the government made fulfilling social responsibilities a mandatory goal: "When engaging in business activities, a company shall abide by laws and administrative regulations, observe social morality and business ethics, act in good faith, accept supervision by the government and the public, and bear social responsibilities" (Article 5, Company Law of the People's Republic of China (Revised in 2013)). To further push this goal, the Chinese government will introduce a Social Credit Score for businesses in 2020 (for coverage of the Social Credit Score for individuals see, for example, Horsley (2018), Mistreanu (2018), or Matsakis (2019)) that will affect 33 million companies (Zhou and Xiao 2019). So far, the credit rating methodology has not been fully revealed but information gathered by the government will supposedly include "court rulings, tax records, environmental protection issues, government licensing, product quality and punishments by market regulators" (ibid.). However, whether this data will be centrally collected and exchanged or mainly by agencies and institutions on a provincial level remains unclear (Zhou and Xiao 2019). While compliance is said to result in incentives like tax breaks or similar, noncompliance will lead to sanctions and the blacklisting of a company, i.e., loss of market access, in the worst case (Rechtschaffen 2019).

In summary, with the latest introduction of the Social Credit Score for businesses, it becomes very clear that the Chinese government is systematically pushing for more responsible business behavior and that irresponsible behavior will be severely punished. Business behavior is supposed to be in line with the environmental and social goals set by the Chinese government, so to contribute to the "Chinese Dream." Moreover, market access in the future will depend on political compliance (Rechtschaffen 2019) as a constituent of the "political legitimacy" of businesses, domestic and foreign ones alike, in contrast to mere legal compliance as previously. The key difference to mere legal compliance is that political compliance may force companies to accept questionable prerequisites for doing business in China. Current examples are the "One China Policy" that does not recognize Taiwan's autonomy (The Economist 2017) or the "Nine-Dash-Line," which refers to China's controversial territorial claims in the South China Sea, potentially suppressing neighboring nations (Zhen 2016). Foreign companies that did not adjust their corporate maps quickly enough had to apologize publicly for the misuse (Magramo 2019; Paquette 2018).

Gaining Political Legitimacy in China

CSR presents a "legitimacy-seeking strategy vis-à-vis key resource holders" (Yin and Zhang 2012, p. 312; Hofman et al. 2015). Applied to the Chinese context, however, there is mainly one dominant resource holder: the Chinese government. Thus, the specific political configuration in China significantly impacts the operationalization of CSR in China (Li et al. 2016). "Doing good" is clearly expected by the government and needs to be visible to the public. Hence, the most popular and prevalent CSR strategy in China so far was philanthropy (Zhao 2012), where corporate resources were used for social issues (Li and Zheng 2018). Executed well, this strategy potentially led to a "value-based or affection-based relationship with government officials" (Zhao 2012, p.451), fostered "interdependent and reciprocal relationships" between the company and the government (Lam 2014), minimized public pressure, and improved the company's market reputation (Li and Zheng 2018). Yet, under the current president, mere philanthropy will not achieve political legitimacy. Besides, it was always disconnected from the actual business model without direct business benefits (Li and Zheng 2018). With the introduction of the Social Credit Score for companies, there is a strong focus on general legal compliance of companies to maintain market access. In addition, environmental compliance is essential too, as the current president is pushing for environmental regulation and enforcement thereof (Yin et al. 2019). It remains to be seen whether the latest approach, which still heavily relies on compliance only, finally achieves substantial socioenvironmental progress in China.

CSR Implementation in China: Obstacles and Drivers

When it comes to CSR implementation, system-related factors linked to China's specific political configuration that influences sociopolitical, legal, and cultural spheres are relevant. For example, on the sociopolitical level, the lack of pressure by civil society (e.g., the general public but also companies in the same sector, investors, and NGOs; Lam 2009; Zheng et al. 2014; Hofman et al. 2015), the lack of rewards by both government and consumers (Yin and Zhang 2012), and the lack of positive encouragement for businesses to engage in the CSR discussion and to advance society more proactively due to the government's strict top-down compliance-driven approach are significant obstacles regarding CSR implementation. Further legal obstacles are the prevailing incomplete legal system (Wei et al. 2017) and the difficulties of enforcing regulations (Zhao 2012; Lam 2014). Lastly, with regard to culture and mindset, there is an absence of "legal consciousness" (Wang and Dou 2012) and an "environment of moral degradation" (Li and Zheng 2018) prevalent in China that potentially discourages businesses from contributing to the larger society. This may inhibit CSR progress beyond mere window dressing in some cases and mere philanthropic activities in other cases (Lam 2014; Lu 2008).

In addition, there are factors linked to provincial, firm, and individual level to be taken into account when it comes to the implementation of CSR. *First*, although the government articulated its overarching sociopolitical vision, the actual implementation of these guidelines on the provincial level depends on the configuration of institutions on that level (Raynard et al. 2013). Yet, this configuration varies due to an East–West divide and general regional differences (Pan et al. 2018). These differences are also a result of the opening-up reform, where special economic zones were created and coastal regions were more quickly globally integrated (Raynard et al. 2013). Thus, the government's approach to CSR as government-mandated (Hofman et al. 2015; Birney 2014) allows for discretion and explains the variety of CSR activities across the country as well as regional patterns (Raynard et al. 2013). *Secondly*, the implementation of CSR varies at firm level. While some researchers differentiate on the basis of ownership (Zheng and Zhang 2016) and governance structures (Yin and Zhang 2012), others also point at the company type (private enterprise vs. SOE vs. MNE, Raynard et al. 2013) determining the scope and intensity of CSR measures. For example, private enterprises in China generally suffer from a "deep-seated unfavourable image in the eyes of the government and the public" (Yin and Zhang 2012, p.313). They also lack the great advantages SOEs enjoy with regard to financing and government support (Cheung et al. 2015). Hence, a clear and very visible demonstration of social responsibility by private businesses "may signal competency and trustworthiness" (Yin and Zhang 2012, p.313). SOEs, on the other hand, always actively participated in the government's CSR initiatives (Zhao 2014) or were pressured to do so (Hofman et al. 2015), as their institutional legacy implies serving society (Lau et al. 2016; Raynard et al. 2013) and achieving China's national objectives (Lam 2014). CSR implementation at MNEs is again different to Chinese private enterprises and SOEs, as these are supposed to adhere to both international and Chinese domestic CSR guidelines, and to be good role models in China implementing the latest technology (Lam 2014). Generally, MNEs are under more scrutiny in China (The US China Business Council 2014; Lowe 2019), and thus compliance with Chinese domestic regulations and contribution to national initiatives is key for business viability in China. *Lastly*, CSR implementation depends on whether the manager or CEO is actually convinced of this approach and promoting it within the company (Yin and Zhang 2012; Raynard et al. 2013). This is still potentially inhibited by the narrow perception of CSR being reduced to mere philanthropy and the scarcity of role models (Yin 2017).

On a more positive note, what is driving responsible business behavior in China is dispersed ownership in the sense of smaller and more diverse stakeholders; diversity of customers, i.e., low customer concentration (to avoid the spiral of price competition); international exposure (Li et al. 2016); and a generally CSR-oriented culture with a CEO leading a business based on values. All these aspects positively contribute to meaningful CSR practices (Yu and Choi 2016; Yin and Zhang 2012).

In the near future, however, under the current president's Social Credit System, we will most likely see a "streamlining" of CSR practices across China, as this system is supposed to give clear guidance on what is allowed (mere legal compliance), what actions provide extra points (CSR-related practices), and what is clearly prohibited and going to be punished.

How Chinese Philosophy Can Contribute to Solving These Challenges in the Context of Business Responsibility

China's current social and environmental challenges are all recognized by the Chinese government as illustrated by the current 13th Five-Year Plan. Its implementation includes new and tougher environmental regulations, an amended Company Law, and the Social Credit System for companies. Being compliant with these laws will be crucial in order to attain and maintain political legitimacy as a business in China. Yet, in addition to mere compliance, a lot of inspiration regarding specifically positive action can be found in Chinese philosophy, enabling an active contribution to the government's sociopolitical vision.

Introduction to Chinese Philosophy

China is a country with a long-standing and rich history. This rich history is also expressed in its cultural, religious, and philosophical diversity. The latter was especially prevalent during Zhou dynasty (1111 to 249 BCE) where a hundred schools of thought, *bai jia* 百家, were contending against each other (Liu 2009; Schwartz 1985). What is left from this diverse landscape is a retrospective categorization of schools of thought developed in Han Dynasty (206 BCE to 220 AD, Chan 1969; Kirkland 2004): Mohism, *mo* 墨, Confucianism, *ru* 儒, Daoism, *daojia* 道家, Mingjia 名家, Legalism, *fajia* 法家, and the Yin-Yang 陰陽 school of thought (Kohn 2009; Smith 2003).

As Bettignies, Ip, Bai, Habisch, and Lenssen (2011) highlight "The humanistic doctrine of Confucius, and the naturalistic ideas of Laozi, are the two towering cultural forces [...]." (p.625).

Being almost unimpeded for over two millennia, Confucianism and later Neo-Confucianism as the dominant state doctrine and religion had a significant and long-lasting influence on the way of Chinese thinking (Chan 1967).

Through Confucius, born in 551 BCE in the state of Lu in today's Shandong province in China (Slingerland 2003), emerged the most prominent way of thinking associated with *ru* 儒. Originally presenting a class of scholar-officials specializing in transmitting and preserving the ideological legacy of the previous Zhou dynasty (1111 to 249 BCE, Chan 1969), *ru* became synonymous for the Confucian way of thinking (Slingerland 2009). That is, a "philosophy of social organization" and of daily life (Fung 1958, p.22).

Daoism, as a school of thought, came into existence at roughly the same time as Confucianism with its most prominent work, the *Dao De Jing* 道德经, dating back to fourth century BCE (Kohn 2009). At its core, Daoism is concerned with harmony between heaven, earth, and the human being, which is achieved by following dao 道. Dao is primarily interpreted as the Way (Cheung and Chan 2005), the "natural way of things," which inspired the underlying concepts of the Daoist philosophy (Miller 2006). Generally, whatever we find in Chinese philosophy is ultimately a reflection of what can be observed in reality, and with specific regard to Daoism: in nature.

The "function" of Chinese philosophy is – and always was – to be pragmatic and everyday life and problems oriented, with a strong sense for realism (Chan 1967; Lin 1936; Moore 1967). There never was a concrete interest in abstract reasoning (Granet 1985) or the creation and use of abstract categories (Fung 1958). Whatever we find in Chinese philosophy is ultimately a reflection of what can be observed in reality. Chinese philosophy only became a scholarly discipline upon the importation of Western philosophy (Tang 2015).

How Chinese Philosophy Can Contribute to Solving These Challenges in the Context of Business Responsibility

There are a number of ways in which Chinese traditional values derived from Confucian and Daoist philosophy could contribute to more ethically responsible business, including the recognition of social and environmental responsibility (Li et al. 2015).

Confucian Approaches

Confucianism puts a strong emphasis on values that are instructive in a social context. Fundamental here – although by far exhaustive – are *li* 禮 (ritual/etiquette), *ren* 仁 (benevolence), and *yi* 義 (appropriateness), which were already mentioned in the earliest Confucian work, Confucius' *Lun Yu* (Ames and Rosemont 1998). Basically, *li* is every kind of societal convention or custom, which was seen as appropriate and imperative for being a good person. Through observing *li*, a society is made homogenous in a way. Therefore, a major function of *li* is to create social harmony (Tang 2015). *Ren* is commonly translated with "virtue," "benevolence," or "humanity" (Ames and Rosemont 1998) and presents an ethical ideal (Slingerland 2009). *Ren* cannot be learned in solitude but only be cultivated in human relations, since it does not present an intellectual quality or a kind of scientific knowledge (Lin 1974). *Yi* implies the capacity of having the "right" sense with regard to one's behavior and feelings (Slingerland 2009). *Yi* also means more than merely following formal rules and rigidly clinging to moral codes (ibid.). It requires a deeper understanding and internalization of what is "proper" or "right," which in turn allows for the necessary flexibility to respond to a variety of situations (ibid.; cf. LY 4.10, 15.37).

Accordingly, *li*, *ren*, and *yi* lay at the core of the Confucian foundation. Later, two more values were added, wisdom *zhi* 智 and trustworthiness *xin* 信 constituting the *wu chang* 五常 " the five regular constituents of virtues" (Thacker 2003).

Some researchers (for example Wang and Juslin 2009; Li et al. 2015; Zhao 2014) believe in the necessity of a contextual approach and thus the need to translate Confucian values into values to be applied in business. This so-called "Confucian Approach to CSR" is based on a "people-oriented management" (Zhao 2014, p.85). Today, this approach fits well with the current president's agenda of creating a harmonious and moderately prosperous society on all social levels: the business, the community, and eventually the state level. However, this Confucian approach, which is also captured under the name *ru shang* 儒商, the Confucian Entrepreneur (Woods and Lamond 2011; Niedenführ 2017), is still a niche phenomenon. Yet, its practice has been observed at SOEs (Zhao 2014; Ip 2003) and private businesses (Lee and Chung 2015; Liu and Heler 2012). By adhering to *wu chang* when running their business, the *ru shang* try to resolve the conflict between *yi* (appropriateness) and *li* 利 (profit) (Cheung and King 2004). However, despite a number of positive examples, some criticize the idea of Confucian values in business for being overly paternalist, authoritarian, hierarchical, and particularistic, and thus undermining equality and meritocracy (Ip 2009a). In particular, some stress these values are insufficient for proper ethical guidance at businesses and need to be complemented by rules and norms (ibid.; Liu and Stening 2016).

Daoist Approaches

The philosophy of Daoism, although not monolithic (Kirkland 2004), generally puts an emphasis on the "natural way of things" as opposed to the Confucian focus on the social. This, however, does not mean that neither Daoism is also covering social aspects nor that Confucianism is ignoring aspects related to the environment.

Dao is a "principle of organisation and order" (Granet 1985, p.230) and is structured by the alternating, complementary categories of *yin-yang*, which in large present a "complex network of classifications" (Moeller 2004, p.106). They are symbolic and generic, only pointing to a contrast between and in relation of two appearances (Yang 2006). Originally, these categories were derived from natural observations, as *yin* means dark (associated with the female), carrying the symbol of the moon, and *yang* means bright, carrying the symbol of the sun (associated with the male). The *yin-yang* view of things plays an important role in Daoism. Although this view implies mutuality, Daoist works such as the *Dao De Jing* articulate a clear (ethical) preference for *yin*, that is, the dark, female, weak and soft (Xu 2003, cf. Chap. 28, Waley 1958).

Water as a metaphor plays an important role in Daoism (Moeller 2004; Chan 1969). More concretely, water is associated with *yin*, being nourishing and benefiting (cf. *Laozi* Ch.8), always seeking the lowest place and flowing downward (cf. *Laozi* Ch.61), and as the soft overcoming the hard (cf. *Laozi* Ch.32) (Moeller 2004). The characteristic of nourishment can be linked with virtues such as generosity and kindness, whereas seeking a low position could be connected with the virtue of humbleness (Hennig 2017).

Lastly, there are two more important concepts: nature, *ziran* 自然 and non-action, *wuwei* 无為, which are in a way complementary (Wang 1997; Lai 2007). The concept of *ziran* implies a notion of natural "self-so-ness" (Lai 2007) and spontaneous self-transformation (Miller 2006). The concept of *ziran* emphasizes the idea that things in its natural condition, that is, not being transformed by social conventions and practices, are good. *Wuwei* is important to avoid interference with the "natural way of things" (Miller 2006) to enable things to remain in their natural condition. Eventually, adopting all these characteristics and thereby following the "natural way of things" promote harmony.

The practice of Daoist values is captured under the label *dao shang* 道商, the 'Daoist Entrepreneur'. Haier 海尔, a Chinese company producing white goods that originally was part of a German-Sino joint venture with Liebherr, presents itself as an example of *dao shang*. The company's metaphor of "Haier Is a Sea" (*hai* 海 is translated as sea) heavily draws on the Daoist water metaphor (Xing 2016). The company's leadership culture is "extolling the virtues of living a selfless, simple, intelligent, placid, tolerant, and humble existence" (Xing 2016, p.808), as well as receptiveness and flexibility. Leadership by these virtues is supposed to eliminate the employees' selfish desires. Similarly, a cooperative spirit shall be fostered by the Daoist principle of "not contending" or "not competing" (cf. *Laozi* Ch.22). In contrast to *ru shang*, *dao shang* tries to reconcile the conflict between running a successful business without too much aggressive competition and under consideration of the natural environment. However, whether Daoist concepts are the only philosophical concepts, the company utilizes to inform its leadership practices and corporate culture cannot be said with certainty. Others claimed, Haier also applies the so-called "wolf spirit," a quite aggressive theory that stands in clear opposition to

Daoist values (Zhang n.d., Corporate Rebels 2018). It is not uncommon that Chinese entrepreneurs choose values from various Chinese philosophies as a value basis.

Conclusion

This chapter identified "political legitimacy" as the major concern of businesses, domestic and foreign alike, operating in China. In contrast, "organizational legitimacy" is only of minor importance due to the absence of a civil society, although more public pressure seems to be on the rise.

The emphasis on political legitimacy comes with a number of crucial implications for businesses in China. First, it requires absolute compliance with all domestic laws and governmental regulations. Second, this compliance will be measured in the future by a social credit score assigned to each business (and employee), with severe punishments in cases of noncompliance. This social credit system serves to realize the current president's sociopolitical vision of the "Chinese Dream," where people can be "moderately prosperous" and happy. Businesses play an important role, as until today many still engage in exploitation of various kinds, for example exploitation of labor and of nature. However, compliance cannot instill proactive and reflective responsible behavior. This can only be induced by a clear set of values to be found, for example, in the two major Chinese philosophies Confucianism and Daoism.

The current president (Xi 2014) himself emphasizes Chinese traditional values next to the "core socialist values." More recently, Chinese traditional values experienced a revival, now being "redeployed as part of the communist political project in various forms" (Li et al. 2015). Thus, taking Chinese traditional values from Chinese philosophies as an inspiration for corporate ethics and value guidance for CSR practices in China seems to be conducive, both from a perspective of ethics and legitimacy. In practice, this would lead to an increase of so-called hybrids, a contextualized approach to CSR combining Eastern/Chinese and Western practices (Wang and Juslin 2009; Li et al. 2015; Zhao 2014). Implementing a Western approach alone, such as the stakeholder approach, faces significant limitations in China. The main stakeholder is still the Chinese government (Yin and Zhang 2012; Zheng and Zhang 2016), due to compliance/political legitimacy as the basis to operate in China, with every other stakeholder being clearly subordinated. This also explains why purely Western models so far could not succeed in this culturally and politically very different environment (Raynard et al. 2013; Wang and Juslin 2009).

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79 Practicing Legitimate Leadership in Territories of Interactions in Greenland

Mette Apollo Rasmussen

Contents

Abstract

This chapter presents results from a project about leadership in Greenland. It discusses how leaders in Greenlandic organizations legitimize decisions in territories of interactions. The research focus on how Greenlandic leaders at times are challenged by the tight relationship in the small society but also how the tightness supports close and fruitful interactions where leaders qualify and legitimize decisions related to quality, business development, and future actions. The findings demonstrate how the leaders legitimize actions and decision in their local networks and how this relates to and develops their everyday practice.

Keywords

Leadership · Legitimacy · Greenland · Ethnographic approach

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Introduction

In May 2019, the President of the United States offered to buy Greenland. The Prime Minister of Greenland and the Prime Minister of Denmark immediately turned down this *absurd* offer (LeBlanc 2019). Before Trump's offer, Greenland, and the Arctic in general, was already getting a lot of media attention, but this episode just increased the interest. The global discussions about Greenland are often related to global warming, climate change, geopolitical issues, demand for natural resources, and the independence of Greenland (Andersen 2015; Rendtorff 2018). Within research, Greenland is also a hot topic, the same issues which has the public interest, and adding oceanography, biology, ecology, and glaciology is getting a lot of attention (Whiteman and Yumashev 2018).

What is receiving much less attention within research is organizational development in the Arctic and thus Greenland. Even though Greenland has become a hot topic globally, there is hardly any analysis on organizations and leadership that seeks to explain how organizational development takes place in Greenland and in the Arctic in general (Whiteman and Yumashev 2018). Subsequently, Whiteman and Yumashev argues, "A search using the word 'Arctic' in the archives of the Academy of Management Journal, Academy of Management Review, Organization Studies, Organization Science, Administrative Science Quarterly reveals a blank space" (Whiteman and Yumashev 2018, p. 5).

Recently the Nordic Minister Council argued, "New business opportunities are on the rise and Arctic stakeholders are playing a key role in facilitating and creating favorable conditions for boosting Arctic economic activity" (Arctic Business Analysis, Nordic Council of Ministers 2018, p. 7). This also goes for the business development in Greenland, where the growth of the business society seems to plays a large role in the general debate about developing the country (Naalakkersuisut – Govenment of Greenland 2018; Økonomisk Råd 2016). Further, Sermersooq Business Council argue that the lacking focus on leadership in Greenland is a challenge facing the development of local organizations, and in recent analysis, they argue that there is a direct link between education, training, and competencies and being able to support growth and development (Sermersooq Business Council 2017, p. 6). In 2015 the same argument was brought forth by Andersen who argued that Greenland needs to "initiate a process with a stronger economic development" and explicate that it requires a strengthening of the private sector (Andersen 2015, p. 25).

This chapter departures from an ethnographic research project about leadership in Greenland. The main research interest of the overall project is to gain insights on the neglected topic: How leadership is practiced in Greenlandic organizations. In this chapter focus is toward how strategies of legitimacy is a part of the mundane, everyday organizational activities, practiced by various actors in Greenlandic organizational settings. It is discussed how legitimate leadership emerges in the daily organizational setting where organizational actors intersubjectively problematize challenging matters.

So how and why should this topic be approached? The importance of the definition of legitimate leadership is not simply to outline a space in a language game, but a way to broaden our understanding of how legitimacy unfolds in ongoing interactions in organizations among various organizational members. Further the study adds to the range of legitimacy strategies, gaining, maintain, and repairing, formerly conceptualized by Suchman. The aim of this chapter is to qualify the understanding of how legitimate leadership is practiced in Greenlandic organizations. By this focus, the chapter follows Suchman's call from 1995, where he defined the need for "close empirical attention" (Suchman 1995, p. 603) toward processes of legitimacy. In order to grasp the ongoing, daily interactions where processes of legitimacy are practiced, the research question this chapter asks is as follows. How do processes of legitimacy emerge in daily interactions among participants in greenlandic organizations? A question like this goes beyond the normative descriptions of leadership and strategies of legitimacy and tries to grasp how actions of legitimate leadership are practiced in an interplay between various actors. It is difficult or even impossible to convey the richness and variety of the various perceptions of leadership in any generalized manner, extracting into a book chapter. Even though some empirical narratives are brought forth trying to make sense of how processes of legitimate leadership are practiced. Thus, the case methodology chosen here seeks to explain how Greenlandic leaders legitimize leadership in territories of interactions.

The rest of the chapter is organized as follows: first a brief introduction to the Greenlandic research setting; second, a theoretical discussion of leadership and legitimacy; third, a methodology section explaining how the research has been conducted, and, fourth, empirical analytical narratives highlighting how legitimate leadership unfolds in and among organizations. Finally, the chapter tries to qualify and conclude on the understanding of legitimate leadership.

Greenland

Arriving in Nuuk, the capital of Greenland, by plane on a sunny day is a breathtaking experience. From the air, you see the Fjord and the mountains. In the middle of Nuuk is the harbor, the heart of many business activities. Greenland's approximately 56,000 inhabitants live in what is the largest island in the world, covering 836,109 sq miles Hereof, 17,000 people living in Nuuk have no easy access to neighbors, since no roads connect Nuuk with other areas of Greenland. The distances are large in Greenland, north-south 2,670 km, east-west 1,050, coastline 44,087 km (Andersen 2015; Balslev 2017). Even though Greenland obtained self-governance (Selvstyre) in 2008, they remain a part of the Danish Kingdom.

Four photos (Photos 1, 2, 3, and 4): View of Nuuk – the research setting

The businesses, and thus the economy, are related to natural resources. Historically the natural resources was primarily fishing and hunting, but now with an increasing interest in mining, minerals and fossil fuels. For now, the economy is

Photo 1 Viewing Nuuk from the colonial harbor

still rather sensitive to the development in prices for fish (Andersen 2015; Økonomisk Råd 2019). The government runs many of the larger Greenlandic companies as state-owned enterprises (SOE), in order to ensure production and service in the widespread setting. Generally it is argued that business dynamics in Greenland are affected by the small population and the remote settings (Økonomisk Råd 2016). Most leaders explain how the daily leadership practice is closely related to society and how activities in the local community influence and create dilemmas. They argue that the development in society has implications for the leadership role (Rasmussen and Olsen 2019).

There is a scarceness of research on leadership in Greenland. In 2018 Whiteman and Yumashev argued that there is hardly any publications about the Arctic in relevant organizational journals (Whiteman and Yumashev 2018), and when searching for literature about leadership in Greenland, the conclusion was the same. However, a walk round Greenland University, asking colleagues for research about leadership, resulted in that some unpublished papers turned up. The material that arose added very little to the understanding of everyday leadership activities unfolding in Greenlandic organizations. Most of the literature takes a culture approach focusing primarily toward differences between Greenlandic and Danish organizational actors (Bakka 1997; Balslev 2017; Kahlig 1999; Langgaard 1986; Lyck 1998; Nooter 1976; Samuelsen 2010; Winther 2001). In Kahlig's study from 1999, he concluded that it would be useful to study how leaders engage in daily

Photo 2 Approaching Nuuk by plane. (Credits to Randi Havnen)

interactions, instead of describing the simplistic and objective categorization of, respectively, Greenlandic and Danish culture (Kahlig 1999, p. 181).

Theoretical Framework

Leadership as a Collective Activity

Leadership in organizations is attracting a lot of attention, and the field of knowledge is constantly growing (Blom and Alvesson 2015). The literature often highlights that leadership is closely related to organizational development (Alvesson 2019; Hernes 2014; Stacey and Griffin 2005; Tourish 2019; Uhl-Bien and Arena 2017; Weick 1979).

Traditionally the understanding of leadership and management has been placed in an understanding of causal relationships, where design, regularity, and control are the dominant voice. The leader is described as a heroic character, taking the position as a superior who direct employees using particular leadership skills, traits, and styles. Thus, primarily attention is paid to the leader as a figurehead of organizational actions. An example of this is clear in the discussions of situational theory of leadership where the argument is that there is a particular leadership style which

Photo 3 Viewing the industrial harbor from Qinngorput

fits a particular situation. This perspective tends to label specific leadership styles, establishing an understanding that all situations and styles can be described, leaving no room for critical reflections in the complex processes of leadership. Somehow, the same considerations are present in the discussion of transformational and charismatic leadership where the position of the leaders gets the attention (Schieffer 2006; Tourish 2019).

Generally, these former dominant theories focus on the distinct leader having the ability to influence followers, and the leaders and managers are considered as in a powerful position where they use tools and rational analysis to develop one-size-fits-all macro strategies, targets, and goals. In this perspective, organizations are considered well-structured, well-described, and well-organized entities (Alvesson and Sveningsson 2003). Alvesson argues that this way of thinking and working with leadership "fits nicely into a culture of grandiosity, where as much as possible is labelled and understood in impressive and extraordinary rather than mundane or precise ways" (Alvesson 2019, p. 27). These traditional approaches to leadership are largely static. Although incorporating variables related to leaders' behaviors, contexts, and outcomes, the emphasis is on the leadership position (Schieffer 2006; Tourish 2019).

The definition of leadership applied in this chapter is somehow different. The definition applied here turns to processes of everyday leadership practices, wanting to know about how activities of leadership engage with complexity and uncertainty

Photo 4 The colonial harbor from above Egede

that characterize the organizational setting (Crevani 2018). By this definition the focus of leadership moves away from objectivity, realism, cognitivism, and systems thinking (Stacey 2016). The leadership perspective, grounded in process thinking, seems to be valuable when researching leadership in organizations as it unfolds in everyday organizational life. The process perspective of leadership recognizes the organizational context as a pluralistic setting where actors, leaders, managers, and employees engage in dynamic and collective interactions (Crevani 2018; Hernes 2014; Weick 1979).

This is in opposition to the traditional perspective where leaders are positioned as patriarchal figures, looking at the system objectively from the outside and then designing and implementing strategies that ensure a desired outcome. Here leaders would be expected to exert control through formalization and plans. In this traditional perspective, organizations are considered rational systems (Suchman 1995).

The perspective applied defines leadership as processes of ongoing interactions unfolding among many actors in the organizations as an everyday practice. Leadership is a collective activity, and leadership takes place where and when leadership is needed. This need appears when organizational actors experience uncertainty, tension, doubt, ambiguity, and dilemmas (Hernes 2014; Weick 1995).

Legitimacy

Suchman argues that since the late 1960s, the study of organizational legitimacy has become an important topic for understanding how organizational actors engage with processes that constrain, construct, and empower (Suchman 1995, p. 571). This understanding is also apparent in Rendtorff's introduction chapter for this book, where he argues that legitimacy is considered important for organizations to function in the public space (Rendtorff 2019).

In Suchman seminal paper from 1995, he defined legitimacy as "a generalized perception that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman 1995, p. 574). Institutional theory places emphasis on legitimacy processes through which organizations adapt to what is seen as "desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman 1995, p. 574). He advocates for three ways to consider legitimacy: pragmatic, moral, and cognitive.

- Pragmatic legitimacy relates to a somehow cause-effect thinking of legitimacy. This way of thinking of legitimacy has a very limited perspective to it, where exchanges to some extent take a generalized or even normative experience of what is expected to take place, and legitimacy is related to "positive evaluations of specific organizational acts into generalized perceptions of organizational legitimacy" (Suchman 1995, p. 579). Pragmatic legitimacy is closely related to what the company offers, e.g., products and services.
- Moral legitimacy reflects a "positive normative evaluation" (Suchman 1995, p. 579) of the organization and its activities. Thus, the moral legitimacy rests on judgment about whether the organizational activities are "the right thing to do" (Suchman 1995, p. 579).
- Cognitive legitimacy focuses more on whether a given activity benefits its users and has importance for the relation between society and the organization.

While pragmatic legitimacy follows the rational, strategic tradition, moral and cognitive legitimacy relates to the institutional perspective. Suchman emphasizes that both "pragmatic, moral, and cognitive legitimacy co-exist in most real-world settings" (1995, p. 584), and thus interrelations among the concepts can be found.

Most research within legitimacy focuses on external legitimacy, granted to organizations by external stakeholders. Less studied is internal legitimacy, focusing toward how legitimacy is practiced within and between the organizational actors. Rendtorff takes the daily and mundane internal legitimacy activities seriously when he argues that "Establishment of organizational integrity and managerial judgement contributes to formulate a framework for coping with organizational dilemmas in the daily practice of leadership" (Rendtorff 2019, p. 57).

The rest of the chapter draws attention to the coping with dilemmas in the daily practice; thus it establishes a focus on internal legitimacy, understood and related to generalized perceptions and expectations to the daily organizing activities, enacted among multiple actors in organizations. Following Suchman there are at least three general challenges related to legitimacy management, gaining, maintaining, and repairing legitimacy (Suchman 1995, p. 586), all calling for skillful strategies. He turns rather normative when it comes to explaining and elaborating the different strategies managers can use when "seeking legitimacy for his or her organization" (Suchman 1995, p. 586).

Analytical Framework, Data Collection, and Analysis

The focus toward processes in daily leadership activities has the potential of adding to the general knowledge about the social world in organizations and, at the same time, informing the practical understanding of those involved in the activities. The perspective raises questions about everyday activities we often take for granted and contributes to a critical problematization of organizational activities (Sandberg and Alvesson 2011). The process research on organizations has expanded over the years, in particular being developed by Hernes, Weick, Stacey, Tsoukas, Langley, and Alvesson (Alvesson 2003; Hernes 2014; Langley and Tsoukas 2010; Weick 1995), just to mention a few. It is a theoretical framework, and thus research approach, which focuses toward the dynamic interactions and change of meaning. Here organizations emerge through relationships between people; thus the organizational actors create what we come to know as the organization. Organizational actors engage in responsive processes creating the organization, and the organization emerges in those local interactions (Stacey 2016). Denzin's definition of organizations is applied, and in this perspective "organizations become territories of interaction that are focused around complex spoken and unspoken languages" (Denzin 1969, p. 932). Likewise, Weick cites Czarniawska-Joerges when he pays attention toward how organizations can be thought of as frames of interactions and thus questioning "How are meanings and artifacts produced and reproduced in complex nets of collective actions?" (Weick 1995, p. 172).

By applying a process methodology, focus is on situated leadership activities, which enables explanations of how events unfold over time. Hence, process studies have the ability to "explain organizational matters in terms of practices instead of simply registering them" (Nicolini 2012, p. 13). Process data provide a rich and nuanced understanding of emerging relations and are developed by processes of inquiries that recognize the characteristics of social actions and apply approaches designed to capture these ongoing processes. Blumer argues that social life is a product of individuals' fitting their lines of action together (Blumer 1969). A central concept of symbolic interaction is ongoing processes, taking into account that empirical data are to be collected in real time for "understanding how things evolve over time and why they evolve in this way" (Langley 1999, p. 692). Thus, process theory drawing is particularly close to the phenomenon to be explained (Langley 1999). Subsequently, a case study is well suited to explore processes of leadership as they unfold in the daily practice.

The aim of the analysis is to generate a well-grounded description of the leadership processes by using sense-making strategies (Langley 1999). A narrative strategy is applied to construct a rich story from the raw data for further analysis. This perspective provides a framework where we can start "Rethinking the roles of leaders and managers" (Stacey 2016, p. 513).

To follow the implication from the process perspective, Nicolini argues that there needs to be "an observational orientation and the adoption of methods that allow an appreciation of practice as it happens" (Nicolini 2012, p. 14). Trying to grasp how leadership unfolds in Greenland, and thus to explore the field, ethnographic interviews and conversations have been held with 14 Greenlandic leaders from August 2018 to May 2019 and in addition, a leadership debate with participation of 15 leaders was held at Ilisimatusarfik on the 3rd of June 2019. The leaders are broadly employed in Greenlandic organizations and have a minimum of 3–5 years of leadership experience in Greenland. Ethnographic interviews were suitable for the study, as they opened up interactions between interviewer and interviewee (Becker 2008; Spradley 1979). The ethnographic interview is concerned with the meaning of actions and events of the people we seek to understand, and questions and answers must be discovered in the social setting being studied. Spradley argues that ethnography provides the researcher with a chance of apprehending the world from the viewpoint of the people of study (Spradley 1979). The richness in the data enables the researchers to discuss a different picture from how we previously have understood the phenomenon of study.

So even though interview guides were prepared, containing specific themes and questions, the leaders took part in shaping the interviews, which to some extent gave the interviewee the possibility of freely telling about their everyday leadership activities. The approach employed both broad and general questions (Spradley 1979) and more specific questions that probed how the leaders approached their daily leadership activities and decisions and interactions with others involved. Interviews lasted approximately 45 min. All interviews were recorded and transcribed. A written summary was made of the leadership debate held at Ilisimatusarfik.

The ethnographic interviews were helpful since the leaders took the necessary time to revisit and unfold particular leadership situation, and they shared their interpretations of these concrete situations. In this way, they participated in the interpretation of concrete events and experiences. Czarniawska (2004) argues that such accounts are useful for answering the questions of how everyday situations are experienced and interpreted because they relate to concrete, not generalized or hypothetical, events.

The search for how leadership unfolds has been an iterative and ongoing process. The work of analyzing the data is inspired by interpretative phenomenological analysis (IPA), which is a specific hermeneutic approach committed to exploring how people make sense of experiences in their lives (Smith et al. 2007). IPA research is phenomenological in its attention to a particular experience, with a hermeneutic approach to the analysis of the empirical data. The IPA approach differs from other qualitative approaches because it focuses on participants' processes of making sense of their experiences as much as it does on the experiences themselves. IPA especially focuses on understanding lived experiences and how participants make sense of their experiences (Smith et al. 2007). The researcher is required to make sense of the data by engaging in an interpretive relationship with the empirical data. It is through this process the researcher tries to imagine and understand parts of the leaders' everyday practices. This method of analysis involves careful and detailed analysis, and the researcher carries a great responsibility showing how conclusions are reached.

Analysis: Practicing Legitimate Leadership in Greenland

The narratives to follow are analytical elements describing how leadership in Greenland unfolds in ongoing conversations of problematization. Processes of problematization seem to be related to decisions and actions, and thus leadership as legitimizing actions comes into play. The empirical narratives describe leadership in Greenland as a collective activity, where collaboration is essential for what takes place in the organization.

Narrative 1 The Close Relations

One leader explained how leadership is about looking at the problem and starting with that – i.e., not the person but the issue itself – which can be a challenge since everyone is somehow closely related. When working with leadership in Greenland, there are many relationships to be considered all the time because relations are crisscrossing various activities.

How the relations are useful in Greenland is explained by a leader who argues that relations create opportunities in the country and help one along the way. Further, a leader argues that there are many relationships to be kept in mind constantly and, thus, it can be a challenge to know if relationships are enabling or restraining.

The main line of thought underlying the above empirical narrative is that processes of legitimate leadership are important as this is where organizational actors collectively make sense, problematize, and come to some preliminary decisions. The leaders seem to respond to challenges in their environments by, for instance, discussing challenging situations and thus developing and adopting new perspective believed legitimate in the organizations and society at large. They do this by practicing legitimate leadership in relations, by involving themselves with other leaders and colleagues in their organizations. The leader's stories about how they engage and enact processes of leadership in their everyday practices can be further elaborated in the frame of Mead's theory of the generalized other: "It is in the form of the generalized other that the social process influences the behavior of the individuals in it and carrying it out, i.e., that the community exercises control over the conduct of its individual members; for it is in this form that the social process or community enters as a determining factor into the individual's thinking" (Mead 1934, p. 155). By the process of role-taking, the leaders and co-workers form the relevant leadership activities and understandings of what is happening and about to happen.

Leadership is, thus, a collective activity consisting of territories of interactions, with horizontal and vertical element, where relevant knowledge is a key issue. It is considered a relational activity, where interactions in the close territories of interactions define what can be developed and take place. What is here theoretically defined as territories of interactions (Denzin 1969; Garfinkel 2006; Silverman 1970) the leaders talk about as a web of interwoven relations where they get informed, exercise influence, and make things happen. They consider their territories of interactions as mutually restraining and enabling. They realize that the territories can be restraining since they develop particular explanation of situations, where situations are agreed upon and understandings are taken for granted. Breaking with former understandings takes place when dilemmas and paradoxes emerge in the daily activities, and thus leadership is being practiced. This happens when situations are experienced as ambiguous and opposing, and the way forward is partly unclear. Situations of dilemmas and paradoxes are the situations we often hear leaders describe when they talk about leadership.

Narrative 2 Complexity, Paradoxes, and Dilemmas in the Daily Activities

The Greenlandic leaders argue that relevant problematization involves a definition of particular situations. They find that in order to do that, they have to pay careful attention, be present, and be available, to grasp what the involved actors are saying. Decision must often be made despite the fact that a situation is not well defined or that simple accounts have been made about it. For example, we hear a leader say that leadership is not about making decisions but about bringing relevant decisions forward for a discussion and then reaching an agreement and deciding. The leaders explain how they try to expand the situation in a conversation with the people involved. This experience is opposed to making a quick decision by ending the conversation. Often a situation is much more complex than formulated at first, and the complexity only emerges when extending the conversation. A leader explains this by saying that sometimes the unresolved discussions reveal new understandings and opportunities that had not been foreseen. Between them, the leaders formulate a common view about having to be brave and dare to engage and discuss what is taking place in the society and, as one leader formulated, to not take things for granted.

The gaining, maintaining, and repairing organizational legitimacy in this leadership perspective seems to be ongoing and closely related to problematization of organizational uncertainty. By engaging in various territories of interactions, leadership activities create legitimacy related to challenging decisions.

Table 1 Legitimate leadership activities

	Pragmatic legitimacy	Moral legitimacy	Cognitive legitimacy
Leadership activities	Decisions can be made on existing knowledge. Situations are recognizable. Actions are routinized. Leadership is hardly needed	Leadership is practiced in various relations, discussing possible actions for particular situations. Considering how particular actions might affect the organization	Changes and challenges in the surrounding context are ambiguous. Leaders and co-workers mutually extend decision-making in order to unfold challenging situations and create better knowledge about particular situation
Practicing legitimate leadership by problematization	Collective activity involving relevant actors in and around the organization trying to making sense of challenging paradoxes and dilemmas		

Previously it was discussed how Suchman (1995) has described the leadership strategies as activities of gaining, maintaining, and repairing. Here it is suggested a different way of describing these activities as problematization, where the three strategies are less related to thinking of gaining, maintaining, and repairing, but more related to problematizing relevant activities in an ongoing process of leadership activities. I propose to think about leadership as changing either the need is for pragmatic, moral, or cognitive legitimacy (Table 1).

In Greenland we hear how the organizational context is very closely related to what is emerging and taking place in the surrounding society. In these years, Greenland is exposed with a lot of attention, creating new dilemma-filled situations for society in general and for organizations in particular. Supposedly, this makes the organizational setting different from other places, and thus the need for moral and cognitive legitimacy calls for a great need for mutual problematization in the organizational settings.

Conclusion: How Legitimate Leadership Emerges in Territories of Interactions in Greenland

This chapter sets out to examine how legitimate leadership is practiced in everyday, mundane activities. More specifically the question asked was: *How do processes of legitimacy emerge in daily interactions among participants in Greenlandic organizations?*

The chapter contributes with some empirical narratives illustrating how organizational actors, leaders, and co-workers mutually develop new understandings of future actions and thus how they collectively legitimate their actions in a process of critical reflections understood as problematization. The chapter grasps processes of legitimate practices. In other words, what is to be analyzed is how Greenlandic leaders carry out their leadership practice and how collaborative actions are used to legitimize decisions in their everyday practices.

The empirical data reflect how legitimate leadership can be understood, through the study of organizational activities from a micro perspective. It is argued that the process perspective, where leadership, as a phenomenon, is best studied by understanding how legitimate leadership activities emerge in everyday interaction and as a collective accomplishment. The process theory establishes a strong frame for attending how legitimate understandings and actions are emerging in the daily interplay among organizational members.

It is highlighted how leaders are not controlling and planning the organizational processes of legitimacy. They might try to influence the processes of legitimacy, but how the processes appear and take place in the ongoing, daily activities is a mutual accomplishment taking place among various organizational participants. Thus, legitimacy and leadership are not a set strategy, but emerge in interactions among the involved participants.

The chapter takes the first step in developing the theoretical understanding of legitimate leadership. The position of legitimate leadership steps away from the traditional thinking of the leaders as heroic, grand, and patriarch. Legitimate leadership is a collective way to navigate in uncertainty and complexity. By engaging in mutual processes of interactions, leadership becomes a collective activity where legitimacy is practiced. In this regard both leadership and legitimacy are concerned with future actions and how various actors in the organizations mutually make sense of what is about to happen.

The focus toward problematization extends Suchman's (1995) way of describing the strategies of legitimacy with a focus toward the internal processes in organizations. Legitimate strategies are not only based on gaining, maintaining and repairing, in the Greenlandic setting, but legitimate strategies in leadership seem to be based on problematization. Based on the narrative examples of how leadership is practiced in Greenlandic organizations, it is argued that legitimate leadership is also about problematization.

There are some limitations to this study. The empirical data are based on interviews and do not show the richness of how the legitimate processes emerge over time. Observational data would allow the study to develop thick descriptions of the Greenlandic practices and thus explore in depth the legitimizing processes of interaction as they unfolded.

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Part XXI

Polycentric Dimensions of Business Legitimacy in Complex Societies

Legitimizing Practice Forms During Transformation of a Legitimizing Business Paradigm: Changing Strategies and Reasons

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Contents

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Abstract

In recent decades, various legitimizing practice forms have emerged – from public affairs, issues management, and stakeholder engagement to CSR initiatives and integrated reporting. A series of analytical perspectives are unfolded in order to study these practice forms in their empirical manifestations. An analysis of the transformation of the legitimizing business paradigm illustrates how practice forms change their function, strategy, and reason over a succession of phases. The analysis also reveals risky tendencies embedded in the present phase of this transformative process.

Keywords

Legitimacy · Reflection · Reflective paradigm · Reflexivity · Transformation process

The past 50 years have witnessed a transformation of the legitimizing notions that mediate the interrelation between the business community and the rest of society (cf. ► Chap. 19, "Society's Megatrends and Business Legitimacy: Transformations of the Legitimizing Business Paradigm"). The process of transformation as well as its result, a new legitimizing business paradigm, manifest in a number of legitimizing strategies and social technologies. From, for instance, issues management, stakeholder engagement, public relations, and public affairs to partnerships, values management, and reporting on multiple bottomlines; forms of practice that within the private business sector thematize issues of public interest such as sustainability, human rights, corporate citizenship, corporate social responsibility (CSR), and corporate social innovation (CSI). In the process, alternating forms of practice emerge, boom, grow illegitimate, change, wither away, and are replaced by functionally equivalent forms of practice. In some cases, the same concept refers to quite different forms of practice, and many of these designations are characterized by uncertain semantics; i.e., the same designation means different forms of practice to different practitioners and perspectives at different periods of time, and in different types of society. Uncertainty prevails as to what a practice form "really" is about and why.

In order to understand the forms and processes of legitimizing practice, the basic suggestion of the research presented in this chapter is to understand them as resonance to problems of social cohesion. Society's cohesion is continuously threatened by society's evolution which continuously causes new challenges. When legitimizing notions no longer contribute to social cohesion, they are challenged and gradually transformed. Society absorbs the turbulence in learning processes involving changing legitimizing notions and practice forms that meet with the changing challenges to cohesion. The empirical field analyzed is embedded in the specific type of society characterized by modernity, and a specific phase of the evolution of modern society, namely, the transition from full to ultra modernity, and further, the challenges when globalization confronts modern society with the values of different societal forms.

The line of research presented in this chapter endeavors to contribute to an understanding of how different legitimizing practices gradually emerge in a specific context as legitimizing notions change, and how everyday practice is embedded in society's evolutionary processes. A perspective like this goes beyond the level of observation that sees social actors' strategic intentions manifest in interplays between different particular interests. Instead, focus is on how legitimizing practice forms are embedded within the very social communication processes and their self-referential dynamics. To that end, a frame for understanding the function and emergence of legitimizing forms of practice will be constructed, and a series of analytical lenses to study the practice forms in their empirical manifestations.

As the basic platform for the analysis, social theory is required that consistently captures the interrelation between everyday practice in organizations and society's construction and evolution. Therefore, Niklas Luhmann's epistemology (1995a), theory of society (2012), and theory of organization (2000a; Becker and Seidl 2005) are chosen (as also introduced in ► Chap. 19, "Society's Megatrends and Business Legitimacy: Transformations of the Legitimizing Business Paradigm"). In this theoretical framework any social process – a management decision, a news interview, a declaration of love, a tweet or a like, or even a payment – is seen as part of society's continuous reproduction of meaning in communicative processes and as embedded in society's filters of recognition, *social systems*. Any communicative process – communication understood as a continuous selection of meaning, a continuous interpretation of the world unfolded in human interaction – is understood as part of society's continuous reproduction. Society's building blocks are communicative elements which by constantly causing and connecting to new communications hold society going. The basic point is that the continuation of this recursive stream of connective potential and connections conditions society's cohesion. So, understanding society as a self-organizing system of communication with the sole purpose of continuing itself means understand society's evolution – and subsequent transformations of legitimizing notions – as processes seeking to support the continuation of the flows of communication.

The dimensions traditionally designated macro, meso, and micro by sociology are dissolved and replaced by three different, however, mutually interdependent types of social systems: (1) Functional systems that constitutes the primary differentiation of modern society and consequently basic clusters of expectation – systems each with their function and network of self-referential, self-legitimizing reasoning, such as the systems of economy, politics, law, medicine, care, education, science, family, religion, and journalism. Those are the fundamental societal systems constituting the structures of expectation that facilitate human interaction, whether in (2) interaction systems; meaning systems that continuously emerge and dissolve, such as for instance during a visit to the dentist or a series of tweets, or in (3) organization systems; the decision-making machines of society that determine certain courses of events which you cannot expect in exactly the same way in the rest of society. The focus of this handbook is business companies, i.e., organization systems with a primary reference to the economic system. However, the deliberations can be expanded to most types of organization systems. The analysis must then replace economy as the primary function with those primary functions that typify the organization in question.

The analytical lenses apply to

- The practice form in relation to a series of societal dimensions and transformative megatrends: Which challenge to social cohesion has fundamentally activated the form of practice?
- The basic perspective of the practice form: Is the practice form guided by the first-order perspective of reflexivity or by the second-order perspective of reflection?
- The practice form in relation to the transformation of the legitimizing paradigm: At which phase of the process is the form practiced, and on what grounds?
- The practice form as manifestation of a compulsory defense strategy: Which strategy is applied in order to defend the meaning boundaries of the organization?

Upon the introduction of the analytical lenses they are applied in an analysis of the transformation of the legitimizing paradigm that mediates the interrelation between the business community and the rest of society in regions characterized by full modernity.

Societal Megatrends and Practice Forms

The first part of the analysis implies an understanding of the practice form in relation to problems of social cohesion as introduced in ► Chap. 19, "Society's Megatrends and Business Legitimacy: Transformations of the Legitimizing Business Paradigm" Even if we may ultimately trace back problems to the functional differentiation of society, the adjustments of society mainly take place in organizations. The transformation of the legitimizing notions mediating the interrelation between the business community and the rest of society is part of a major transformation of society. Essential legitimizing forms of practice are embedded in the megatrends that fundamentally activated the problems, problems that challenge the legitimacy of an organization in their individual way, and which constitute different discursive issue arenas to a practice form.

The Insensitive Society: Between Planet, People, and Profit

Does the practice form address society's structural insensitivity to life and nature? *The insensitive society* develops practice forms that demonstrate considerations of life and nature such as balancing the triple bottom line of people, planet, and profit.

This megatrend constitutes an issue arena where the established society's positions are confronted with social movements and NGOs that see themselves as representatives of life and nature (Luhmann 1986) – such as Greenpeace, Doctors without Borders, and a long series of animal welfare organizations. With time, the function of the arena and consequently its character has changed and has consequently given rise to different legitimizing practices.

During the 1970s, 1980s, and early 1990s, the issue arena was dominated by enemy images and radical conflicts which gradually pushed the boundaries of then well-established legitimizing notions. Today, the arena is split into two symbiotic parts. One part continues to be characterized by conflicts. Protest-NGOs (Luhmann 1996) continue to irritate the established society and contribute to hold the new legitimizing business paradigm active in interplays with mass media and public opinion: Sensation, emotions, and conflicts between "the establishment" and the notion of civil society immediately catch on to the selection criteria of journalism (Luhmann 2000b). The climate of communication will often be violent, conflict-ridden, prejudiced, and characterized by sensations and emotions instead of by facts, knowledge, and reason (understood as insight into complexity). It unfolds at a far more tranquil level than formerly; however, it paradoxically contributes to generate trust and thus cohesion in society. You know that there are hunting dogs out there. They may bark a couple of times too many; however, they contribute to keep a constant irritation and self-examination alive. An organization's legitimacy is at constant risk of being questioned. The other part of the arena is characterized by constructive negotiations and partnerships between positions of the established society and NGOs that understand how to take advantage of the premises of society from a position representing society's environment.

The Decision Society: Between Risk and Danger

Does the practice form address skepticism towards an organization's premises of decision-making, based on the latent conflict between decision-maker and those potentially influenced by decisions without being involved in decision-making processes? The megatrend designated *the decision society* challenges the premises of an organization's decision-making processes and demands a practice that demonstrates responsibility of the decision-maker and at the same time makes the organization's decision-making responsive and transparent to those potentially influenced by the decision.

The legitimacy of decisions is constantly questioned by the perspective representing potential victims, increasingly organized in NGOs to build decision-making power and influence (Holmström 2005a). However, even though the asymmetry may reverse when the potential victim's perspective organizes and gains decision-making power in, e.g., NGOs, consumer organizations, etc., it grows illegitimate for a company to see and to present itself as a victim. To a company, it has grown into a constant challenge to be able to clarify, justify, and give reasons for its decisions to those potentially influenced by the decision – and to a certain extent involve the company's stakeholders in the decision-making, often represented by NGOs, patients associations, or consumer organizations. *Accountability* is wanted and *transparency* required, that is, access to or even participation in decision-making processes, often in the form of stakeholder engagement and NGO partnerships.

However, the issue arena constituted by this megatrend remains highly explosive. The victim's perspective is characterized by a feeling of powerlessness and fear and gains growing decision-making power by means of organizing the trump card: the moral of fear against which no reasoning can cope (Luhmann 1993). An interrelation can be moralized in black-and-white, prejudiced position as long as potential victims can be identified: the one with decision-making power versus the potential, principally powerless victim of the decision; David versus Goliath, the little man versus the establishment. These are circumstances that immediately link with the selection criteria of journalism and with the black-and-white meaning system of public opinion (Baecker 1996; Luhmann 1995b). From there skepticism, fear and worry spread in society and provoke crises of legitimacy. Crisis response strategies and crisis communication grow into part of a company's legitimizing repertoire.

Partnership Society: Between Independence and Interdependence

Does the practice form address co-operation across society's differentiated functional rationales – without neither reciprocal strains nor integration that would risk society's basic structures of expectation? *The partnership society* focuses on society's differentiation in functional systems and on the mutual interdependence between conflicting functional rationales. However, at the same time they are mutually interdependent on functioning independently on their own terms each with their specific function, knowledge, competences, and dynamics intact. This evolutionary megatrend activates practice forms that mirror decision-making processes in an increasingly polyphone diversity of different legitimizing functional rationales.

The social processes that reproduce this megatrend pass polycentered out of the public spotlight with constructive negotiations and stable cooperation. However, conflicts between the social dynamics are constantly lurking. If suspicion arises of strain on society's fundamental structures in the form of, e.g., corruption, bribery, or nepotism, public opinion and mass media are hyper-sensitive. The issue arena can explode in legitimacy scandals and widespread mistrust.

Governance Society: Between Public and Private Interests

Does the practice form address challenges of balancing particular interests with the idea of a common interest? The g*overnance society* focuses on the organization's active participation in endeavors of co-regulation via practice forms such as public affairs and governance networks and on the societal commitment of the organization (Buhmann 2017), often thematized CSR – "communication-based processes of coordination [. . .] formed by the need for decentered processes of mutual observation and coordination among social sub-centers [in a polycentered society] in which the stabilizing factor is not a central guiding body or social ideology," as Qvortrup (2003:4) observes.

Co-regulation implies that a company's decision-making processes become of common interest and have to be legitimized in the public perspective – the specific perspective that makes private matters public and obtains its legitimacy from thematizing what it observes as being of common interest (Baecker 1996; Habermas 1989). Conventional mass media and still more social media serve as platforms for the public perspective, the searchlight of which now constantly lurks. Are society's structures strained when organizations with a different primary function in society than the political function influence society's will and way? Are the basic principles of democracy threatened by particular interests? Organizations must be constantly prepared for random checks by the mass media. New functions as trust checkers rather than truth checkers are imposed upon mass media. They grow into hunting dogs rather than watchdogs: Do society's members comply with the more or less voluntary, more or less unwritten rules? Are they making their decisions within legitimate boundaries?

Trust Society: Between Responsiveness and Authenticity

Does the practice form address problems of stabilizing expectations? In *the trust society,* practice forms generate trust by establishing, adjusting, testing, and confirming expectations in constant interplays with dynamic and fragmented environments which apply different criteria in the evaluation of risks and advantages when choosing whether to trust the company. The company must continuously generate trust by means of a precise self-presentation of what can be expected from the company, based on a consistent and at the same time constantly changing self-observation.

Trust is based on polycontextual interplays between society's diverse positions, with distrust constantly lurking and mass media in a central role as trust checker and supplier of a steady stream of minor legitimacy crises. Because the trust checks by the mass media – conventional as well as social – take the form of random samples, they have a broad preventive effect. You never know where the searchlight strikes. Globalization extends this discursive arena and means global trust checks, i.e., checks of discrepancies between what a company says and does in different regions of the planet. Does the company live up to its promises? Is there a consistency between the company's self-presentation and self-observation?

Global Society: Between Conflicting Perceptions of Legitimacy

Does the practice form address problems of navigating in the global diversity of latent conflicts of legitimacy? *The global society* focuses on conflicts between the legitimizing notions originating from different types of society which demand practice forms that understand how to navigate the organization legitimately within the ambiguity of societal and cultural forms (Holmström et al. 2010).

This megatrend activates the need for balancing the company's generic native values with different, and even conflicting, generic values in still more societal contexts where the company's decision-making may have consequences. Since ideals of organizational legitimacy are closely interrelated with a given society's social and societal coordination processes, it follows that legitimizing business paradigms differ in different regions of the world. Moreover, globalization not only poses a general challenge for organizations navigating in a diversity of inherent conflicts of legitimacy. It also requires the ability to simultaneously relate to different and even conflicting perceptions of legitimacy in a globalized public space where local response is no longer locally confined.

Some forms of practice will focus on a specific megatrend; however, most practice forms will address challenges on a series of or on all societal megatrends and then unfold at different discursive arenas. This goes, for instance, for public relations because all societal megatrends have turned what was previously seen as *private* affairs in the *private* sector into issues of *publi*c interest. However, to contribute to productive public deliberations, distinctions between the basic problems being deliberated are required. For instance, when the megatrends of (1) decision society, (2) insensitive society, and (3) governance society respectively turn the dispositions of the private business sector into issues of public interest, then they require that public relations practice correspondingly understands how to (1) justify the organization's premises of decision-making as responsible to those potentially influenced by the decision; (2) demonstrate the organization's considerations of life and nature; and (3) prove the organization's respect of democracy's basic principles and legitimize the organization's influence on society's will and way.

Reflexivity or Reflection?

The second part of the analysis refers to the basic perspective guiding the practice form: Is it a first-order *reflexive* perspective or a second-order *reflective* perspective? The distinction between *reflexivity* and *reflection* is crucial because we, in the vast empirical complexity of legitimizing notions and practices emerging in the late twentieth century, can identify a business paradigm with reflection as the fundamental formula for legitimacy (Holmström 1997, 1998, 2002, 2004, 2005b, 2010, and 2018). In order for a practice form to meet the challenges of balancing former conflicting interests as mutual preconditions on the different megatrends requires the specific second-order perspective of reflection.

Although the words reflexive and reflective resemble one another, they imply very different legitimizing notions and practice forms. Reflexive refers to reflex: the perspective is blind, automatic. Reflective rather refers to exactly being "reflective," being engaged in reflection. The notion of reflection is often used as a kind of fluid designator for deliberations or afterthought; however, based on a focus on society and organizations as constituted by sense-making social processes mediated by specific social filters, reflection can be defined as a particular socio-techno rationale mechanism, and an analytical frame of reference can be constructed to determine whether an empirical practice form is grounded in a first-order reflexive or a second-order reflective perspective.

An organization's understanding of itself and its environment is founded in a social filter, a social system. However, an organization can apply its social filter in two ways: Reflexively, blindly – without seeing that it is the social filter that makes it understand the world, itself and its role in society. Or it can apply its social filter reflectively, "enlightened," by raising its perspective to a second-order observation and observe the way it observes – so to speak see itself as if from above. "As if" implies that no organization can see itself from a position above or outside itself; however – instead of taking its worldview, its role and its responsibility blindly for granted – it can see that it interprets the world, itself, and its role in society through this special filter and turn attentive to the premises of its observations.

In the basic first-order self-reference of reflexivity, an organization makes its decisions from premises that it realizes as obvious and automatically legitimate. It creates a tunnel vision which conflicts blindly and negligently with different ways of seeing and interpreting the world. However, when the organization raises its perspective to a second-order observation of the premises of the observation, it sees these premises as *contingent*, i.e., as results of choices that could have been made differently. It opens up to change and flexibility. It is this observation of own observation that social systems theory designates "reflection" (cf. Baraldi et al. 1999:128), and which has inspired to identify reflection as the core of the new legitimizing business paradigm. "This higher layer of control is attained by social systems' orienting themselves to themselves – to themselves as different from their environments" (Luhmann 1995a:455). Consequently, reflection is the production of self-understanding in relation to the environment. So, where the reflexive organization is inattentive to the broader context and consequently to the unintended, however often far-reaching side-effects involved in its decision-making, the reflective level of observation enables the organization to understand itself in a larger interdependent societal context and to develop self-restrictions and balancing mechanisms in its premises and processes of decision-making.

An empirical example is European dairy co-operative Arla Foods which in 2003 found itself engulfed in a major legitimacy crisis. At that time, Arla Foods was a recent result of mergers between Danish and Swedish co-operatives and was narrowly oriented towards international market expansion. In Denmark, Arla Foods was criticized for this narrow market focus, and for showing no consideration for the rest of society. At first, Arla Foods was uncomprehending. From its first-order reflexive perspective, the company could not see that economic success no longer automatically guaranteed legitimacy. The co-operative was guided by a "cowboy mentality" where the objective – international expansion – justified the means, and did not at its disposal have social lenses that made it sensitive to almost anything else but the market and the objective of good prices on milk for its owners, the dairy farmers. The organization was blind to any justification of the environment's demands (and to a certain extent to the environment) until the lengthy legitimacy crisis motivated the organization to raise its perspective to reflection and made it turn the critical perspective inwards. A negative legitimacy spiral made Arla Foods observe that “no matter what we did, then it was wrong” (Nielsen 2007), and gradually activated communication on communication, decision-making on decision-making – i.e., a second-order reflective perspective. After several years of learning processes, today Arla Foods engages in for instance public health and programs for improving conditions for dairy farmers in developing countries. The co-operative integrates considerations of life, nature, and society in its decision-making premises, encapsulated in the motto of “Good Growth” – “principles of healthy, natural, responsible and cooperative growth that help us to focus on the market opportunities with the greatest potential while caring about how we grow” (Arla Foods 2018).

Reflection does not change the fact that in order for an organization to observe the world – i.e., to exist – it has to take itself as a social filter as its point of departure. No organization can observe from a position outside itself. Reflection is not a way of avoiding blind spots, rather a way of acknowledging blind spots: not a way of breaking down meaning boundaries – but of handling them. From the second-order perspective, Arla Foods still sees the market as its primary environment even though the co-operative integrates the societal horizon in its decision-making premises. Arla Foods does not confuse itself with a political, humanitarian, or public organization even though Arla Foods engages in society, acknowledges human rights, and mirrors itself in public opinion.

Reflection on Three Dimensions of Organizational Practice

Observing an organization as a self-referentially closed system enables the identification of legitimizing practices on three fundamental dimensions of organizational practice: Self-observation, other-observation (construction and observation of environment), and self-presentation.

Self-Observation

Self-observation is about the organization’s understanding of itself, its role and responsibility in society, and consequently about the premises of decision-making processes: How is the organization closed? It is the decisive dimension which ultimately defines even other-observation and self-presentation.

In reflexivity, the organization takes itself and its way of seeing the world for natural, takes its social filter for granted. Premises of decisions are seen as resting in natural social norms, and as automatically socially responsible. In reflection, in contrast, the contingency of decision-making premises is acknowledged and the responsibility of being decision-maker is explicitly assumed. The organization continuously questions its role, identity, and responsibility in stakeholder-oriented processes. The “whys” are continuously debated instead of the “whats” of reflexivity.

In reflexivity, decision-making processes tend to be blindly and mono-contextually mediated by one primary functional reference. In reflexive business companies, the economic rationale is undisputed trump. In contrast, in reflection, although the economic rationale has to remain ultimate trump for decision-making processes to prove legitimate in a business enterprise, polycontextual sensitivity is integrated. Business companies endeavor to balance financial growth with social responsibility, short-term gains with long-term profitability, and shareholder return with other stakeholder interests – basically to strengthen their boundaries and decision-making processes (cf. also Valentinov et al. 2018).

However, an organization's self-observation is difficult to access as object of analysis – unless you are included in the organization for instance as employee or by other means can access the communicative processes constituting the organization. To some extent, the way the organization is organized indicates whether the self-observation is based on first-order reflexivity or second-order reflection. Are the specific legitimizing functions – such as public relations, strategic communication, public affairs, stakeholder engagement, and CSR – represented within top management? A prerequisite for a second-order reflective practice is that practice is organized in a way that ensures a narrow interplay between the three dimensions of self-observation, other-observation, and self-presentation. The reflective self-observation emphasizes the other-observation in order for the self-observation to continuously adjust its self-restrictions and balancing mechanisms in relation to its environment, and weights a self-presentation explicitly based on the self-observation in order to create stable and sustainable expectations.

Empirically, we can observe how the first-order reflexive organization delimits its practices of public relations, corporate communication, social engagement, CSR, etc. in departments without representation in top management; whereas, the second-order reflective top-management is responsive to a broad and diverse environment and integrates societal commitment in the core decision-making processes of the organization. Again, taking Arla Foods as an example, before the legitimacy crises which in the mid-2000s motivated the organization to raise its perspective to the second-order observation of reflection, communication departments were decoupled top-management and used only for enabling decisions already having been made, whereas later, corporate communication functioned as a staff function in close interplay with top management and contributed to constitute decision-making.

Other-Observation

The *other-observation* is about an organization's understanding of its environment: How is the organization open? To any organization, the environment will always remain a reconstruction: "As environment counts only what can be reconstructed within the organization" (Luhmann 2000a:162). However, what can be reconstructed as environment within the organization will differ decisively in a reflexive and a reflective perspective, respectively.

In reflexivity, the perspective is self-centered from within, and the reflexive organization sees only its inherent environment which to business is the markets of investment, employment, and consumption. The organization mirrors itself in itself, as a reflex. In reflection, the organization still mirrors itself in itself – it can do nothing else. However, the organization now mirrors itself as if from above, in the socio-diversity, and sees a larger and more complex environment as relevant. Linear stakeholder models are replaced by increasingly dynamic models. The organization no longer sees itself as the center, but as one of several interacting social perspectives. So, where the reflexive organization tends to see an environment to be managed, the reflective organization sees an environment to be respected.

As any other social system, an organization can observe only what makes sense within the organization. It depends not on the complexity of the world but on the complexity of the organization. The more complex the organization is, the better is it geared to realize and relate to a turbulent environment. Consequently, an organization's reconstruction of the environment helps us observe an organization's self-observation to which we otherwise have no immediate access. Danish healthcare company Novo Nordisk's changing stakeholder models (Fig. 1) illustrate the changes in companies' reconstruction of their environment: From the first-order reflexive models of the late twentieth century to the reflective models of the twenty-first century. In the stockholder model of the 1970s, the company sees only strict economic and conventional legal relations. In the 1980s and 1990s, a growing series of stakeholders appear. However, the company still sees itself as the center from a first-order reflexive self-observation. In contrast, in the reconstruction of the environment appearing around the millennium indicates a radical change of perspective: the company now sees itself as one among many different positions in polycontextual interplays – the result of a second-order reflective self-observation (Fig. 1).

Self-Presentation

Self-presentation is about an organization's more or less intentional way of presenting itself. The organization facilitates the observation by the environment and influences patterns of expectations. The dimension is pivotal to the generation of legitimacy because legitimacy is based not on the essence or being of an organization but on observations and interpretations by the environment.

The reflexive organization is characterized by blind self-presentation from within. It does not see conflicts, or try to silence them; it believes that they can be dissolved by information. The reflective organization, in contrast, is sensitive to social diversity, sees the potential of conflicts, exposes their background, and facilitates exchange of views. Conflicts are systematically identified in order to increase the dynamics of partnerships and multi-stakeholder dialogues and the sustainability of problem-solving.

The reflexive organization relies on automatic legitimacy and consequently passive confidence with the environment; whereas the reflective organization sees that it has to actively earn legitimacy in order to generate trust. When legitimacy cannot be justified in naturalness or necessity, then consistent but sensitive and consequently constantly changing self-presentation is required in order to signal what is to be expected from the organization.

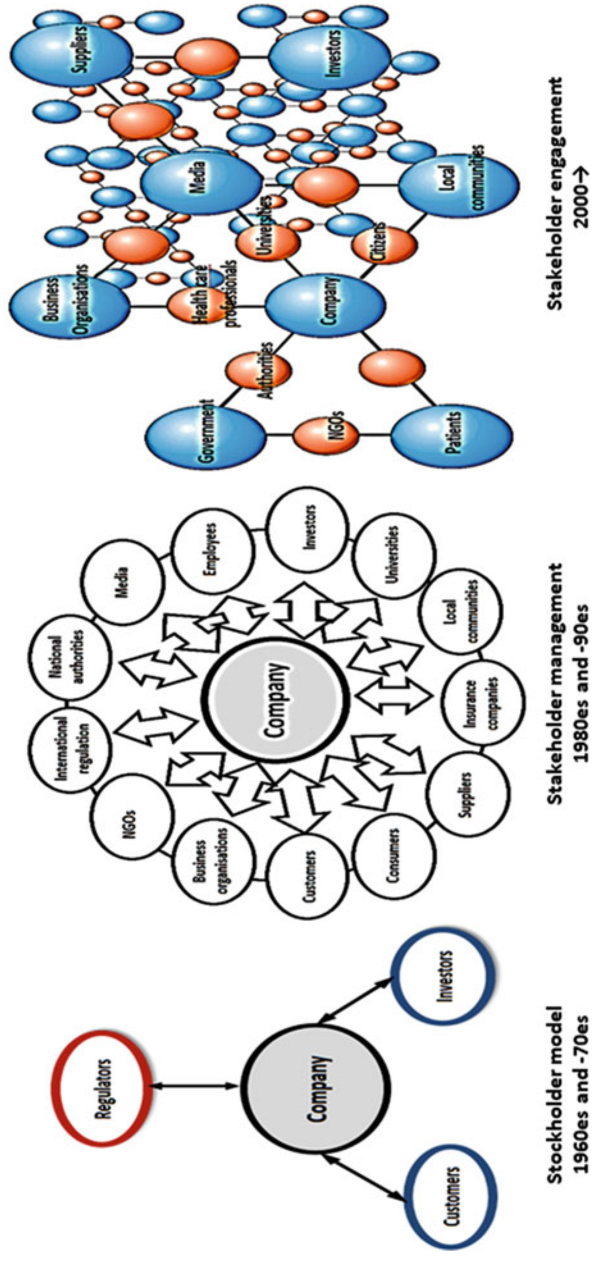

Fig. 1 Changing stakeholder models of Danish healthcare company Novo Nordisk. (Source: Novo Nordisk)

To a great extent, we have to depend on the self-presentation when we try to identify an organization's self-observation and other-observation – not only at websites, in annual reporting, interviews, etc. where text analyses may contribute to reveal the self-observation but also in other organizational manifestations, from the atmosphere in the reception to the CO_2 footprints of its packaging, and its activities: Is the organization non-committal brand sponsor or does it engage actively, for instance, in campaigns in anything from public health to global climate?

Table 1 illustrates how the first-order perspective of reflexivity and the second-order perspective of reflection respectively imply decisive differences on a series of parameters in an organization.

Evolutionary Processes

Third part of the analytical lenses is to understand the practice form as part of a particular evolutionary dynamics. Taking as the basic framework an understanding of society and organizations as self-referential sense-making social systems, the series of analytical lenses is constructed in order to observe legitimizing practice forms as part of society's endeavors to continue itself. It implies that the normativity of this approach as its benchmark takes the continuation of communicative processes. Evolutionary dynamics are driven only by the compulsion of communicative processes to continue themselves. This approach turns traditional notions of systems upside down – in relation to machine metaphors as well as to teleorationale thinking or to legitimizing or functionalist ideologies. Systems rationality is about establishing and stabilizing structures of expectation in an otherwise infinite, immense world by reducing complexity and thus rendering probable communication and facilitating human interaction.

Legitimizing notions are continuously changing in evolutionary processes, however subject to a high degree of inertia. Luhmann bases evolution on three consecutive mechanisms: (1) suggested *variation* of stabilized structures from previous evolutions; (2) *selection* of variation and *retention*, upon which follows (3) *stabilization* provided that the selected variation can be integrated into the system's structural characteristics – from where a new transformations process at some point will take its start (Luhmann 2012, ch. III). Correspondingly, in analyses of the transformation processes since the late 1960s, a series of phases with individual legitimizing practice forms are identified (Holmström 2002, 2005b, 2008, 2018). The empirical course illustrates how a first-order reflexive legitimizing paradigm is challenged and gradually transformed in successive phases, and how forms of legitimacy and reasons for legitimization change with these phases. A new legitimizing paradigm emerges with the second-order perspective of reflection as the mainstay ideal.

An increasing number of critical positions activate a successive series of defense mechanisms in society, which seem to follow a specific evolutionary pattern (cf. Table 2). Point of departure is (1) a *reflexive* paradigm, stabilized from former transformations in a conventional phase. (2) The conventional paradigm is

Table 1 Reflexivity versus reflection on the parameters of the way an organization understand itself, constructs the environment, and handles interrelations

Reflexivity	> <	Reflection
Self-observation (self-understanding)		
Decision-making premises seen as natural, necessary, and automatically legitimate	> <	Decision-making premises seen as contingent and subject to continuous adjustment
Conflicts blindly with different worldviews (even though an ideal of harmony prevails, socio-diversity is not seen)	> <	Thematizes its responsibility and role in continuous interplays with environment
Monophonic functional rationale the uncontested trump in decision-making processes from blind self-interest	> <	Polyphonic sensitivity; enlightened self-interest
Passes responsibility for decision-making premises on to society's well-established norms	> <	Acknowledges responsibility as decision maker and considers those potentially influenced by decisions
Takes the environment's confidence for granted	> <	Sees that the condition of trust is to relate reflectively to the expectations of the environment
Closed decision-making processes on autopilot	> <	Involves stakeholders in decision-making
Other-observation (construction of the environment)		
Does not distinguish between the environment as it is observed and as it is	> <	Sees how the environment is constructed via social filters
Sees a native environment only (shareholders and an unambiguous market for business companies) plus authorities/regulators	> <	Sees beyond its native environment (stakeholders, poly-contextual markets, the idea of society as a shared horizon)
Mono-contextual, narrow, self-centered perspective from within; reconstructs the environment in its own image	> <	Poly-contextual worldview; sees itself as if from outside in the conditions of socio-diversity; tries to see the world through different social filters
Does not see the consequences of decisions in the larger perspective	> <	Extensive sensitivity to consequences of decision making for those influenced by decisions
Society divided into black-and-white perspectives; prejudiced and frozen positions; "we decision-makers who make society work" versus "irresponsible anarchists"	> <	Understands socio-diversity; inquires into the social filters of stakeholders
The environment is managed	> <	The environment is respected
Self-presentation (for the observation from outside)		
Blind, enclosed self-presentation from an idea of socio-uniformity	> <	Open, adaptable self-presentation sensitive to different worldviews from an idea of socio-diversity
Relates to a native environment (markets for business companies)	> <	Commits itself in relation to a wide array of stakeholders from the idea of society as a shared horizon

(continued)

Table 1 (continued)

Reflexivity	> <	Reflection
Tries to dissolve conflict through information: "If they only knew us they would understand us"	> <	Sees the inevitability of conflicts, clarifies their background, and facilitates exchange of views
Weak or no intentional synthesis between self-understanding and self-presentation (window-dressing, white-washing, green-washing)	> <	Precise, continuous, and consistent signals about what to expect from the organizations
Presents itself as victim in crises of legitimacy	> <	Presents itself as responsible decision maker

challenged with ideas of variation which are at first met with rejection and counter-action in a counter-active phase. (3) Gradually, as the challenges do not stop, we see a selection of variation in a transition phase. (4) This selection is followed by a diffusion of the new variations in a best practice phase, and (5) finally by stabilization in a *reflective* paradigm in a new conventional phase.

Each phase is characterized by a particular reason – types of reasons which we correspondingly find in neo-institutionalism (for an overview cf. Suchman 1995), which, however, does not offer consistent explanatory power for understanding neither transformative processes nor the interrelation between organizations and society-at-large.

Despite grey zones, exceptions, and dislocations in time, general transformative processes of ideals in the business community can be identified, from first- to second-order perspectives, from reflexivity to reflection through changing practices with different forms and reasons since the late 1960s, first activated by the strains of modernization, then intensified by globalization's problems of regulation across national boundaries since the 1990s. Far from all, business companies have experienced the entire process. So have in particular companies that at an early phase have been exposed to the pressure from a turbulent environment. Other companies have not had their wake-up call until at a later date. They tend to pass through faster and more superficial learning processes and have not in quite the same way had to turn the critical look inside, to reflect, and to negotiate; however, have seen what has worked for other companies. The rest of the field follows the role models and has to a large degree adapted the new legitimizing notions and practice forms as they have diffused in what has grown into more or less indisputable norms and best practices in the process of transformation.

The evolution of a new legitimizing paradigm is a long process which proceeds chronologically displaced partly in different societal types, partly in different trades, partly in different types of companies – and even in different parts of an organization. Furthermore, smaller and more condensed processes of transformation continue to take place.

In the analysis of a practice form, the evolutionary lenses therefore ask: Which phase in the process of transformation has activated the practice form? Which reason

Table 2 Changing phases and reasons during the transformation of legitimizing paradigm

Evolutionary phase	Type of legitimacy	Realization	Reason	Empirical phase	Approx. time
Stabilized ↓	Cognitive	Legitimizing paradigm = reality	"Because that is the way it is"	1. *Conventional*: Reflexive paradigm seen as natural and necessary by business community	–1980
Variation suggested ↓	Pragmatic/ regulative	Legitimizing paradigm challenged and defended	"Because we have to"	2. *Counter-active*: Defense of reflexive paradigm	1980–1995
Selection ↓	Normative: Moral/ ethical Practical	Legitimizing paradigm negotiated and transformed	"Because we should" "Because it is practical"	3. *Transition*: Level of observation raises to second order, reflection; facilitates experiments, dialogue and change	1995–2005
Retention ↓	Normative: Isomorf/ mimetic	New legitimizing paradigm diffused	"Because that is the way you do"	4. *Best practice*: Reflective paradigm diffuses as routines, models, standards	2005–2015
Stabilized	Cognitive	New legitimizing paradigm = reality	"Because that is the way it is"	5. *Neo-conventional*: Reflective paradigm taken for granted	2015–

can be identitied for a legitimizing practice form? Is the legitimizing reference convention, naturalness, rules, necessity, moral, ethical or practical norms, or role models?

Defense Strategies as Resonance to a Critical Environment

The fourth and final analytical lens relates to the type of strategy from which the legitimizing practice form originates. Strategy in this frame of reference does not necessarily imply any intention; rather, they are compulsory defense strategies that are automatically activated when social systems see their basic legitimizing notions and consequently meaning boundaries as threatened. They are strategies that may manifest as intentional strategies which a company chooses to apply. The point is that at the root of these visible, intentional strategies, compulsory strategies as integral part of social dynamics can be identified.

When a company is observed as a social system, it is defined neither by employees, offices, factory building, or services – but by meaning, i.e., sense, ways of interpreting the world. What makes sense within a company does not make exactly the same sense outside the company. It stabilizes structures of expectation and facilitates decision-making. Consequently, the boundaries of meaning are decisive to the existence of any organization, and consequently a company will compulsorily defend itself against observations from the environment that are seen as threats to the boundaries. Accordingly, practice forms in response to the challenging environment are analyzed not as *intentional* acts but as part of self-organizing social dynamics. Their inherent urge is to protect their constitutive meaning boundaries. Just as society would deteriorate if the communicative processes slowed down, organizations depend on strong and dynamic communications in the form of decision-making processes: "Consequently, the maintenance and improvement of the competence of deciding (instead of rationality) become the actual criteria of effective organizations" (Luhmann 2000a:181).

During the evolutionary transformation process, a company is faced with changing challenges from a turbulent environment which together with the changing reasons for legitimization and the transformation of the legitimizing paradigm result in changing defense strategies. Some strategies will predominantly follow from a reflexive perspective, others from a reflective perspective – however, more interesting is it how a defense strategy will lead to different practice forms according to the level of observation. For instance, blindness as a compulsory defense strategy can never be avoided. If you see everything you will see nothing. However, a reflective organization will be able to be less blind than will a reflexive.

- *Blindness* is the prevailing compulsory defense strategy. The organization does not have lenses that make it possible to even observe the critical environment. It does not make any sense to the organization.
- *Negligence* implies that the critical environment is compulsorily marginalized as irrelevant and even illegitimate noise – as "anti-commercial forces," "revolver journalism," or "untimely intrusion."
- *Reduction* implies that the turbulent, unmanageable environment upon which the organization to some extent relies on for legitimacy is reconstructed into an environment that makes sense within the organization. The most inherently legitimate reduction to the business community is to turn environment into markets: A critical population is turned into "political consumer." The environment is reduced according to economic selection criteria into a language that the business community immediately understands, and into problems that business companies can relate to without starting to doubt their justification and the legitimacy of their decision-making premises, thus risking their boundaries.
- *Camouflage of contingency* implies that when the boundary setting observed as contingent by the environment – for instance when the legitimacy of prioritizing economic success to considerations of life and nature is questioned – in order to avoid a focus on the decision-making premises of the organization, the issue is

overlaýed with different themes, such as for instance making it a question of an ignorant population or prejudiced journalism.

- *Secrecy* implies that the organization hides what goes on inside the organization to avoid public searchlight and questioning of the legitimacy of its decision-making premises.
- *Hypocrisy* implies that an organization pretends to acknowledge the perspective of the critical environment and accepts to discuss an issue – while the organization has no intention of doing so, but continues to observe its decision-making premises as indisputably legitimate, as necessary. The self-presentation is not rooted in the self-observation. Empirically, hypocrisy is often denoted as "window-dressing," "white-washing," "green-washing," "blue-washing," about the blue UN color for UNs Global Compact, and more recently "SDG-washing" in relation to UNs sustainable development goals for 2030.
- *Necessitation* is a dominating defense strategy in response to challenges by a critical environment. The organization presents its boundary setting and the legitimacy of its decision-making premises not as contingent (i.e., as a question of choice) but as necessary. The organization intends to make the environment understand – not to understand the environment.
- *Self-victimization* implies that the organization sees itself as an innocent victim of criticism and presents its decision-making not as a question of own responsibility but of society's well-established structures: "It is not down to us."
- *Surrender* is a risky defense strategy. The organization renounces its decision-making premises and imitates those of the critical environment. Ultimately it will imply the destruction of an organization's meaning boundaries and consequently the dissolution of the organization.
- *Mirroring* means that an organization mirrors itself in the critical environment and to some extent adapts its worldviews indiscriminately. It will take different forms whether the mirroring is only part of the intended self-presentation or whether the self-observation proper endeavors to mirror itself in conflicting rationales.
- *Dialogue* implies that an organization acknowledges its decision-making premises as contingent, i.e., is ready to debate and open to adjust its meaning boundaries and the legitimacy of its decision-making premises in negotiations with representatives of a critical environment. The concept of "dialogue" has often been idealized as "symmetrical communication," and although the symmetry is disputable (Holmström 1997, 1998), dialogue demands mutual openness, sincerity, and adaptability by the parties involved. Dialogue is a risky defense strategy because it presupposes that an organization stakes its meaning boundaries, i.e., identity and decision-making premises, ultimately its existence.
- *Anticipation* means monitoring the critical environment in order to anticipate a potential critical issue and thus dismantle the risk of a legitimacy crisis. The practice of issues management may correspondingly be understood as part of this defense strategy. It implies systematic monitoring and analyses of the environment and of the public perspective to detect and understand changes in the societal agenda and develop proactive strategies to potential legitimacy crises.

- *Preparedness* implies a continuous production of "publicly defendable" information and crisis response.
- *Self-irritation* implies that the organization installs a critical internal environment for instance via stakeholder departments, internal NGOs, and corporate journalism. The perspective of various stakeholders, NGOs, and journalism is activated internally to secure continuous irritation within an organization in order to continuously renew decision-making premises, increase complexity, and in this way strengthen meaning boundaries.
- *Integration* means that the company has integrated the perspectives of the critical environment in its own decision-making premises – again: to the extent it is possible within the organization's boundaries.
- *Neutralization* is to some extent a result of several other defense strategies. Organizations are compelled to attempt to absorb and neutralize criticism by the environment, to the extent it can at all be observed and make sense within an organization. In this way, the irritating power of the critical environment is neutralized. Empirical analyses show societal learning processes during the latter half of the twentieth century where the perspectives of public, fear, moral, and protest are gradually absorbed and transformed into a new range of legitimizing structures consistent with the programs of functional systems, such as ethical codes, sustainability certification, and social reporting guidelines (cf. also Krohn 1999; Alexander and Blum 2016).
- *Ceremony* and *symbolism* are relief strategies. Response to a highly complex environment is reduced into simple rituals.
- *Routinization* relieves the pressure of the realization of the contingency of legitimizing notions and the continuous self-questioning resulting from a second-order reflective perspective. The turbulence and the criticism are forgotten, but the organization has learned legitimizing routines as response – without remembering the complex contest which originally activated the resonance. The ideals of reflection are turned into reflexive routines.

Presumably, with social systems theory as the frame of reference, it will be possible to identify more compulsory defense strategies as the fundamental driving forces behind the immediately visible legitimizing forms of practice. The present intention is not a thorough analysis but to illustrate how the compulsory forces of social processes contribute to determine legitimizing practice forms and legitimizing notions within an organization. It sharpens the focus of the social forces within which human interaction is embedded – for better or for worse. This does not mean absolute determinism, and that individuals cannot make a difference, but that certain inertia is integrated within any organization. You cannot change an organization without taking the organizational structures as starting point.

It will be shown how these legitimizing strategies change over time, partly to illustrate how we can distinguish between various compulsory defense strategies in a social systems theoretical approach and partly to illustrate how the legitimizing strategies seem to follow the particular evolutionary pattern introduced above – although we may find all strategies active even today if we analyze the empirical situation in various trades, in organizations with different cultures and histories, and in various countries.

Practice Forms over Phases

By bringing the four analytical lenses into a context in an analysis of the transformation of the legitimizing business paradigm during the past 50 years (Fig. 2), it will be demonstrated how practice forms change their compulsory function, perspective, reason, and defense strategy. The periods identified below for the phases are indicative only; partly because the phases overlap, partly because the process is chronorationally dislocated in different types of organizations and trades and in the different regions of the world. Furthermore, in a larger legitimacy crisis for an organization today, to some extent we can identify corresponding phases – although at a far smaller and more condensed scale. Thus, the transformation process identified below is not only of historical interest. Via the analysis, we gain insight into the anatomy of contemporary legitimization processes and insight into the specific situation of the overall transformation process in modern society today with the potential of better addressing current problems. Empirical object of analysis is the changing legitimizing notions around and within the business communities in particular in north-western European countries. More than any, they are characterized by modernity. The specific focus is Denmark, a country which – in spite of being a monarchy – can be characterized as one of modernity's pioneers with full functional differentiation, indicated for instance by a high sensibility to corruption, a strong focus on freedom of expression and public debates, and by primary societal values related to functional rationales instead of ethnic or cultural hierarchies and family relations.

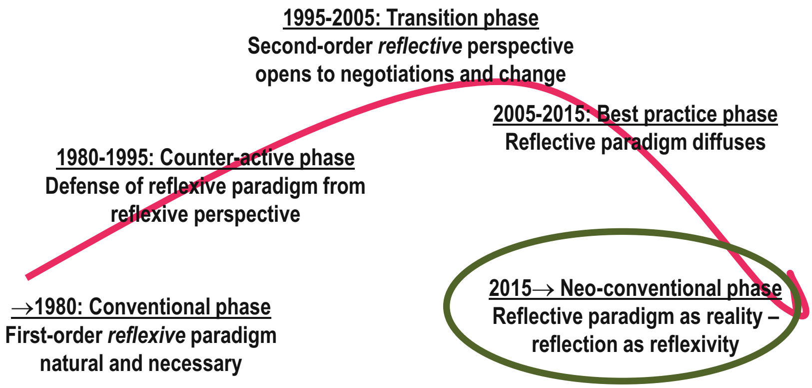

Fig. 2 The process of transformation of a legitimizing business paradigm

Conventional Phase: Blind Innocence (Approx. 1968–1980)

Towards the late twentieth century, in regions characterized by full modernity, modernity's unintended strains on human beings and nature reach a critical mass. Society's fundamental construction is put at trial. However, you cannot address society's basic building stones, the functional systems. Instead, society's turbulence strikes in society's decision machines, organizations of any kind (Luhmann 2012 ch. 4, XIV; 2000a:412f). Everything from universities to nuclear families is being picked on. However, a specific focus is on the strains by the economic rationale on life and nature and on society's other rationales, and on its dominance in business companies with profit maximization as their absolute criterion of success. Former legitimizing notions about unproblematized prosperity and blind growth threaten society's cohesion. They are rendered visible, are problematized, debated, and gradually contested by new legitimizing notions.

In this *conventional* phase, a first-order reflexive business paradigm with particular notions of legitimacy developed and stabilized in previous evolutions and solidified in taken-for-granted-ness is challenged. The prevailing self-observation in the business community is that the societal responsibility of a business company is to secure profits because it creates products and jobs and is the economic base of society; that the only variable in the company's objectives is profits, i.e., that the programs of the economic functional system take undisputed primacy in the decision-making premises of a business company.

At this phase, the legitimizing paradigm is still cognitively embedded within the business community: "Of course we are legimate and socially responsible as long as we secure profits – because that is the way it is." Companies operate quietly, innocently, and self-sufficiently in their self-legitimizing bubbles. Conventional practice forms are advertising, i.e., market relations and lobbyism to minimize increasing legislation. When it minds its own business and abides by law, the company takes its legitimacy for granted.

Blindness and *negligence* become the prevailing compulsory defense mechanisms against the new critical environment. With the growing focus on the strains of the economic system on society, nature, and human beings, the decision-making premises of the business community are increasingly seen as relevant to the rest of society and made subject to public searchlight. Major dailies gradually develop business sections. In 1975, a business journalist describes the relation with the business community as characterized by "many confrontations over what business companies often perceive as 'untimely intrusion'. Often, it takes surprisingly little before representatives of the business community apply strong words such as sensation hunt, revolver journalism and bias" (Rieks 1975). From the conventional worldview of the business community, the public perspective is not relevant. It is marginalized as noise.

Another defense strategy at this early phase of the transformation process is *camouflage of contingency*. Instead of seeing criticism as being about the nature of the company's decision-making premises – i.e., that they are not given by nature but subject to choice and consequently could be different – the business community interprets the criticism for instance as being a question of the political system's urge for control and regulation; journalism's disposition to sensation; or the ignorance of the population. In the cognitive mode of this phase, the strategy is not intended and deliberate but a compulsory reconstruction of the environmental complexity from the lenses then available to the business community. As reasons guiding the compulsory defense strategies shift, intentional strategies change their character. The conventional phase's compulsory strategy of camouflaging the boundary will in the next, counter-active phase take the form of an intended, deliberate strategy. It grows common practice for the then new public relations professionals to try to turn public focus away from themes that are critical towards the company, and to do so by outbidding with different themes for the public perspective – most often represented by journalistic news media – to focus on instead.

Counter-Active Phase: Defense and Image of the Enemy (Approx. 1980–1995)

In the 1970s, pressure on the business community increases. Management thinker Peter Drucker describes the situation: "The lack of appreciation of the business community has triggered a setting within which business companies may not survive" (Parkinson and Rowe 1979:9). The threat to the existence gradually activates a change, motivated by the growing mutual interdependence and consequently mutual sensitivity between the different sectors of society. The criticism from still more protest movements and green activists organizing as NGOs effectively influences public opinion and spreads to sectors of society upon which the business community grows increasingly dependant. It affects the economy as well as autonomy of the business community negatively. So, by circuitous routes, the critical environment gradually wins resonance within the business community.

Instead of letting "the currents drift where politicians and public opinion will take them" (Parkinson and Rowe 1979:33), the business community now tries to influence the development in order to "achieve appreciation for the company and its societal importance" (DPRK 1982). The reason for the legitimizing practice is that a company has to defend itself, in particular for the sake of reputation and trust in order to secure resources and autonomy. It continues to be an unproblematized self-observation that honoring narrow economic criteria of success automatically equals social responsibility and consequently legitimacy. New practice forms spread in defense of status quo, in defense of the conventional paradigm – for instance, public relations, issues management, and increasingly complex stakeholder models, based on a series of counter-active defense strategies: *Reduction, camouflage, secrecy, hypocrisy,* and *self-victimization*. The latter defense strategy implies that the company sees and presents itself as an innocent victim – a strategy which in later phases of the transformation process is outdated and replaced by a pronounced responsible position as competent and dynamic decision-maker. The new environmental complexity is reduced and reconstructed as "anticommercial forces" (Dolleris 1988), "pressure groups" (White 1991:8), "a hostile press" (Christensen et al. 1982:11–12), and "restrictive law" (Parkinson and Rowe 1979:33).

The most remarkable feature of the counter-active phase in the 1980s and 1990s is the defense strategy of *necessitation*, meaning that the business community with all means seeks to achieve appreciation of the conventional legitimizing paradigm characterized by the first-order worldview of reflexivity, first and foremost by arguing for the paradigm as necessary – as necessary in opposition to contingent, i.e., not subject for discussion, but also as necessary for society's well-being by creating jobs and products and serving as the economic base of society's welfare. When public relations spreads as an organizational activity, practice describes itself as "a continuous and systematic management function through which companies, private and public organizations and institutions seek to achieve appreciation and support within those parts of the public with whom they have or will be in contact" (DPRK 1982).

Public relations are to a great extent reduced to press relations. Correspondingly, the business community increasingly courts the selection criteria of the news media with pseudo events – "events that from the start are produced for triggering publicity and which would not take place if mass media did not exist" (Luhmann 1997:862). Observation schemes from the journalistic functional system are brought into business companies by hiring journalists. The production of press releases steadily rises. As the Danish state committee on media concludes in 1993, "increasingly, a layer of public relations people and information employees, many with a journalistic background, are added to companies' communication with their environment. Actors plan actions and declarations based on an awareness of the potential attention of the media" (Hjarvard 1995:21f).

As a reductive defense strategy, stakeholder models (e.g., Donaldson and Preston 1995; Pesqueux and Damak-Ayadi 2005) reconstruct the public sphere and the chaotic, complex, indefinable environment with the company as the center, a segmentation of the world from the company's worldview in order that it makes sense within the company. It is seen as "strongly controversial" when Danish academics in business economy in 1982 introduce a stakeholder model that includes more and different groups than the business community sees as relevant in a conventional paradigm, i.e., not just "owners of capital, employees, suppliers, consumers, municipal councils, parliament, public authorities," but also "mass media, pressure groups, professional organizations" (Christensen et al. 1982). And even though the arrows between stakeholders and company point in both directions in stakeholder models of the time (cf. Fig. 2) – then the widespread use of the concept of stakeholder *management* rather indicates a one-way approach, the idea that a company can "manage" its environment based on thorough research and planning. The attitude is evident from an article in the journal of the Danish Marketing Association in 1984 "Stakeholders: how do we make them love us? The fact is of course that stakeholders must be nursed according to *the role they play to the companies.* They can all be made to contribute *to the objective of the company* to a much larger degree if the company via a deliberate identification of their different needs and wishes plans and implements activities group by group. I contend that they, group by group, can be made conscious of their own role as active and interested co-players *on the field chosen by the company*" (Ranning 1984, my emphases).

Another practice as part of the attempt of gaining control of the turbulent environment is *issues management* (Heath 1990), manifesting the defense strategy of *anticipation*. It emerges as a concept and a model in 1973 in connection with the American tobacco industry's attempt to fight the then budding deligitimization of cigarettes (Pratt 2001); however, this does not spread until the end of the 1980s and in the 1990s. Issues management implies that a company continuously monitors its environment for potential legitimacy conflicts in order to react before they develop into crises. It is the hunt for problems before they arise, "a method to systematize the area in order that a company's managers can work within well-known structures" (Dolleris 1988). In this way, issues management turn "strange" themes into well-known themes, the environment is made "manageable," and decision-making processes are relieved.

In order to disarm the critical environment, issues management in its first-order, reflexive approach tries to influence public opinion and politics and to soften the pressure of "activists" before it leads to legal regulation or other sanctions. Legitimizing practices extend from "factual" information campaigns to throwing suspicion on opponents. It is not a question of listening to the critical environment, not a question of changing the company's own decision-making premises and processes. In contrast, later in the learning processes, a second-order, reflective form of issues management is a tool for companies to challenge their self-observation, i.e., to turn the criticism inwards for self-examination and take corrective measures not only because a company at an early phase has more options but also because issues monitoring can increase a company's sensitivity to changes in the environment and thus the company's complexity and adaptability.

Focus on Self-Presentation

At this counter-active phase, the self-presentation is weighted rather than the self-observation and other-observation. The self-observation is not problematized. The organization believes it possible to neutralize a conflict by information. The period is characterized by a large number of information campaigns – for "if only they knew us they would appreciate us." The environment has to change its views, the company does not, and public interest is seen as untimely intrusion.

The prevailing communication practice of the period is characterized as "asymmetric" in public relations handbooks because "it does not try to change own attitudes and behavior, only those of the environment" (Grunig and Hunt 1984:23). In the reflexive company, the self-presentation is a narcissist mirroring of the company's worldview and consequently contributes to "asymmetric communication" because the company is closed towards conflicting perspectives. In the later, reflective practice, the company strives towards a self-presentation that partly is open to the worldviews of the environment, partly is in deliberate accordance with the company's self-observation, i.e., is what you will call "truthful" and "sincere."

Even though the business community in this period develops lenses to a more complex construction of its environment, the objective is not a better understanding of stakeholders in order to adjust the self-observation, i.e., the decision-making premises, in order to gain legitimacy – but to adjust the self-presentation in order to better convince stakeholders of the legitimacy of the company. However, what a company sees in the reflexive perspective of the counter-active phase, it perceives as reality. The company does not understand that it constructs its environment, but sees the world as a mirror of itself. It produces naïve ideas of the possibility of harmony and consensus in society and consequently leads to extensive conflicts in a modern society characterized by diversity. Drucker attributes these conflicts to “the business man”: “Perhaps the reason is not that he expresses himself in a wrong way – although this is often the case (for instance when he talks about maximization of profits and profit motives). The reason simply is that he does not acknowledge that what is so obvious to him is not understood by other people” (Parkinson and Rowe 1979:9). This also entails a self-presentation that remains naïve self-mirroring. The company is not attentive to different interpretations of the company and its decision-making premises. Consequently, a first-order reflexive self-presentation tends to increase a conflict instead of dissolving it: “Probably, a large part of the evident image problems is due to the fact that the business community far too long has relied on a consensus image of the Danish society. Another unfortunate circumstance is that the Danish business community, more or less in vain, has attempted to convince the rest of society of a reality where ‘we are all in the same boat’. In this way, the seeds of a conflict have been sown, namely a divide of credibility” (Christensen et al. 1982:16–17). Later in the learning processes, when the socio-diversity is recognized in the second-order reflective perspective, conflict is acknowledged as the basic condition of society. Society’s differentiated rationales learn how to respect and use the conflict in a more constructive way.

Divides and Crises

In the counter-active decades permeated by conflicts, crises and enemy images, the so-called asymmetrical communication and confronting strategies prevail in society – in contrast to the next phase’s ideals of symmetrical communication and bridge building strategies. Correspondingly, the counter-active rhetoric is embedded in a conventional closedness and a first-order reflexive perspective: “manage relations”; “achieve appreciation of the company”; “nurse stakeholders on the battlefield chosen by the company itself”; “the company’s own influence on the formation of public opinion must be mobilized.” The rest of society must be made to understand and accept the business community. The unstable complexity of the environment must be made stable, structured, and manageable.

But before verdicts of cynicism and manipulation are introduced from a contemporary perspective, the practice forms of the counter-active phase must be understood in relation to their time. Defense strategies were compulsorily embedded in a conviction of the necessity and naturalness of the conventional, reflexive paradigm. The critical environment was seen as an illegitimate threat to the very existence of the business community. The way the business community understood itself and its legitimacy differed essentially from the way the environment saw the business community and its legitimacy, as was concluded in 1982: “Studies reveal a divide of trust between the business community on the one side and citizens and media on the other side. The image of the private business sector is far from what the business community could wish for" (Christensen et al. 1982:11–12). Slowly, the situation changes – however, inertia prevails in legitimizing notions, and the analysis seems to prove correct well into the 1990s.

To conclude as to the counter-active phase: Previously, where compliance with the well-established norms of society automatically legitimized decision-making, gradually legitimate decision-making is made a question of choice, and the company is made responsible for the consequences of decision-making in a wider perspective – still further out in supplier chains as well as user segments in faraway parts of the planet. The counter-active practices seem to be counter-productive. For rather than contributing to legitimizing the business community, they seem to increase the delegitimization of business and the series of legitimacy crises. The divide between the business community and its growing number of critics increases. It all ends with a bang.

Transition Phase: From Prejudices to Negotiations (Approx. 1995–2005)

In the 1990s, new commercial potential emerges with globalization; however, at the same time, the growing global interdependency and transparency begin to challenge the legitimacy of Western business communities and seem to tip the scales. Companies can no longer deal legitimately with anyone, anywhere, and in any way. A long series of legitimacy crises challenges Danish companies with accusations of supporting regimes that violate human rights. The CEO of a major company puts the change into words: "Previously, the choice of suppliers was made based on common, healthy business considerations. Today, a proper businessman has to relate to different and more themes than purely commercial considerations. For instance, whether the company's production is 'socially acceptable'. It implies evaluations of natural environment, human rights, and whether the company abides by the law of the country in question" (Halskov and Søndergaard 1997).

Icon of this turn-around is an internationally high-profiled legitimacy crisis which becomes the final straw. The case in question turns out to be somewhat of a mistake – however, time is ripe, the company involved is large and already in the international public searchlight and the conflict gives rise to dramatic pictures and emotional arguments. The case catches widely and vehemently on to the public opinion of the zeitgeist and leaves the business community in a state of shock.

In the spring of 1995, the Dutch-British oil company Shell, as is general practice of the company, secures the approval of authorities and experts to dumping the worn-out oil-rig Brent Spar in the North Sea. This rubber-stamping turns out to no longer suffice to legitimize the decision. The environmental organization Greenpeace starts a campaign equating the dumping with a potential environmental disaster: "The seas are not our garbage can." In close cooperation with the mass media, Greenpeace creates a sensation in the proper sense of the word – i.e., an emotionally charged atmosphere – by means of spectacular actions in the North Sea. According to mass media, extensive media coverage activates global opinion. The result is extensive boycotts against Shell, not least in UK, Germany, Holland, and Denmark.

After the initial total rejection of the criticism by Shell, the vehement reactions from wider parts of society make the oil company change its attitude. Even though a report from an independent research institution later shows that Shell's information about the oil-rig's contents of environmentally damaging substances was correct, whereas Greenpeace had exaggerated the extent, and that the original solution decided by Shell would have been more considerate to nature – then the ship has sailed. Brent Spar is dumped in a different and according to the scientific community less-suitable place. In the summer of 1995, Shell places advertisements in major dailies in several countries under the headline "We have learned...." What Shell apparently believes to have learned is to listen to public opinion.

Under the headline: "All power to the consumer" a major Danish daily captures a growing discourse: "Never before did activists and ordinary consumers succeed in forcing one of the world's large multinational giants to their knees. The decision [of giving up the dumping in the North Sea] shook not only Shell, but large parts of the international business community which until then did not think much of consumer power. Western-European consumers took on a new power of which we shall see much more in the next decade: The power of the wallet which reaches multinational companies far more effectively than the traditional political power via the ballot. What is new is that the consumer does not just buy a product without considering its origins, but starts to make demands and choices based on moral aspects" (Bech 1995). Afterwards, via a long life as prominent case at universities and business schools, the case of Brent Spar contributes to form the new legitimizing notions mediating the interrelations between the business community and the rest of society. The new Shell with the catchphrase of "People, Planet, Profit" grows a role model in the business community (Mirvis 2000).

Surrender

Shell's response illustrates the risky defense strategy that for a brief period permeates the business community: *Surrender*. Surrender implies that a company allows the environment to make the company's decisions. It is a reaction of shock that is ultimately destructive – in this case not least because the reference is public opinion with its black/white reduction of complexity (cf. also Luhmann 1995b). The surrender strategy is destructive. An organization risks a short circuit of its decision-making processes. But this reactive pattern spreads. After many years characterized by a warlike climate and an increasing number of conflicts and legitimacy crises, Brent Spar becomes the mythical shock and turning point to such a degree that parts of the business community is seized with panic. Whether anything is relevant to economy depends on whether it makes a difference to economy. For many years, this has served as an efficient gatekeeper towards most of the critical environment. However, conversely it also means that organizations are "defenselessly exposed" (Luhmann 1986:22) when the critical environment finally catches on to their criteria of relevance and success. In Denmark, in a national survey, CEOs seem to denounce economy as a legitimate motivating force. The survey concludes that "we can observe a clear shift in the business community's attitude to ethical values. Formerly, the general attitude in the business community was that companies should concentrate on doing business – i.e., earning as much money as possible" (Mandag Morgen 1997). Not so any more – but for a brief period only.

Soon, the surrender strategy is replaced by the defense strategy of *dialogue*. After decades of persistent defense, as the "power of the wallet" seems to threaten the business community, the shock and the panic that have jeopardized the otherwise well-greased decision-making machinery of the business community finally motivate pioneering business companies to raise their perspective and to observe their own decision-making premises from a self-critical position. When communicative connection fails again and again, it leads to reflection (Luhmann 1995a ch 4, II). This second-order perspective dissolves the natural legitimizing power of the old legitimizing paradigm and facilitates "dialogue." (See also Neisig 2017 for the necessity of a reflective perspective to transition.) Dialogue implies that the partners are prepared to listen and to change – an openness which is signaled for instance in Shell's Annual Report 2000 with phrasings such as "debating expectations," "searching for answers," "we really do want to hear your views" (Shell 2000).

Negotiations

Gradually, confrontation is replaced by negotiation. It entails partnerships and cooperation across society's sectors – between for instance the business community, NGOs, public institutions, academia, and mass media. Over and over, the idea of a shared faith in the diversity resounds, of considering the rest of society out of consideration for yourself. Some NGOs also seem to embrace the idea of a common faith: "Amnesty International is convinced that if you read the cards correctly, the interests of the business community and those of Amnesty International converge. Amnesty works for respect of human rights as a means to social and economic development. This is also in the interest of the business community" (Baden 1997).

A new backcloth unfolds. A new societal self-description characterized by socio-diversity takes over. Thus, the enemy images of the counter-active phase are replaced by the negotiations of the transition phase, and suddenly, a rapid development follows. As a general perspective within society, reflection facilitates the governance society (cf. ▶ Chap. 19, "Society's Megatrends and Business Legitimacy: Transformations of the Legitimizing Business Paradigm"), which basically means polycontextual co-regulation between a large number of autonomous members of society who reflect themselves in a societal horizon, see themselves as mutually interdependent and consequently are prepared to develop self-restrictions and balancing mechanisms in their interrelations. Increasingly, the idea of a unity is mirrored within organizations as an efficient internal contingency control in the form of *corporate social responsibility – CSR*. "Support and dialogue is becoming more important than control," the Danish Minister for Social Affairs states in a manifest (Jespersen 1997) for *New Partnership for Social Cohesion*, a project initiated by the Danish state but oriented towards EU as a whole. From a second-order reflective perspective, the political system connects to business-economic selection criteria: "We believe that being socially responsible and taking part in social initiatives in local communities in the long run makes sound business sense" (Frederiksen 1997:5). Correspondingly, in the introduction to Global Compact in 1999, UN argues that membership "makes good business sense" and is "an opportunity for firms to exercise leadership in their enlightened self-interest" (Annan 1999).

It is no longer a question of business community and society, but of the business community as part of society. An editorial in major Danish daily reflects how the business community is now seen as part of the solution – instead of as the problem proper: "Anyone with just a generation-long memory will remember that 30 years ago, the private business sector was seen as part of society's problems in the politically active public. Whereas today, the politically conscious consumer and investor are symptoms of the private business sector being an important co-player in the solution of society's problems" (Politiken 1997).

A Proactive Business Community

The end of 1990s witnesses a slide in the legitimizing notions within the business community as well as in the reasons for legitimizing measures. First, the reasons are morally normative from a state of shock: "we ought to" take legitimizing measures in order to be a responsible company. From the first risky panic strategies of surrender and of *mirroring*, where some companies adapt the rhetorics of NGOs in vain attempts of legitimization, the business community soon seizes the reins again with the new, effective *neutralizing* defense strategy of counter-moralization. The business community proactively enters the moral discourse of society, not in adjustment to the demands from social movements and the critical environment, rather as counter-moralization which gradually absorbs moral protests with practice forms such as ethical accounts and codices, values management, corporate citizenship, and a new semantics: *symmetrical communication, social responsibility, dialogue, empathy, ethics, sustainability* grow into positive concepts within the business community.

From having been communicated other-referentially (i.e., compulsory), once again societal responsibility is communicated self-referentially (voluntarily) within the business community. Again, the necessity of broader societal considerations is evaluated from the business community's own criteria. For not until such considerations can be thematized in the economic communication, does the business community have tools to evaluate considerations of nature, human beings, and of the societal environment of the business community at large. Not until then can a topic win broad resonance within the business community and the problems of strains be efficiently treated. The role of business in society is re-interpreted from within business. Green, social, ethical, and stakeholder accounts become means for business companies to observe the increasingly complex environment and make it "manageable" by means of quantitative data.

The line of reasoning reflects how the distinction between profits and societal responsibility dissolves within the business community. From having been seen as reciprocal opposites, societal responsibility and commercial responsibility are gradually seen as mutual preconditions. In 2002, at the trend-setting annual summit of World Economic Forum for the business community, politicians, journalists, NGOs, and academia, a survey shows that what CEOs previously saw as competing priorities – such as economic success versus environmental considerations – is now seen as a more complete, complementary package, a sustainable business model (diPiazza 2002).

The business community takes matters into its own hands, takes leadership in establishing partnerships and governance networks in order to develop new shared guidelines for legitimate decision-making. An example is Nordic Partnership, established by 14 major Nordic companies in cooperation with the NGO WWF and the think-tank Mandag Morgen in order to present a sustainable business model at the UN summit in South Africa 2002.

Focus on Self-Observation

In the transition phase, self-observation grows into focus. Practice forms – such as values leadership, CSR, triple bottom line management, social reporting, partnerships for social innovation, stakeholder engagement, and issues engagement – focus on the company's decision-making premises. The governance society's new forms of co-regulation increasingly supplement the old practice form of "lobbyism" – a manifestation of the government regulation's centralism – with "public affairs." From a reflective mode, public affairs are performed in-between a multitude of political positions. Relations to the idea of the public sphere become an important part of full modernity's' co-regulating practice forms. However, the specific concept of "public relations" seems to be stigmatized by its past in the counter-active phase, as pronounced in this statement from 2002: "The days in which the PR adviser puts forward a superficial 'gloss' for a position statement or annual report have passed. The senior communications professional's role must be the effective communication of developments and activities of genuine substance" (Langford 2002). This quote exemplifies how public relations practice – "PR" – is often equated with the reflexive perspective of the counter-active phase. Instead, the practice of public relations – handling interrelations with the public sphere and public opinion – is increasingly, although more inaccurate, known as for instance corporate communication, strategic communication, social relations, or press relations.

Practice forms mediated by the first-order perspective of reflexivity differ decisively from practice forms mediated by the second-order perspective of reflection. Practice forms such as public relations (under different names) and issues management change with the underlying defense strategies – in particular from the first-order reflexive necessitation of decision-making premises to the second-order reflective negotiation.

Transparency grows into a cue concept. Values leadership and values branding become dominant practice form. A company has always had values. Previously, however, they were invisible, taken for granted. Now, they are understood as choices, dragged into the limelight, debated and spread internally as guidelines to the communicative processes that constitute the company and presented externally in order to prove leadership in society and to earn trust by creating new expectations. For, where the company in the first-order reflexive perspective counts on an almost blind faith from a passive environment, in contrast, in the second-order reflective perspective, the company sees that the environment has a legitimate interest not only in the company's production and services but also in the values and attitude behind.

Via reflection, the company increases its sensibility by seeing how it operates in a network of structural couplings with organizations characterized by different rationales. It leads to an observation of mutual interdependence and at the same time of a legitimate diversity in society. Linear stakeholder models where the company sees itself as the hub of the universe are replaced by more dynamic models where the company tries to see itself as if from outside and no longer sees itself as a center, but as one of many polycontextual observers (see ► Chap. 19, "Society's Megatrends and Business Legitimacy: Transformations of the Legitimizing Business Paradigm" Fig. 1). Stakeholder *management*, i.e., the structuring and managing of the environment, was part of the old first-order, reflexive paradigm. In contrast, stakeholder *engagement* becomes part of the new second-order, reflective paradigm. This does not mean that relations are now free of conflicts. On the contrary, the basic condition of the ultra modern society is conflict. However, reflection entails a larger tolerance to diversity as the basic driver of society and facilitates the potential of turning conflicts into fruitful dynamics.

Most important perhaps is that still more companies now understand themselves as active co-players in society – acknowledge that continuously partaking in public debates is an existential premise for the company. Consequently, the new legitimizing practices in their different shades and shapes grow into a top management concern.

Clarification and Moral Neutralization

The transition phase is decisive to the transformation of the legitimizing paradigm mediating the interrelation between company and the rest of society. For in this phase, a new agreement is reached. In a brief period in the late 1990s, the boundaries of the business community are apparently *at* risk. The economic rationale as a legitimate driver is apparently questioned. However, if we understand the social forces driving this turbulence as society's way of shaking its rigid skeleton to make it more bendable, flexible, and strong, it is no wonder that the business community quickly gets on its feet again, recovers its economic dynamics, and self-referential legitimacy and raison d'être. It does so by raising the perspective to the reflective second-order observation and by adjusting its role and responsibility based on an updated understanding of society.

The business community retains the economic functional rationale as primary reference and driver. However, former economic externalities are turned into economic internalities. Profits are made taking wider considerations of the rest of society and of life and nature, demonstrated in watchwords such as People, Planet, Profit (Shell 2000), and the triple bottom line (Elkington 1997). During the transition phase, boundaries are shaken, however clarified, and gradually it grows legitimate for the business community to be social and societally responsible for the sake of profits.

Reflection as the second-order perspective that paves the way for change and learning processes is a precondition for a paradigmatic transformation of such distinctive character as the one which is negotiated and agreed upon in this phase. However, of even greater interest is that the perspective identified as reflection in a socio-techno rationale frame of reference becomes the basic pivot of the new legitimizing notions. In different shades and shapes, this particular self-observation that produces self-understanding in relation to the environment and facilitates flexible coordination forms to match society's increasing complexity, dynamics, and diversity becomes a common denominator, a formula for legitimacy.

Best Practice Phase: Routinization and Role Models (Approx. 2005–2015)

As negotiations resulting in a reflective business paradigm progress and gradually complete, the business community takes the lead in shaping new practice forms and notions that are compatible with the meanings systems fundamentally constituting the business community. Buzzwords such as "from religion to reality," "from attitude to action" resound. Practical and pragmatic cross-sector partnerships about innovative solutions to society's problems pop up between former vehement antagonists. It has grown possible partly because the mutual interdependence is acknowledged, but even more so because the individual partners' integrity is now respected from an understanding of the socio-diversity. Focus is no longer on attitudes from the basic reasoning of "because we should" – but on action "because we do." It is no longer a question of whether economy should be sustainable, but of how it is made sustainable.

As the wider social and societal responsibility is thematized over and again, and as elitist business companies present declarations and practices where social, societal and environmental considerations are apparently natural preconditions to profits; as these matters are thematized in mass media, at conferences and in handbooks, mainstream parts of the business community follow suit and adapt the practice forms and decision-making premises agreed upon in the transition phase. It grows into "best practice" to follow the role models, i.e., pioneering companies that stood out during the transition phase. Still more prizes for best practice cement the new paradigm: Prizes for instance for publishing the best integrated report, for being the most sustainable company, for initiating the most outstanding CSR practices. At this phase of the transformative process, the reason for adopting the legitimizing practices is: "We have to – for this is the way you do." The questions no longer are: *Where are the boundaries of the business community – is the economic rationale a legitimate trump? Does the business community show sufficient consideration of life, nature and of the rest of society?* But: *Does the organization have a CSR policy? Does it follow the GRI guidelines for sustainability reporting? Is it transparent? Is it a member of the UN Global Compact? Is it involved in parterships for corporate social innovation?* The focus is on processes and ways of organizing, measuring, controlling, and signalizing the wider responsibility and the mutual considerations, and on self-presentation rather than on the self-observation of the transition phase.

Focus on Self-Presentation

Among predominant legitimizing practice forms are value branding in order to earn trust by creating and stabilizing expectations. Green grows a favored logo color in order to signal considerations of life and nature. Corporate strategies are condensed in catchwords such as “People First,” “Closer to Nature.” References to legitimizing institutions in decision-making premises grow into best practice, such as in particular UN Global Compact and the Global Reporting Initiative.

The redefined legitimacy of the business community is firmly structured into models, accounts, verifications, certifications, and standards. They are structures that translate the former extra-economic responsibility into the economic language, contribute to reducing the uncertainty otherwise implied by the reflective ideals, to relieving the risky and resource demanding second-order observation of reflection and to stabilizing and signalizing new patterns of expectation.

By applying the defense strategy of *integration*, the company has transformed the irritating power of the environment by embedding the environment’s perspectives in the company’s own decision-making premises – i.e., the perspective has been integrated in routines and models that are compatible with the company’s self-observation and primary reference to the economic rationale. The self-observation has changed in this process; however, the point is that the company’s boundaries are not weakened in the process. Rather, they are clarified and reinforced as a flexible, vicious membrane rather than a dense, rigid shell. Former extra-economic considerations are integrated as an intra-economic part of business. The financial director automatically takes into consideration the social and environmental audit and socially responsible investors. The HR director integrates routine considerations of life/work balance in employee policies. The director of logistics checks out foreign suppliers’ attitude to child labor and human rights. The production director ensures that the production complies with sustainability certification. The CSR director integrates social and sustainability reports into the annual financial report. The communications director contributes to ensuring that decision-making processes are filtered through the perspectives of the public sphere, the common interest and a longer series of stakeholders.

The best practice phase is characterized by imitation and routinization. You do as the role models do. This does not mean that reflection is now practiced in the wider field of companies, rather that a long series of tools, networks, and standards diffuses based on the ideal of reflection. Reflection is a risky and resource demanding perspective. Risky because it may raise doubt within an organization about its own boundaries and *raison d’être*. Resource demanding because reflection doubles the communicative processes and makes decision-making processes far more ambiguous than does reflexivity. Gradually, as reflective processes diffuse, they are relieved into *best practice* routines which are adaptable to basic existing structures in the form of for instance certification, verification, sustainability accounts, and business guidelines for social responsibility. It reduces the uncertainty of decision-making and relieves the stressful recognition of contingency. The second-order reflective practice which is provoked in particular in larger and highly visible companies will in most other companies integrate as routine activities and formalized structures.

A Hyper-Irritated Present: 2015-

An evolution ends with the stabilization of new patterns of expectation. Neither sanctions nor role models are needed at this phase, for the new legitimizing notions are taken for granted. The reflective paradigm has grown into a matter-of-course. Practice forms are internalized as the natural way of legitimization. And even though the reflective mode has solidified into routines and rituals, the self-observation now rests in a new paradigm with reflection as the ideal and the source of business strategies such as in Unilever's strategy for sustainable growth based on the purpose of making sustainable living commonplace: "Our purpose has inspired innovation, new ways of doing business and purposeful brands. We are proving that responsible business is good business" (Unilever 2018).

A new social reality has developed and stabilized. What was formerly regarded as reciprocal opposites are now seen as mutual preconditions. It manifests in several ways (cf. also ▶ Chap. 19, "Society's Megatrends and Business Legitimacy: Transformations of the Legitimizing Business Paradigm"). From the idea of taking as mutual preconditions considerations of society's different criteria of relevance and success on the one hand – profits, knowledge, news, collectively binding decision, etc. – and on the other hand considerations of life and nature; of considering the market out of considerations for society and vice versa, they extend to the way the company strengthens decision-making competence by *not* withholding decision-making processes from those potentially influenced by them but by transparency and stakeholder engagement.

A large part of the legitimizing practices will have grown into symbolism and ceremony. A responsible rhetoric symbolizes resolve and leadership. Twitter and Facebook profiles are symbols of openness. CSR departments and membership of Global Compact, dialogue meetings with NGOs, and a professional discourse with notions such as sustainability and social responsibility may not necessarily add to the efficiency of the business community nor to immediate considerations of society, life, and nature; however, they may be an indispensable part of the ceremony that supports the structures of expectation.

Legitimacy crises constantly lurk in the ultra modern society. From the major, fundamental crisis in the 1980s and 1990s where the very legitimizing paradigm was the focal issue, minor crises has turned into part of the everyday grind in the form of frequent, situational conflicts. Compliance with the reflective paradigm activates a constant pressure of legitimacy. At this phase, the original critical environment with protests against the old reflexive paradigm has lost its power of irritation; however, it is replaced by new environments which at the issue arenas of all megatrends activate a constant pressure of justification. At the megatrend of the *insensitive society*, the latent accusation of prioritizing profits to considerations of life and nature lurks. The *decision society* activates a massive pressure of justification on the company's decision-making premises from the potential victim's perspective. The *partnership society* produces constant suspicion of lack of respect for society's structure – bribery, corruption, nepotism. The co-regulation forms of the *governance society* create a significant potential for legitimacy crises: does the company comply with the more or less fluid and discursive norms of co-regulation? The *trust society* means focus on whether a company delivers on its promises and lives up to expectations. The *global society* continuously produces legitimacy crises when a company has to operate from consistent norms in different societal and cultural contexts characterized by diverging legitimizing notions.

Ultra modernity's legitimizing processes mean that the public searchlight can strike anywhere, anytime – in the form of random mass media check-ups, increasingly via social media. The defense strategy of preparedness implies that it grows an ingrained routine to be constantly prepared for a potential public focus by means of a continuous production of potential scenarios and publicly defendable arguments. From a principled agreement on the legitimizing paradigm, the purpose of issues management – or issues engagement as the practice form in its second-order reflective mode is rather named – together with practice forms such as corporate journalism and internal NGOs is continuous self-irritation in order to adjust decision-making premises to the dynamism, change, and diversity of ultra modernity on the company's own terms. In the final phase of the transformation process, the new paradigm is integrated as something emerging from inside. After decades of pressure from outside, the company reestablishes its boundaries by seeing itself as "authentic," as resting on its own values and purpose.

Reflection as Reflex?

In the final, neo-conventional phase of the transformation of the legitimizing business paradigm, the new notions have stabilized in a taken-for-granted reflective paradigm which in most parts of the business community paradoxically seems to be embedded in a new reflexivity. However, before rushing to negative verdicts, social dynamics should be considered.

Reflection is a risky affair for a social system such as a company. It means exposure and sacrifice in the short term as an investment in existence in the longer term. For ultimately, boundaries are not only *in* play – they are *at* play. Social processes will strive to secure their boundaries, and that means to relieve the pressure produced by the reflective self-observation and return to the basic self-reference of reflexivity. The nature of social processes is like that of a watercourse. They flow where they find continuation, i.e., where communicative connection is most likely. Resources are being spent on the second-order observation of reflection only when connection fails over and again (such as when the legitimacy of a company is questioned time after time as in the case of Arla Foods) – and with the sole aim of revising the possibilities of connection. As soon as they connect again, communication on communication – and in organizations this equals decision-making on decision-making – ceases. Society canalizes its hyper-irritated conditions into more stable, certain patterns of expectation. When we still may characterize the new paradigm as *reflective,* the reasons are two. First, because practice forms are embedded in ideals of reflection as the outcome of the transition phase. These achievements are not betrayed, however worn by the relieving and de-paradoxifying dynamics of the social processes. Second, because the reflective paradigm implies that the company in today's fluid, hyper-irritated society has to be constantly prepared to substantiate and justify its decision-making premises from a second-order reflective perspective.

The ideal of reflection contributes to ensuring mutual considerations and social cohesion in ultra modernity's hyper-irritated, dynamic, diverse, and polycontextual society where the company must understand how to continuously justify itself in relation to its environment. However, at the same time, reflection implies several risks which open the analytical perspective to practice forms that relieve reflection into routines, models, ceremony, and symbolics.

First: Reflection is risky because it implies that the company will continuously question itself, its boundaries, identity, raison d'être, and decision-making premises. Example: When a business enterprise starts to doubt economy as its fundamental reference and instead delegates its decision-making premises to different stakeholder positions or to public opinion, the structures of expectations are weakened, decision-making processes drag on, and gradually the organization dissolves.

Second: The doubling of decision-making provoked by reflection demands resources and makes decision-making premises and processes far less unambiguous than does the simple reflexive perspective. In this way, reflection risks weakening the structures of expectation and straining the decision-making processes.

Third: Reflection increases a company's sensitivity to the environment. This, however, cannot be considered positive only since the resonance may lead to a hyper-irritated condition within the company. A vehement input of observations, manifested, for instance, in a growth of stakeholder relations, communications departments, media experts, and issues monitoring – all expressions of the build-up of internal complexity – puts a heavy pressure on the capacity of information processing. The risk of being *too* irritated lurks with the result that the decision-making processes are overloaded and get out of control. This seems a characteristic trait of contemporary, hyper-irritated society where companies are expected to consider a growing number of formerly extra-economic issues, stakeholders far out in the chain of suppliers as well as of users, society's will and way, public opinion, a long series of different cultures, and a global public which has exploded with the growth of social media.

Fourth: Reflection is characterized by paradoxical features. A paradox implies the simultaneous presence of contradictory elements. When a company by means of a decision tries to decide whether a decision is right or not; tries from existing decision-making premises to decide whether they are premises resulting in the right decision-making – then the company risks ending up in paradoxes. It may lead to blockage of the decision-making processes, i.e., a weakening and gradual dissolution of the company because it oscillates in uncertainty without a minimum of certain expectations as guidelines to the decision-making processes.

So, just as reflexive practice cannot automatically be seen as bad and dysfunctional to social cohesion, a reflective practice cannot automatically be seen as good when the problem guiding the analysis is the continuation of the decision-making processes constituting an organization – and in the overall picture the communicative processes constituting society. The risk, however, by turning reflection into simple routines, ceremony, catchwords, or role modeling is that the context originally provoking contemporary legitimizing notions and practices will be forgotten. As long as their constitutive decision-making processes proceed relatively undisturbed, organizations happily ignore their ignorance. The question from insight into social evolution and the challenges to social cohesion and society's perpetual transformation processes then is: when and how will the next transformation be provoked?

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Intersectionality and Business Legitimacy 81

Lindsay J. Thompson

Contents

Abstract

Business is a human institution with a long discursive history dating at least back to Xenophon and Confucius when households were sites of production and trade. The origins of contemporary industry can be traced to the trading and joint-stock companies founded chartered with social purposes that fueled European global

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expansion, colonization, and trade from the seventeenth century onwards. Only recently have minority and alternative discourses of equality, justice, and human rights begun to challenge the structural inequities of the dominant social order to insist that considerations of institutional and regime legitimacy include the full range of human social identities and locations – women, minorities, the global south, and other communities excluded, stigmatized, and disadvantaged by normative mainstream social, political, and economic structures and practices. The concept of intersectionality emerged from emancipatory critical humanist thought as a radical, activist ethical assertion of human equality by African American women scholars who categorically rejected the embedded Eurocentric bias of feminist thought and arbitrary, socially constructed hierarchies (e.g., race, class, gender, ethnicity, sexual orientation, etc.) as determinants of a human dignity and worth. This chapter examines the development and structure of intersectional thought and its relevance as an analytical lens for understanding business legitimacy in terms of social justice, business performance, and economic development.

Keywords

Intersectionality · Equity · Human rights · Inclusion · Critical race theory · Feminism · Business legitimacy

Introduction

As the moral claims of human equality, justice, and rights have begun to challenge social disparities and inequities of institutions around the world, the structural inequities of business are subject to increasingly intense scrutiny. Like many social institutions, modern business corporations that dominate the landscape of global capitalism evolved as male-dominated institutions from male-dominated cultures of European and North American mercantilism, industrialism, and capitalism. The long history of business, however, is more diverse. Some business sectors evolved from trades and crafts, such as cobblers, potters, and weavers, originally practiced by women, men, and even children in household settings, but later restricted to men by guilds as trade flourished throughout Europe in the Renaissance and Early Modern era. Other business sectors, such as metallurgy, agriculture, textiles, and shipping, were influenced by African and Asian trading partners as well as indentured and enslaved people whose specialized skills contributed to the growth of industrial centers in Europe and the Americas. Production and trade thrived throughout the world for thousands of years before Euro-American mercantilism and corporate capitalism appeared on the world stage. Given the diversity and impact of global business, considerations of business legitimacy necessarily include the full range of human social identities and locations – women, minorities, the global south, and other communities excluded or disadvantaged by normative business structures and practices. Intersectionality is a conceptual tool for examining business legitimacy from the perspective of human values and justice.

The concept of intersectionality was developed as an activist ethical assertion of human equality by Kimberlé Crenshaw, Patricia Hill Collins, and other African American women scholars who viewed both civil rights legal discourse and second- and third-wave feminist and gender studies as gravely inadequate in conceptualizing intersecting categories of human difference and the exclusionary impact of those categorical differences on individuals and communities of color. Crenshaw was also one of the formative thinkers in the development of critical race theory, a form of oppositional legal scholarship challenging the normativity of white experience to ground the subjective social and experiential context of racial oppression as crucial to understanding and deconstructing racism (Crenshaw 1988, 1989). Intersectional theorists categorically reject the embedded Eurocentric bias of racist, feminist thought, and its derivative socially constructed hierarchies (e.g., race, class, gender, ethnicity, sexual orientation, etc.) as determinants of a human dignity, worth, and capabilities. Intersectional theory takes into account the complexity of multiple, overlapping identities, experiences, and sources of discrimination and disadvantage to examine and challenge their interconnected, interdependent structure in systems of distributed power, privilege, and opportunity.

Understanding Intersectionality

Rooted in emancipatory critical humanist thought, intersectional equity categorically rejects the validity of arbitrary socially constructed hierarchies (e.g., race, class, gender, ethnicity, sexual orientation, etc.) as determinants of a person's dignity, worth, and capabilities. The core assertions of intersectional equity can be summarized in four statements:

1. All persons are stewards of their human potential and entitled to seek the full flourishing of their humanity.
2. Human societies historically have constructed inequitable pathways of individual flourishing by distributing power, privilege, and opportunity based on categorical differences (e.g., race, class, gender, ethnicity, sexual orientation) that individuals cannot control.
3. Historically constructed social inequities of power, privilege, and opportunity are intensified at the intersections of categorical difference.
4. Human societies should foster the full flourishing of individual human potential by eliminating historically constructed social inequities based on categorical differences.

As an ethical assertion of inclusive humanism, intersectional equity is inherently activist in seeking social justice. The first statement is not very controversial, but the second and third statements can be contested based on beliefs that, for example, categorical differences constitute a natural, immutable social hierarchy or that categorical differences are a legitimate basis for socially constructed hierarchies. There is deep, wide, and vehement disagreement about the fourth statement based on how people think about social change: radical, disruptive change versus slow, incremental change; religious or cultural legitimation of categorical differences; aversion to social conflict; or preferential attachment to the current social order. These contested views offer rich opportunities for constructive and creative ethical discourse regarding both means and ends of social justice.

A Lexicon of Intersectionality

Intersectional theory is evolving as a discursive field with disciplinary approaches, methods, and terms that may be unfamiliar to some scholars but are necessary for understanding the purpose of intersectional knowledge creation.

- **Critical theory**: Critical theory is an activist social and political philosophy with a goal of understanding and overcoming dominant, oppressive social structures that unfairly constrain human identity, freedom, and agency. Drawing originally from Marx and Freud, critical theory was associated primarily with Adorno, Horkheimer, and Fromm of the Frankfurt School until critical theorists emerged in the 1970s to influence fields of law, history, literature, and social sciences by examining how science and knowledge can be used as instruments of oppression unless they are pursued with social context and transformative action for human emancipation in mind.
- **Critical race theory**: Critical race theory is a body of activist scholarship that seeks to explore and challenge the prevalence of racial inequality in society based on the understanding that race and racism are derived from social thought and power relations. Critical race theorists expose the structural continuation of racial inequality through normative assumptions about it as natural and unremarkable.
- **Equity and equality**: The concepts of equity and equality are often understood as synonymous, but intersectional theorists claim important distinctions. Equity is defined as fair and just treatment, which may include fair accounting for differences or compensating for disadvantage. Equality is defined as entitlement to the same rights, responsibilities, and freedoms in developing their human potential and making choices about their lives without constraints based on categories such as race, gender, or sexual orientation. Equity and equality are complementary principles and practices of social order in a free and just society.
- **Feminism**: Feminism is belief that women and men are equal and should be treated equally. Far from a monolithic worldview, numerous "feminisms" reflect diverse perspectives and understandings about women, their situatedness in the world, and how to achieve equality.
- **Gender and sex**: Feminist and gender theorists differentiate between gender and sex. The concept of gender roles was originally introduced in 1955 by John Money, whose clinical research disrupted conventional ideas about sexual identity and experience (Money 1955) Gender is generally defined as socially constructed feminine or masculine identities and roles, while sex is defined as

biological male or female traits. Well before scientists normalized the concept of gender fluidity, Judith Butler and others challenged the gender binary distinction, arguing that both gender and sex are cultural constructions; people experience gender in various ways; and binarism limits understanding of humanity and the world (Butler 1990). Biologists now view biological sex as a spectrum of anatomical, physiological, and neurological interactions unique to each individual rather than a simplistic bifurcation of male and female biology (Ainsworth 2015).

- **Gender studies**: Gender studies include multidisciplinary explorations of the meaning of gender as a salient social construct, applying gender as a critical lens to everything from labor conditions and healthcare access to the fashion industry and popular culture. Gender is often examined in conjunction with other factors (e.g., sexuality, race, class, ability, religion, ethnicity, citizenship status, life experiences, and access to resources) that determine an individual's social location and identity. Beyond studying gender as a category of identity, gender studies seek to illumine the structures that naturalize, normalize, and discipline gender across historical and cultural contexts (Stimpson, Burstyn, Stanton, and Whisler, *Signs* editorial, 1975).
- **Intersectionality**: Human identities are complex, based on multiple individual and social factors that are compounded in a mobile, globally interconnected society. Intersectionality emphasizes the interconnected nature of social categories such as race, class, and gender as overlapping and interdependent systems of distributed power, privilege, and opportunity in examining and accounting for the complexity of multiple, overlapping identities and experiences as vectors of discrimination and disadvantage.

Roots of Intersectional Thought

The concept of intersectionality reflects an evolution of thought and values that originated with philosophical and social movements in the west that sought to establish human rights and freedoms as the legal foundation of society. These movements emerged as a social and political force in the nineteenth and early twentieth century to abolish slavery and the slave trade in most European countries and colonies. In the United States, the slave trade was abolished in 1818; slavery was abolished after the civil war in 1865; and the Civil Rights Act established legal racial equality in 1866. Suffragist movements successfully secured voting rights for American and most European women early in the twentieth century, but establishing full legal equality was a more protracted challenge. Despite human rights achievements in much of the world, various forms of institutional slavery and subjugation of women have continued with legal protections in parts of the world along with lax law enforcement that fails to protect women and marginalized groups from exploitation, subjugation, and oppression.

Human equality, rights, and freedoms were especially important in the United States where English colonies had asserted their independence to establish a constitutional democracy enshrined in the Charters of Freedom – the Declaration of Independence, the Constitution, and the Bill of Rights – as foundational principles protecting equality, rights, and freedoms of all citizens under the law. As waves of ethnically diverse immigrants successfully asserted their constitutional rights and status as "white Americans," disparities of race and gender became glaringly evident and difficult to ignore for those who were excluded from opportunities afforded primarily to white men. Indigenous Americans, African Americans, Hispanic Americans, and Asian Americans – some of whom claimed long-standing cultural traditions of participative self-governance disrupted by colonization or slavery – organized to ensure equal treatment under the law. Throughout the twentieth century, global conversation about human values expanded and coalesced in the 1948 United Nations Declaration of Human Rights that still stands as framework for multilateral policy consensus and action. Despite these advances, full equality of persons has yet to be achieved in practice despite the rights and protections guaranteed by law in the United States, Europe, and many other nations. Intersectional theory developed as a tool for probing this troubling fact and exploring ways to align practice more closely with espoused values and law.

The Human Rights Movement

The modern era of human rights was and is a global phenomenon of activism and engagement to overcome centuries of structural hierarchies that categorically defined the status and rights of people within most societies and among societies in the community of nations. In almost every society, women have ranked lower in the hierarchy of fixed categories, such as birth order or bloodline, which cannot be easily redefined or overcome and still determine property and inheritance rights in many modern societies. Categorical hierarchies have proved to be even more sticky in cross-cultural encounters that created the contemporary global society. In the early modern era of colonization, for example, Europeans considered the enslavement of conquered peoples and confiscation of their lands as a legitimate practice following a war that could be justified unilaterally, as in the case of the Pequot War that New England colonies waged in 1636–1638 to solve a labor and land shortage (Newell 2015). Postcolonial scholars may condemn the hegemonic Eurocentric worldview questioning the humanity of colonized peoples with little appreciation of the millennia of adaptive neurochemistry and socialization predisposing humans to conflate similarity/familiarity with the good and dissimilarity/unfamiliarity with the dangerous other (Sarto-Jackson et al. 2017; Morris 2010; Guha and Spivak 1988). Such incidents form a consistent, continuous pattern in the history of humanity. Simmering beneath the surface in times of peace and prosperity, xenophobia erupts with economic and social pressures in border wars, ethnic cleansing, repressive crackdowns, and isolationism to remind postmodern champions of globalization and diversity that the struggle to make good on the promise of human equality and freedom is far from over.

Slavery, Civil Rights, and Human Equality in the United States

The struggle for human rights and equality has taken particular form in the United States where the legacy of slavery remains embedded in social norms and practices despite repeated legal affirmations of racial equality. It is unlikely that in 1482 the Portuguese envisioned the long-term consequences of their decision to establish a permanent base for their African slave-trading business on Ghana's Gold Coast. By the time Columbus arrived in the Americas, slavery was well established in Europe. The transatlantic slave trade quickly became a key economic component of European colonization from South America to New England and, subsequently, the political economy of the United States. Spanish colonies began purchasing Africans as slaves in 1510. A century later, the Jamestown colony first purchased a small group of Africans from a privateer in 1619, and in 1625 the Dutch West India Company imported a dozen enslaved Africans to New Amsterdam (Wood 2005; Eltis and Richardson 1997). American colonies also enslaved Native Americans, first in small numbers and eventually on a larger scale. Although records are far from exact, historian Linwood Fisher estimates that, from 1492 to 1880, the number of enslaved Native Americans totaled between 2 million and 5.5 million, and the number of enslaved African Americans totaled about 12.5 million (Fisher 2017).

At first the legal status of enslaved African and Native Americans in the colonies was ambiguous and sometimes considered similar to indentured servitude, a common practice for individuals who gained their freedom after a set period of service. By the mid-seventeenth century, the British colonies enacted laws that clearly differentiated the terms and temporary status of white indentured servants from the lifelong, heritable, commodified chattel slavery of Africans and the punitive or militaristic enslavement of Native Americans. Puritans and Quakers in Providence opposed slavery and enacted the first colonial antislavery statute in 1652, but economic dependence on slave labor and the slave trade weakened enforcement. The powerlessness of enslaved people and the rights of slaveholders were explicitly protected when the United States adopted its first constitution and reinforced when congress passed the Fugitive Slave Law in 1793. Early antislavery sentiment spurred state emancipation laws in the north, and congress banned the slave trade in 1808, but the agrarian Southern US economy maintained its reliance on slave labor until 1865 when the 13th amendment to the constitution banned slavery, the 14th amendment guaranteed the legal equality of former slaves, and the 15th amendment enfranchised African American men.

Constitutional guarantees could not erase two centuries of white supremacy embedded in American culture. Jim Crow laws enforced racial apartheid, disenfranchised African Americans citizens, denied and restricted African American access to public resources, professions, and economic opportunities, and turned a permissively blind eye to racial violence and terrorism against African American people and communities. While these conditions were more severe in the south, racial bias throughout the country blocked people of color from neighborhoods, schools, professions, and economic opportunities reserved for white people. Decades of protests, marches, and violent backlash brought about legislative achievements and landmark court cases culminating in the Civil Rights Act of 1964 that banned segregation on grounds of race, religion, or national origin in places of public accommodation as well as racial, religious, ethnic, and gender discrimination by employers, labor unions, and federally funded programs. The Civil Rights Act is the operating social justice framework in the continuing struggle for social justice in the United States.

Critical Theory

Contemporary discourses of human rights and equality draw heavily from critical theory usually associated with the Frankfurt School of German philosophers and social theorists who defined theory – and all knowledge – in terms of social practice and relationships with the purpose of emancipating people from the various forms of domination that have stifled and enslaved humanity throughout history. Max Horkheimer, founding director of the Frankfurt School of Critical Social Research, defined critical theory as explanatory, practical, and normative, meaning that theorizing must explain the problem of a given social situation, identify practical actions and agents to resolve the problem, and establish underlying justifying moral principles of activism social transformation (Horkheimer 1972). Horkheimer and Adorno were especially pessimistic in their critique of modern, capitalist forms of domination that have commodified culture, people, and relationships (Horkheimer and Adorno 1997). Horkheimer's relocation of the Institute to Columbia University in 1934 (and later to California) amplified the intellectual influence of critical theory to generate distinctive modes and methods of thought and discourse about race, gender, power, and politics in the United States, Europe, and the entire world.

Critical Race Theory

Critical race theory emerged among legal scholars in the 1980s as North American legal scholars began to question the persistence of racism despite vehement condemnation by public policy and thought leaders in civil society, academic disciplines, and the professions. Critical race theorists challenged the popular notion that racism was a waning vestige of less enlightened times among less educated, socially conscious members of society, asserting instead that racism is perpetuated as normal and ordinary through mainstream institutions and social practices. Primarily developed through critical investigation of legal reasoning and jurisprudence, critical race theory has spread to other disciplines in theorizing how structural racism, implicit bias, and unconscious racism interlock with other forms of oppression (Bell 1995; Delgado and Stefancic 2000). Some critical race theorists assert that racism is integral to contemporary social order, pointing out that antidiscrimination law both accommodates and facilitates racism by assuming an "objective, color-blind" perspective on race that eliminates the perspectives and narrative voices of the very people who are disadvantaged by racism (Crenshaw 1989). Other critical race theorists draw on cognitive psychology theories of implicit bias to challenge legal assumption of conscious, intentional prejudice as the foundation of racial justice jurisprudence established by the US Supreme Court in the equal protection clause of the US Constitution. Critical race theorists developed a distinctively skeptical narrative voice and hermeneutical practice in identifying subtexts and embedded bias such as labeling mass incarceration as "the new Jim Crow" or the multilateral regime of the World Bank and World Trade Organization as instrumental in perpetuating poverty and political instability in sub-Saharan Africa (Alexander 2011–2012; Gordon 2006). Critical race theory has expanded racial thought and discourse beyond the black/white paradigm within and beyond the United States to identify and examine various forms of categorical exclusion and disadvantage based on essentializing group characteristics (Harris 1990). As a body of thought, critical race theory treats race as one axis of a socially constructed system that perpetuates a social hierarchy advantage for white males with cascading, interlocking disadvantages for everyone else.

Feminism in Three Waves

The feminist movement is generally historicized as three waves. *First-wave feminism* emerged in the nineteenth century to focus on equal contract and property rights for women, opposition to chattel marriage, and ownership of married women (and their children) by their husbands. By the end of the nineteenth century, activism focused primarily on gaining political power, particularly the right of women's suffrage. *Second-wave feminism* emerged in the 1960s through the 1980s with a push for women's equality that revolutionized the legal status of women and legal framework of gender relations throughout North America, Europe, and much of the industrialized world. *Third-wave feminism* emerged in the 1990s in diverse post-modern, post-structuralist challenges to what were perceived as essentialist, white, middle-class biases and limitations of earlier feminist thought. Feminist theory emerged from these feminist movements to create feminist subdisciplines in a variety of fields such as geography, history, economics, and literary criticism.

Postfeminism

The term "post-feminism" surfaced in the 1980s to describe a backlash against second-wave feminism. While not "anti-feminist" in the belief that women have achieved second-wave goals, postfeminist thought includes a wide range of theories that take critical approaches to previous feminist discourses. Some postfeminists believe that feminism is no longer relevant to today's society; others largely agree with the goals of feminism, but do not identify as feminists. Some contemporary feminists consider feminism to hold simply that "women are people" and are therefore highly critical of views that separate the sexes rather than unite them, considering such views to be sexist rather than feminist.

Intersectional Feminism

The Merriam-Webster dictionary added the term “intersectionality” in 2017, defined as “the complex, cumulative manner in which the effects of different forms of discrimination combine, overlap, or intersect.” Legal scholar Kimberlé Crenshaw is generally credited with coining the term in a 1989 essay, asserting that “because the intersectional experience is greater than the sum of racism and sexism, any analysis that does not take intersectionality into account cannot sufficiently address the particular manner in which Black women are subordinated” (Crenshaw 1989). Crenshaw builds on the conceptual work of other African American feminists such as Patricia Hill Collins and Audre Lorde examining the “domination matrix” of interrelated vectors of subordination (Collins 1990/2002).

Gender Equity and Equality

As feminism evolved, discursive terminology was refined to reflect greater precision of thought about the nature of differences and similarities defining the roles and relationships of men and women in society. The rhetorical use of “gender” rather than “feminism” emphasizes the socially constructed, non-binary, relational context of human sexual identity and roles. In 2000, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) differentiated gender equity and gender equality in summarizing global progress for women’s equality.

Intersectional Epistemologies

How do people know what it means to be human? Intersectional epistemologies challenge the premise of objectivity as a defining feature of human knowing and knowledge to insist that all human knowing is socially located. Phenomena such as skin color or hair texture are observable empirical facts, but the meaning of these phenomena in a system of knowledge is a subjective, socially contextualized interpretation of factual evidence. The salience of race, ethnicity, gender, and sexuality as categorical determinants of humanness is universal in its occurrence, but culturally specific in their interpretative patterns of social hierarchy, both in subjective knowing and in the analytic categories and epistemic practices of knowledge construction about human ontology. Humans are socialized to know themselves and others as human based on specific culturally defined characteristics and social hierarchies of humanness. Centuries of western cultural knowledge have defined women and non-Europeans as inferior to European men in the social hierarchy of humanity. Intersectional theorists assert that disciplines of law, philosophy, religion, sciences, and humanities have been – and continue to be – instrumental in confirming and perpetuating socially constructed knowledge about race and gender.

Gender epistemologies emphasize the salience of gender and sexualities as determinants of subjective knowing and analytic determinants of knowledge construction based on ways that knowers and epistemic practices of knowledge creation are enmeshed in specific culturally and historically gendered social hierarchies. Gender epistemologies challenge the premise of objectivity as a defining characterization of human knowing and knowledge to insist, rather, that all human knowing is socially located.

Intersectional Ethics

Epistemologies determine axiology and ethics. What one knows to be true about a person or group of people may be based on first-hand observation of factual evidence, but subjective interpretation and inference about the meaning of observations are largely determined by socialization processes by which all humans internalize cultural knowledge, norms, and patterns of social stratification. The notion of human equality is a modern ideal that stands in stark contrast to long-standing norms of social order in many traditional cultures. Indo-European cultures, for example, are embedded with tripartite social structure idealized in Plato's *Republic* as philosopher-kings, warriors, and merchants, in Europe's noble, bourgeois, and peasant classes, and legislative, judicial, and executive branches of US government. While not unique to Anglo-American societies, stigmatization of skin color and racial identity endures, particularly in the United States, as a legacy of slavery and slave trading. Stigmatization and marginalization of religious and ethnic minorities, homosexuals, and transgender persons are a common practice upheld in some societies through legal strictures and punitive law enforcement. Subordination of women is nearly universal in both traditional and contemporary cultures. All of these social hierarchies reflect a value system that normalizes classification and devaluation of people based on categories of attributed difference interpreted as deficiency. The ethical lens of intersectional analysis and practice, therefore, seeks to understand, deconstruct, and eliminate this type of social stratification in promoting universal human freedom.

Counter Perspectives on Intersectionality

Intersectionality challenges conventional assumptions and beliefs about business and society (e.g., biological determinism of the gender binary, race, and ethnicity; confidence that individual agency can overcome barriers to achievement; belief that market competition creates a level playing field). While the term "intersectionality" rarely appears in popular or business press, opponents of intersectional thought sometimes express their views in acerbic critiques that trivialize or ridicule the damaging effects or even the very existence of racialized and gendered social hierarchies, discount supporting evidence as misinterpretations of normal social relations, and warn (correctly) of the threat such ideas pose to long-standing religious, cultural, and intellectual traditions and the social order of modern society.

As a critical discourse and practice, intersectionality does, in fact, seek to dismantle social hierarchies that burden multiple layers of disadvantage on women of color and others whose differences – disabilities, personalities, learning styles, and physical characteristics – place them outside the normative typological range of legitimate human power and success. The structures and practices of disadvantage have evolved from the draconian scenarios of physical violence, hate speech, groundless termination, and categorical exclusion (although these still occur), but the more subtle imposition of dominant cultural norms of subjective social location that assume everyone aspires to think, act, and *be* some version of the white, privileged Eurocentric males who were the architects of western social, political, and economic institutions.

Nowhere is the drama of intersectionality more evident than on college and university campuses where students (and some young faculty) call out "microaggressions" and "structural bias," demanding "trigger warnings" and "safe spaces" that affirm and foster the legitimacy and value of diverse subjective locations in the academic community. As this renegotiation of campus social polity plays out, critics lament the disruptive threat to the vigorous intellectual tradition of free speech and debate that has been a hallmark of higher education for centuries. Frank Furedi, an emeritus professor at Kent University in England, articulates this critique but fails to acknowledge critical theory or demonstrate an understanding of intersectionality as a body of thought in claiming that students are handicapped by overprotecting them from dynamic discursive give and take that is the foundation of free speech and intellectual freedom, thus preventing them from taking their place as full agents in the community thought leaders (Furedi 2016). Given their stake in higher education as employers and colleagues, the views of business leaders are of considerable consequence for the future of business performance and workplace culture. Dozens of rancorous reader responses to Daniel Schuchman's review of Furedi's book in *The Wall Street Journal* express intense but superficially informed opposition to social dynamics of inclusion in campus life. These critics raise salient points about intellectual rigor and freedom that warrant robust discussion with a deep understanding underlying principles, methods, and practices of intersectionality.

Intersectionality and Business Legitimacy

Legitimacy is a precondition of a company's license to operate in society, but notions and processes of legitimacy evolve in relation to society (Rendtorff 2018, p. 46). Theories of business consistently emphasize its social purpose, not simply as a philanthropic agent but as an instrument of the common good. Defining the purpose of business determines its legitimacy and evaluative criteria. What purpose legitimates business as a human activity? In addressing this question, Duska captures the crux of contested shareholder versus stakeholder views by distinguishing between purpose and motive, arguing that the purpose of business is to produce goods or services and its motivating force is the reward of profits (Duska 1997). As the tide of business opinion has shifted to a stakeholder view of business purpose, the legitimating question has become "What does it mean to do a good job of providing goods and services profitably (Freeman et al. 2010)?" Asserting that "corporations are what they do," Preston, Post, and Sachs argue a stakeholder view that a business "license to operate" depends on the ability to mobilize resources to create wealth and benefits for all the diverse constituencies that contribute to making the business a success. Porter and Kramer extend the stakeholder view to define shared value creation as the purpose of the corporation to economic value that also produces value for society by addressing its challenges in three ways: reconceiving products and markets, redefining productivity in the value chain, and building local industry clusters (Porter and Kramer 2011).

In an interconnected global society, the concept of business legitimacy is fluid and sensitive to diverse local value orientations as well as growing concerns about the role of business in addressing global challenges such as climate change, wealth and income inequality, human rights, and civil unrest. Nobel Laureate Amartya Sen's capabilities approach to economics demonstrates that the development and exercise of human capabilities are both the means and the telos of human freedom (Sen 1987, 1999). Intersectional thought and values illumine key factors that legitimize business as a social and economic institution: human development, business performance, and economic development. This virtual cycle reinforces the legitimacy of business.

By expanding the parameters of social justice and inclusion, intersectional thought promotes the full development of human capabilities and freedoms for all persons. The convergence of global capitalism, urbanization, and financialization have generated unprecedented wealth by rewarding those who are most successful in acquiring and investing capital, but it has also created exclusionary economies of inequality. Historically, cities have been incubators of wealth spurred by growth in production and trade, but millions of urbanites are poor, overwhelming cities with the challenges of building and managing sustainable material, administrative, and social infrastructures for a rapidly expanding population. A risk-averse focus on short-term profitability and investment returns has created urban markets of concentrated wealth and investment while withholding capital and starving business development considered high risk – often women and racially or ethnically marginalized, low-income people, neighborhoods, and remote rural areas.

Business and management research consistently demonstrates that diverse workforces and work cultures foster innovation, creativity, and performance (deJong and van Houten 2014; Qian 2013; Herring 2009; Horwitz and Horwitz 2016; Hunt et al. 2018). Social determinants theory, on the other hand, demonstrates how bias and exclusion create functional disparities that further diminish the capabilities of people who are already disadvantaged (Marmot and Allen 2014; Flynn et al. 2018; Weil 2016). Emerging consumer, investor, and employee expectations of value integrity increasingly move beyond assurances such as fair trade and non-exploitative labor practices to include workplaces that place a high value on human talent and foster inclusion, engagement, and transparency. Intersectionality provides the intellectual framework and tools for expanding and enriching the pool of human talent at all levels and roles to optimize business performance and promote value integrity.

Improved business performance fosters a more robust, resilient economy enabling all people to participate in and enjoy the benefits of prosperity. Rather than saturating the same markets with capital, investment and business development in diverse people and communities can create new markets and prosperity that provide more and better goods to meet distinctive needs of people ill-served by or excluded from existing markets (Christensen et al. 2019). The transformative potential of a Fourth Industrial Revolution to promote business as a platform for the flourishing of humanity and the planet can only be realized by including the entire world (Schwab 2016). Intersectional ethics assert the priority of human moral claims on resources required for development and exercise of their capabilities, enabling marginalized people and communities to participate more fully in an economy that works for everyone and every place on the planet.

Conclusion

Intersectionality is a critical approach to understanding and deconstructing how power and privilege are distributed in society and social institutions. As a vital social institution, business reflects the power structures and practices of society. The power structure of an increasingly interconnected global society is changing with a steady shift in global wealth to the east, a diminishing share of global wealth in the west, and postcolonial challenges to Euro-American social and political dominance. While nationalistic retrenchment may be tempting for some, human ingenuity has created a global commons connected by technology, a planetary ecosystem, and a shared economy that makes humanity inexorably interdependent. Intersectionality provides a vision and tools for business to adapt to the unprecedented demands and opportunities of the global commons for the flourishing of humanity and the planet.

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Cultural Contradictions of Business Legitimacy

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Marianne Thejls Ziegler

Contents

Abstract

The legitimacy of business has been influenced by two parallel developments in the second half of the twentieth century. The first is the economic development of increasing welfare during the first decades after WWII. This so-called Golden Age lasted until the early 1970s and was followed by the rise of a globalized economic system. The second is the cultural development of anti-capitalist ideals during the 1960s and 1970s student movement. The students of the New Left protested against consumer society and promoted anti-capitalist intellectual ideals. These ideals have penetrated society at a cultural level, but not at the level of citizens' practical lives.

This chapter distinguishes formal from informal legitimacy as characterizing two realms of society: one of practical lives where citizens support the liberal economy and the other of culture characterized by critical attitudes toward business and consumerism. R.E. Freeman's invention of the stakeholder concept

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in 1983 illustrates the attempts of business to communicate with an increasingly critical public. However, this attempt is met with resistance because the New Left has set a radical polarity between the business elites and the middle and working classes, thus undermining the possibility of dialogue across social and economic divisions. This social division has deepened owing to business taking advantage of (and occasionally abusing) the increasing freedom to operate internationally and the wages for western working and middle classes stagnating due to the increase in global labor supply. Recent political developments should serve as a warning of potential consequences of increasing social division and discourage businesspeople from misconduct in return for a wider cultural acceptance of the connection between consumer behavior and business opportunities.

Keywords

Corporate scandals · Labour supply · New Left · Social division · Stakeholder theory

Introduction: The Cultural Rejection of Business Values

Business has, in recent decades, gathered an impressive list of corporate scandals from Enron and WorldCom, privatizing profits of socializing losses of the subprime crisis and corruption cases up to the latest fraud of Dieselgate. The scandals have placed further strain on an already difficult relationship between privileged owners of means of productions and their employees. The parallel development of globalization perceived to be exclusively to the advantage of the corporate world and the misconduct of businessmen have damaged not only the image of the corporations but also increased the tension in the relationship between the elite in general and the populations of Europe and the United States. The general decrease in the legitimacy of business and the elite has fertilized the grounds for political populism, a tendency that should serve as a warning of potential consequences of losing trust between population and economic and political decision makers.

Public indignation has triggered responses at two levels. It has amplified the density and complexity of legal regulation. The financial sector in particular is suffering from the consequences of legal regulation causing excruciating workloads and reducing business opportunities. Thus, every bank in the European Union is legally required to comply with 40,000 EU regulations. The Basel III Accords, providing recommendations that G20 countries are expected to implement in their regulation of the banking sector, contained 4001 rules on 34,091 pages (Schulte-Mattler 2016). Paraphrasing the American philosopher and mathematician R. Edward Freeman, a business that does not look after its stakeholders is soon to be regulated into decline. This is happening to the banking sector at this very moment. In addition, public pressure has forced the corporate world to increase its focus on integrity and compliance, ethical conduct, and sustainability. Sustainability reporting has been a standard procedure for larger corporations for many years and since 2017 EU businesses with 500 employees or more are legally required to produce annual nonfinancial statements.

This chapter will place this development in a wider context. The corporate world's loss of legitimacy is only the latest chapter in a longer process with more complex and interconnected causal connections, including the struggle between two social forces: a moral and intellectual force on the one hand and the "propensity to truck, barter, and exchange one thing for another" to use the words of Adam Smith on the other hand. The second social force, described in this charming manner, also includes the desire to win in competitive interaction with fellow citizens and the desire to accumulate wealth and increase status by getting access to consumer goods. Thorstein Veblen's *The Theory of the Leisure Class* from 1899 promoted the concept of "conspicuous consumption" and exemplifies one of the earliest criticisms of modern consumerism. The concept describes how conspicuous luxury consumption, i.e., consumption with which the person can show off in public, is used for social differentiation by owners of the means of production.

The freedom to pursue personal gains combined with increased specialization and division of labor has caused an immense increase in wealth, but it has also created winners and losers. In spite of the overall increase in material wealth, the polarization has caused antagonism and general doubt regarding the overall justice of the system. Moral and intellectual voices in our culture have criticized social inequality, but these voices have also been an ardent critic of materialistic values of society in general. The conflict between the call for a more even distribution of wealth and the basic rejection of consumerism and capitalism in general is a central theme of this chapter. On the one hand, critics of capitalism blame businesspeople for exploiting labor, i.e., for not paying fair wages. On the other hand, materialism, i.e., the urge to possess consumer goods, is evaluated negatively. The development of this cultural conflict will be outlined in this chapter.

The criticism of materialism and the desire to accumulate wealth can be traced back to Aristotle, but the focus will be on both economic and cultural developments in the timespan between the end of the WWII and the present day. The legitimacy of business is rooted in the relationship between European employees and their employers, and this relationship has been influenced by cultural changes originating in the 1968 student movement and by the process of globalization. The corporate world's lack of legitimacy is, in my opinion, not only a consequence of its own misconduct but also a result of cultural developments in the western world since WWII. These changes include the rise of a cultural and intellectual elite with strong antipathy for consumer society and free market economy.

Formal and Informal Legitimacy

The literature on legitimacy normally distinguishes between political and moral legitimacy. Political legitimacy refers to the exercise of political power. Thus, for a person with a democratic mindset, the political legitimacy of a government is based on the acceptance of subjects who have voluntarily entered society and subjected themselves to shared laws for mutual benefit. The understanding of society as an informal agreement between free citizens is referred to as social contract theory. In the western world, political power is exercised by elected members of the parliament. The legitimacy of a country's laws is therefore derived from the legitimacy of political power to legislate in consideration of the citizens' interests. Citizens comply with the laws of the country on a voluntary basis because they trust politicians to legislate in their interest. This social contract enables societies to be ruled with minimum law enforcement and the high level of mutual recognition and trust reduces transaction costs at every level of society for the benefit of all citizens.

The chapter will distinguish between formal and informal legitimacy. The distinction has been chosen in order to detach the legitimacy of business from the world of politics. In this manner, the legal framework for conducting business can be grounded in the formal acceptance of the population in so far as this discussion is limited to western democracies. Businesspeople have formal legitimacy as long as they pursue their aim within the politically legitimate legal framework. When citizens vote for political parties in favor of a free market economy, they give business license to operate within this framework. The conduct of business is formally legitimate as long as businesspeople comply with the law. "Informal legitimacy" replaces "moral legitimacy" because the expression "moral" is perceived as a contradictory with the term business. Business is not benevolent, unselfish, or generous. The informal legitimacy is granted or perhaps more often not granted on the basis of personal moral evaluations, so in this context, the expression would neutralize the concept of legitimacy. In other words, the validity of the moral devaluation of business is exactly what will be questioned in this chapter. Business is not generous, and thus the legitimacy granted by the population in their acceptance and recognition of the endeavors of business cannot be based on it exhibiting these characteristics.

The corporate world of western societies has, in the decades up to the financial crisis in 2008, been given extended liberties in the form of reduced trade barriers and light touch regulation from the financial markets. The liberties indicate recognition of business' ability to create wealth in an increasingly competitive global environment. Business is here enjoying the benefits of formal legitimacy. At the informal level, i.e., the cultural level, business is granted less legitimacy. At the level of informal legitimacy, i.e., at the level of social values, the endeavors of business are rejected as incoherent with primary moral assumptions. A strong voice in our society rejects the moral legitimacy of the ambition to accumulate capital and the desire for income-based social status. It rejects the moral legitimacy of conspicuous consumption, a phenomenon that often follows in the trail of success in the world of business. However, at the formal level, that of the legal framework, business is allowed to work its successes and failures because alternative economic systems are yet to prove their superiority.

Formal legitimacy, i.e., the legitimacy derived from political legitimacy, does not always coincide with social values or what is here referred to as informal legitimacy. If legislation is changed with reference to a common sense of justice, the justification is invalid. Citizens' sense of justice in modern society is heterogeneous (Andersen et al. 2015), and their social values in general contradict each other as they circulate society offering themselves to different interpretations of power relations, distribution of resources, specific events, etc.

The social values and laws of a society are connected, but the causal connection between the two is mediated. Thus, citizens' perceptions of justice and fairness are represented in the parliament via the political representatives, and the general sense of justice and fairness influences the socialization of the individual. A legal system must be coherent in order to function properly, but informal legitimacy is derived from norms of society, and within all but the smallest and most homogeneous societies, a variety of different opposing moral values coexist side by side.

Formal Legitimacy in the Framework of Order Ethics

The level of business legitimacy has a set of corresponding values reflected in liberal economic theories. The philosophical theory of Order Ethics exemplifies the articulation of a set of values legitimizing the endeavors of business. In the principles of Order Ethics, one recognizes basic ideas of western European social liberalism. The productivity of free enterprise can unfold within a system of legislation ensuring that consequences are to the long-term benefit of society as a whole.

Traditional business ethics attempt to curb the greed of business people and reduce their ambition to accumulate capital. Order Ethics approach the issue differently. The theory understands the modern liberal economic system as a natural manner for citizens to interact in a globalized world. This interaction is characterized by prisoners' dilemma structures, where individuals are incentivized by self-interest. Due to prisoner's dilemma structures in modern society, traditional ethics as self-restraint or self-denial will always loose out to other more scrupulous citizens. Utopian ideals of how citizens should relate to each other are unproductive. In a society with prisoners' dilemma structures, the voluntary abstinence or "moral surplus" (Lütge 2015) will be inefficient in so far as the lost business opportunity will be used by another player. Order Ethics therefore takes a pragmatic approach; instead of lamenting the selfish nature of human beings, the theory aims at identifying what holds society together, a society of citizens incentivized by self-interest. The approach gives associations to Machiavelli's warning that he who neglects what is done for what ought to be done sooner effects his ruin than his preservation.

The criterion for good ethical principles and rules is not coherence, Christian values, or intuitive approval. Instead the criterion for ethical rules or principles is the extent to which they can be implemented in a society of citizens pursuing their own interests. The basis of Order Ethics is the social world as it is. Thus, fundamental features of modern globalized society are identified upon which ethical principles are evaluated regarding the extent to which they can be implemented, i.e., with regard to the extent to which it is possible to make them part of an order framework within which agents are incentivized to act in accordance with these ethical rules:

> Modern societies [. . .] are societies with continuous growth. This growth has only been made possible by the modern competitive market economy, which enables everyone to pursue their own interests *within a carefully devised institutional system*. (Lütge 2015)

Order Ethics accepts modern, liberal society in its fundamental nature and sets the task of politicians to create an order-framework capable of incentivizing people to pursue the goals of their business in accordance with ethical norms of society.

The inadequacy of appealing to individual restraint is particularly visible at the level of the globalized economy. The key to avoiding future financial crises is not the attempt to abolish the desire to accumulate capital, but to change legislation. Thus, the Basel Accords, mentioned in the introduction, provide recommendations on banking regulations for the purpose of reducing exposure to risks in the case of unexpected losses. The recommendations are implemented by the G20 countries plus Singapore and Hong Kong for the purpose of creating an international regulatory framework within which banks can pursue their business on equal terms and in accordance with ethical standards of the global community. A second example is the call by international oil companies for a global carbon tax. IOCs share responsibility for the emission of greenhouse gases and suffer the consequences of divestment and inability to attract talent (Stevens 2016), but the expectations of society cannot be met at the level of the individual IOC, instead they must be met at the level of global regulation. Alternatively, Shell would suffer a competitive disadvantage to the benefit of, for example, ExxonMobil or Saudi Aramco.

Order Ethics therefore returns the moral responsibility for the development of society to its citizens and their politicians. It is not the responsibility of the individual firm or business person to abstain from business opportunities for the sake of the common good. Order Ethics grants citizens the freedom to develop talents and skills in competition with others and the freedom to cooperate. When the institutional system enables citizens to pursue others to the benefit of others, then the order framework is ethical.

The next section will look into informal legitimacy. The informal legitimacy is connected to ethical norms of society. These norms are of a far more intangible and heterogeneous nature than the legal framework of a society for which reason the portrayal of these values will be embedded in a draft summary of the historical development since 1945. The purpose is to illustrate the coexistence in modern society of two radically opposing and incompatible values. These values not only characterize a division in society, they also coexist within the same people.

Informal Legitimacy and the Moral Disapproval of Business

The chapter attempts to demonstrate that that social values are incoherent in so far as business is granted formal legitimacy, but at the informal, cultural level, business is met with disapproval. The reason for this disapproval can be found in the success criteria of businesspeople which is the maximization of profit.

The “we” of society that disapproves is not every single person, but rather the substantial part of the population that can be characterized as cultural consumers. The American writer Patricia Martin describes how, contrary to prejudice of intellectual elites, a substantial part of the population is interested in art, literature, history, politics, etc. She refers to this group as cultural consumers. (Martin 2007) Business’ lack of informal legitimacy can be traced back to a century-old preference for the mind over the body exemplified in Plato’s cave allegory where the empirical world is only shadows of the truth and to St Augustin’s radical separation between the body and soul with the body as the locus of sin. In this approach to modern anti-capitalism, it will suffice to look at developments and tendencies of the second half of the twentieth century.

Inventing of the Stakeholder

R.E. Freeman published his groundbreaking book on strategic management in 1983. The book had the subtitle *A Stakeholder Approach*. A stakeholder is any group or individual who can affect or is affected by the achievement of the organization’s purpose, such as employees, consumers, creditors, local communities, NGOs, etc. Freeman initiated a fundamental change in how the role of corporations in society is perceived. Instead of the shareholder approach, propagated by Milton Friedmann in his *New York Times Magazine* article from 1970 *The Social Responsibility of Business is to Increase its Profits*, Freeman suggests taking the interests of all stakeholders into consideration. Exclusively serving the interests of shareholders is not coherent with the long-term interest of business. Thus, Freeman changes the managers’ task from maximizing profits to aligning the interests of stakeholders.

Today the stakeholder concept has become part of, if not of everyday language, then at least of the general social discourse on management and the role of corporations in society. The soundness of taking stakeholder interests into account is no longer questioned, but when looking at the concept of stakeholder management in its historical context, it becomes clear that the concept is also symptomatic of more fundamental and groundbreaking cultural changes in society in the second half of the twentieth century. These cultural developments have changed the landscapes in which businesses of the western world are performing, and they have increased the requirements of businesses to justify themselves.

At the time when Milton Friedman wrote his famous article in the *New York Times Magazine* in 1970, there were early signs that the so-called Golden Age was coming to an end. During the first decades after WWII, many European countries had succeeded in a close cooperation between employers, trade unions, and governments. These tripartite partnerships worked in particular in countries like Austria, Germany, Holland, and Scandinavia. It was a postwar bargain of wage restraint in return for retention of profits. Employees were willing to moderate their wage requirements on the condition that profits were reinvested in the corporation instead of being paid out as dividends to the shareholders. This postwar bargain combined with the need to repair wartime damages enabled almost three decades of unprecedented, sustained economic growth and paved the way for what became known as the European social model, characterized by high living standards, good working conditions, and job security. (Eichengreen 2007)

As the labor market tightened and memories of the 1930 Great Depression faded in the late 1960s, so did the willingness of workers to restrain their requirements in return for economic growth and high employment rates. Simultaneously, Japan and Taiwan experienced their own economic miracles forewarning western countries and in particular western employees that they would eventually be losing their privileged position and become exposed to fierce competition in a future globalized economy. As oil prices quadrupled in 1973 due to OPEC's oil embargo of countries supporting Israel during the Yom Kippur war, Europe and the United States had reached a turning point. From the 1970s, western economies experienced a decline in growth, unstable currencies, inflation, and unemployment.

The New Left

The economic stagnation announced the end of the postwar bargain, but around the same time, a new political and cultural movement of young students gained momentum. The rise of the student movement may have been reinforced by economic slowdown, but the protests were aiming at more fundamental features of society and culture. The seeds were laid in the early 1960s America, where young people joined the civil rights movement and protested against the Vietnam War and the Cold War. By the end of the 1960s, the movement had spread to Europe. The central aims of the protests were confrontation with authorities, anti-capitalism, anti-consumerism, sympathy for Marxism, pacifism, and sexual liberation. As the movement progressed, it was influenced by more local circumstances. In France, students occupied universities in protest against capitalism and consumerism; the unrest spread through society and initiated a general strike in which 11 million workers participated. In Germany, the movement was preoccupied with *Vergangenheitsbewältigung* (i.e., coming to terms with the past) and with the eradication of what might have been left of a totalitarian mindset among the children of murderer. As an offshoot of the German student movement, the Red Army Faction engaged in bombings, bank robberies, kidnappings, and killings.

In spite of national differences, the cultural changes initiated by the student rebellion were Pan-European. Politically, the movement was inspired by Karl Marx and current Marxist philosophers such as Herbert Marcuse and Jean-Paul Sartre, but the movement differed from more traditional class-struggle socialism of, for example, the 1930s. Until WWII, workers' movements had been fighting for higher wages and shorter working hours. In the late 1960s, though wage levels were still an issue, the workers had obtained much of what the former generation had fought for. The achievement posed a challenge for the New Left in so far as the proletariat had come to accept a materialistic, bourgeois lifestyle. The intellectuals of the student movement saw the rising standards of living as a new means of suppression and as a manner in which the ruling elite would pacify citizens with consumer goods in order to prevent them from revolting.

Business Legitimacy and the New Left

The most prominent protagonist of this interpretation of the European welfare model was Herbert Marcuse (1898–1979). In his book *One-Dimensional Man* from 1964, he interpreted capitalism as a new kind of totalitarianism and the success of capitalism in creating wealth for every one as an illusion. Thus, the New Left continues its fight for workers' rights, but the dichotomy has changed. According to the New Left, the postwar bargain is not a victory for the working classes, nor does worker representation on the corporate board of directors increase their influence over the means of production. The compromising integration of workers interests was only a new kind of domination, where false needs are superimposed by an economic elite:

> A comfortable, smooth, reasonable, democratic unfreedom prevails in advanced industrial civilization, a token of technical progress. Indeed, what could be more rational than the suppression of individuality in the mechanization of socially necessary but painful performances; the concentration of individual enterprises in more effective, more productive corporations; the regulation of free competition among unequally equipped economic subjects. (Marcuse 2002)

The loss of freedom is compensated by consumer goods and modes of relaxation which only prolong the stupefaction (Ibid.) Business interests manipulate suppressed citizens into a docile existence, meaning the subject, who has adopted a materialistic life, can no longer trust the rationality of her own judgment.

The development from traditional class struggle to this new dichotomy between manipulator and victim changes the cultural landscape of western society. The subject is no longer exploited at the material and physical level, but manipulated at the mental level. The dichotomy is set up between insight and lack of insight. The consumer believes himself to be happy, but he lacks the insight to understand that he is not; the critical intellectual understands that materialism prevents a person from developing her true potential. The worker has morphed into a helpless victim, oblivious to her own status as exploited victim manipulated by business into buying things, she has no need for. A radical version of this dichotomy is illustrated in the science fiction film Matrix, where the earth has been taken over by the very machines humans have created. Humans are enslaved and used as batteries while their brains are given the illusion of living in a real world. In the same manner, the modern citizen is exploited by the capitalist elite and made to believe that they have a good life. It is deception that enables the elite to exploit the worker. Presuming that the welfare society is not a matrix but a real, natural world, the transposition of the dichotomy to the mental level disconnects the criteria for suppression from the natural world. The claim that the consumer is being deceived becomes impossible to falsify in so far as any acceptance of consumer society is seen as a sign of intellectual deficiency.

In spite of Herbert Marcuse's revelations, western Europe did not turn Marxist. However, the student movement demonstrated courage and perseverance as they challenged authorities and values, and through their activism, they created new role models for other citizens to follow. In the years to come, the movement's followers took over positions in educational and cultural institutions, whereby their ideas and ideals permeated society. Anti-capitalism has been a faithful companion of industrialization in its different stages, but the significance of these ideas has been changed and intensified by the New Left.

Skepticism toward capitalism spreads as a general cultural assumption and as a sign of open-minded, critical, and humane intelligence. Though Marcuse's discourse may appear anachronistic, it has left permanent traces in the perception of capitalism and the role of business in society. It may not claim that consumers satisfy false needs, but the dichotomy between intellectual intelligence and insight manifests in skepticism toward business, toward the motives of business persons and the lifestyles of businesspeople on the one hand and the lack of insight associated with consumerism and identification with the endeavors of business which remains on the other hand.

The American sociologist Daniel Bell explains in his work from 1976 *The Cultural Contradictions of Capitalism* how the bourgeoisie has accepted bohemian and fundamentally anti-bourgeois values because bohemians had come to dominate the social realm of artistic expression (Bell 1996). Art is defined as that which challenges established assumptions and values. A bourgeois society can only produce anti-bourgeois art, but since art is also the utmost product of intellectual refinement, in itself a bourgeois value, the bourgeois can only be a person of intellectual refinement by becoming anti-bourgeois. Bell traces the bourgeoisie's incorporation of bohemian values back to the early twentieth century, but the suggestion here is that European culture has gone through a similar process regarding the political and moral values of the New Left. Middle classes live consumerist lives in capitalist societies while intellectually and morally identifying with anti-capitalist and anti-consumerist values originally propagated by intellectuals of the New Left. The bourgeois who identifies with his or her own consumerism is perceived as a superficial personality lacking in intelligence.

The coexistence of conflicting values, not just within society but within the people themselves, adds a dimension of complexity to the question of the legitimacy of business. Marcuse lamented the "flattening out of the antagonism between culture and social reality as a liquidation of two-dimensional culture" (Ibid., p.60). However, the question is if not the one-dimensional man should rather be described as the ambivalent man. For the ambivalent man, cultural ideals are disconnected from his factual life. At the formal level, the citizen confirms the legitimacy of business through her lifestyle and voting behavior. At the informal level, she identifies with cultural and intellectual values opposing those of business.

Marcuse's dichotomy between those who understand and those who have been manipulated and deprived of their intellectual capacity is a polarization between the powerful and the powerless. In this case the economic and political elite of the capitalist system has not only the power but also the intention to manipulate the citizens. Business is almighty but inherently morally wrong and the individual is helpless but morally superior. From this point of view, business ethics is an oxymoron, corporate social responsibility a public relation tool, stakeholder management an aspect of risk management, and moral integrity of a businessperson an absurdity. From this point of view, there can be no rational dialogue between business and population.

The portrayal of citizens as disempowered has consequences for the distribution of responsibilities in so far as the polarization releases citizens of responsibilities. The topic of consumer responsibility is only gaining significance in the recent years, as the acute challenges of global warming appear to dawn on the population, for example, in the emergence of environmental vegetarianism.

Stakeholder Management in Limbo

This historical development adds a dimension to Freeman's stakeholder concept. By the early 1980s, western European economies were still struggling. American and European businesses were operating in an increasingly hostile environment economically as well as culturally. Even though economic growth and conditions for business were set to improve during the late 1980s and 1990s, the culture had changed for good. The importance of the stakeholder concept grew because a skeptical population increased their requirements to corporations (Freeman 1983).

The disagreement between Shell and Greenpeace concerning the fate of the Brent Spar oil storage buoy was among the first prominent European cases of a corporation experiencing the consequences of not taking stakeholders seriously. In 1995 Shell had been granted permission by the British Department of Trade and Industry to sink the redundant oil storage container in the Atlantic Ocean. Greenpeace replied by organizing a consumer boycott of Shell gasoline stations across northern Europe. Shell had acted under the presumption that formal legitimacy, in terms of the legal permission, would suffice, but the presumption was wrong. For the first time, they experienced the might of a mobilized public (Jordan 2001). After an intense public struggle, Shell gave in and Brent Spar was towed off to Norway where parts of it were used to fortify the harbor of Mekjarvik. In the aftermath of the crisis, the director of Shell, Heinz Rothermund, concluded:

> Brent Spar will enter history as the symbol of our failure to establish our position and connect in a meaningful way with a wider audience. (Rothermund 1997)

The Brent Spar case illustrates the predictions of R.E. Freeman that the cultural and political environment of business was changing, but it also became clear that this was a battle business could not win. Freeman's solution presupposes that opposing interests could be reconciled in dialogue. However, in the case of Brent Spar, no scientific evidence and no appeal to proportionality could have changed the indignation of a public that perceived big business to be part of a conspiring elite. No dialogue with Greenpeace could have prevented the boycott of the Shell gasoline stations.

Freeman's concept of stakeholder management differs from the concept of social responsibility that Milton Friedman targeted in his article from 1970. Where Friedman constructed a concept of social responsibility as corporate philanthropy with the purpose detached from that of the business (a concept easy to criticize), Freeman reduces stakeholder management to serving the long-term self-interest of the corporation. He thereby aligns stakeholder management with the interests of business. Business recognized its dependency on a stable society with business-friendly policies, and Freeman constructed an idea of social responsibility that was digestible for business because it could be aligned with their aims of maximizing profit.

During the late 1980s, 1990s, and 2000s, western economies experienced a new era of growth with only minor setbacks. In the United States, technological innovation combined with deregulation of the financial sector and the free trade agreement NAFTA fueled the American economy just as European economies profited from economic integration, innovation, globalization, and international capital mobility. However, the economic gains have not been evenly distributed. Due to increase in global labor supply, the working populations of western countries have not benefited from this development to the same extent as the economic elites. The development has put strain on social cohesion in Europe as well as in the United States. At the same time, the fall of the Soviet Union deprived the workers of a viable alternative economic system. Thus, the current world order is referred to as the neoliberal hegemony: the all-encompassing dominance of globalized liberalism. Slavoj Žižek tells an anecdote where Mikhail Gorbachev pays a private visit to the former German social democratic Chancellor Willy Brandt. He refused to open the door to the former general secretary of the communist party because he blamed him for the fall of the Soviet Union. Brandt was not a communist, but had understood that:

> the disappearance of the Communist bloc would also entail the disappearance of the West European Social Democratic welfare state. That is to say, Brandt knew that the capitalist system is ready to make considerable concessions to the workers and the poor only if there is a serious threat of an alternative, of a different mode of production which promises workers their rights. (Žižek 2015)

Such is the cultural environment in which business attempts to legitimize itself. Stakeholder management has been incorporated into business processes along with risk management, sustainability reporting, and systems for integrity and compliance. As a consequence, business can obtain formal legitimacy by complying with increasing regulation, but even if the increase in regulation and self-regulation is an adequate Order Ethics reaction to the misdeeds of business, compliance does not grant business informal legitimacy, i.e., the moral acceptance of society. Since stakeholder management aligns with the interests of business, it cannot bridge the opposition between the intellectual aversion toward business and the order ethical business legitimacy. In spite of its efforts, the attempts of business to justify itself are, if not completely in vain, then at least an up-hill struggle.

This ambivalence of society leaves stakeholder management in a limbo of inability to appease its critics. Other similar concepts and initiatives risk the same fate. The New Left of the late 1960s and 1970s rejected business when it failed and exploited its workers. It also rejected business for succeeding to provide workers with a high material standard of living. The transposition of the dichotomy from physical exploitation to mental manipulation, the matrix theory of modern consumer society, is a conspiracy theory where the consumer is deprived of her rationality. The only sensible reaction of the consumer is the radical rejection of capitalism. The position thus evades dialogue as well as debate, as does the idea of an elite not only defending their position of power but also conspiring to deceive the population.

Later public battles between Shell and Greenpeace confirm this failure to communicate. According to Heinz Rothermund's reference to Brent Spar as the symbol of their "failure to establish our position and connect in a meaningful way with a wider audience," one would expect Shell to have been prepared for the next confrontation with Greenpeace. In the early 2010s, Shell initiated test drilling in the Arctic. If Shell had meant to connect in a meaningful way with a wider audience, they failed again. The controversial nature of this project is apparent, but so is the contrast between the energy consumption of the populations of western societies and the public dislike for international oil companies.

Spillover of Informal Legitimacy

After the financial crisis of 2008, governments restored a tentative economic growth; however, bound by the conditions of the globalization economy, few governments have dared to change the distribution of benefits. A significant increase in salaries would undermine competitiveness and lead to unemployment, so the argument goes. The misbehavior of business, leading to the financial crisis of 2008, has caused an increase in regulation at least as far as Europe is concerned, but it has not changed the stagnation of wages for working and middle classes of society. In this setting an intriguing change in the relationship between lordship and bondage might be taking place.

In 1969 the grand old man of the German left-wing intellectual movement, Theodor Adorno, saw his lecture interrupted by women showing their breasts. A few months earlier, students had occupied the *Institut für Socialwissenschaft*. Adorno called the police and was subsequently accused of betraying his own cause. The anecdote illustrates the manner in which even an intellectual and critical culture can undermine its own authority and credibility by insisting on a conspiring elite. The followers of the student movement developed into an elitist establishment, but the role as uncontested authority has been destabilized by the core of their own ideas. The matrix theory of the relation between elites and subjects has denied the possibility of balanced communication across social and political divisions. It has denied that a dialogue between a business elite and a skeptical population is possible. Therefore, the theory has also undermined the possibility of a dialogue between an intellectual elite appealing to global humanity and a population of hardworking subjects losing out in a world of international competition. The matrix theory of left-wing intellectuals has not just undermined the authority of a bourgeois capitalist establishment. It has undermined the authority of establishment in general. In the dangerous cocktail of globalization, decentralization of information, and anti-elitism, the stage has now been left for populists harvesting the fruits of the student rebels' ideals.

The corporate world can defend its formal legitimacy by complying with rules and expectations at the order ethical level of society. Upholding formal legitimacy is vital as a license to operate. It can only hope to keep at bay the lack of formal legitimacy. The connection between formal legitimacy reflected in legislation and informal legitimacy reflected in the values that circulate society is, as already indicated, mediated by democratic procedures. Conflicting values can coexist as long as a critical mass of voters support a consensus. However, centrifugal forces of globalization in combination with a steady supply of corporate scandals reinforce the credibility of anti-elitist ideas to the extent of undermining social consensus. Current changes in the political landscape confirm that this tendency can threaten the freedom of business people to truck, barter, and exchange one thing for another. The extent to which business succeeds in maintaining the status quo with regard to formal, as well as informal, legitimacy will be decisive for its future license to operate.

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Innovation, Bricolage, and Legitimacy

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Contents

Abstract

Innovation and bricolage activities are key processes in businesses that pose challenges for business legitimacy. The paper explores the concepts of innovation and bricolage and how they relate to business legitimacy. The paper shows how legitimacy concerns both the outcome of innovation/bricolage and the process. Key findings are that bricolage activities, i.e., solving problems by available resources, can be linked with master frames such as sustainability and circular economy that render legitimacy. However, bricolage activities are also just plausible ways of coping with limited possibilities in resource-constrained environments that may be socially recognized. Yet, the very same frames that make innovation and bricolage activity legitimate also constitute cultural repertoires for criticizing innovation and bricolage activities.

Keywords

Innovation · Bricolage · Legitimacy

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Introduction

This article discusses the intertwining of three business processes: innovation, bricolage, and legitimacy. The concept of innovation has long been used to study how businesses survive; develop products, services, and experiences for customers; and create societal outcomes such as employment or sustainable solutions. The literature shows that innovation comes in various forms. It is not necessarily R&D-based, technology-driven, and linear. Rather, it can also emerge from practice, experiences, and interactions between people. Some innovations emerge from social communities, small businesses, and interactions between employees and users that seek to make use of available resources and limited possibilities. Innovations may challenge institutional structures and can have little legitimacy in an organization and beyond. To explain and exploit better the advantage of such bricolage activity and the role of the bricoleur as a problem-solver, there is a need for a conceptual clarification and underpinning of what innovation and bricolage are and how legitimacy can be achieved.

The paper starts by defining innovation in light of the literature on innovation. Then it goes on to discuss whether and how bricolage can be a way to innovation and what characterizes a bricoleur. It explains, based on the literature, how bricolage can be a practice, an epistemology, and a worldview. Then the paper discusses the legitimacy problems of bricolage and then follows a discussion of what legitimacy is and how legitimacy can be achieved, which is applied to the innovation and bricolage constructs. Actors performing bricolage activity at various levels of interaction can link practice to outcome.

Innovation

Innovation is a concept that has been used to describe development activities in the private, the public, and the social sector as well as in the economy and society at large. It is used to describe and analyze how actors create new products, services, and/or experiences. Fagerberg (2005) defines innovation as carrying out an invention in practice, i.e., innovation is more than the invention or having a new idea. It is, according to Schumpeter, the carrying out of "new combinations" of society's productive means (Schumpeter 1969 [1934]).

For a long time, innovation was mainly understood to be R&D-driven and technology-driven (Gallouj 2010), or alternatively it was seen as entrepreneur-driven yet technology focused. Hence there has been a bias toward investigating the role of science and technology for innovation. This science-and-technology-shapes-society model of innovation (Fuglsang 2001) tends to be technology determinist. The innovation process has been presumed largely to start with scientific breakthroughs that next become translated into technologies and then brought to use by private, public, and/or social organizations that adopt these technologies. Much focus has been on public and private investments in R&D as well as companies' ability to absorb knowledge by investing in R&D activities and applying this knowledge for commercial purposes (Cohen and Levinthal 1990). The need for absorbing knowledge is relative to the type of firm and product portfolio of an organization.

Also other sectors than technology-intensive sectors, such as the service sector, have been seen as technology-driven (Barras 1986; Gershuny 1983). For example, the service sector can invest in new technology. Once service companies start to use new technologies in their processes, new service innovations may follow, such as self-service in the banking sector that followed from investments in computer technology. Gershuny (1983) has claimed that households substitute technologies for services leading toward a self-service society. However, the discussion of whether and how innovation takes place in services has led to new and extended understandings of what innovation is and how it comes about (Gallouj 2010). For example, innovation can be employee-driven and represent changes in service behavior rather than in technology (Sundbo 1997). Innovations can be incrementalist and be about creating new value propositions for customers (Skålén et al. 2013).

The literature makes a distinction between product innovation and process innovation. Product innovation is a new good or service. Process innovation is renewal of the varied activities that goes into producing that product. In services, however, it can be difficult to distinguish product and process, as the product often is a process. The literature also discusses the criteria for something to count as an innovation (Drejer 2004). For example, for a new product or service to count as innovation, it should have economic impact. Yet, this definition does not capture all innovations particularly in services. In services, the outcome of an innovation can be blurred and concealed in relation to the customer and the impact fuzzy. Process criteria are also discussed, for example, whether the innovation process should be intentional to count as innovation and whether and how innovation processes can be linearized and systematized. At least three processes of innovation have been pointed out in the literature (Toivonen and Tuominen 2009): the R&D-based model of innovation, the rapid application model, and a practice-based model. In the R&D-based model, scientific research and technological change drives innovation. In the rapid application model, an innovation, emerging from R&D or contacts with customers, is quickly tested in the market and then further developed. In the practice-based model, the innovation is emerging retrospectively from practice, i.e., interactions between employees and customers and eventually developed in a more systematic way.

From these discussions, it follows that innovations are not always intentional, that the interaction with users can be taken as a source of innovation, that innovation is not always a separate function in the company such as R&D activity to which resources are allocated but can develop from everyday practice, and that the innovation process is often incrementalistic. An innovation must contain some new elements that diverge from existing practices, and these must possess some generalizable features (Toivonen and Tuominen 2009) that can be repeated over time (Sundbo 1997). An innovation is not the same as improvement but usually provides benefits to the user as well as the innovator (Toivonen and Tuominen 2009).

Bricolage as a Practice-Based Model of Innovation

A practice-based model of innovation would link innovation to everyday actions within the varied spheres of interaction of the relevant actors at a micro-, meso-, and macro-level where actors seek to cope with limited resources and possibilities. Practice as a unit of analysis implies a focus not on strategies, functions, or roles in an organization but on what people do and say. Practices have been defined as "a mode . . . of ordering heterogeneous items into a coherent set" (Gherardi 2006, p. 34) and as "bodily activities, forms of mental activities, 'things' and their use, a background knowledge in the form of understanding, know-how, states of emotion and motivational knowledge" (Reckwitz 2002, p. 249f). Thus, a practice-based approach to innovation would suggest that innovation is closely intertwined with these activities of ordering, understanding, emotions, and commitments. It would imply that everyday actions related to social worlds are "consequential in producing the structural contours of social life" (Feldman and Orlikowski 2011, p. 1241).

Practices are more than repeated ways of doing things. They are connected with worldviews and epistemologies. Warde (2005) identifies three components of practice: procedures, understandings, and engagements which is similar to Schau et al. (2009) who identify the core structures as procedures, understandings, and emotionally charged engagements (Echeverri and Skålén 2011; Schau et al. 2009). Pantzar and Shove (2010) include the material world identifying materials, skills, and images as the elements of practice. They refer to Nordic walking as an example. Innovation in practice is the integration of such elements in novel configurations. Innovators must design materials, skills, and images and linkages between them. Thus, innovation is a process of integration, designing, and ordering material, epistemological, and metaphysic structures (cf. Duymedjian and Rüling 2010). Fuglsang (2018) argues that varied practices of innovation can be identified at the micro-, meso-, and macro-level. Innovation can grow out of micro-interactions among actors such as employees and customers. These may be consolidated at the meso-level through interactions with organizational boundaries and enterprise strategies and plans and further at the macro-level in the interaction with societal structures. Service marketing research links innovation practice (development of value propositions; Skålén et al. 2011) to the user's value creation (Grönroos 2011; Grönroos and Voima 2013) which is described as embedded within a wider societal context (Edvardsson et al. 2011; Vargo and Lusch 2016).

Bricolage as a practice is usually seen as a micro strategy linked to employees' everyday work and interaction with each other and with customers. The concept of bricolage stems from Claude Levi-Strauss (1966). Levi-Strauss used the bricoleur as a metaphor to distinguish what he called "prior" science (rather than "primitive" science) from modern science. He argued that the bricoleur is someone who is able to perform diverse tasks in a closed universe of things and "the rules of his game are always to make do with 'whatever is at hand,'" i.e., with tools that have no relation to any particular project but are retained and accumulated over time on the principle that "they may always come in handy" (pp. 17-18). In this way, the bricoleur creates structures by means of events, whereas the scientist creates events by means of structures (p. 22). Baker and Nelson use the concept of "resource" to define bricolage as "making do" by applying combinations of the resources at hand to new problems and opportunities. Bricolage consists of three elements: (1) making do, (2) resources at hand, and (3) combination of resources for new purposes. Some researchers (Baker et al. 2003; Fuglsang 2014; Witell et al. 2017) also include networks as a resources or means at hand that is included in bricolage activity.

We find several applications of the concept of bricolage in research. The concept has been used, for example:

To characterize entrepreneurship, where entrepreneurs create something from nothing (Baker and Nelson 2005)
To describe improvisation in impossible situations (Weick 1993)
To describe the emergence of the wind turbine industry in Denmark (Garud and Karnoe 2003)
To describe how teachers work (Hatton 1989)
To describe how nurses work (Gobbi 2005)
To describe "emerging innovation" in public sector (Andersen 2008)
To describe how home care innovate (Fuglsang 2010; Fuglsang and Sørensen 2011)

Several authors (Baker and Nelson 2005; Fuglsang 2018; Witell et al. 2017) claim that bricolage is a relevant approach to innovation in resource-constrained environments, such as nascent firms or service firms that do not allocate resources to R&D. Senyard et al. (2014) have shown how there is a connection between bricolage activity and innovativeness in nascent firms. Based on interviews with 1186 respondents, interviewed in 2 rounds with 12 months in between, they argued that there is a connection between bricolage and 4 types of innovativeness: (1) product/service, innovativeness, (2) process innovativeness, (3) marketing methods innovativeness, and (4) target market selection innovativeness. They found that bricolage has a positive effect on the three first and a curvilinear relationship on the fourth. Bugge and Bloch (2016) found that many innovations in the public sector are bricolage type rather than systemic. Based on a qualitative evaluation of more than 1500 examples of public sector innovations in 6 countries, they suggest that almost a third of the evaluated innovations were bricolage-type innovations.

Duymedjian and Rüling (2010) argue that bricolage can be seen as ideal-typical regime of action or a practice which can be contrasted to that of the engineer. From a practice-based perspective, they describe bricolage in terms of a particular relationship between practice, epistemology, and metaphysics or worldview. As practice, it collects resources over time and maintains a dialogue with its repertoire of resources as well as other resources in the environment. As epistemology, it draws on intimate and familiar knowledge of the environment and its resources which is different from the more codified knowledge of the engineer. As worldview, it contends that everything matters and is interrelated in a complex interconnected system. Based on the work of Thévenot and his theory of engagement (see, e.g., Thévenot 2001), Duymedjian and Rüling (2010) also discuss how bricolage is a collective activity that may exist both as a regime of familiarity and as a convention-based regime. Under a regime of familiarity, the bricolage setting reminds of inhabiting a home with all the stuff one has collected over time and can bring forward if needed. Such resources may be shared with others if people develop close relations over time engaging in joint dialogues about their various repertoires. Fuglsang and Sørensen (2011) have shown how home helpers engage in dialogues about the repertoires they find in the homes of elderlies when carrying out their job as home helpers. Convention-based bricolage requires "an investment in form." It corresponds to renting one's home to another person, which requires regulation and codification enabling actors to communicate about resources at distance. It is thus a more selective and conceptual approach to the resources at hand that involves norms, standards, and procedures.

One problem of bricolage activity as based on familiarity and intimate knowledge of how to make do with resources at hand and combine them for new purposes is that this activity is hidden in everyday life. While it may be a constitutive activity that can underpin rules and regulation by innovating around them, one can never know how it relates to work procedures and protocols. Further, it can be a spontaneous problem-solving activity that ignores other more established problem-solving methods. Employees solve problems on the spot without calling in assistance from someone in the organization that might be more qualified to deal with the task. It challenges professional boundaries and specialization, regulations of work, or organizational strategies. In some cases where work is highly regulated, for example, in nursing (Krontoft et al. 2018), or home help (Fuglsang and Sørensen 2011), it may be considered cheating and may potentially entail a co-destruction of value with users if it does not lead to a satisfactory solution.

The above raises the question of the legitimacy of bricolage activity as a practice, epistemology, and worldview within an organization. Firstly, how can it be legitimate to collect resources over time and use them within a closed universe for problem-solving? This seems as a private and familiar approach to work rather than one regulated by procedures, ethics, and so forth. Secondly, how can it be legitimate to use intimate and familiar knowledge in a work situation where one would often expect the use of evidence-based expert knowledge? Thirdly, how can it be legitimate to presume that everything matters in the strategic context of an organization? In the following section, the concept of legitimacy is discussed and applied to innovation and bricolage.

Legitimacy

In his foundational article, Suchman (1995) has defined legitimacy as "a generalized perception that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman 1995). Thus, legitimacy is here related to a "generalized perception" of appropriate behavior within a social system meaning that an entity may remain legitimate even if certain actions deviate from societal norms, such as bricolage activity.

Suchman makes a distinction between pragmatic, moral, and cognitive legitimacy. Pragmatic legitimacy is linked to the ability to provide benefits to an organization's stakeholders. Moral legitimacy is linked to the normative evaluation of an organizations activities, i.e., whether they fit certain socially constructed norms. Cognitive legitimacy concerns the availability of cognitive models that explains an organization, its efforts, and futures in a plausible way. Garud et al. (2014) discuss the role of storytelling in pragmatic and cognitive legitimacy. Stories are cognitive models for exploring an organization's legitimacy. Stories create expectations about certain legitimate actions; however, stories can also disappoint resulting in a loss of legitimacy.

Geels and Verhees (2011) speak of framing struggles and legitimacy. By this they mean that actions are subject to varied moral evaluations (frames of evaluation) through which their legitimacy can be confirmed or contested. Some of these frames resonate with wider audiences. Geels and Verhees call them master frames. They further argue that the salience of such frames is dependent on such factors as actor credibility, perceived empirical fit between frame and events, the centrality of a given frame, the experiential consumerability of a frame in relation to everyday experience, and the fit between frames and cultural repertoires. Hence, to create legitimacy requires a lot of effort and work to make practice consistent with frames or identifying the appropriate frames.

One type of activity that pose challenges for the legitimacy of a social system is innovation. To survive in the market, actors must often innovate, but innovations and innovative activities may come into conflict with prevailing interests, norms, and understandings. Following the above, innovative actors can address legitimacy in different ways. They can use stories or master frames that have a strong salience and legitimacy as part of their innovation strategy. They would have to argue that innovations fit such a frame. It could be a story of hero-inventors that create economic development or a story of developing sustainable technology or trust-creating technology as in the case of blockchains. Another example is the frame of the experience economy (Fuglsang and Eide) that actors have used to create trajectories of change in tourism. Stories can be told about experience activities that relate them to wider recognized patterns of outdoor life, healthy activities, or learning experiences endowing them with cognitive and pragmatic legitimacy. In health care, there is an increasing awareness of the possibility of digital health services that tend to break institutionalized norms of health care (Wallin and Fuglsang 2017). Patient- and treatment-oriented health care is a highly institutionalized frame which is contested by digital health when new entrepreneurial firms work out new types of digital health technologies and services that give patients possibilities to cope with their health and treatment in new ways. Innovators of these services create legitimacy through validation, certification, user testimonials, awards, or stories about their efficiency and relevance.

Similarly, bricolage activities can be linked to stories and frames that render legitimacy. For example, in the public sector, new public management has been a dominant master frame for several decades due to fiscal pressures. However, it is also a contested frame, as it seems to replace the way professionals hitherto have worked as independent professional in traditional public administration with new control and measurement systems. Bricolage activity can be linked to an alternative frame that repositions employees as skilled professionals which can solve many types of problems by available resources and have deep insights into clients' value creation. Social bricolage (Di Domenico et al. 2010), i.e., when communities make use of limited possibilities to create meaningful activities, can be linked to wider socially constructed frames of sustainability, mobilization of available resources, circular economy, civic activism, caring society, and more.

Weick (1995) shows that stories have the function to tie in peripheral events in causal chains in an organizational setting. Alertness toward events that are not part of the espoused practices can thereby be created. Following on from Weick, telling stories is a way to link bricolage activity to legitimate activities within an organization at the pragmatic, moral, and cognitive levels. However, some noteworthy stories can also evoke anxiety and fear, having the exact opposite effect – blaming bricolage activities for what goes wrong, for example.

Linking bricolage activity to certain outcomes is a way to make bricolage activity legitimate. The emphasis on outcomes, such as creating a sustainable business (Baker and Nelson 2005), can ensure a positive pragmatic or normative evaluation of the bricolage activity that allows for the integration of bricolage activity into work or life routines. However, stressing outcome may also immediately make certain types of bricolage activity that are not perceived to be related to outcome illegitimate. A consequence of this can have the effect of closing the door to important problem-solving activities that are crucial for maintaining organizational routines (Fuglsang and Sørensen 2011). Thus, stressing outcomes can be a double-edged sword. Further, the process toward the outcome generally needs to be legitimate; hence, it must be part of a socially recognized practice and worldview. The legitimacy of process can be a challenge in relation to bricolage as bricolage activity can be a hidden and concealed processes and sometimes can be considered as cheating (Fuglsang and Sørensen 2011).

However, bricolage activities are also inherently positive as meta-process. Energy demand can be seen as an outcome (Cass and Shove 2017) of the way we live and work, how we transport ourselves between home and work, how we consume food, and how we deal with waste. Bricolage activity, i.e., coping with limited resources and possibilities in a resilient way, presents, in this context, a way of saving, accumulating, and reusing resources in a sustainable way which can be cultivated as a legitimate lifestyle and approach to social practice. Bricolage activity in this case draws its legitimacy from being a process, epistemology, and worldview that is linked to sustainable and circular economy as a master frame. This frame will in turn become more or less legitimate along with people's attitudes to and perceptions of the current climate crisis.

In summary, innovation and bricolage activity can be linked to moral frames, stories, and benefits for stakeholders that make them legitimate. Legitimacy can concern both the outcome, i.e., sustainable business, and the process, i.e., reusing available resources. However, the very same frames that render innovation and bricolage activity legitimate also provide cultural repertoires for criticizing innovation and bricolage activities.

Table 1 Three approaches to legitimacy and bricolage activity. (Adapted from Suchman (1995) and Duymedjian and Rüling (2010))

Form of legitimacy	Practice	Epistemology	Worldview
Cognitive legitimacy of bricolage	Collect resources over time; solve problems on the spot	Draw on limited resources accumulated over time, previous knowledge, and intimate knowledge. Create plausible stories about what you are doing	All things matter
Moral legitimacy of bricolage	Collect resources over time; solve problems on the spot. Make activities visible. Design bricolage practices deliberately, i.e., configurations of materials, skills, and image	Draw on limited resources accumulated over time, previous knowledge, and intimate knowledge. Evaluate what you do with respect to consequences and processes	Specific outcomes matter
Pragmatic legitimacy of bricolage	Use bricolage activity when it provides benefit to stakeholders	Draw on limited resources accumulated over time, previous knowledge, and intimate knowledge. Calculate stakeholders' self-interest. Deploy and account for bricolage activity in relation to stakeholders' interests	Stakeholders' outcome matter

Discussion

Research shows that bricolage activity is present in many types of organizations, public, private, civic, services, and manufacturing. It can be a path to innovation and a way to solve problems for businesses, employees, clients, and communities especially in resource-constrained environments. However, bricolage also poses challenges for legitimacy due to its non-procedural, nonformal, and nonscientific character. Following on Suchman (1995) and Duymedjian and Rüling (2010), and focusing in the following bricolage, we propose tentatively to distinguish between three challenges of legitimacy and bricolage, cognitive legitimacy, moral legitimacy, and pragmatic legitimacy, and its three dimensions, practice, epistemology, and worldview (Table 1).

1. Cognitive legitimacy of bricolage activity: Cognitive legitimacy concerns whether people in a given context recognize bricolage activity as a reasonable activity. This type of legitimacy can be embedded in a professional or social context where actors share experiences, values, knowledge, and stories about everyday activity. They mutually accept the bricolage activity as part of everyday life and as a way to cope with everyday problems. They also tell plausible stories about how bricolage activity contributes to making do and solving problems that are important to the survival and efficiency of an organization. It can be turned

into a lifestyle or habit of always accumulating resources in the event that they should come in handy.

2. Moral legitimacy of bricolage activity. The moral approach goes beyond the traditional form of bricolage as defined by Lévi-Strauss by linking it to certain moral outcomes or values that are believed to be important within a particular discourse or frame. For example, bricolage activity can be linked with notions of circular economy, self-supplying activities, or coping in a resilient way with limited resources and possibilities to ensure meaningful actions and survival. Moral legitimacy would require ethical behavior and codification and therefore some design and planning of practice. Not every type of bricolage activity is legitimate, and not all resources are appropriate in relation to a given moral frame. Systems of bricolage activity can be developed in which available resources become recirculated within and across organizations and/or communities. It enables a more strategic approach to bricolage activity. In this case, attempts could be made to design and integrate bricolage activities into value chains. The moral approach requires an evaluation of bricolage activity with respect to the consequences it has in terms of outcomes and process, i.e., it requires methods of monitoring and evaluation. An investment in form is needed, through which bricolage activity becomes planned, designed, and evaluated. This format of legitimacy exposes hidden activities and excludes those that are not perceived to be chained into the desired outcomes.
3. Pragmatic legitimacy of bricolage. The core concern is how bricolage activity benefits stakeholders. It requires calculations of stakeholders' interests and the ability to sort out bricolage activities that do not seem to benefit stakeholders. This also assumes that bricolage activity is accounted for and discussed in an organization. Stakeholders can be clients and customers or collaborating partners that expect certain concrete output, such as use value of an activity, descriptions of how it works, quality, profit, or input to innovation. Research shows that firms and organizations under resource constraints stress the pragmatic approach to bricolage as a path to innovation. Baker and Nelson (2005) have shown how both parallel and selective bricolages can be important to such organizations. This approach implies that bricolage activity that does not appear to provide benefit to stakeholders is illegitimate.

In summary, we can organize the questions of bricolage and legitimacy into three general approaches that show some general rules for legitimacy work in the case of bricolage. The contribution of the discussion is to link strategies of legitimacy more specifically to the bricolage construct to clarify how bricolage activity can become a recognized but also criticized activity.

Concluding Remarks

Innovation and bricolage are key processes in business for survival and growth. Innovation has been defined as the realization of new ideas in practice. Bricolage activity is solving problems on the spot by resources at hand. Especially in a resource-constrained environment, bricolage activity can be a relevant model of creating business resilience and innovation.

The paper discussed how innovation and bricolage activity pose challenges to business legitimacy. Innovative entrepreneurs can come into conflict with existing frames in society. Bricolage activities can come into conflict with prevailing professional practices. However, innovation and bricolage activity can be made legitimate by telling plausible stories about what one is doing in relation to people's expectations and values, by evaluating innovation and bricolage activities in relation to specific outcomes, or by accounting for innovation and bricolage activity in relation to stakeholders' interests. At the same time, stories, morals, and benefits are also resources for criticizing bricolage activity for not being appropriate.

The three types of legitimacy and bricolage presented in the paper may in practice often be combined. They can represent stages of an innovation process. Innovation may emerge from the search for cognitive legitimacy when people tell stories about what they are doing in an environment with which they are familiar. It may then be taken to higher levels of innovation and legitimacy through pragmatic and normative evaluations in an organizational context through which certain acts of bricolage are selected and others rejected. Yet bricolage activities can also continue to exist under the radar and do not necessarily have to relate to higher levels of innovation in order to provide effective change. As such it can still add to innovation over time, for example, by gradually changing professional practices and adapting them to requirements of legitimacy in the environment.

While managers may be especially interested in how to make bricolage activities visible and legitimate in order to capture the value of bricolage activity and turn it into innovation, it can still be relevant to embrace the invisible, everyday bricolage activities in an organization. Managers can support and trust employees in their bricolage activity, embrace these informalities, and make use of them in everyday innovation activities. Research could be more attentive to how innovations can emerge from employees, citizens, and communities that seek to deal with existing resources and possibilities in a meaningful and legitimate way. There seems to be a large potential for investigating better how existing resources can be used and integrated to form new practices and how this is turned into legitimate ways of action.

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Part XXII

Sustainable Development, Ecology, the Anthropocene, and Business Legitimacy

Ecological Economics and Business Legitimacy

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Ove D. Jakobsen and Vivi M. L. Storsletten

Contents

Abstract

If we are to solve problems connected to the degradation of nature, the ever-increasing gap between rich and poor, financial crashes, and business (meso level) legitimacy, such work cannot be studied in isolation from the interplay between micro (individuals) and macro (systems) levels. To develop business legitimacy, a change process has to be implemented concurrently on the individual, practical, and systemic levels.

Change can focus on reducing negative symptoms or, on the other hand, it can be seen as a shift taking place at a deeper level in order to eliminate the causes of the

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problems. On the systemic level, the hard-core principle of the dominating economy – that the market is made up of autonomous competing actors – is rejected in favor of a view of the market as an integrated network of interdependent cooperating actors. On the practical level, strategic planning is replaced by a partnership approach founded on dialogue- and network-based cooperation. On the individual level, ecological economics has significant implications for the definition of the economic actor. Instead of focusing solely on increasing profits and utility (the economic man), the economic actors put far more weight on the natural and social implications of production processes as well as products (the ecological man).

The implications of this reasoning are that economic activity is not an end in itself but a means to strengthen the life processes in nature and society. If life processes are to be strengthened, then reputation building, "greenwashing," and green economics must give way to an economy based on ecological knowledge and humanistic values.

Keywords

Ideology · Utopia · Organic worldview · Cooperation · Partnership approach · Ecological man

Introduction

Ours is a world of complexity and uncertainty, as rich in positive potentials as it is rich in possible catastrophes. Modern society more than ever creates utility and welfare, but it also creates negative consequences which affect global ecosystems, including people. It is easy to feel that there is nothing but bad news, e.g., "climate chaos, species extinction, job insecurity, poverty, violent conflict" (Norberg-Hodge 2016, p. vi). As the problems are interconnected, it is impossible to tackle them individually, so we need solutions that are both systemic and sustainable in a long-term perspective. According to Fromm, a reform can be radical, that is, "going to the roots, or it can be superficial, trying to patch up symptoms without touching the causes" (Fromm 1990, p. 273).

This article considers how ecological economics can contribute solutions to the challenges currently faced by focusing on the causes more than the symptoms. Instead of developing measures to reduce negative side effects of the dominating economy, a far deeper systemic shift is needed toward an economy that nurtures sustainable communities designed in harmony with the principles of ecology and cultural values. Research aimed at giving humans power over nature is, as a consequence, replaced by an approach in harmony with nature. Such a radical transformation changes nature from being an object to being a subject.

This article puts forward a view that business (meso level) legitimacy cannot be studied in isolation from the interplay between micro (individuals) and macro (systems) levels. To develop business legitimacy, it is both necessary and possible to implement the change process simultaneously on the individual and systemic levels. The explanation refers to the symmetric relationship between economic systems, business practice, and human beings.

The article has been structured in the following way: firstly, Imre Lakatos' distinction between the "hard core" and the "protective belt" is introduced in order to develop a frame of reference for the understanding of the difference between evolutionary and revolutionary changes in theory and practice. Secondly, the extent to which the major problems of our time are results of bad people's actions, or consequences of a bad system, or maybe a combination of both, is discussed. Robert Merton's theories of unanticipated consequences are used and discussed. Thirdly, using the distinction between ideology and utopia set out and defined by Karl Mannheim (1936), Paul Ricoeur (1986), and Ruth Levitas (2013), it is argued that another system is possible. They all argue that the energy needed in all change processes is generated in the tension between what is (ideology) and what could be (utopia). Fourthly, we argue that green economics symbolizes changes in the protective belt in the dominating economic paradigm, while ecological economics is characterized by changes in the hard core. Finally, a sketch is offered of an ecological economic utopia after the change process and sum up with some reflections on business legitimacy.

Hard Core and Protective Belt

To delve deeper into the question of how science adapts to the challenges in contemporary society, the contributions of Imre Lakatos (Lakatos and Musgrave 1982) to philosophy of science are called on. Lakatos distinguished between a research program's hard core and the protective belt of flexible theories and defined a research program as a combination of hard-core theoretical assumptions that cannot be rejected or altered without falsifying the whole program and a protective belt of theories that function as a safeguard to protect the hard-core assumptions. Lakatos rejected the idea that scientific knowledge can be regarded as a cumulatively growing system of statements and theories. Instead the evolution is portrayed as long periods where the hard-core ideas are protected by a belt of theories that have been adapted to characteristics in the social and natural environment. When the challenges become too severe, critical questions are asked of the hard core, and the evolutionary period is replaced by irregular revolutionary leaps in which the fundamental presuppositions of scientific understanding are under attack and replaced.

Research programs provide a framework that is shared by those involved. When the hard core is threatened, theories in the protective belt are modified in order to save it. The adherents of the research program accept changes in theories in the protective belt in order to reduce anomalies and protect the hard core which becomes, in effect, similar to Kuhn's conception of a paradigm because research is conducted on the basis of some fundamental principles that are entirely exempt from critical discussion.

Lakatos divided the levels within a research program into negative and positive heuristics. Negative heuristics point at methods and approaches that should be avoided, and positive heuristics refer to preferable methods and approaches. While the negative heuristic protects the hard core, the positive heuristic defines principles for modification and changes in the protective belt. Lakatos defined the main concepts in his theory in the following way:

> the negative heuristic specifies 'the hard core' of the programme which is 'irrefutable' by the methodological decision of its protagonists, the positive heuristic consists of a partially articulated set of suggestions or hints on how to change, develop the 'refutable variants' of the research programme, on how to modify, sophisticate the 'refutable' protective belt. (Lakatos and Musgrave 1982, p. 135)

Not all changes of the protective belt of a research program are equally productive or acceptable. Lakatos argued that changes in the protective belt should be evaluated not just by their ability to defend the hard core by explaining anomalies but also by their ability to come up with new explanations and understanding. He defined adjustments as degenerative if they failed to accomplish anything more than the maintenance of the hard core. Lakatos' model provides for the possibility of a research program to be progressive even if it contains troublesome anomalies. He argued that it is essentially necessary to continue with a research program even if it has problems as long as there are no better alternatives. In order to falsify a research program, there must be a better one available.

When the hard-core principles change, the previous knowledge is reinterpreted, and the whole research program changes, asking new questions, introducing new methods, and implementing changes in practice. As an example, the shift from defining nature as an economic resource base to something having inherent value, represents a gestalt switch where the context of understanding changes from economics to ecology. Colin Tudge (2016) argued that all that stands between us and a glorious future is the removal of the seriously flawed strategies based on false ideas that happen to be convenient to the people with the most power: in other words, those ideas that are rooted in a debased ideology which puts short-term wealth and dominance above all else and that is the hard core of the dominating economy.

Unintended Consequences

Back in 1936, the prominent sociologist Robert Merton warned against "unanticipated consequences of purposive social action" (Merton 1936, p. 894). This can be seen in the unanticipated consequences of the main statements in the hard core of the dominating economic paradigm. Many of the challenges we face today, regarding environmental, societal, or economic crises, are due to unintended consequences of the dominating economic system embedded in the modern society. There are many explanations why negative consequences occur; short-term perspectives and limited cognitive capacity are examples of relevant explanations. But it could also be that the hard-core frame of reference is disconnected from the real-world conditions.

In terms of Merton's reasoning, it can be seen that many of the challenges in our time are the results of more than 200 years of mechanistic dominance in our culture. These problems are so complex and so integrated that it seems impossible to find significant solutions within a mechanistic ontology and it is simply not enough merely to implement changes in the protective belt if problems are to be solved. Maslow once claimed that even good people behave badly in a bad system (Maslow 1971). The greedy side of people is activated by the characteristics of the economic system. Instead of trying to solve problems by transforming reality to fit the model, it is more appropriate to change the model to fit with reality.

Although a great majority agree that something must be done straightaway to prevent the alarming catastrophes, it has proved difficult to implement action with any significant effect. The question is why are we not able to take the necessary steps to solve the problems when we, to a large extent, know the causes behind them and we know which measures we have to take. One explanation is that we are too busy and concerned with our daily activities to bother with the major long-term challenges. Another explanation is that we have confidence in technological development and are convinced that research will solve all the problems (technological optimists). The third explanation is the paralysis induced by the gravity of the situation. This chapter, in accordance with Ricoeur (1986), argues that the energy needed for implementing the necessary change process is developed in the tension field between ideology (green economy) and utopia (ecological economics). In other words, utopia is the driving force in the change processes in human societies.

Ideology and Utopia

In order to enlighten the tension between the two contrasting approaches to a socially and environmentally responsible economy, reference is made to the Hungarian sociologist Karl Mannheim (1936) who distinguished between ideology and utopia as driving forces in societal development. From this point of view, green economics merely makes changes in the protective belt of mainstream economics in order to save, protect, and preserve the hard core of the ideology; ecological economics goes far further in its criticism of the hard core and sets out utopian solutions.

Mannheim contrasted ideology and utopia on the basis of their social function. Ideologies are directed toward the past and are important to create and preserve the identity, individually and collectively. To Mannheim, ideology contains explanations and interpretations of the social reality that preserve the status quo. Utopia transforms status quo by putting forward an alternative to the existing society. Utopias are future oriented and important to define the direction and energy for change. The French philosopher Paul Ricoeur (1986) nuanced the differences between the two concepts by arguing that ideology is an attempt to legitimize the power structures in the existing society, while utopia represents an attempt to replace power by something else. "Ideology is the legitimization of present authority while utopia is the challenge to this authority" (Ricoeur 1986, p. xxi).

The tension between ideology and utopia can be described as a dialectic process with two poles, one referring to actuality and the other referring to potentiality. In reality, utopian and ideological elements are often interwoven. Without utopia, ideology becomes static, and without ideology, utopia becomes an illusion. To illustrate the distinction between ideology and utopia, ideology is defined as a picture, which describes what exists, while utopia is an imagination redescribing what exists. To understand our times, the established ideologies must be stepped outside, while a utopian position is developed from where it can be observed. Utopia provides a critique of the current ideology by providing an alternative.

Ideologies relate mainly to dominant groups and serve to comfort their collective ego. Ideologies reflect the general way in which groups determine what differentiates them from other groups and establish an identity that satisfies the interests of the entire group. In addition, ideology legitimizes authority, and it allows the authorities to convince the public that its regulations are necessary.

Utopias are naturally supported by minority groups and, therefore, more commonly by the lower strata of the society. The Brazilian pedagogue Paulo Freire argued that the elite preserves the existing ideology at all costs because "they cannot permit any basic changes which would affect their control over decision-making" (Freire 2017, p. 12). From Ricoeur's (1986) perspective, there are two explanations why the ideological mentality assumes the impossibility of change. Firstly, an ideology accepts the system of justification, explaining the non-congruence. Secondly, the non-congruence has been concealed by factors ranging from unconscious deception to conscious lie. Ricoeur concludes by observing that the correlation between ideology and utopia forms a circle, a practical circle: "the two terms are themselves practical and not theoretical concepts" (Ricoeur 1986, p. xxii). This means that utopia in one period of time could be the ideology in a later period of time. In order to make the circle a spiral it is of the greatest importance to imagine new utopias as ongoing processes. A spiral in the dialectic of ideology and utopia would occur if "the utopia of a given society challenged current ideologies at least to the point where they could be reflected on and compared to alternatives" (Steeves 2000, p. 226). The death of utopia would be the death of society. "A society without utopia would be dead, because it would no longer have any project, any prospective goals" (Ricoeur 1986, p. xxi). This is in harmony with the English philosopher Alfred North Whitehead's assertion that a society without adventure is in full decay and the conjunction of ideology and utopia typifies the social imagination. Imagination is constitutive of social reality itself (Whitehead 1967).

Green and Ecological Economics

To describe and explain ecological economics, it is relevant to contrast it to green economics. As a starting point, we accept that both perspectives are based upon a willingness to solve the environmental and social problems, such as climate change,

Table 1 Greening the economy (change in protective belt)

Hard core	Protective belt
Growth	Green growth
Competition	Business ethics/CSR
Strategy	Green strategy

the increased gap between rich and poor, financial scandals, and war and terrorism. Using Lakatos' distinction between hard core and protective belt, green economists merely make adjustments to the protective belt of mainstream economics without questioning the hard core. Green economics represent efforts to reduce the negative symptoms of the existing economic ideology by using different instruments from the market's economic toolbox. Representatives of green economics accept that in a short-term perspective, increased growth has the highest priority in order to solve the current crises in economics, ecology, and society. Its goal is to reduce the damaging effects of established economic theory and practice without making any hard-core changes. Because the methods do not depart from the established hard core (ideology), green economics helps to put up the "business as usual" sign. As long as the argumentation for changes in the protective belt does not challenge the principles in the hard core, the mere greening of business is acceptable to the elite (Table 1).

To maintain competition as one of the main postulates in the dominating economy's hard core, business ethics and CSR (corporate social responsibility) are introduced as a way to reduce the more unwelcome and criticized consequences of aggressive competition. For example, "the green shift" is put forward as a measure to deal with the serious environmental and social challenges created by capitalism. Green products, green growth, and green economics are concepts used (and abused) on an ever-growing number of occasions. It seems like everything can be environmental friendly and socially responsible if we only choose the right concepts. Green economists often argue that environmental responsibility is closely coupled to green growth because we need more resources to handle the most serious economic and social challenges. In addition, they argue that greening the economy is an efficient marketing tool to develop a reputation based on ecological and societal responsibility. So a green strategy is an effective instrument to increase a company's competitive advantage and its profits. In a long-term perspective, "greens" argue that growth should be as green as possible. Instead of exploring the problems, there is a tendency to hide the problems behind green formulations, permitting everything to go on as usual. The focus is on reducing symptoms without any criticism of the mechanistic system. To cope with the many interrelated problems, we need far more than mere "green-painting" – what we need is an organic understanding of reality.

The dominating ideology has brought us into a state characterized by organized irresponsibility, where individually and collectively, we have contributed to creating problems that have been proved very difficult to understand and solve. One part of the problem is that the focus is on objects not on relations. As a result of not being aware of society as integrated networks, we are about to lose our common cultural context for understanding and meaning. The Norwegian philosopher Viggo Rossvær comments on the situation in the following way: “The modern society is in reality caught in an inhuman specialization which have made any individual into a small wheel in the huge community machinery; on the mental level, it has led to an alienating decomposition of individuals between empathy and thinking, feeling and moral, body and spirit” (Rossvær 2012, translated from Norwegian).

Ecological economics differs from green economics by asking critical questions of the hard core of the dominating economy. Ecological economists argue that it is necessary to make changes on the ontological and systemic levels to understand and solve serious problems, and by implementing solutions based on green economics, we are trapped within the same system that caused the problems. The Canadian economist William Rees reasoned that “green economy has scarcely helped to solve the major environmental and social problems; instead green economy has contributed to hiding the real problems behind a veil of green words and concepts” (Jakobsen 2017, p. 163).

We have to go beyond the green shift and ask critical systemic questions of the hard core. The consequence of reassessing the hard core of mainstream economics is that the existing system is threatened and we have to substitute it. Whereas green economics focuses on reducing negative symptoms to save the existing economic paradigm, ecological economics claims that the hard core of the existing economic paradigm causes the problems and has to be replaced.

First of all, growth has no part in the solution; on the contrary, growth is the core problem. Ecological economists such as Herman Daly and John B. Cobb Jr. (1994) argue that it is necessary to implement a degrowth economy. In a long-term perspective, the focus ought to turn from quantitative growth to qualitative development. Secondly, ecological economists argue that competition must be exchanged for cooperation in order to handle the serious anomalies. Thirdly, strategic planning must have a partnership approach if solutions for the common good are to be found (Table 2).

It is clear that ecological economics offers a significant alternative to the hard core of the dominating economy. Ecological economics is not focused primarily on finding new answers to the old questions by making changes in the protective belt. Instead, ecological economics focuses on critical questions concerning the hard core. Only by asking these critical questions it is possible to uncover new perspectives and develop a more life enhancing economic theory and practice. Ecological economics asks how we can develop an economy and a society that are based on peaceful relations between humans and nature, between humans, and within the individual.

A Sketch of an Ecological Economic Utopia

In the international arena, the German psychologist Evelin Lindner (2011), the German economist Otto Scharmer (2009), and the Austrian/American physicist Fritjof Capra (1996) all agree that the current crises cannot be solved within the existing paradigm. According to Lindner (2011), we live in a time of great contrasts. While the problems are becoming more and more dramatic, there is, at the same

Table 2 Ecological economics (change in hard core)

Hard core (main stream economics)	Hard core (ecological economics)
Growth (quantitative)	Development (qualitative)
Competition	Cooperation
Strategic planning	Partnership approach

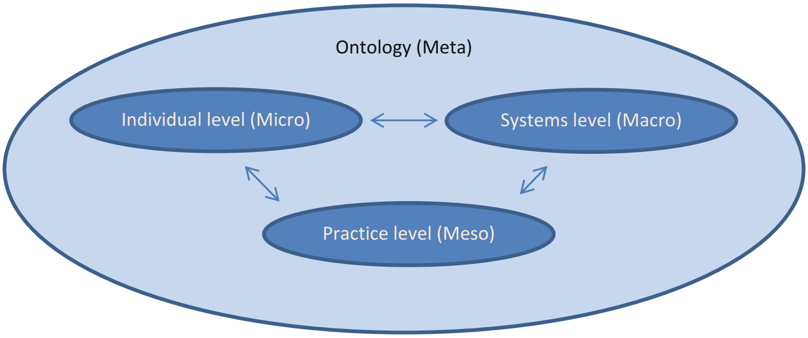

Fig. 1 Integrative business model

time, a growing attention on the search to find more realistic models that just might open up the possibility of new solutions. Scharmer (2009) believes that crises linked to finance, food, water shortage, resource scarcity, climate chaos, mass migration, terrorism, and financial oligarchies show that we have entered a time of dramatic change where the possibilities of a profound personal, societal, and global renewal have never been more real. Capra and Luisi point out that there are solutions to the great challenges of our time, and some of them are very simple, but they require “a radical shift in our perceptions, our thinking, our values” (2014, p. iii), and many clear indications are available to show that fundamental change is about to happen. It is not just about changing the individual mindset, but it is also, increasingly, about deep structural changes. Capra and Luisi are optimistic and emphasize that the change process has already started. From these contributions, it can be concluded that the convergence of crises is a birth crisis that leads toward a utopian future (Fig. 1).

In order to encourage a far deeper change, any ecological economic research program (utopia) should include changes on different levels, meta (ontology), macro (system), meso (practice), and (micro) human consciousness.

Ontology (Meta)

On the ontological level, it is a question of change from a mechanical to an organic world view, and one fundamental consequence of this change is that economics immediately becomes subordinate to ecology. To adapt economics to the limits of

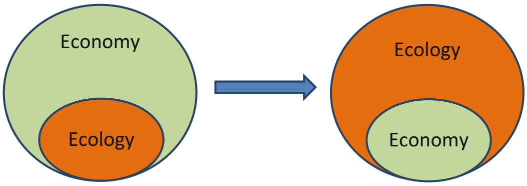

Fig. 2 Change from mechanic to organic worldview

ecosystems, organic knowledge and understanding, is essential. The ancient idea that natural science's role is to provide knowledge that gives man power over nature has to be replaced by an approach in which the goal is to learn from nature and develop knowledge that teaches us how we can best work with nature to fulfil human needs and improve quality of life. The implication of this reasoning is that economic activity is not an end in itself but rather a means to strengthen the life processes in nature and society. The only valid purpose of economics is as a servant of life processes in all kinds of social and ecological systems.

In an organic perspective, the global ecosystems and social systems are comprised of closely interacting and interdependent subsystems based upon dissipated structures. The earth itself and all its living and nonliving components are interrelated; the human being is a member of this integrated community and must find a proper role in it. Every system is connected to and depends on all the others in continually evolving processes. Ecological economics, as a heterodox tradition, "accepts the transformative power of human agency with emergent properties arising from a dynamic interconnected process of multi-layered social interactions" (Spash 2012, p. 44) (Fig. 2).

Efforts to facilitate a sustainable future are not covered well enough by the existing scientific tradition of objective disciplinary approaches. In order to appreciate the interconnections between nature and society, ecological economics is based on a transdisciplinary approach. To meet the sustainability challenges, locally, nationally, and globally, we need integrated knowledge based on transdisciplinary research in which a disciplinary cross-fertilization makes the borders between the different sciences more transparent and practice and culture become integrated.

The English/American economist and peace researcher Kenneth Boulding, one of the most influential contributors to ecological economics, once said; "the pursuit of any problem of economics draws me into some other science before I can catch it" (Kerman 1974, p. 6). This is the search for connections between different fields of knowledge, for the threads of theory that would tie together nature, society and economy on the system, business and individual levels. Today, the transdisciplinary approach is being rediscovered, unveiled, and utilized rapidly to meet the unprecedented challenges of our troubled world. In its search to understand life as life, the transdisciplinary field of ecological economics examines the relationships between ecosystems, social systems, and economic systems in the broadest sense. Because ecological economics develops theory and practice that initiates constructive interplay with the surrounding cultural and natural conditions, the practical solutions will be different depending on time and place. Future solutions will not be exactly similar to suggested solutions today, and solutions will differ depending on geographical and cultural circumstances.

Systems Level (Macro)

On the systemic level, the hard-core principle of the dominating economy which claims that the market is made up of autonomous competing actors is replaced by a view of the market as an integrated network of interdependent cooperating actors. The focus shifts away from objects toward relationships. Since the individual has to respect broad public values, a transition is required away from the egocentric economic man toward the "I-We" understanding. Although local production for local markets is the ideal, it is of course necessary to open up cooperation through international networks as well.

Ecological economics, inspired by natural growth curves, (increasing rapidly at first then stabilizing), makes it possible to initiate the continuous development of quality of life without increasing the consumption of natural resources. The focus on qualitative development points to major changes in business; many companies and, indeed, whole industries will disappear, and new ones, more in line with ecological principles and humanist values, will take over.

Practice Level (Meso)

On the practice level, strategic planning is replaced by a partnership approach founded on dialogue- and network-based cooperation. Free competition on the world market ensures that small producers in poor countries are the losers compared to powerful multinational corporations. Poor countries are forced to accept free trade in order to gain entry to the markets, and the result is that big companies gain increasingly larger proportions of the global markets. The consequence is that poor countries have to receive aid for the system to work. This results in a vicious cycle where quality of life deteriorates both among those who have too little and among those who have too high consumption. Today, the resources are distributed in such a way that the gap between rich and poor constantly increases.

In network-based cooperation, organizations and enterprises have a close connection to their local culture, and, by integrating in dynamic processes, culture becomes the source of inspiration and the glue that connects. The network includes different sectors, i.e., businesses, practitioners, artisans, and research and education institutions. A network of creative actors has better access to information when it comes to making oneself visible both locally and internationally. Development of mutual principles for peaceful coexistence between actors locally and globally helps actors to be free to develop their own solutions based on their own situational and cultural knowledge.

To reach the common good as a result of cooperation based on mutual respect and trust, it is of great importance to make room for regular reflective meetings and create

Table 3 Ideology and utopia

	Ideology	Utopia
Ontology	Mechanistic	Organic
System	Competition	Cooperation
Practice	Strategy	Partnership approach
Individual	Economic man	Ecological man

arenas for communicative action based on collaboration. When the hierarchical structures are flattened by a combination of bottom-up and top-down processes, developing an economy integrated with nature and culture is of vital importance. Ecological economics indicates that businesses have to include ecological and social values in the decision-making process. Humans are part of the ecosystem, and the ecosystem is a part of humans. By including social values, business helps to create (optimal) conditions for quality of life. As it is not possible to transform the different values into a monetary scale, policymakers have to be able to handle the three different values simultaneously (Table 3).

Individual Level (Micro)

On the individual level, ecological economics has significant implications for the definition of the economic actor. Instead of focusing solely on increasing profits and utility (the economic man), the economic actors put more weight on the natural and social implications of production processes as well as products (the ecological man). A practical consequence is that market communication must include information about the working conditions for the workers in the entire production process and the extent to which the production process meets environmental requirements, requirements for animal welfare, and health implications for all involved, the consumer included. As regards ethics, a good and moral life, according to virtue ethics, is a life responsive to the demands of the world. Central concepts are good judgment, justice, courage, and self-control. To possess a virtue is to be a person with a given complex mindset. "The most significant aspect of this mind-set is the wholehearted acceptance of a certain range of considerations as reasons for action" (Stanford Encyclopedia of Philosophy 2012). Virtue ethics focuses on the moral person's character characterized by the ability to be aware of, to identify and to handle, moral dilemmas in real-life situations.

Concluding Remarks

In this chapter, it has been argued that the solution to the major challenges confronting the modern society requires fundamental changes in economic theory and practice. Without energizing tension between ideology and utopia and the existence of some kind of shock waves, the deep change process will not come and will not be initiated. The prerequisite is a closer focus on utopian narratives and a development in consciousness giving us the ability to be aware of the bundle of shocks going on worldwide today. To prevent the change process from taking the wrong direction, it is important to develop visions (utopias) that are clear enough to serve as beacons.

To generate the necessary energy, it is of the greatest importance to develop a realistic alternative to the existing ideology, an alternative that is diverse enough to create the tension. What we need today is a focus on utopian narratives contrasting with the dominating ideology. The aim is to energize the process that strengthens the vitality of self-contained and autonomous communities by establishing collaborative networking venues for dialogue, creativity, learning, and development of common solutions. Aristotle's harmonious moderation within nature's limits as the recipe for the good life fits in well here.

The implication of this reasoning is that economic activity is not an end in itself but a means to strengthen the life processes in nature and society. "The only valid purpose of economy is two serve life processes in all kinds of social and ecological systems" (Capra 2017). To strengthen life processes, such concepts as reputation building, "greenwashing," and green economics must give way to an economy based on ecological knowledge and humanistic values.

A contrast has been drawn between two different stories (narratives) of the future. Even if both are based on a resolute intention to solve the serious environmental and social problems escalating in the world today, the major challenges in economics, environment, and society require solutions that go above and beyond the existing ideology.

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Aesthetics of the Anthropocene: And How They Can Challenge Business Ethics

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Asmund Havsteen-Mikkelsen

Contents

Abstract

This article explores the question of ethical legitimacy in light of the Anthropocene as a new age in which humans have become geological agents and thus responsible for the ecological degradation of the Earth and the current climate crisis – threatening not only humans but also all other nonhuman life-forms. For companies involved in pollution or the extraction and exploitation of natural resources – whether in the form of farmed animal products, plantations, or minerals – these activities pose an especially huge challenge to business legitimacy. Contemporary art is proposed as a way of producing awareness of the Anthropocene, as well as examining its impact and ethical consequences through making visible the hidden costs of a Western lifestyle and opening up critical thinking and imagination about other life-forms inhabiting the Earth. Various trajectories of such contemporary art production are mapped out. Lastly, some thoughts on a "community of contribution" are presented as a new way to measure ethical actions by individuals and businesses in the Anthropocene.

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Keywords

Anthropocene · Fossil fuels · Climate crisis · Contemporary art · Aesthetics · Generic singularity · Non-philosophy · Western welfare self · Community of contribution

Earth seen through the windows of the international space station on google.maps

Introduction: Business Legitimacy in the Anthropocene

Within the space of just a few years, the climate crisis has become the central question in the public sphere due to the increasing changes in weather patterns caused by global warming. Extreme manifestations of hurricanes, droughts, flooding, melting ice caps, rising sea levels, and forest fires have become evidence that "the Earth currently operates in a state without previous analogy" (Bonneuil and Fressouz 2013). What the scientific community and the UN International Committee for climate change (IPCC) have been warning about for decades is now a reality worldwide. One concept has proved able to capture this sense that the accumulated burning of fossil fuels since the eighteenth century is the cause of the climate crisis: the Anthropocene. This designation of a new geological epoch will be explored in this chapter from the perspective of contemporary art and how an aesthetics of the Anthropocene can challenge business ethics.

The term "Anthropocene" places on humans the responsibility for what is happening to the Earth, its ecosystems, and climate. It is humans who have burnt carbon stored in the depths of the Earth to the benefit of human civilization while making the planet uninhabitable for the majority of other species that have evolved alongside us. We have "destroyed nature to the point of hijacking the Earth system into a new geological epoch" (Bonneuil and Fressouz 2013) – a hijacking involving not only nonhuman nature in all its multiplicity but also future generations of humans who will be inheriting an Earth with destroyed ecosystems.

The ethical response to this catastrophe is an attempt to reverse or bring to a halt the many destructive processes unleashed by human activity in order to protect what is still left and allow for the re-emergence of wild nature. Such actions would represent atonement for past and present crimes against nature, admitting responsibility for having endangered not only human life but the conditions for life of a wide range of other species, and thereby making good the damage done.

To be aware of the Anthropocene – and to take an ethical position with regard to it – means that modes of production requiring natural resources to produce objects or services that can circulate on the free market are no longer legitimate. The fundamental problem is that capitalism needs nature but nature does not need capitalism. In the Anthropocene this becomes an aporia in business legitimacy, depending on how many natural resources are needed for a product. Raising animal livestock (high impact on environment and suffering of sentient beings), to planned obsoleteness (waste of materials and energy), and extraction of rare Earth minerals (high degree of pollution) to the excessive burning of fossil fuels (increasing carbon dioxide to the atmosphere) are activities that are no longer ethically legitimate because they are adding to the problem, not attempting to solve it.

An extreme example of ethically illegitimate businesses is provided by those companies who actively engage in the destruction of the most fragile, biodiverse, and vital ecosystems on the planet: the tropical rainforests of Amazonas and Indonesia. Here, deforestation for the sake of growing soya, maize, coffee, or palm oil plantations means that not only are thousands of species going extinct through loss of natural habitats but the planetary benefits of the rainforests (such as carbon capture and production of oxygen) are also lost. The actions of these businesses are not ethically legitimate, because the destruction of the rainforest impacts on the natural habitat of millions of species and the stabilization of the planetary climate.

These commercial activities are all situated along an ethical spectrum where their relative legitimacy depends on how they use (or reuse) natural resources and interact with nonhuman nature. And once it is realized that the USA, China, and Europe are feeding their livestock (cattle, pigs, and poultry) on soya beans originating from previous rainforest land in Brazil and that ice cream, candy, cookies, and chocolate snacks are dependent on the widespread use of palm oil from plantations in Indonesia, it becomes obvious how the patterns of the Western industrial-agricultural-food complex are interconnected with the destruction of biodiversity and thus become ethically problematic.

The aim of this chapter is to explore the Anthropocene as a concept and as a horizon for the production of contemporary art. It will be shown that the concern of such contemporary art is to raise awareness of the Anthropocene and its impact on nature in all its dimensions. An aesthetics of the Anthropocene comes with an ethic: to allow wild nature to re-emerge and to explore new means of coexistence with nonhuman nature – in their both domesticated and wild state of being. This ethic poses a challenge to business legitimacy, because it questions the traditional view of human superiority and domination of nature as a resource to be exploited and manipulated for human needs.

The Anthropocene: A Semantic Virus or a New Responsibility?

Perhaps google.maps most clearly illustrates the meaning of Anthropocene: a new meta-awareness of global human collectivity as a geological agent. As a technology, google.maps allows its users to "spin" the planet, to zoom in and zoom out, and to go wherever they please. The stitched-together satellite images create a feeling of flying across the globe, a strange sense of being able to push the world according to our desires. Where there are blue lines or dots, the orange "streetview" man can be placed on roads to view images of the urbanized and agricultural world. Google.maps has no fixed viewpoints – users can watch the world from the position of an astronaut in space or a pedestrian walking on a buzzing New York street. They are both inside and outside a globe that at once presents itself as an infinite totality to explore and as a solitary blue marble hovering alone in a vast dark universe. The clear-cut division between nature and culture (the man-made world inside nature) collapses from within this technology, being both a global address book and a surveillance and cartographic tool. On google.maps, nature can no longer hide from the gaze or be in direct opposition to the user. Nature is still "out there," but not as an infinite wilderness. Google.maps makes this very clear: the "wild" has been limited to parks, with agriculture, extraction of resources, infrastructure, and urban activities encroaching upon it from all sides. Nature is still there, but as the effectuation of human systems "with natural ecosystems embedded within them" (Bonneuil and Fressouz 2013).

Geological ages have been defined in terms of significant changes in the atmosphere, surface temperatures, or mass extinctions. The time span between these ages is thousands to millions of years (e.g., the Miocene, Pliocene, Pleistocene, and Holocene just to mention the four periods in the 23.8 million years leading up to the Anthropocene). With the Anthropocene, we are referring to the current geological age – that of the human intervention and transformation of all eco- and Earth system trends since 1784. Within the discourse of the Anthropocene, there are disputes about where to place the starting point of the period when humans became geological agents. Some believe it was the agricultural revolution 11,000 years ago (the beginning of deforestation, rice cultivation, and stock raising), others that it was the imperial-colonial interconnection of the globe in the sixteenth century, and there are those who see the level of nuclear radioactivity from the testing of A-bombs in 1945 as the beginning. There is a strong argument, however, that the starting point was the burning of fossil fuels that began with James Watts's new patent for the steam engine in 1784. It allowed coal and later oil to become the prime movers behind the industrial revolution (Malm 2016). In this light, the Anthropocene can be seen as a new way of conceptualizing how humans enabled a specific transformation into modernity through fossil fuels and industrialization.

As a term, the "Anthropocene" is credited to atmospheric chemist and Nobel Prize winner Paul J. Crutzen, who at an international conference for Earth scientists in 2000, and in a scientific paper published in *Nature* in 2002, argued for the Anthropocene as a new geological age to signal: "that mankind had become a force of telluric amplitude" (Bonneuil and Fressouz 2013). That Crutzen is a scientist of Earth's atmosphere is important to the argument that we are currently living through a new geological age: the burning of fossil fuels (first coal and later oil and gas) has increased the amount of carbon dioxide in the air from 280 mmp (pre-industrial age) to 410 mmp (current concentration). As a consequence, the Earth has seen an increase of 1.5 °C in median temperature since 1784, leading to global warming or what is generally referred to as the climate crisis. As such, Crutzen's definition follows one of the accepted ways of defining geological ages: significant changes in the atmosphere.

After a decade of use within the scientific world, the term Anthropocene began to spread as a "semantic virus" to other cultural spheres. One of the first cultural institutions to use the term was HKW (Haus der Kulturen der Welt) in Berlin, which hosted a number of lectures and exhibitions around the Anthropocene and later published the magnum opus *Grain Vapor Ray*, consisting of theoretical and artistic material supporting the Anthropocene as a concept. Now, it is widely used in the humanities and in the broad general public but is being supplemented by other competing concepts: the Capitalocene (the effect of global capitalism) and Plantationocene (the effect of agriculture, colonialism, and capitalism). More recently, Donna Haraway has proposed the concept of the Chthulucene to designate an age in which "knotted relations" between humans and nonhuman nature can emerge. The inventor of the Gaia theory, James Lovelock, contributed with a new concept recently, stating that the future should be called the Novacene, in which super AI will solve all the problems of the climate crisis.

All these different concepts point toward various approaches and possibilities for critical assessments of the most pertinent challenges of our age. Yet the Anthropocene has the advantage of ascribing both agency and responsibility to humans. The Anthropocene acknowledges that humans, in the year 2020, are in charge. No one can escape their responsibility – even though this responsibility and the margins of actions for each individual, business, or nation-state are unevenly distributed.

The Anthropocene must be seen in relation to the generalized framework of the industrial revolution, which made it possible for the digital revolution to emerge in the twentieth century. However, the digital age did not surpass the industrial age: the world is still shaped by the aftereffects of the industrial revolution, even though most Westerners have immersed themselves in the digital realm of social media platforms, smartphones, laptops, and algorithms that govern newsfeeds and consumer habits and help find the easiest way through rush hour traffic. This reality is taken for granted because it has established itself as an infrastructure for the lives of humans, who tend to forget how the industrial revolution transformed the world.

The burning of fossil fuels, together with the scientific revolution, increased yields from crops (through fertilizers and pesticides), improved health care through vaccines and antibiotics, and enabled humankind within just 220 years to increase its population (from one billion in 1800 to 7.8 billion in 2019) and to increase its energy consumption by a factor of 40. This exponential and partly uncontrollable increase in the human population (and its energy consumption) has led to a shift in the balance between land-living vertebrates and domesticated animals and humans. The latter now make up 96% (32% humans, 64% cattle, pigs, sheep, and poultry), while the remaining 4% consists of approximately 32,000 species living in the wild. This imbalance can be seen in the fact that 84% of the ice-free land surface is under direct human influence. Thus there is the looming ecological crisis with regard to biodiversity and the sixth mass extinction (currently one million species are in severe danger of going extinct, according to the UN). In the words of philosopher Peter Sloterdijk, the Anthropocene: "Conveys a message of almost unparalleled moral and political urgency. Put explicitly the message reads: humankind has become responsible for inhabiting and managing the Earth as a whole" (Sloterdijk 2014). The following is an attempt to delineate the contours of an aesthetics of the Anthropocene and how it critically challenges business legitimacy. It is written from the position of being both a contemporary artist and a non-philosopher, terms that will be explained below.

Aesthetics, Contemporary Art, Non-philosophy

To propose an aesthetic of the Anthropocene is a complex operation. If aesthetics in its modern form is the philosophical attempt to define rules and principles for not only the creation but also the reception of artistic objects (understood as works of art presented, circulated, and archived in art institutions), an aesthetics of the Anthropocene would concern itself with the question: how does the artwork raise our awareness of the Anthropocene? Such an awareness points toward a range of critical questions in relation to the impact of human activity upon wild nature, our relation to nonhuman nature, our ethical responsibility for present and future generations, and how to inhabit the world in a different way. These critical aspects challenge business legitimacy, questioning the current hegemonic forces of neoliberal capitalism, humanism, and welfare-state ideology powered by fossil fuels – a totality of social systems through which businesses have traditionally sought (and been granted) legitimacy.

Aesthetics belongs to a philosophical discipline that began with Alexander Baumgarten in the eighteenth century (drawing upon the Greek understanding of "aisthesis" as sensation and seen as a way of knowing) and received its proper place in the critical transcendental thinking of Immanuel Kant (as the autonomous sphere mediating between the sensuous and the intellectual). After Kant, a number of philosophers of German idealism in the nineteenth century – especially Schiller and Hegel but also later Schopenhauer and Nietzsche – gave considerable attention to defining principles for art and the role it played in human cognition and education and as a life-enhancing force. During the twentieth century, thinking on art followed the division between continental and analytic philosophy and between an idealistic-inspired tradition (art as a specific access to reality, a way of being, or a heterogenic liminal space) and an institutional theory of art (partly inspired by the late Wittgenstein and the pragmatic understanding of language games). The word "aesthetics" thus comes with a whole range of understandings and preconceptions. Depending on who is speaking and who is listening, it means very different things. Some contemporary artists abstain from the use of "aesthetics" regarding their own work, because it is associated with a bourgeois ideology of art as autonomous, dependent on a genius for its creation and presupposing an elite of good taste for its judgment.

In the following approach to an aesthetics of the Anthropocene, the term will be used in a way that combines insights from both idealism and institutional theory, because it refers here to both the aesthetic dimension of the Anthropocene as a geological age (how it manifests itself as a perceptual reality, as something to be seen, felt, heard, and experienced by an individual in a phenomenological fashion) and as a condition in which to produce contemporary art (the Anthropocene as a field of exploration and ethical engagement on behalf of nonhuman nature within an institutional context). Thus, the concept of an aesthetic of the Anthropocene means a production of contemporary art that works from within an awareness of the Anthropocene with the aim of raising critical questions to the impact of the Anthropocene.

What is contemporary art as a phenomenon and institutional reality? First of all, contemporary art designates a plurality of artistic practices manifesting themselves all over the world. It can be seen as a form of "nonimalism in action": it does not have a fixed essence (in terms of the objects, experiences, or events to which it refers) but is constituted as a linguistic game by its users and those institutional frameworks that support the game of art. This philosophical condition has, since the late twentieth century and well into the twenty-first, been called "the death of art," because contemporary art only has validity as long as somebody designates "whatever" as art. This can be expressed in the following paradox: contemporary art does not exist; only the specific instances of artworks proposed by artists to institutions exist. The contemporary artwork derive its existence not from participating in an essence but from being proposed with the assumption: *this could be art*. This act of proposing becomes central to contemporary art, because it demonstrates the radical "emptiness or blankness of the aesthetic itself" (Osborne 2016). This is the core insight behind the institutional theory of art that dominates the contemporary art world today, because it allows for the greatest freedom for art and is the most stable in a systemic sense: it can allow the most critical art project to become real and still remain intact as a social system.

Here, there is at once a great freedom (everything can be designated as art) but at the same time a constraint: in order for a contemporary artwork to be real, it needs an institution, as in a community of users (most commonly, the art world) who play the game of contemporary art. In order to become a contemporary artist, the person in question must participate in the contemporary art world. Artists need other people to play the game with them: proposing, viewing, and responding to that which is perceived as contemporary artwork. Anything can in principle be proposed as an artwork: a shop, a dinner, a breath, a waterfall, or a burial site, not just traditional media such as painting, sculpture, or drawing. Within the already established discourse of the contemporary art world, a myriad of art projects have already taken place, expanding and challenging any concept of a fixed essence of what contemporary art should or could be. This would of course also hold for any ideas about contemporary art that we could ascribe to an aesthetics of the Anthropocene.

These cannot be defined by any one medium or way of doing art but must be seen as propositions made by the contemporary artist.

What does it mean to be a contemporary artist (the person who proposes works of art adhering to an aesthetics of the Anthropocene)? It means to become a *generic singularity* who thinks as a *non-philosopher*. Here, an inspiration from the idealistic tradition (phenomenology and existentialism) is at work, in an attempt to synthesize insights from both continental and analytic philosophy in the proposal for an aesthetics of the Anthropocene.

First, the contemporary artist exists, like all other humans, through the metaphysical knot defined by the dimensions of the body (own being), social (given being), and temporality (final being) (Havsteen-Mikkelsen 2014). These are transcendental aspects of being human and cannot be escaped. Each human is forced into having a relationship to them but can decide what the content of these dimensions should be. It is possible to exist and live a life in a myriad of ways. Yet a number of social categories cluster around contemporary artists, such as age, gender, nationality, interests, and social position, used as labels by artists and the art world to describe them. This is the generic aspect of being a human (e.g., being white, male, a Dane, educated, and a citizen in a democracy but also a neighbor, father, husband, painter, intellectual, etc.). Against this generalized background, a singularity stands out: the name that accompanies an artist's work, together with the interests and artistic output that give the artist a certain identity within the contemporary art world. By committing to doing art, as in proposing, showing, and circulating artwork, the artist has become known to a wider public. She/he has become a singularity upon a background of the generic, because she/he has actively transformed his/her relationship to the body, social, and time. She/he has allowed a certain talent of the body to grow, has engaged in a social context, and has attempted to respond to a certain point in time. She/he has become a generic singularity through relating to the dimensions of own, given, and final being.

But how does a generic singularity in the form of a contemporary artist think? This can best be described as non-philosophy in action, because contemporary artists think not in an academic sense of following strict rules of argumentation and verification (Havsteen-Mikkelsen 2015). They think from their embedded position in life, which means that they *invest* their own way of being into the thoughts they think. French phenomenologist Maurice Merleau-Ponty – from whom this understanding of non-philosophy is derived – expresses most clearly what non-philosophy is: "No human being can receive a heritage of ideas without transforming them through the sole act of knowing them; without injecting into them his own, always different, way of being" (Merleau-Ponty 1960). Non-philosophy is the act of transformation: to inject into a mode of thinking a personal understanding. This happens because contemporary artists allow the experiences of the world to change them, and they search for ideas and theories that resonate with them but take from them only what they can use. And this is in a very literal fashion. In the words of Witold Gombrowicz: "Theory is no problem for the artist. Theory only interests him in as much as he can make it run in his blood" (Gombrowicz 2007). To think as a non-philosopher is to displace official philosophy and to distort or even misunderstand a theory. Once it enters the mind of the contemporary artist, it is dissolved and allowed to flow in new directions. This is one of the great forces of contemporary art: the audience never knows exactly what is going to happen.

Through the artworks proposed and realized and the positions taken and developed, an artistic project arises as that "content" that is produced but also transformed through the artist. The artistic project can be seen as a system of competing interests through which the artist comes to know something about the world but also takes a position in regard to the knowledge obtained through the research. The artistic project is non-philosophical in the sense that it is private, non-institutional knowledge that is embedded into the existence of the artist: a double mode of taking a position and developing a knowledge of how to produce art in relation to a context.

After these reflections regarding the use of the aesthetic, contemporary art and the thinking of the contemporary artist as that of non-philosophy, it is time to clarify what an awareness of the Anthropocene means and how it can influence an aesthetics of the Anthropocene within the space of contemporary art.

Awareness of the Anthropocene

How can an awareness of the Anthropocene influence the making of contemporary art? The nature of this awareness is crucial in understanding the artistic positions that engage with the aesthetics of the Anthropocene as a concern for contemporary art practices. In the following, some indications of what this awareness entails will be given, as well as how it manifests itself and changes the self-perception of what it means to be human.

First of all, to become aware of the Anthropocene is to understand the Earth system trends of the last 70 years that surround a Western human existence as a generalized framework. It is to see those aspects of an individual life that are conditioned by social systems governing the production of that reality. The generalized form of what enables "me to become me" can be designated as a "Western welfare self" – referring to a mode of being produced by the Western welfare states emerging after WWII in the northern hemisphere, especially the USA, Europe, and Japan. The Western welfare self is a variance of being, a self that is based on a lifestyle of material affluence depending on a high carbon footprint (approx. 14,5 t carbon dioxide per Dane). It is a lifestyle protected and supported by the infrastructure of the welfare state in a broad sense (transportation, health care, education, leisure, food, and the availability of goods transported to the consumer from all over the world).

It is important to understand that the Western welfare self is a conceptual person, as defined by philosophers Gilles Deleuze and Félix Guattari in *What is Philosophy?* (Deleuze and Guattari 1991). It is a person who exists in a conceptual space in order to trace out dangers and possibilities, a way of creating existential movements within a space of thinking. It does not refer to a specific individual but to a life-form in which a human life becomes possible. A Western welfare self refers to a human existence that profits from the acceleration of energy consumption that took place after 1945. This acceleration is part of several exponential growth tendencies designated as the "Great Acceleration" of all Earth system trends: in primary energy use, urban population, transportation, telecommunication, international tourism, public infrastructure, and fertilizer consumption just to name a few (Bonneuil and Fressouz 2013).

Thus, to become aware of the Anthropocene means to no longer see the world as a manifestation of structured phenomena constituted through a transcendental subject but as the intertwining of both historical and systemic forces working simultaneously upon the perceptual organism of the body. Not only are all living people now dependent on these forces but also the physical urbanized worlds that we experience on a phenomenological level. Walking through the streets of Copenhagen, for example, there is evidence of the Anthropocene everywhere: the cars (in which fossil fuels explode in a combustion engine), the asphalt pavement (consisting of residue from petrochemical diffusion that is hundreds of million years old), the facades of the buildings (different historical ages intertwined), the people (a global mix of various ethnicities), and all the different shops (often presenting objects produced in Asia and transported with the help of fossil fuels).

Understanding what the Anthropocene means (as the transformation of the world through the burning of fossil fuels) alters the phenomenological mode of consciousness. The actions that a Western individual takes happen in a man-made environment that was produced through the consumption of energy – an energy whose polluting effects have accumulated in the atmosphere (leading to global warming) and the oceans (leading to ocean acidification).

The awareness of living in the Anthropocene is not the same as the awareness of living in postmodernity or a society of singularities. It is to be aware of living in a new geological age based on fossil fuels as the prime mover that effectuates a certain way of being modern (whether this modernity is socialist, democratic, liberal, or communist, it is still within the Anthropocene). Once a consciousness begins to see the effects of fossil fuels as conditioning the "givens" of its life world, it will see the Anthropocene everywhere as a force permeating all dimensions of Western life worlds. The Anthropocene is visible as a phenomenological experience.

To see oneself as an individual existence through the conceptual framework of the Anthropocene is to establish a double perspective: being positioned in the world right now at this point in life and in this specific context and yet simultaneously understanding the systemic causes behind one's own existence. Systemic causes are the already established framework of infrastructure that support traffic, telecommunications, housing, health care, education, energy supply, and food products, such as the objects needed for bodily metabolism, which are intersection points for a huge number of logistic activities coordinating production and transportation of goods so that they are available to the consumer.

When one looks into the "eatable" products that appear in shops and later on our plates, one realizes the violence against nonhuman nature that has taken place in order to put them there: firstly, the clearing of land for monocultural fields to grow (no insects or weeds that could sustain other life-forms) and, secondly, the violence exerted on the farmed animals who yield the products that most Westerners eat: milk, butter, cheese, and meat products. The reproductive cycle of the cow has to be manipulated (and violently distorted) in order to enable lactosis, and the cow is later killed to obtain its beef or skin. The pig or chicken is often kept in inhumane conditions and then slaughtered to become meat. But, for the consumer of the end product, obtaining in this way of the energy needed for the metabolism of the body, this violence is externalized to the farmer or butcher. The urban consumer has no direct contact with the growing of crops and the sentient beings or with the actual slaughtering of the animal. This externalization has made such violence invisible in ordinary city-dwelling life. It goes unnoticed and is mostly taken for granted by the Western welfare self.

Awareness of the Anthropocene is an understanding of the global impact made on the planet by humans since 1784 through fossil fuels and of how life is conditioned by these systemic transformations that took place in all areas of human society, accelerating after 1945. Awareness means seeing the other side of these Earth system trends, which have led to the destruction of natural habitats for nonhuman animals and are driving the climatic changes toward global warming and extreme weather manifestations. It is this awareness that feeds into the position of the contemporary artist working and thinking (as a non-philosopher) within an aesthetics of the Anthropocene. The awareness leads to a new positioning of the artist against the ideology of unlimited economic growth and the exploitation of nonhuman nature by the industrial-agricultural-food complex.

Artistic Trajectories Within the Anthropocene

In order to understand the complexity of an aesthetic of the Anthropocene, some indications will be given of which directions such a contemporary art could take. At least eight possible trajectories seem obvious within the space of contemporary art (as that social system to which artists propose their artwork), and they are vectors that can overlap, mix, and become hybrids (several vectors can be present within one artwork). The following is not a hierarchical list of what is most important; rather, each trajectory can be seen as a way of accessing the Anthropocene and displaying a consciousness of what is possible to do from the embedded position of a contemporary artist.

(A) Working with the "skin of the Earth." Artworks in this category incorporate, deal with, or explore minerals, vegetation, trees, microbes, insects, or water – all materials that are located within 30 m below or above the crust of the Earth. This thin layer, from which we get most of our nutrients to survive, is a huge research field for contemporary artists. Here, the central issue is to shift a human-oriented perspective toward other forms of life that coexist with humans and were around long before humans entered the historical stage. This line of work attempts to reveal the "symbiotic real," as leading ecological theorist Timothy Morton calls it, by allowing it to unfold on its own terms and interacting in ways that are indifferent to humans (Morton 2017). An example is the public art project by

Matthew Ritchie, *This Garden at This Hour* (2014), a permanent installation in front of the US Food and Drug Administration, in White Oak, Maryland, that mixes sculptural and organic elements. The latter are various kinds of invasive vegetation that enter into a competition with each other. Thus, Ritchie has created a stage for an ever-changing landscape of interaction between life-forms taking place within human-made structures.

(B) Exploring the "knotted relations" between humans and nonhuman nature, also labeled "interspecies encounters." This line of work is especially inspired by the theoretical texts of Donna Haraway such as *Staying with the Trouble: Making Kin in the Chthulucene* (Haraway 2016). Here we find engagements with animals in order to investigate the evolutionary continuity between the human mind and other forms of consciousness. As art critic and curator, Nicolas Bourriaud has stated: "Contemporary art plays host to a productive entanglement between the human and nonhuman, a presentation of coactivity as such" (Bourriaud 2019). An example is the installation *Untilled,* 2011–12. *Living entities and inanimate things, made or not made* by Pierre Huyghe for Documenta 13 in Kassel, where he established a garden of exotic and intoxicating plants, containing a dog whose leg was spray-painted pink. Centrally located was a marble sculpture of a classical nude, but with the head transformed into a humming beehive.

(C) Explicitly attempting to make visible the negative or hidden impact of the mineral extraction process connected to the digital industries or of the industrial-agricultural-food complex upon the environment and land degradation through deforestation. Within a smartphone or a laptop, there are at least nine rare Earth minerals (such as cerium, neodymium, and lanthanum) that have been dug up and transported and refined somewhere in the world. This process leaves a devastating trail of pollution and toxic radioactive waste material. Artists Anu Ramdas and Christian Danielewitz, for example, traveled to a mineral waste dump in China and exposed film negatives that when developed showed the shimmering effects of radioactivity from thorium (a waste product from rare Earth mining). Within this trajectory, we also find artists working with the negative impact of the industrial-agricultural-food complex upon the environment and land degradation through deforestation. This kind of artistic activity works along the lines of "forensic architecture" – through the extensive use of research, maps, and scientific data presented to the public as evidence of the human transformation and destruction of geographical land sites. Google.maps is an often-used tool in these projects (Fig. 1).

(D) Making artwork concerned with the catastrophes immanent to the temporal horizon of the Anthropocene. This is art that concerns itself with dystopian visions of the future, with apocalyptic images of what is going to happen when the Earth becomes uninhabitable (Wallace-Wells 2019). Here, artists stage future scenarios where civilization is a faint memory, where humans are forced to live underground or exist in environments without any relation to the world as it is known. It is human civilization as a fossil record. Much recent film production explores these imaginings of a warmer world of forests fires, droughts, and floods, where large numbers

Fig. 1 Anu Ramdas and Christian Danielewitz. *Thorium 232/Weikuang VI, Against The Grain & Black Square.* (Photo by Hannes Wiedemann)

of climate immigrants cross territorial borders. An example is the recent contribution by Larissa Sansour to the Danish Pavilion at the Venice Biennale 2019: a dystopian film of people living in the aftermath of a catastrophe, telling stories from the time before the world broke apart.

(E) In this trajectory, we also find the criticism that humanity is not doing enough or not acting fast enough to prevent the estimated climatic tipping points from taking place. This causes a mental state of being: *climate depression*, designating the awareness (especially among climate scientists) that the estimated increase of temperature will unleash a wave of unprecedented extreme weather conditions with feedback loops that no one can predict. I myself have contributed with several works to this aspect, in both painting and installation. In 2018 I presented *Flooded Modernity*, a 1:1 scale mock-up of a corner of Le Corbusier's Villa Savoye from 1929, partly submerged on the shore of a Danish fjord – a portent of the impending climate crisis where floods, hurricanes, and extreme weather will become the new normal. (The project was originally conceived as a critical response to the meddling in democratic elections in the USA and the UK through the use of psychometric profiling and targeting specific voters by Cambridge Analytica. I now see it in a different light: that of the impending climate crisis. This rewriting of my own interpretation and intention behind my artwork illustrates a future task for art history: to rethink artistic projects of the twentieth century in light of the Anthropocene and the trajectories that are proposed here.) (Fig. 2)

Fig. 2 Asmund Havsteen-Mikkelsen, *Flooded Modernity*, Vejle Floating Art Festival, 2018

(F) Creating art projects pointing toward "deep time." These are works that attempt to undo the fixation on the present and instead view human history as part of a much larger temporal horizon extending back millions of years to a geological time when humans were not even present in the world. Developing deep-time sensibility can be seen as a critical stance against an accelerated time horizon, because it forces viewers to extend their imaginations to other ways of inhabiting the earth, to see beyond the phenomenological appearance of the present toward a different time. The sculpture *A Bullet from a Shooting Star* (2015) by Alex Chinneck is an example of this type of work. The artwork, an inverted 35-meter-tall electricity pylon, appearing as if shot from deep space and pointing like an arrow toward the ground that sustains us and from where we extract its material traces, made visible how the electricity running in the power lines is produced from energy millions of years old, thereby making visible the deep time behind the present.

(G) Finding practical ways to inhabit the Earth differently, by, for example, restoring biodiversity and original megafauna to current agricultural monocultural land. Here, artists present installations featuring permaculture or hybrids of high-tech solutions and nonhuman nature as a new way of envisioning coexistence. An example is the art project *Silicon Prairie* by Matthew Darmour-Paul, who "visualises a post-agricultural midwest through the transformation of key typologies" (Darmour-Paul 2019), or the Danish art-collective N55, who present their works as "manuals" for radically inhabiting the Earth in a new way, from a walking house or floating platform to an urban free-habitat system. People are at liberty to implement these open-source projects in their own lives.

(H) Creating art projects that through their installation and material quality (such as sound) aim to bring about a new state of being within the viewer, a "cosmic consciousness," an awareness of the Anthropocene, and a new way of engaging with nature. John Luther Adams, for example, aims through his compositions to create a music "grounded in space, stillness, and elemental forces" (Adams 2019). As he states about his own art: "A deep concern for the state of the earth and the future of humanity drives me to continue composing. I believe that music can serve as a sound model for the renewal of human consciousness and culture" (Adams 2019).

(I) Exploring "other imaginations" – all the marginalized modes of inhabiting the Earth outside the dominating Western discourse of the secular scientific-capitalistic ideology. Here, artworks give voice to the imagination of indigenous and native people living on the periphery or outside the blue lines of google.maps. By doing this, they open viewers' minds to existing modes where nature is lived with and not against, as something to be domesticated and exploited. This category also includes artworks that explore the spiritual worlds of primitive religions by mixing them with technology and science fiction from Western culture. Artist Jakob Kudsk Steensen, for example, in the video animation *Terratic Animism* (2017), presents a shamanistic figure who moves between postapocalyptic landscapes of ice, snow, and sci-fi spaces.

These are themes that designate the content of an aesthetics of the Anthropocene. They do not specify any material support or way of exhibiting contemporary art. They can manifest themselves through performance, video installation, painting, text, sound, photography, found objects, land art, sculpture, guided tours, participatory actions, etc. Yet they invite both artists and viewers to rethink their own positions and attitudes toward the Anthropocene as a man-made world with devastating consequences for nonhuman nature. This rethinking through repositioning is the non-philosophical aspect that takes place in contemporary art as a thought space.

Conclusion: Community of Contribution – An Ecotopia in the Anthropocene

How to confront the challenge of the Anthropocene as a fundamental crisis affecting humankind and nature in all its evolutionary multiplicity? Is it possible to stop or even reverse the socioeconomic trends that are leading to the destruction of the planet? A solution could be to establish an ethical ground where individuals and businesses can become legitimate: a framework that could measure the ethical value of their actions. The following is a proposal for such an ethical framework, deriving from a community of contribution.

A community of contribution is a concept for thinking a community, including nonhuman nature, based on generosity as the fundamental ontological principle. The manner in which a human or a business gives itself to the world is a means of becoming a phenomenon in the world. By giving ourselves differently in the way we consume, interact, and relate to nature, it could become possible for wild nature to re-emerge. This kind giving would be an act of withdrawal: to withdraw from actions that have a negative impact on nature. This entails first and foremost a rejection of the conventional products of the industrial-agricultural-food complex (products from farmed animals and plantations in former rainforest land) thereby reducing the impact on biodiverse nature. It is estimated by scientists that a global plantbased diet could reduce the land needed for agriculture by up to 75%, thereby freeing space for wildlife parks (Poore and Nemecek 2018).

A community of contribution is based not on a territory, a religion, or an ethnic belonging but on an ethos of generosity toward nonhuman nature. In order for businesses to become ethically legitimate within a community of contribution, they must consider all the aspects of their activities and see how they can stop or minimize their interference or destruction of nonhuman nature. Ethically legitimate actions aim at the reflourishing of wild nature. It is a regulative idea in a Kantian fashion: a *focus imaginarius*.

To ensure this movement away from destruction, a new concept of the state is needed: a sustainable state instead of a welfare state, based on a different relation to nonhuman nature and a reduction of carbon emissions through the taxation of polluting activities. A sustainable state will challenge the power of the industrial-agricultural-food complex and force it to reduce its negative impact on farmed animals, the environment, and the health of the population.

The concept of the community is not without problems or conflicts. The community has, since the industrial age, been seen as a redemptive phenomenon and returned in various forms in an attempt to overcome alienation within industrialized societies. From the communist utopia to the communitarian-gated community, it was experimented with in the twentieth century based on either ethnic or universal equality and religious or nationalistic essences and failed on a disastrous and monumental scale. All the pitfalls embedded into these varieties of the community must be avoided. By grounding the ontological principle of the community on generosity, it becomes possible to avoid the excluding and violent tendencies of the community.

A community of contribution is based on the capacity of humans to give: we have been given life, and we give ourselves over to life by manifesting our presence to the world. Our way of becoming visible is a manifestation of givenness, of how a self decides to become a visible phenomenon to itself, the other, and nonhuman nature. To participate in a community of contribution is thus an ethos for a life based on generosity toward that world that has given one life. Acting from within a community of contribution is a way of giving whereby a human exists differently in the world through the gift of minimizing its destructive impact on nonhuman nature.

A community of contribution is an ecotopia within the Anthropocene: an ecstatic way of existing, intensely communicating with nonhuman nature, and seeing human existence as part of deep time inside and outside of the body. It is a way of living as atonement for the destructive impact of the Anthropocene upon animals and wild nature.

Flying through the world on google.maps, the user sees a “bleached” world where all the remaining forms of life are nonexistent. No wild animals are visible, nor bacteria or microbes, and there are no sounds of nature: no wind howling, nor water falling. The user sees a “flat” world reduced to an image without the phenomenological depth it knows from its bodily interaction with the world. In this way, google.maps also presents the natural world of the future: extinct of all forms of life except for humans and their few livestock species that have been domesticated. Thus google.maps is a warning, a wake-up call to do things differently in the world as businesses and individuals. A community of contribution is a new ethical way of taking action in the Anthropocene: to enhance life conditions for nonhuman nature by restoring present monocultural nature to wild nature. An aesthetics of the Anthropocene contains artworks that present possible steps toward the realization of the community of contribution.

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Business Legitimacy, Agricultural Biodiversity, and Environmental Ethics: Insights from Sustainable Bakeries

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Riccardo Torelli and Federica Balluchi

Contents

Abstract

The relationship between biodiversity and ethics is complex and concerns the broader *environmental ethics*. In the agricultural industry, these issues are fundamental and, in the context of agro-biodiversity, bread production activity plays a primary role. Artisanal bread and its derivatives represent basic food products and a short supply chain, with only one intermediate step between the producer of the raw material (flour) and the consumer, represented by bakery. Furthermore, bakery industry is characterized by different needs, motivations, evaluations, and ethical/moral values, as well as philosophical considerations towards nature, of producers and consumers. Through a multiple case study on four specific companies of the interesting and relevant natural and sustainable bakery industry,

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our aim is to understand what are the motivations and ethical-moral drives behind specific ideological and operational choices that have an impact on nature and its biodiversity. It is also intended to investigate how the different ethical-philosophical approaches to nature lead to economic and management choices that are also very distant from each other and have different impacts on the protection and promotion of agricultural biodiversity. This study has allowed to place the positions and choices of some entrepreneurs and artisans in the different ethical approaches to nature and therefore to biodiversity. It was also possible to highlight how the different behaviors of consumers and producers arise from the ethical conceptions through which they look at reality and the consequences of their choices on production and sales activities.

Keywords

Biodiversity · Agro-Biodiversity · Ethics · Environment · Bakery · Crops · Sustainability

Introduction

Biodiversity and ethics are two very related concepts and concern the broader *environmental ethics* field. The relationship between the two concepts is linked to the multifaceted conceptual nature of biodiversity and, at the same time, to the debate on rights and value of life of animal and plant beings. For this reason, the study of the ethical perspective of biodiversity cannot disregard philosophical thinking of ancient and current scholars. The different ethical approaches to nature and, therefore, to biodiversity lead to a variety of ethical: from *anthropocentrism* to *cosmocentrism*.

The different visions of the importance of nature in relation to humans certainly concern the agricultural production industry in which the issue of biodiversity conservation is fundamental. In fact, agro-biodiversity is the subcategory of biodiversity most at risk and most relevant in European continent (Negri 2005) and it has still not very deepened and considered (Lanka et al. 2017).

In the context of agro-biodiversity, bread production activity plays a non-secondary role. Indeed, bread and its derivatives represent basic food products and a short supply chain, with only one intermediate step between the producer of the raw material (flour) and the consumer, represents bakery industry. Furthermore, bakery industry is characterized by different needs, motivations, evaluations, and ethical/moral, as well as philosophical considerations towards nature, of producers and consumers meet/conflict.

Starting with these brief considerations, through a multiple case study on four specific firms of the interesting and relevant natural and sustainable bakery industry, our aim is to understand what are the motivations and ethical-moral drives behind specific ideological and operational choices that have an impact on nature and its biodiversity. It is also intended to investigate how the different ethical-philosophical approaches to nature lead to economic and management choices that are also very distant from each other and have different impacts on the protection and promotion of agricultural biodiversity.

The chapter is composed by six main sections: the first paragraph deepens the link between biodiversity and ethics. In the second, we propose a brief analysis of the contributions in the various fields of study that, specifically, deal with the relationship between biodiversity and ethics; we then propose some reflections on the relationship between ethical duties and economic behaviors. After clarifying the methodology behind our study, we discuss evidences from case studies. We conclude the chapter with some final considerations.

Biodiversity and Ethical Approaches

Biodiversity is defined by “the number and types of plants and animals that exist in a particular area or in the world generally” (Cambridge English Dictionary 2019). In this sense, biodiversity, and its *conservation*, is fundamental for primary resources of the human being (e.g., food production, drugs, clothes), but also for the balance of natural habitats and ecosystems (e.g., climate stabilization, pollination, soil erosion) (Jones and Solomon 2013). On the other side, ethics can be defined as “moral principles that govern a person’s behaviour or the conducting of an activity” or “the study of what is morally right and wrong, or a set of beliefs about what is morally right and wrong” (Cambridge English Dictionary 2019). Ethics refers also to “general beliefs, attitudes or standards that guide customary behaviour” (des Jardins 1997: 16). It is clear, therefore, that biodiversity and ethics are closely interrelated issues and concern the broader and more philosophical concept of *environmental ethics* (e.g., Callicott 2002; Minteer and Collins 2005; Nelson 2002; Norton 1984; Rolston 1988; Taylor 1986; Tilman 2000).

The complexity of the relationship between biodiversity and ethics is linked, on the one hand, to the multifaceted conceptual nature of biodiversity and, on the other, to the broad debate on the issue of the rights and value of life of animal and plant beings. For this reason, the study of the ethical perspective of biodiversity cannot disregard the thinking of philosophers such as Aristotle and Kant; these approaches must, however, be integrated with the approaches and visions of more current scholars. The result of this analysis is the identification of different ethical approaches to nature and, therefore, to biodiversity, ranging from anthropocentrism to cosmocentrism.

A useful document for the understanding of the ethical aspects of biodiversity is the UNESCO report published in 2011 as part of the larger project “Ethics and Climate Change in Asia and the Pacific” (ECCAP) and drafted on the occasion of the International Year of Biodiversity (2010) and the International Year of Forests (2011). In particular, the aim of the project was to stimulate a discussion on environmental ethics that would lead to tangible interdisciplinary results useful to support long-term national and international policies. More specifically, “the project aim to increase awareness and discussion of the complex ethical dilemmas related to energy and the environment, and to identify scientific data, and available ethical frameworks of values and principles for policy options that have proven useful in facing the challenges in certain communities and countries" (UNESCO 2011: vi). After having deepened the concept of biodiversity ("the variability among living organisms from all sources including, inter alia, terrestrial, marine, and other aquatic ecosystems and the ecological complexes of which they are a part; this includes diversity within species and of ecosystems." UNESCO 2011: 2), its components (genetic, microbial, and ecosystem diversity), and the issues related to its measurement, the Report provides an interesting and in-depth analysis of the ethical implications with respect to biodiversity proposing, in a philosophical and multiple ethical approaches, "the ways in which ethics and biodiversity are interconnected and how the implications of decision manifest themselves based on the categorical differences between the approaches that are discussed" (UNESCO 2011: 9).

The main philosophical approaches to biodiversity are anthropocentrism, biocentrism, ecocentrism, deep ecology, and cosmocentrism; in the following, these are analyzed without pretension of exhausting the subject also in the light of the necessary skills that escape our field of study.

Anthropocentrism is a tendency (of religions, theories, or thoughts) that sees human as the most important being in the universe, therefore of every animal and vegetable being (Brian 1984). This approach is at the basis of Aristotelian philosophy, which provides for a hierarchical priority of human over nonhuman beings; in other words, the animal and plant worlds assume importance as instrumental to human's well-being. In this approach, therefore, the natural environment, and therefore, biodiversity, assumes no importance except as useful (instrumental) with respect to human beings. Still within the philosophy of anthropocentrism, a less extreme vision is that expressed by Kant (1963); according to the philosopher, the treatment of nonhumans must in any case be ethical at least for the effects on the morality of the man who makes instrumental use of them for his well-being. In this perspective, there is no explicit hierarchical position of human being in relation to animals, but it is stated that it is immoral to treat animals in such a way as to have negative effects on human morality. Therefore, in this view, human is in any case given priority over animals that have an instrumental value over the former. In other words, the protection of biodiversity is not an end in itself, but only if it is useful to humans (Kant 1963).

Another approach is *biocentrism* according to which there are no hierarchical differences between beings in the universe and human is only one of them (Schweitzer 1923). In this view all beings have an intrinsic value and human, by his work, is called to respect all other forms of life, nonhuman, and natural (for more on the concept of *intrinsic value* in environmental ethics see: Callicott 2002; Norton 2000; Rolston 1994; Russow 2002). This need for respect is typical of biocentric egalitarianism, according to which all living beings are worthy of the same respect and this respect for nature means, among other things, the integrity of natural ecosystems (Taylor 1981, 1986).

In contrast to the two previous approaches is the *ecocentrism* according to which man must work with the objective of preserving ecosystems and living species in a sustainable development perspective; the ecosphere and biosphere play a central role in this perspective (Leopold 1949). Basically, the philosophy of ecocentrism supports the importance of the value of a unitary "living complex" compared to that of the individual components of that complex: human, nonhuman beings, and plants. In this regard, UNESCO Report: "While both anthropocentric and biocentric approaches represent the value of the beings within the life bearing matrix, the ecocentric approach represents the value of the matrix in sustaining the beings" (UNESCO 2011: 14).

In the same direction but with an ecological approach is *deep ecology*. According to this philosophy or, better, movement, first introduced in the 1970s by the philosopher Arne Naess, all living beings (human and nonhuman, vegetable and animal) have an intrinsic value that is also realized by the diversity and richness of the various forms of life. From this point of view, the human work of cannot threaten such diversity, except for reasons related to vital needs (Naess 1973. For further information, see Devall and Sessions 1985; Tobias 1985). Unlike anthropocentrism, biocentrism, and ecocentrism, the theorization of deep ecology provides principles that are translated into real imperatives not present in purely philosophical approaches.

A final philosophical approach to environmental ethics is *cosmocentrism*. According to this approach, the value system is centered on the cosmos as a whole and the planet has a supreme value. Consideration of this approach, however, is particularly difficult because of its overwhelming effect on man.

Biodiversity and Ethics: Theoretical Background

The relationship between biodiversity and ethics has been analyzed from different perspectives ranging from philosophy to religion, from law to economics and to accounting. Without pretending to be exhaustive, in this paragraph we propose a brief description of some contributions whose object is specifically the analysis of the relationship between biodiversity and ethics.

From a philosophical point of view, the concept of biodiversity has recently been analyzed examining the issues related to its conservation and the consequent regulatory implications (Mathews 2016). From this perspective, the normative objective of biodiversity conservation is to ensure the survival of species and not "the abundance of species populations." In summary, however, preserving biodiversity means adapting it to the needs of human development in an anthropocentric ethic. In the light of this position, it is proposed "as an alternative basis for conservation policy, an ethic of bio-proportionality." In accordance with this principle, the goal "would be to optimize the populations of all species, relative only to the internal constraints imposed by the checks and balances inherent in ecosystems" (Mathews 2016: 146).

In the field of theological studies, an interesting perspective of biodiversity analysis is proposed through the thought of Thomas Aquinas. In particular, proposing a way of approaching the traditional (human-concerned) doctrines with a view to their environmental virtue, the author gives a careful look at the way that salvation works that can be helpful to con-temporary problems in environmental theory (Jenkins 2003). The motivation for such a deepening is rooted in the accusations that Christianity is anthropocentric and has contributed to the environmental crisis. The relationship between religion, ethics, and biodiversity is deepened with an interdisciplinary perspective in Hamilton (1993); the volume, which includes the papers presented at the symposium of the XVII Pacific Science Congress held in Honolulu (Hawaii) in 1991, is based on the belief that nonbiological aspects (religious and philosophical, for example) are at the basis of attitudes towards the conservation of biodiversity.

In the economic and managerial field, there are several points of reflection on the relationship between ethics and biodiversity. Spash et al. (2009), for example, apply a contingent valuation method introducing factors from social psychology to test the standard economic model of human behavior, while also addressing ethical motives which are excluded by standard economic models. The model contrasts standard economic variables with ethical and behavioral psychology variables to reveal the underlying reasons for the willingness to make an economic sacrifice for the conservation of biodiversity. McEwan et al. (2014), using the case study methodology, offer an analysis of how expectations regarding the use of advanced technologies and, more generally, knowledge influence the debate on sustainability, biodiversity conservation, and the ethics of economic choices. In other words, the authors "are interested in the politics of expectation that surround the use of technology, how the shift towards technology influences debates about sustainability in specific places, and how this shapes perspectives on what is ethical in such places" (McEwan et al. 2014: 206). After analyzing the problems concerning the evaluation of the influence of psychological factors of an ethical-social nature on human behavior, Butkus (2015) believes that the production activities of the pharmaceutical sector are no longer able to produce sufficient medicines to fight infections, cancers and viruses. In this perspective, author states that biodiversity is an essential condition of natural sources to replace the shortage of medicines. Therefore, failure to conserve biodiversity could threaten the treatment of diseases for current and future populations. Hence, the ethical motivation can be a crucial element for biodiversity conservation within a framework of preserving overall stability of the surrounding ecosystem. Such an approach based on the principles of sustainable biodiversity should be married to international and economic policy and the benefits derived from the latter; "should appeal to the egoist as much as the altruist—the strength of the relationship between preserving biodiversity and our ability to meet health challenges has benefits to both self and others" (Butkus 2015: 9). Namkoong (1991) analyzes the relationship between biodiversity and ethics within the broader issue of forest management. The author's starting point is to distinguish the *subjects to be dealt* from the *objects to be managed*: the subjects have an intrinsic value and must be protected, and the objects have an instrumental value and must be managed. The ethical aspect lies in identifying which "organisms have inherent values, what moral obligations are owed to them, and which can be treated strictly as instruments" (Namkoong 1991: 441) and, therefore, in the criteria to be used to divide subjects from objects. Another study that analyzes the ethical aspect of biodiversity in a specific economic-productive context is Negri (2005). In particular, the paper examines the problems inherent to the biodiversity of agro-ecosystems with the aim of soliciting a reflection on the loss of agro-biodiversity due to profound changes in the socio-economic context. The ethical aspect of agro-biodiversity lies in the identification of any values that concern it; the identification of these values would justify the demands to safeguard agro-biodiversity and the definition of more effective policies and actions. The agro-food sector is a very studied field; in general the aim is to analyze the role (positive or negative) of the productions carried out in this sector with respect to biodiversity (e.g., Engels et al. 2011; Le Coeur et al. 2002; Marshall and Moonen 2002; Paoletti 2001; Tilman 1999).

Finally, with reference to the more specific field of accounting, the analysis on biodiversity issue concerns, in particular, the problem of biodiversity assessment and its subsequent reporting. The studies will be disseminated starting in 2013 on the occasion of the first Special Issue of a high-level international magazine (AAAJ) on "Accounting for biodiversity" (Cuckston 2013; Groom and Freeman 2013; Jones and Solomon 2013; Rimmel and Jonäll 2013; Siddiqui 2013; Tregidga 2013; van Liempd and Busch 2013). Subsequently, other studies, always included in a special Issue of the same scientific journal, propose reflections on new forms of ecology-centered accounting and reporting practices for biodiversity conservation and promotion (Adler et al. 2017; Cuckston 2017; Feger and Mermet 2017; Ferreira 2017; Gaia and Jones 2017; Laine and Vinnari 2017; Lanka et al. 2017; Russell et al. 2017; Sullivan and Hannis 2017). Except contribution of van Liempd and Busch (2013), whose objective is to suggest that companies have ethical reasons to report on biodiversity issues; in these papers there is no prevailing ethical approach to biodiversity measurement.

In the light of the brief analysis of the literature, it is evident that the contributions in the business economic field are lacking; this can certainly represent a stimulus for further study.

Ethical Duties and Economic Behaviors

Through the economic choices made by economic actors (companies, consumers, associations, institutions, etc.), it is possible, at least in part, to understand the current/future choices and perspectives on ethical-moral values. Through economic choices, economic actors define explicitly or implicitly, voluntarily or involuntarily, a personal ethical vision of their activity and their role within society and the environment. The economic system is therefore potentially able to show the system of ethical-moral values of this very subject. If the system of economic considerations and evaluations manages not to conflict, both conceptually and operationally, with the choices and aspects relating to environmental protection and conservation, an interesting and useful space opens up for virtuous ethical behavior. Economic evaluations and considerations can be of help in defining a strategy of respect for the environment and its ethical aspects. This process does not only take place through national and/or international institutional choices, for example, through taxes and sanctions that discourage negative behavior, but also through the communicative aspect of economic choices, first and foremost through price, which becomes a signal and a reflecting mirror of what is being done, what is being bought/sold, and the relative impacts. In this way the economic value system does not contrast the moral value system but becomes its supporter and facilitator. In the operational reality, this positive collision and uniformity of intent does not represent normality: often the economic dimension is seen and considered separate or even adverse to the moral and environmental ethical dimension. It should also be noted that the economic aspect can have a negative effect on the respect of these principles; it is the case, for example, of too high prices that create a barrier to purchase for consumers and therefore a lack of opportunity to protect and promote environmental ethics.

The great difficulty in this process of rapprochement lies to a tendency not to consider, or to consider only partially, in economic choices, those of price but not only, the cost linked to the negative impact on the environment and in particular on biodiversity or the value (in the sense of protection, promotion, and direct/indirect relative impacts on the environment) of a product or service that takes into account the ethical-moral principles of respect and protection of the natural environment. This difficulty may increase if the motivations and drives of the consumer are different from those of the producer/company. The personal ethical-philosophical conception of nature and its protection (including the protection of agricultural biodiversity), the local cultural context with its historical-religious traditions, the personal background of the two actors of the exchange (producer-consumer), have a considerable influence on the choices made in terms of ethical/economic value system. It is evident how the different philosophical conceptions related to the vision of nature and biodiversity described in the paragraph above give rise to different ethical drives and operational choices even very far apart from each other. Usually companies adopt in their vision and mission a well-defined perspective of how to conduct their core-business and other related activities, which should permeate the entire working environment, from the founder to the final product. On the market, however, this concept inevitably clashes with a reality characterized by rules, laws, customs and common traditions, but with a multitude of ways of seeing and facing reality.

Methodology

In the light of the above considerations, our aim is to understand how biodiversity is considered in the operational and economic reality operating in bakery industry, and, in particular, how it is considered from an ethical point of view. Since this is a conceptual paper that aims to understand the dynamics present in a particular and interesting industry (the natural and sustainable bakery) and since it is still a very little studied and deepened thematic area, it was decided to combine the theoretical treatment of the theme with the use of a Multiple Case Study (Yin 2017). Through four exploratory case studies, the choice to investigate these issues in the bakery sector was taken for several reasons:

1. Agro-biodiversity is a concept that is still not very deepened and considered (Lanka et al. 2017).
2. Agro-biodiversity is the subcategory of biodiversity most at risk and most relevant for most of the European continent (Negri 2005).
3. Bread and its derivatives represent basic food products, purchased and consumed by almost all people in industrialized countries.
4. Bakery industry is represented by a short supply chain, with only one intermediate step between the producer of the raw material (flour) and the consumer, that is, the baker.
5. Bakery industry is characterized by different needs, motivations, evaluations, and ethical/moral, as well as philosophical considerations towards nature, of producers and consumers meet/conflict.

The area surveyed was selected for its vocation to produce bakery products, but more generally quality food products: Parma and Reggio Emilia (Emilia Romagna, Italy) form an area called Food-Valley, known and appreciated worldwide for food production. The exploratory case studies were conducted by the authors through the guidance of a specific Case Study Protocol that allowed to systematically and punctually investigate the subject matter of research in all the realities involved in the study. Through the inclusion also of a group of randomly selected consumers, for each bakery, it was possible to include in the analysis and discussion also the point of view of the final consumer, thus being able to compare this with the point of view of the producer. The four bakeries have been selected because they use biodiverse raw materials (in this case flours) that promote general agro-biodiversity and in particular the areas where the starting cereals are grown. They use mainly, but not exclusively, flours derived from grains of Italian origin belonging to landraces. These are nongenetically modified cereal varieties, typical of the area where they are cultivated and for this reason very resistant and less subject to treatment with chemical products. They are varieties that were in danger of disappearing because they were not used in favor of modern, genetically modified or selected and crossed cereals, with specific characteristics and better suited to intensive farming (Singh and Abhilash 2018; Thomas and Kevan 1993). The ancient grains used are: soft wheat Solina, Verna, Gentil Rosso, San Pastore, Virgo; durum wheat Perciasacchi, Saragolla, Russello; Einkorn wheat (*Triticum monococcum*). The four case studies are small companies, with a maximum of six employees and the active and constant presence of the owners. In this way, it was possible to have a good overall view of how these issues are considered and managed by both owners and staff. All bakeries studied have the point of sale directly adjacent and communicating with the production laboratory, in all cases totally or partially visible to the public. Most of the volume of sales is made in the point of sale of the headquarters, the remaining part takes place through organic supermarkets, farmers' markets, catering activities, solidarity buying groups. The activities are located in fairly central points in the cities (Parma and Reggio Emilia) and marked by a good or excellent passage of potential customers. In all bakeries, the type of product sold is clear, while the clarity on the type of raw material used and its specific characteristics varies. The item of communication and advertising is also very variable. These activities are contradicted by the production of bakery products with mother dough and local or national raw materials, mostly certified organic. These products are aesthetically different from those sold in traditional bakeries and also differ in the selling price (they have much higher prices). However, they are characterized by a higher digestibility, a higher presence of fibers, a longer duration, a clearer and more intense taste (Antognoni et al. 2017; Arzani and Ashraf 2017; Dinu et al. 2018). All the realities, apart from one that is now to be considered historical, are quite recent and have a modern and attractive sales method (furniture, counter positioning, product layout, etc.).

Evidence Discussion

"Internal" Vision: The Bakers

A first important evidence collected during the multiple case study concerns the motivations with which these realities approach biodiversity management in their production and management operations. In all four cases, the companies are small, with the active presence of the owners. This first aspect tends to ensure consistency over time and uniformity of thought within the activity, in relation to the vision before that characterizes these realities. Being small realities of the territory, it is clear that there is a strong link with the concept of local environment, local community, and protection of the place where you live and work. This commitment begins and is mainly characterized by the relationship with suppliers of raw material (flours). It is precisely in this relationship that the will to protect the environment can be implemented in practice and the principles of environmental ethics can be respected. The use by all the investigated realities of national organic flours, often produced at short or medium distance from the company headquarters, characterized by a production by small producers linked to the territory, and the use of cereals of ancient varieties represents the first and main step towards an effective protection of agricultural biodiversity by producers. What is most interesting about this study is how these small producers arrive at the choice of this particular type of supplier and raw material: the ethical values that underlie these links.

Agricultural biodiversity is understood and considered with great attention by the realities investigated, even if with some difficulties. The very concept of biodiversity is immediately and without hesitation set against the concept of economy and money. It is perceived as something quite abstract, strongly linked to business ethics and moral values of respect for the environment and the planet on which we live, but as rather disconnected from reality and difficult to fully consider. Agricultural biodiversity is considered as a synonym of wealth, not in an economic-financial sense but in a human-natural sense.

> *Biodiversity is the opposite of flattening, it is richness.*

The recognition of this wealth, and its direct connection with environmental and human health, is the basis of the choice made with regard to the pursuit of a protection and promotion of nature itself in its entirety and fullness. The concept of wealth is also contemplated with reference to a "romantic vision" of nature and biodiversity that have shown two furnaces: nature and its wealth is seen and conceived as something beautiful and precious, in a sense that transcends the economic aspect and the daily operational reality. This romantic vision that is reconnected with the ecocentric conception of nature (romantic ecocentric approach) (Tomalin 2009) represents a very subjective form of vision and approach to biodiversity and the natural world in which its aesthetic value is also considered.

> *We have to consider it* (agro-biodiversity) *to be consistent with what we produce and do. It has a very high intrinsic value, we are the repositories of enormous richness. I am amazed by nature and I feel pain if we do not preserve it.*

This aesthetic value, far from daily operations, seems to represent a sort of brake to the full consideration of the ethical-moral values connected in the company management of these ovens. If the use of a healthy and natural yeast, such as sourdough, and nonchemically treated, organic flours leads to an immediate consideration and recognition of the benefits for man and the environment, in the case of the use of biodiverse raw materials this recognition is less immediate, more impalpable, probably more filtered by the personal ethical vision and sensitivity of each individual person. The fact remains that nature and its biodiversity are seen as carriers of an intrinsic value, disconnected from any human, economic, or other evaluation.

The ecocentric vision of nature is predominant in the four case studies; the protection of biodiversity is seen as a mission, a necessity, and an ethical-moral duty. In the totality of the realities investigated, it became clear that the protection of biodiversity is linked to a greater well-being of nature and therefore indirectly or directly also of the human being. In the consideration of the raw materials to be used, in the type of products created, and also in the way they are processed, nature and its respect are fully considered, in the knowledge that the output and outcome of what has been produced will have important positive effects. Nature and living beings, including man, are considered to be part of one big house, not divisible or not partially considered. This ethical conception of nature and biodiversity that distinguishes it belongs to three out of the four realities investigated.

> *Nature is a whole. (. . .) The greater the biodiversity, the greater the well-being of the entire ecosystem. The protection and promotion of biodiversity is: a political act, an economic act, an environmental act, an agricultural act.*

Two of these companies have an ecocentric basic concept but clearly reveal aspects that can be traced back to cosmocentrism and deep ecology.

One company considers nature and its wealth not as a simple complex of plant and animal living beings but as something that goes beyond what we know and understand today. The planet's ecosystem is conceived as an abstract living entity but with tangible effects on everyday reality. This ethical view of nature implies a deep respect for biodiversity, which is clearly recognized in different areas of life on earth and to which a crucial importance is recognized.

> *We see the expressions of biodiversity. It's the only way for things to go well. Nature is our teacher.*

Nature is recognized for its potential and skills that go beyond the classic human vision of the environment and its plant and animal inhabitants. The ecosystem is considered alive and perfect in its complexity and variety. The protection of this delicate balance for this bakery also depends on the choices made in its production activity, which is inextricably linked to the nature in which it is located. This conscious protection is seen as essential and obligatory, without which one would inexorably eliminate the foundations of life itself.

Linked to the vision described here is the conception of biodiversity and nature owned by the other company, which however reveals characteristics that can be traced back to the key principles of the Deep Ecology movement. This recognition of nature and its diversity as an indispensable and vital condition is shared, but there is also a conceptual and practical attempt to resolve current problems, in a more operational and even more pessimistic vision. More drastic solutions and the recognition of a too sharp fracture in society between human beings and nature are at the basis of this bakery's approach. It is precisely the awareness of a clear divide between the modern human being and the natural environment that drives this company to consider alternatives and solutions oriented towards a more rigid and integral ecology.

> *Man must destroy himself before he can evolve. We've reached an extreme point.*

The last bakery, which cannot be traced back to an ecocentric approach to the relationship between ethics and biodiversity, adopts a vision oriented towards anthropocentrism. Nature and biodiversity are considered relevant, even if they are treated as something rather abstract and intangible, but for a human purpose, whether in health or economics. Agricultural biodiversity is considered and well known but changes the basic motivation for this consideration and the direct and indirect effects it expects to have or wants to achieve through this protection. The use of raw materials that protect and promote biodiversity is designed to produce a different, more attractive, healthier product that brings a positive economic return. In this case there is a lack of awareness or willingness to have a positive effect on the natural ecosystem, its wealth. The ethical-moral values in this case, although present, are not at the basis of the economic-managerial choices adopted by the company, but are relegated to a possible motivation for consumers and therefore an economic-commercial tool.

Meeting the "External" Vision: The Consumers

This use of ethical-moral principles as a commercial tool finds fertile ground in the consumers and buyers of these four investigated realities. They are a category of consumers on average more informed and aware of the characteristics of the product purchased, but rarely more aware of the impacts of that product on the environment and its biodiversity. The anthropocentric conception is detectable in the vast majority of consumers affected by this study. What stands out most from the analysis of the data collected in the case studies is the main basic motivation with which consumers choose to purchase this particular type of product. Personal health is almost always the driving force that brings these people closer to these products and businesses. The concept of protection and protection of the environment and biodiversity and therefore of respect for ethical-moral principles towards nature are often completely absent in this actor of commercial exchange, except for some for whom it represents a secondary and little rooted presence and for others, the minority, for whom it represents the main motivation. It is clear how this difference in motivations and basic conceptions between the two main players in this market can create friction and difficulties. On the one hand, there are consumers who are unable to understand certain choices regarding the raw materials used, the types of product created, the prices charged, and the methods of sale and distribution. On the other hand there are producers who arrive at the last and fundamental step having to surrender or adapt to logics and ethical visions completely different from those that have pushed them to do what they do and to do it as they do it. These mutual difficulties in some cases have led or risk leading to either a consumer giving up or a change on the part of the producer. The difficulties just described have as a direct consequence a reduced effectiveness of the farm practices of these producers towards a real and efficient protection and promotion of agricultural biodiversity.

Conclusion

The relationship between ethics and biodiversity is complex and involves different philosophical approaches ranging from anthropocentrism to cosmocentrism. With reference to a specific agro-food sector (Bakery), this study has allowed to place the positions and choices of some entrepreneurs in the different ethical approaches to nature and therefore to biodiversity.

It was also possible to highlight how the different behaviors of consumers and producers arise from the ethical conceptions through which they look at reality and the consequences of their choices and their production and sales activities. These are profound visions and motivations that determine extremely different operational behaviors and impact on our reality. A contribution to the academic and business community through this study is precisely to identifying, through an in-depth analysis of multiple case studies, the real motivations behind certain behaviors and what are the consequent determinants of the problems that exist today in this type of market. An important work of sensitization and divulgation of the effects on nature and its wealth through simple purchase/sale operations is desirable to try to make the majority of consumers understand the motivations of the choices adopted and applied by producers. Secondly, to avoid negative and nonproductive collisions between two market players operating with different visions. If the change in the basic ethical conception of a person or group of people towards nature and the environment is extremely complex and perhaps not even desirable, a new and ever-present consideration of the natural aspects and the possible consequences of our actions, even the simplest ones such as buying a loaf of bread, on the whole ecosystem could be of extreme importance. Like all scientific work, this contribution has some limitations: the main ones are to consider a particular industry (the natural and sustainable bread-making) and a limited geographical area (the Italian Food Valley). Future research may pose the same questions as research in other geographical areas or other market sectors. It will also be very interesting to understand, through further studies, how some specific economic disciplines, for example, marketing, management, accounting, can provide solutions or tools to overcome areas of friction between market players and to try to reconcile at least in part the motivations or practical objectives towards a common and participatory concrete attention to nature and its biodiversity.

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Sustainability, Basic Ethical Principles, and Innovation

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Jacob Dahl Rendtorff

Contents

Abstract

In order to demonstrate the relation between sustainability, innovation, and business legitimacy, this chapter shows how a phenomenological body and principle ethics can be integrated into business ethics, philosophy of management, and organizational theory by discussing some philosophical, theological, and social science dimensions of environment and bioethics. The problem is how a body ethics and the concepts of autonomy, dignity, integrity, and vulnerability can make sense to the notion of "sustainable development" as the foundation of sustainable innovation that today forms the basis of international environmental policy. This is inspired by the concept of "ecoethical innovation." The chapter shows how, in an organizational theoretical perspective, environmental ethics can be regarded as a critique of previous anthropocentric ethics, which is necessary

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for sustainable innovation and business legitimacy. This is done in order to present a position in relation to the debate on the moral status of nature. This discussion makes it possible to propose a precise statement of environmental ethics by incorporating the concepts of interest and stakeholder as a specification of the ethical principles from an organizational theoretical perspective. Thus, the chapter defines the application of the principles in relation to animals, nature, and the environment. Finally, the chapter proposes to explore the importance of organizational theory for corporate ethics of sustainability.

Keywords

Sustainable development · Ethical principles · Vulnerability · Eco-ethical innovation · Anthropocene

Introduction

There has in bioethics been the development of an understanding of bioethics as body ethics, based on a phenomenological anthropology and understanding of the relationship between man and nature. In this context, the ethical principles of respect for human autonomy, dignity, integrity, and vulnerability were highlighted as central guidelines for the protection of the human person in biotechnological and biomedical ethics (Kemp et al. 1997; Rendtorff 1999, 2001: 181–209; Rendtorff and Kemp 2009, 2000; Kemp 2000; Kemp et al. 2000). However, bioethics is not only related to human reality but it must be linked to an animal and environmental ethics. The question is how phenomenological body and principle ethics can help to analyze these problems (Rendtorff 1997, 2001: 181–209). Furthermore, the environmental policy challenge means that it is necessary to include an organizational theoretical perspective on the discussion of ethical problems in relation to the environment, animals, and nature (Hoffman 1991). Here, we need to rely on the concept of eco-ethical innovation, developed by the Japanese philosopher Tomonobu Imamichi. Eco-ethical innovation means that bioethics and business ethics need to deal with the technological conjuncture of human beings and technology in the process of sustainable transitions in order to ensure sustainable innovations of corporate social responsibility (CSR) and business ethics (Rendtorff 2019b, c, d). Humanity does not relate directly to nature, but always acts as part of systems and organizations. We need to rethink CSR and business ethics in order to improve sustainability and innovation ethics (Rendtorff 2001, 2019b, c, d). An effective environmental ethics is not only individual ethics, but must involve an ethics of collective action in state and private organizations. It is important to consider the relation between bioethics, environmental ethics, and business ethics (Rendtorff 2001, 2009a, b). Moreover, business legitimacy requires the ecologically and socially balanced company (Rendtorff et al. 2013). Thus, we need to combine environmental governance with bioethics and business ethics (Levy and Newell 2005).

In what follows, this chapter will show how the phenomenological body and principle ethics can be integrated into a business ethics, philosophy of management, and organizational theory by discussing some philosophical, theological, and social science dimensions of environment and bioethics (Rendtorff 2001, 2009a, b, 2010a, 2013a, b, c, d, 2014a). The chapter will begin by examining how a body ethic and the concepts of autonomy, dignity, integrity, and vulnerability can make sense to the notion of "sustainable development" as the foundation of sustainable innovation that today forms the basis of international environmental policy. Next, the chapter will show how, in an organizational theoretical perspective, environmental ethics can be regarded as a showdown with previous anthropocentric ethics, which is necessary for sustainable innovation and business legitimacy. This is done in order to present a position in relation to the debate on the moral status of nature. This discussion makes it possible to make a precise statement of environmental ethics by incorporating the concepts of interest and stakeholder as a specification of the ethical principles from an organizational theoretical perspective (Freeman 1984; Elkington [1997] 1999). Then the chapter will define the application of the principles in relation to animals, nature, and the environment. Here it is important to analyze the ethical and legal significance of the principles in light of the judgment of the various interests involved. Finally, the chapter proposes to explore the importance of organization theory for corporate ethics of sustainability.

Sustainability, Innovation, and Capitalism

The famous report *Our Common Future*, published by the United Nations International Environment Commission in 1987, led by the Norwegian politician Gro Harlem Brundtland, has been the key to international environmental policy (WCED 1987). The report puts the concept of "Sustainable Development" at the heart of international politics. This concept has ever since been the basis of a comprehensive discussion and many different interpretations. At the same time, it serves as an ideological and political basis for global environmental policy. The need for sustainable development is due to our global predation on natural resources. Commonly mentioned are population problems, greenhouse effect, acid rain, oil spills, forest burning, global warming, etc. Sustainable development is simply necessary to ensure the survival of the globe.

Today, the concept of sustainable development has even reached the corporate ethics and business legitimacy discussion. This is not surprising, however, as the world's industrial, agricultural, and service companies bear their share of the blame for the destruction of nature. The founder of London-based consulting firm, SustainAbility, John Elkington has thus published a leading book entitled *Cannibals with Forks: The Triple Bottom Line of 21st Century Business* that looks at sustainability in relation to business and business legitimacy. Elkington believes that companies face a crucial challenge to work not only on an economic but also on an environmentally and socially sound basis.

This challenge means that companies, NGOs, States, and the international community are forced to work in much closer strategic alliances to solve the world's environmental problems and achieve business legitimacy. Instead of rejecting any outside interference with their activities, companies should engage in dialogue with the outside world to bring their production into line with the ideal of sustainable development ethics (Rendtorff 2019b, c, d).

In a situation where the liberal economic system has prevailed in the struggle of ideologies in times of environmental risk and climate change, this system should be conscious of its social responsibility and business legitimacy (Velasquez 2002). At the same time, with the development of stakeholder theory (Stakeholder-Capitalism), there has been a significant change in understanding of the company's area of responsibility (Freeman 1984; Elkington [1997] 1999). This can no longer be restricted to the owners (shareholders), but the companies should involve other groups in the community (state, local communities, customers, employees, etc.) who have an interest in their activities, in the decision-making process. Already Adam Smith looked at the moral dimensions of the economy when arguing for "the invisible hand" where the fact that every selfish follower's own interest in reality serves the common good.

Today, we cannot ignore that social capital and democratic interaction between stakeholders, based on mutual trust and recognition in communitarian, societal integration, is a fundamental criterion for profitability and success. Both internal trust between employees and management as stable external relations between the company and the outside world is a criterion for success. Companies that do not create such relationships will face major problems in surviving in the competition. Many companies do not understand that we are facing a crucial set of societal changes. They are blind to the development. They believe that sustainability is an expression of unrealistic environmental activism. They do not see the need to integrate environmental and social values into the company's strategic management programs. In addition, they do not realize that these must necessarily be equated with the firm's "hard" financial values. They do not understand that the sustainability requirement also includes claims for equality, justice, and poverty alleviation.

Many business leaders believe that they can still not interfere in political matters and that they can do business without addressing social and ethical issues. They refuse to be open about the company's internal affairs, and they refuse to inform anyone but the company's shareholders about its activities, so they are not open to public opinion until it is too late and have suffered a decisive image loss.

Furthermore, few companies have come to the attention of the need to make sustainable technology an integral part of the organization and the need to work with other sections of society to solve the serious environmental problems. This requires a completely new understanding of the company's action horizon, and sustainability ethics should be part of management's official policy (Rendtorff 2001).

The classic example of the company's survival at stake in terms of business legitimacy if these blind spots are not overcome, we can mention the transnational oil giant Royal Dutch SHELL's fatal mistakes in the cases of Brent Spar and of an agreement on oil extraction in Nigeria.

In the first case, in 1995, SHELL would lower a drilling platform in the North Sea. Greenpeace intervened by linking activists to the platform. With the world press as a spectator, SHELL forcibly attempted to remove the activists. This led to downward sales curves and very poor publicity for the company, which under pressure from the public had to have the drilling platform scrapped elsewhere.

The second case is no less fateful. In co-operation with Nigeria's military dictatorship, SHELL would be politically neutral and the company did not intervene, as the Nigerian government would fire environmental activists highlighting the huge pollution caused by SHELL's activities in Nigeria's river deltas. Here, too, SHELL had to account for the mass society, characterized by a globalized approach to information and an increased environmental, social, and political awareness among consumers and citizens. Even for the giant company SHELL, critical awareness could be felt so severely that, in order not to suffer major economic and political losses, it was considered necessary to make social and environmental responsibility, based on respect for sustainability a valuable area of priority in the future management strategy.

This sustainable economy, ecology, and social responsibility are necessary for the company not to fall behind in the competition in the end and perish. John Elkington describes sustainability-based value management as a necessary consideration of "the triple bottom line," which means that a minimum bottom line should be met in both economics, ecology, and social conditions if businesses are to succeed in the twenty-first century. Businesses should respect the threefold bottom line if they want to have stable relationships with consumers, employees, the public, and society at large. This means that the issue of sustainable development should not be viewed independently of the economic and business development of society.

The Ethical Principles and Sustainable Innovation

In this context, a discussion of the connection between the ethical principles and the concept of sustainable development concerns in what sense autonomy, dignity, integrity, and vulnerability can be used as pillars of sustainable economic, ecological, and social development. The problem is how the ethical principles, as common principles, can bridge the organizational theory, the human, and the nonhuman domain (Rendtorff 2009a, b, 2011). The following definition of the principles, which has been analyzed in more depth in other contexts, aims to show how the principles can be extended from revolving around the individual to values for animals, plants, and organizations as a basis for the behavior of organizations and companies and for business legitimacy in the entire biosphere (Rendtorff 2001).

The principle of autonomy is defined as the principle of respect for the individual's independent creation of ideas and goals for his or her life. Being autonomous expresses an ability for moral insight, "self-law," and for personal freedom. It also expresses the ability to make decisions and act without external coercion. Furthermore, it expresses an ability for political participation and personal responsibility. The principle of autonomy has often been limited to rational human beings. Today it is a basic principle of informed consent for medical treatment and trials. Recently, however, there has been a continuing criticism of the principle of autonomy, for example in connection with the structural constraints for making autonomous decisions in situations of weakness, such as human dependence on external factors, absence of information, and reduced ability for rational reflection. It is therefore a question whether the principle of autonomy can make any sense at all for protection in contexts other than the free and self-conscious human subject.

The principle of dignity originally referred to the moral significance of human beings in interpersonal relationships, especially their capacity for freedom and action, which implies – according to the Western humanist tradition, that they can be more brutal and evil than animals, but that they can also be more generous and good than any other living being. It is now the question of the principle of dignity that can also have an impact on animals and nature. A human being can violate his or her own dignity in the way it treats animals and other nonhuman living creatures. It is necessary to assume that ethical considerations are based on humans being responsible for caring and respecting the nonhuman living world.

Dignity can thus be understood as a consideration of all living nature as "the other" for the human world, that is, not outside the human perspective, but on the other hand as something that should not be treated as a mere object of human manipulation. One could say that the idea of life's dignity (e.g., using the concept of "Würde der Kreatur") is implicit in the debate on biotechnology and ethics. Here, many refer to respect for life when concerned about genetically modified food, the creation of transgenetic animals, or the destruction of the entire biosphere (Rendtorff 2001).

The principle of integrity refers to the care and protection of a whole or a life context that must not be touched or destroyed (Dworkin 1994). The principle has been applied predominantly in relation to the human person and body, especially in connection with medical trial and treatment ethics. Nevertheless, it is continually argued that the principle of integrity can also have an impact on the nonhuman nature. It is about the unity and context of a life form (plants, animals, or all of nature) that has developed its own natural history. It is therefore important to determine how the concept of integrity can be transferred from the human to the nonhuman area and how it can make sense as an ethical principle in relation to the assessment of human intervention in the nonhuman living nature (Rendtorff 2015a, b). It is important to clarify the meaning of the concept of integrity as a basis for the formulation of ethical considerations in connection with interventions in the environment, animals, and nature.

Although not always directly mentioned, the idea of the vulnerability of the living world (the principle of vulnerability) can also be regarded as a fundamental principle in the ethical debate on the protection of animals, nature, and the environment. Vulnerability can be defined as a concept that is at once descriptive and evaluative. If you say in a daily language that a living being is vulnerable, it directly expresses an ethical concern for the necessary protection of people, animals, and nature. The modern industrial society has on the program to reduce vulnerability and create better living conditions on earth. Nevertheless, there are also limits to scientific and industrial progress. Technological advances may include risks and unforeseen consequences that challenge the fragility and finality of the living world. In this way, the principle of respect for vulnerability is of great importance as a common principle for the ethical regulation of the fragile living world within both the human and the nonhuman sphere.

The principles of respect for autonomy, dignity, integrity, and vulnerability should be seen within the framework of responsibility and solidarity. Being accountable means that someone has, assumes, or is ascribed responsibility (Jonas 1979). There is someone or something that a person is responsible for, and there is someone or something that this person is responsible in relation to. Society's power over the living world is greater today than ever. Therefore, responsibility involves both responsibility toward people and nature and responsibility for social development. In this context, responsibility and solidarity are extended over time, so that these concepts also include future generations and spaces, encompassing the entire planet.

This means that the principles include animals, nature, the environment, and the entire biosphere. This is not least because, thanks to biotechnology, we have the opportunity to radically change agriculture and food production in a way that can bring about basic economic and social change. Due to modern technology and science, industrial society takes on greater risk in a way that requires more responsible distribution of benefits, disadvantages, and dangers. We need to rethink CSR and business ethics in order to deal with sustainable innovation and progress toward environmental transition (Rendtorff 2019b, c, d).

The Principles as the Ethical Premise of Sustainability

It is now the idea of this chapter that these ethical principles play a major role as the basis for an ethical interpretation of the concept of "sustainable development" which is also the basis for business legitimacy and innovation (Rendtorff 2009a, b, 2011). Although not at the forefront of the Brundtland report, the principles can be considered as the ethical premises for the report's message (WCED 1987). The point of departure is the reality of global responsibility and the threat of modern society to the survival of future generations. We borrow environmental capital from future generations. It is our common future that is at stake if we do not find a sustainable way of solving global environmental problems. It is about regulating the greenhouse effect, combatting climate change, the destruction of (rain) forests, overpopulation, global warming, poverty as a result of environmental problems, and, on the whole, helping the poor and vulnerable. The report sees no contradiction between sustainable community and nature development. It has understood that the environmental problems are socially created problems and can therefore not only be solved technologically but also socially. Human reality depends on the sustainability of nature. The life-threatening conditions in developing countries and international environmental problems are closely linked to political and economic crises.

The concept of sustainable development means that there must be limits to the growth of society. These are not absolute boundaries, but boundaries for an uncontrolled development that moves toward climate change and environmental degradation. Sustainable development involves a way of life in which population, production, social organization, and economy are brought into much closer harmony and conformity with the planet's ecological opportunities. It takes a change of social structure, economy, and politics toward sustainability for humanity to survive. Sustainability is a common ideal for society and nature that will ensure both basic human rights and ecological stability. Sustainability is not only to be understood as a utilitarian conversion calculation, but it is also based on ethical, cultural, and aesthetic resources.

The Brundtland report argues for the link between economics and ecology in the legal reality of decision-making and at the institutional level (WCED 1987). The sustainability strategy should avoid building a contradiction between the economic and ecological perspective by aiming for a symbiosis between human and nature, so that the ecological crisis is replaced by a global and cosmopolitan economy that is in harmony with ecosystems (Rendtorff 2005, 2017a, b, c, 2019a, b, c). Thus, one does not want to dissolve the growth strategies, but instead improve the quality of growth. Thus, the primary aim is to ensure sustainable population growth. This involves promoting people's essential needs for work, food, energy, water, sanitation, etc.

The Brundtland report can also be read to include an institutional and business ethical perspective on the ethical principles (WCED 1987). This applies to both state and private companies. States should ensure a sustainable economy through legislation. The industry can contribute to sustainable development by developing environmental policy and pollution control. This can be achieved through the development of pollution control systems for which there is a growing global market (Rendtorff 2010b).

Although not directly analyzed in the Brundtland Report, one can say that the notion of humanity's political and moral autonomy is the real starting point for the report (WCED 1987). It is our political autonomy and freedom that enables us to change the future. Formulating a sustainability strategy expresses humanity's endeavor to move beyond self-imposed compulsive conditions. The international community, the states, the UN organizations, the World Bank, etc. contribute to this development, and democracy and the protection of basic human rights should be fought.

The concept of dignity can therefore be regarded as central to the Brundtland report and further policies of the United Nations, for example, the Sustainable Development Goals (SDGs) from 2015, which explicitly states that it is important to ensure a dignified life. In particular, the high population density and the poverty problem in the developing world appear as a threat to human dignity, causing greater poverty. The report emphasizes that the population problem is about human dignity and not just numbers. The need to safeguard human well-being, education, and health, and the reduction of population growth, is about giving the individual a decent life, and this social sustainability is in turn linked to the sustainability of the ecosystem (Rendtorff 1997, 1998, 2002, 2003, 2008, 2014c; Jørgensen and Rendtorff 2018; Jørgensen et al. 2018; Rendtorff and Kemp (2019). Ensuring a stable social cohesion (social carrying capacity) expresses such a need for better conditions.

The concept of integrity can also be demonstrated as an underlying principle in the Brundtland report, which is the basis for the SDGs (WCED 1987). A key concern is ensuring the integrity of ecosystems (Westra 1998). Here it is about avoiding destruction of forest planting, water pollution, or some other type of destruction, such as nuclear emissions. Sustainability means that utilization of nature's resources must not violate the ecosystem as a whole. There should be respect for the integrity of the species that future generations should also be able to enjoy. The extinction of species threatens the integrity of an ecosystem.

We should therefore ensure that plant and animal species are not eradicated. Governments must be committed internationally to the conservation of species. We can still save ecosystems. Food production should be in harmony with ecosystems. This can be done by less use of chemicals and fertilizers. Society should secure the resources of nature, such as water, air, and soil. Thus, it is necessary to ensure that nature's ecosystems can maintain their "overall integrity." Sustainable development expresses harmony between nature and society, preserving the world's living resources for future generations. This integrity ideal is based on aesthetic, ethical, and cultural considerations that precede economic considerations (Westra 1998).

Thus, the idea of vulnerability is a central prerequisite for the concept of sustainable development, in the Brundtland report, but also in the SDGs, which aims to avoid exposing nature's vulnerability. Economic development is not sustainable if it creates critical vulnerability (WCED 1987). This can happen in agriculture, where the poor beans must utilize nature's resources to the utmost. Instead of creating greater vulnerability through unharmonic growth, there should be long-term security in food production. Natural resources should be preserved and improved. Sustainable growth is based on quality rather than quantity. Likewise, the Brundtland report focuses largely on vulnerable populations (WCED 1987). It talks about the power of empowering vulnerable groups. This should be a gradual integration of local communities into larger communities, and we must protect traditional cultures and lifestyles. Marginalization of vulnerable groups is a symptom of development away from sustainability (Rendtorff 2001).

Principles of responsibility and solidarity also play a role in the ideal of sustainable development (Rendtorff 2009a, b, 2011). We should not only think about the present generations, but also the people of the future (Jonas 1979). We should not ruin it for future generations. There is a common interest in development. There must be equality between nations. There must be a connection between present and future use of technology. Accountability involves a nuanced understanding of actions and unintended consequences of actions. The risk analysis should aim to uncover these relationships. This is linked to the ideal of equality and solidarity. Sustainable policy is about protecting the poor and creating a basic equality between present and future generations in the distribution of ecological resources to protect human integrity and dignity in the context of a harmonious ecosystem.

Beyond an Anthropocentric Environmental Ethics and Concept of Nature

Thus, it appears that the ethical principles of autonomy, dignity, integrity, and vulnerability play a major role in international policy on sustainable development. They help us to understand the foundations of the environmental ethics of the UN sustainable development goals, which were developed on the basis of UN environmental policy since the Brundtland report ethics (Rendtorff 2019b, c, d). In this context, the ethical principles also help to move beyond the fashionable concept of the Anthropocene, where humanity has become an independent geological and environmental force, changing our own conditions for existence (Crutzen 2002, pp. 143–145). The concept of the age of the Anthropocene is a geological concept signifying that the impact of humanity on the environment on the planet has become more serious. One of the founders of the concept of the Anthropocene, the Russian geologist Vladimir Vernadsky who visited Sorbonne in 1922–3, even cited the French philosopher Henri Bergson's concept of *l'évolution créatrice* to determine the concept of the Anthropocene in the thermo-industrial development of humanity (Grinevald 2012). It may be argued that the concept of human responsibility as an indication of what it really means to be human has become particularly important in the age of the Anthropocene, because we need to go beyond ourselves to non-anthropocentric responsibility.

Thus, the age of the Anthropocene raises the question of a bioethics, nature ethics, and ecological ethics that interprets sustainable development in light of these ethical principles, breaking with an anthropocentric (human-centered ethics) (Kemp et al. 1997). Many have criticized the ideal of sustainable development for being anthropocentric, while others argue that the principles involve a holistic view of ethics that cannot be justified in a post-metaphysical world. They perceive a total non-anthropocentric ethic as meaningless, since neither nature nor animals can act or feel moral responsibility. Others, in turn, argue for a "trans-anthropocentric-relational" or an "anthropocentrifugal" view that does not violate the anthropocentric point of view, but extends the ethics to include nature and the environment. Choosing between these justifications is not easy and a more in-depth study is needed. It is therefore important to clarify the metaphysical status of the principles as the basis for sustainable development.

Basically, there are many different arguments for a nature and environmental ethics that breaks with an anthropocentric ethics. A pervasive theme is the real threat of pollution, based on man's intensified technological knowledge. The destruction of the ozone layer, climate change, and the extinction of the species, etc. is, as shown, a common theme in international reports, such as the Brundtland Report (WCED 1987). Furthermore, modern philosophy is characterized by harsh criticism of a technological culture. Many different philosophical currents want to settle on Descartes' subject philosophy, which in modern times has defined typical attitudes to nature as "res extensa," that is, as an inanimate, mechanical object. So different philosophical paradigms such as phenomenology, post-structuralism, and anti-positivist scientific theoretical currents such as paradigm theory or Eastern inspired physics (the Tao of physics) argue for a new conception of the relationship between man and nature. Others argue for a consummate universalism that gives all living beings a moral status. This is often combined with various forms of depth ecology (Michel Serres, Arne Næss) that will give nature a unique moral status (Rendtorff 2005).

Here, it is argued that an excess of arbitrary anthropocentric boundaries of ethics is no longer to be based on individual rational subjects. One wants to include nature as part of the human life world, which is characteristic of the Brundtland report, which emphasizes a close relationship between the human life context and ethical principles (WCED 1987). Thus, it is critical for the ethical principles to be justified on the basis of a phenomenological theory of human bodily affiliation with nature. There must be a bridge between person, body, and nature. The phenomenological description tries to overcome the contradictions between subject and object, that is, an internally experienced experience versus an external natural genetic description of humans. At the same time, it is important to reconcile the contradictions between a mechanical and a teleological (purposeful) understanding of human placement in nature. Thus, to base the ethics of a phenomenological understanding of human embeddedness in nature is founded on a biological bodily description of the living world, where humanity is at once understood as a living organism participating in an ecosystem, and at the same time as the spirit of freedom and with this freedom and autonomy, humanity also transcends this affiliation.

The close connection between nature and personal and collective identity formation is thus the basis for a formulation of an ethical position. Ethics thus form the tension between biological belonging to ecosystems and its transcendence in human desire for a good life in a social context. The ethical principles come into play in this tension between the desire for the good life, the affiliation with nature, and the formulation of a vision of the good and fair society. It is the reflective judgment and ability of humanity to reconcile the individual and the general, nature and freedom, concrete action and practical ethical principles that are the driving force in this process (Rendtorff 2001).

The rationale for the ethical principles is thus based on a perception of human affiliation with nature. Nevertheless, at the same time, it is important to understand that the concept of nature can be further divided into different dimensions that require different ethical considerations. Humanity is embedded in nature but at the same time different from nature. The concept of nature does not confine itself to human nature, but extends to other living beings (animals and plants), which in turn require ethical considerations that are different from a very broad conception of nature, which also does not include living things in the world (e.g., minerals and rocks).

Nature and environmental ethics are initially anthropocentric, but at the same time transcends a natural understanding that confines itself to human reality. One can understand human relations with the rest of nature in a communication theory perspective. A deep ecologist here would argue that "nature speaks to us" and that we should be "friends with the animals" with whom we can communicate, and therefore have moral status (vd Pfordten 1986). Such a move from human language and symbolic competence to the reality of animals and nature is at the same time problematic. We do not fully understand the animals and the nature is very poor in terms of language. Although certain animals, for example, monkeys and dolphins, have some language rules, they never achieve the same language skills as humans.

On this basis, we can open ourselves to nature, but the nature of the conversation remains determined by the premises of human reality. Although only humans can communicate with each other, animals and nature may well be part of the communication community, as those humans are concerned with what you are talking about. We cannot avoid the fact that moral statements are uttered in the human language and are therefore human-oriented, but at the same time transcend the human, because one refers to the other nature and can therefore incorporate it as the object of our moral language. You could say that ethics, that is, moral responsibility and moral actions, in a communication-theoretic perspective are humanly determined, but do not necessarily have to confine themselves to humans, since animals and other nature can easily be objects of our moral actions and communication. Therefore, any justification for an ethical discipline in the form of ecological ethics must be regarded as anthropo-original or anthropocentric, but this does not preclude an extension of the ethical consideration of the whole living world and all things in nature in the broadest sense.

In this context, human embeddedness in nature and its privileged status with regard to the formulation of ethics can be seen as the theoretical (meta-ethical) basis for formulating a non-anthropocentric (normative) ethics. In this context, a number of different types of justifications are given that attempt to include the environment, nature, and animals into the ethical considerations. Reference can be made here to Immanuel Kant's philosophy in *Kritik der Urteilskraft* ([1794] 2004) and *Metaphysik der Sitten* ([1785] 1999) as a central reference for justifying the ethical principles. Kant develops on an anthropocentric basis a philosophical justification of a non-anthropocentric ethic. Kant assigns to humans as purpose in itself an inviolable moral status, and then argues that the categorical imperative and universal law of morality help to recognize man as a purpose in himself. Therefore, Kant's philosophy does not directly recognize animals and nature as moral beings. However, this does not mean, contrary to what some ethicists claim, that Kant should not assign a moral meaning to animals and nature.

In Kant's philosophy, the concept of purpose and the notion of organisms' self-organizing teleological development becomes a central aspect of the rationale for the attribution of animals and the nonhuman nature to an independent moral status. Nevertheless, this is done by virtue of human moral reason and not by nature's independent moral status. Such a reference to the self-directed movements of nature can be termed a weak anthropocentric rationale. Man's status as a moral being depends on how it treats animals and nature. The beauty of society and nature are closely related. At the same time, reference is made to nature's special position as self-organizing organism and as the object of mankind's aesthetic enjoyment, but it is still an ethical justification based on human reality, although it clearly gives a moral meaning to animals and nature. It is also such a civilized "biohumanism," a notion of civilization's humane and enlightened interplay with nature, which plays the most central role in the Brundtland Report's conception of sustainability (WCED 1987). Moreover, this biohumanism can also be seen in the developments of the SDGs from 2015.

In summary, this chapter can thus argue that the principle ethics, based on a body phenomenology, extends the anthropocentric perspective, involving nature, animals, and the environment as the object of ethical considerations (Rendtorff 1999, 2001). Therefore, it can be said that bioethics becomes anthropocentrifugal as it argues for other necessary ethical considerations than those determined by human reality. We need to include responsible eco-ethical innovation in the focus on the transition toward sustainability (Rendtorff 2019b, c, d). Therefore, the application of ethical principles is not limited to humans, and we can indeed give the ethical principles of autonomy, dignity, integrity, and vulnerability a meaning that goes beyond the narrow anthropocentric meaning.

Do Animals, Nature, and the Environment Have Interests?

In this context, this chapter finds the "interest" or "stakeholder concept" useful to justify the importance of the principles in an anthropocentrifugal perspective (Starik 1995). The question is in what sense nonhuman beings may have an interest in protecting autonomy, dignity, integrity, and vulnerability. A frequently used argument against extending ethics to encompass the environment, animals, and nature is that these things have no interests at all that can justify an ethical consideration. It is argued that for such things a good life cannot be defined, which is concretized by respect for the ethical principles. It is implicit in this view that all life and culture are man-made. Therefore, it is pointless to speak of a non-anthropocentric ethics as reality becomes more and more a human construct. Referring to aesthetics and natural beauty is rejected because it is not sufficient to extend the ethical perspective.

Therefore, it is necessary to demonstrate in what sense nature, animals, and the environment can be assigned an independent interest in life and act as stakeholders in an ethical theory that opens up for considerations other than those specifically human. Here, consequentialist ethicists (Peter Singer and others) point out that not only beings with rationality and self-consciousness but also all beings who suffer should have a moral status. This chapter agrees with this emphasis on the ethical significance of suffering, but does not want to justify this in a utilitarian calculus, but on the phenomenological idea of human physicality and the creative development of the universe. This position is based on a communication theoretical idea of an advocacy ethics (Hans Otto Apel), where those affected become subject to the moral principles that emerge in human conversation (Apel 1988).

In this regard, veterinarian philosopher Tom Regan has argued for granting all mammal rights (Rendtorff 2001). He speaks not only of interests, but also of intrinsic value that underlies inviolable rights. A living being or subject of life has a claim to intrinsic value that forms the basis for respect for its integrity and dignity. The rights could be a consequence of a discursive rationale for ethics. Here, however, it is important not to confuse the concept of rights and the concept of interest. Although it may be justified by interests, the notion of rights beyond intrinsic value presupposes moral responsibility and ability to act. The animals have not. Furthermore, the animals' experience of pain and suffering is not the same as that of humans. They do not have self-awareness and reason. Pain and suffering are thus an important consideration for protecting the integrity of animals, but that does not mean that animals have the same moral status as humans. Because they suffer, animals are involved as stakeholders, although they cannot act morally in the same way as humans. The interests of animals are closely related to the value of animals themselves, but they also have significance in relation to human life in harmony with living nature.

The question now is whether the concept of interest also applies to plants as well as the other natural creatures and objects. It seems absurd to plant and cut interests when they have neither self-awareness nor emotion. In this connection, it has been argued, from an Aristotelian and natural theological perspective, that every natural object as a self-organizing system strives for life and thus for a good in itself. Organisms can be described as teleological cybernetic systems. It is claimed that every organism follows a teleological pursuit of the good in interaction with the environment. The biosphere and ecosystem can thus be assigned an interest through the systems' continuous quest for self-preservation and life.

From an eco-functionalist perspective, the self-identity of the organism is created through the cybernetic processes. Here, it could be argued that an ecosystem has an interest in self-preservation, even if it has neither consciousness nor reason. One could say that ecosystems express a process of development toward a good that is inherently defined by systems. Therefore, plants and ecosystems can well be attributed to ethical interests. Thus, it is the teleological self-development of the systems that justifies interests in self-expression, without which these can be grounded in rationality or sense.

This does not mean that all interests must be treated at the same level. The anthropocentrifugal perspective puts people at the center, then opens the perspective to the animals, insects, species, plants, biosphere, and finally the natural environment that appears as the environment of ecosystems. There is an "ecofunctional hierarchy" in nature, where nature's creatures and objects can all be assigned a value in themselves, but where these values are not absolute. Instead, they must be weighed in relation to each other on the basis of the different interests of human reality and judgment as the center of moral philosophy (Rendtorff 2005).

Thus, the central argument for attributing living creature interests is their role as self-sustaining and self-organizing systems. Ecosystems and living creatures develop their own identity through the biological and genetic process. Thus, it can be said that, by virtue of this interest in self-preservation, ecosystems also develop a number of values that become the determinants of system maintenance. These values come into being in the creative evolution of ecosystems that define their stability and integrity. It is in this context that the principles of integrity and vulnerability can be applied. They are linked to the concept of interest and help to define the values that should be respected in a given ecosystem.

This should not be confused with a deep ecology bioethics. Consideration for the self-organizing development of organisms is central, but it does not suspend human significance as a moral being. Instead, it is about ensuring a sustainable harmony between nature's self-organizing processes and human social existence (Kemp et al. 1997). Human reality must be in harmony with ecosystems, but this does not lead to abandoning human concerns. Thus, with an understanding of the bodily organic existence of humanity, we can be integrated into nature. It is a matter of weighing and comparing the different interests that conflict with one another. The ethics here becomes a continuing openness to the other. Judgment expresses the ability to "put oneself in the plase of the other." A non-anthropocentric ethics is constantly trying to incorporate new types of concerns and interests into the ethical balancing process. It is thus important to emphasize the broad nature of the concept of interest. Sitting in one's or another's place not only includes consideration of others' self-awareness or pain, but the concept of interest can also be defined as "interest in living" or fulfilling its teleological purpose, that is, life's self-constitution, self-organization, and self-realization in the broadest sense.

The ethical trade-off thus aims to analyze and justify different types of interests in relation to each other. This is justified on the basis of Kant's universalizing principle and teleological organizing principle of life's self-expression. It is thus an extension of the categorical imperative as the golden rule, in a slightly different form understood as a principle that "it is problematic to pursue its own interests if it greatly reduces or violates the interests of others." It goes as far as possible not to violate the interests involved. One must be aware of the interests of "the other" as well as "the otherness of nature," and how different people, animals, and natural contexts are affected by certain actions. In addition to the interests that apply to the human actors involved in an intersubjective recognition space, animal, nature, and environmental ethics imply the involvement of a number of third-party interests that must be taken into account in the ethical balancing process.

Establishing the ethical principles in a comprehensive interest perspective means that an analysis of stakeholders of states, companies, and organizations (Stakeholder Management) does not limit itself to the human interests of an organization (Freeman 1984; Elkington [1997] 1999; Rendtorff 2001). Later, the concept of stakeholder has been interpreted more extensively (Starik 1995). It has gained wider social and environmental significance. Nature and the environment must be taken into account when defining the company's stakeholders in relation to sustainable innovation for business legitimacy. One must always be open to how the organization affects its outside world and, in particular, how the organization can be said to violate the interests of the outside world. Nevertheless, identifying these interests is not easy. There are many different interests at stake, and it is important to be open to these different perspectives when making decisions about the future actions of the organization. Being aware of the interests of nonhuman nature can help to strengthen the organization's actions and societal legitimacy. Organizations can broaden their decision perspectives, make more qualified decisions, and be more aware of the impact on the environment of their actions. Such enhanced ethical sensitivity and judgment in organizations can be clarified with four basic considerations: panoraminization (expanding field of view and analysis), prioritization (involving the complexity of the environment in decisions), politicization (involving nature in the organization's decisions), and aware of the environmental perspectives(Rendtorff 2001, 2009a, b).

The Concrete Application of the Ethical Principles for Sustainable Innovation

Now we can put the analysis of nature's self-organization in light of the concept of interest and the model of stakeholders in relation to the ethical principles (Rendtorff 2001). How are the principles expressing the interests of nature, animals, and the environment? It is a matter of making a fundamental determination of the principles' conceptualization of the concept of interest, as an analysis that could form the basis for the identification of interests and sound environmental action, based on the ideal of sustainable development. This applies to all forms of social and organizational intervention in animals, nature, and the living world as a whole. Here, for example, the principles can be concretized as guidelines for manipulation with microorganisms, the creation of transgenic animals, the use of animals in agriculture, interventions in ecosystems, and the natural environment of humanity. They can also be used in food and medicine assessment based on animal production. This forms the basis for judicial implementation of the ethical principles. They can be considered as alternatives to a pragmatic view of sustainable development, based on an anthropocentric view of the relationship with animals and nature. Such a notion of sustainability would mean that animals and nature have no intrinsic value, but should only be protected when it is to the benefit of man. This view, as we have seen, cannot express the true ideal of sustainability, which is based on an idea of a closer connection between animals, nature, and human reality.

Judicial regulation of animal ethical and environmental ethics should not be seen as anthropocentric, zoocentric, or ecocentric, or based on a reductionist understanding of the Anthropocene, but give the principles concrete meaning, incorporating the legal ideas of proportionality, possibility of recovery, caution, and the possibility of controlling the consequences of an intervention in living nature. In addition, risk assessment and risk management regarding interventions in nature, for example, genetically modified organisms, must be developed. Legal regulation of biotechnological conditions should have a sense for the populations' reactions to the use of biotechnology. However, as shown above, the necessary ethical considerations are different for animals and humans. Therefore, it is important to provide a separate analysis of the application of the principles in the two areas. In the following description of the importance of the principles in the nonhuman field, the chapter will focus in particular on human intervention in animals and nature.

Society's Intervention in Animals

The use of animals for biotechnological purposes is today an integral part of agriculture and medicine. All kinds of animals are involved in biological and medical experiments. Animals are used as bioreactors for the production of medicines. Biotechnology is used to breed the animal species and increase the efficiency of agricultural production. It is technically possible to clone sheep and cows, and semen and eggs can be mixed to create individuals who come from many different animals. Science has formed hybrids and chimeras between species, for example, transgenic sheep and cows. It can be said that the animals of late modernity have become much more part of industrial production and therefore may be subject to new abuses. Therefore, more awareness of ethical principles is required to protect the animal values and interests of animals (Rendtorff 1997, 1998, 2002, 2003, 2008, 2014c; Jørgensen and Rendtorff 2018; Jørgensen et al. 2018; Rendtorff and Kemp 2019).

The starting point here should be human-animal cohesion in their natural environments. In fact, animals play a major role in most human cultures. Moreover, our ability to manipulate animals in agriculture and medicine does not make us very free to decide what we want to do with animals. However, a utilitarian interpretation of animal welfare and interests as absence of pain is not sufficient to protect their integrity. Similarly, animals cannot just be made useful objects for industry, agriculture, and medicine, based on productivity and efficiency considerations.

Rather, in light of the ethical principles, it should be argued that animal ethics should recognize that evil against animals in a civilized society is in principle morally wrong. The animals cannot be reduced to production farms in factory farms. Such recognition of the interests of animals is based on the recognition that human-animal relations have an inviolable intrinsic value. Therefore, humans should respect the unique intrinsic value of wildlife as well as be aware and allocate the disadvantages and appropriate size of any intervention in the animals' lives. The need for a new ethical view of the animal-human relationship can be analyzed within the framework of animal-human solidarity.

Such a need for a new ethical understanding of human-animal relations can be seen in light of the concepts of responsibility and solidarity. It is a framework for human-animal inter-relational solidarity, where humans are responsible for animal dignity, integrity, and welfare. One may also wonder if the animals can be granted personal autonomy. If one thinks of their existence as sentient and suffering beings and self-organizing organisms in a natural teleology, it is difficult not to attribute the existence of animals to natural autonomy. Reducing animals to pure machines in the face of Cartesian soul-body dualism must be considered wrong. Although the animals cannot be attributed to moral autonomy and responsibility in the Kantian sense, they seem to have autonomous survival instincts and instincts for how to live conditioned by their natural teleology as self-organizing systems in interaction with the outside world. Another possible meaning of the principle of autonomy in relation to animals could be to claim that there are limits to human rights to intervene in the autonomous existence of animals, that they have no right to "play God" and take animal existence and life in their sovereign hands. Here, referring to the autonomy of animals would mean that humans do not have the right to change animals, but to let them follow their own self-organizing development. In this perspective, there are limits to human rights to intervene in evolution and life's own self-realization. To allow animals to develop autonomously is to enhance their right to self-realization.

Furthermore, it can be argued that human dignity depends on how it treats the animals (Rendtorff 2001). With reference to the moral freedom and responsibility of man, as mentioned, it can be said that men can descend to the lower levels and rise to the higher divine levels. This means that unworthy and brutal treatment of animals would be immoral behavior on the part of man because they would not be able to live up to their humanity and responsibility. Thus, when applying the ethical principles to animals, the more fundamental "biohumanist question" already arises, about which society we want to live in and how we can create a civilized and humane society that is based on both moral integrity and aesthetic taste and the hope of realizing the scenic in the human context.

The question, however, is whether we should go even further and introduce a concept of animal dignity or intrinsic value. This does not apply in a direct moral sense, but in principle in the sense that animals as living self-organizing organisms have an intrinsic value and thus a right to autonomous, self-organizing development. In this sense, animals that do not follow their autonomous development would not be considered worthy. It is important to understand this intrinsic value and dignity as essentially different from human dignity. It is a different kind of dignity than human dignity. This intrinsic value refers to the animal's right to live as self-organizing organisms. For example, a view of animals as nothing more than some sophisticated mechanical machinery would be considered unworthy in this perspective. Applying the concept of dignity to animals implies that they have interests and meaning in themselves that are in principle independent of human interest and meaning. For example, this view of animal dignity can be seen as a more principled approach to animal ethical problems – such as genetic engineering and zeno-transplantation – than an analysis that focuses solely on risk or cost-benefit considerations.

Such a notion of the intrinsic value of animals, which contrasts with their instrumental value, also becomes significant in relation to the integrity of the animals. Integrity can here be considered the narrative coherence of human life history with the animals. In this context, integrity refers to the intact life of animals, their ability to fulfill their natural purpose, as defined by natural theology. In short, one can talk about the animal's natural "undamaged and undisturbed stage." In this connection, the inner nature of the animals is recognized as that which opposes their external instrumentalization for the use of technological purposes. Such respect for the integrity of animals includes consideration of their physical and genetic integrity and thus allows the concept of integrity to be related to the animals' natural life. Cloning, which in the classical case of the in 1997 cloned sheep Dolly, for example, can thus be regarded as an unnecessary interference with the integrity of the animal, when comparing the infringement of integrity with the possible advantages and disadvantages of the cloning procedure. The immediate benefits of cloning are small, while the moral destruction associated with animal instrumentation is too high.

The principle of vulnerability can also be applied in relation to the ethical protection of animals. The relationship between humans and animals is asymmetric, which means that humans, by virtue of their moral autonomy and dignity, have moral responsibility for the vulnerable animals. The animals cannot express their own opinion regarding genetic interventions and experiments. This underlines the need for community awareness of the Janus face of animal biotechnology, where the use of animals to improve human welfare will in fact lead to greater suffering for the animals. Caring for the intrinsic value, integrity, and naturalness of the animals presupposes the aforementioned dependence between humans and the other living nature, enabling the ideal of sustainability to be interpreted in light of the basic ethical principles (Rendtorff and Kemp 2000).

This means that the animals, despite having no reflexive consciousness, are recognized as creatures included under the ethical principles. The animals have interests and they can feel pleasure and pain, and as instinctive creatures they relate to life. Not only does this imply an understanding that animals should not suffer, but it also includes respect for the animal's livelihood, that is, an understanding of animals' dignity (intrinsic value) in relation to their environment, physiology, psychology, social relationships, and relationships with their other species. The application of the ethical principles in relation to animals implies that they have a good life in relation to their intrinsic nature. Such respect for animals helps to strengthen human dignity, because they will live in a more humane world of life.

Society's Intervention in Living Nature

Both agriculture and industry use biotechnology to manipulate living nature (Rendtorff 2014b). These human changes in the natural cycle today include both cloning, crossing of different species and the creation of medical products to combat AIDS and cancer and other forms of disease. Furthermore, high hopes are being raised for the possibilities of genetic technology to formulate solutions to problems related to energy production and pollution. Plants and various grains can be genetically engineered to solve hunger and agricultural problems in the developing countries of the global South.

Even through human intervention in living nature, the interdependence between humans and nature remains a prerequisite for the application of the ethical principles. As a bodily incarnate being, man is constantly involved in an organic metabolism with the natural world. But at the same time, humans, by virtue of their moral autonomy and freedom, rise above the living nature, and thus become responsible for their own destruction of nature, including the destruction of the biosphere's opportunities to evolve.

In this context, it is difficult to make sense of the concepts of dignity and autonomy independently of the relationship between man and nature. The dignity of man and nature is different. Reference to the dignity of nature is not the same as human dignity (Balzer et al. 1997). The term cannot be understood as "biocentric" so that man and nature are on the same moral level. Talking about the dignity of nature means instead that nature has an intrinsic value in itself as unique and irreplaceable. The notion of "dignity of the creature" (Würde der Kreatur) can therefore be assigned legal significance (Balzer et al. 1997). It has been introduced into Switzerland's constitution on the demand of a majority in a referendum. An interpretation of the concept is that the dignity of the creature does not coincide with human dignity. The dignity of the creature is independent of human dignity. It is not just aesthetic or expressive dignity, but moral intrinsic value. It demands human respect and respect for animals and nature. The dignity of the creature must not be interpreted in depth ecological or anthropocentric. It expresses that man, as a morally higher being, has a duty to respect the moral self-worth of other creatures (both sentient beings and plants and nonliving creatures). The intrinsic value is justified by the fact that these creatures have individual good and individual goals and that they must be regarded as organic entities (Rendtorff 2001).

Integrity and vulnerability can also be applied in protecting wildlife. Interventions in the natural world are not just motivated by a human interest in living in a beautiful, civilized, and humane world of life. The concepts of integrity and vulnerability, in contrast to a utility-oriented ethic, express a need for protection of the natural world's need for self-esteem and self-organization. In this context, the concept of integrity has been emphasized as central to respect for biodiversity and for the intrinsic value of life. Integrity here refers to the integrity and health of living systems, maintaining their present and future ecological stability. One could say that a living system has integrity if it maintains its opportunity in the present and future to pursue its own teleological potentials. The system is given the opportunity to restore its wholeness and unity in a stable harmony. Integrity expresses unchanged conditions for the system's ability to evolve as a healthy ecosystem according to its own purpose. The system develops according to its own essence (with a technical term; according to its genetic program for *eidos*). It applies to the ability of an ecosystem to maintain its identity as an organism, that is, to develop its health, harmony, and stability (Rendtorff 1997, 1998, 2002, 2003, 2008, 2014c; Jørgensen and Rendtorff 2018; Jørgensen et al. 2018; Rendtorff and Kemp 2019).

The notion of life's integrity or intrinsic value as a whole must not be touched on is often implicit in the debate on biotechnology, and many people refer to the concern and respect for life in their horrific criticism of genetically modified foods, transgenic animals and plants, as well as industrial society's destruction of the biosphere. This concern for the living world can be explained not only as a pragmatic interest in the survival of humanity but also with concepts referring to a religious and cultural understanding of the holiness and "dominion" of life (Dworkin 1994).

The concept of integrity also has an impact on the protection of nature's teleology, and it has therefore been highlighted as the most important principle of nature protection. As already mentioned, teleology refers to nature's self-organization. The concept of teleological integrity applied to nature manifests itself as a self-organizing living world that must be allowed to unfold according to its own principles. As you know, teleology (telos and logos) means reason, purpose, goal, or endpoint. To refer to the teleological integrity of ecosystems expresses the autopoietic, self-organizing processes of living nature, but also the intrinsic nature of living creatures, as they are connected to an environment in which they develop their own living existence. This means that plants, microorganisms, and ecosystems have a purpose, and if that purpose is to be met, certain environmental protection requirements must be met.

A strong argument for an integrity point of view is that we are unable to completely predict the consequences of the use of different manipulation techniques. This is especially true of the lack of opportunities to determine the results of the release of genetically modified organisms into the living nature. In this context, the necessary respect for the integrity of nature is based on human responsibility toward the living world. Such use of the integrity not only implies a reluctant attitude toward the manipulation of living nature, but can also, as is the case with ordinary sustainable agriculture, but also in the many attempts to develop organic farming, contribute to a better understanding of it, living nature, where human intervention in living nature is not rejected, but instead helps cultural and natural plants to develop in a self-organizing context with other ecosystems.

Similarly, vulnerability can be referred to as a central feature of living nature. As mentioned, it expresses the fragility and finality of the ecosystems and the organic life of the living world. The various social and cultural understandings of vulnerability are associated with all types of human intervention in living nature (Rendtorff 2001).

On this basis, it can be argued that the ethical principles of autonomy, dignity, integrity, and vulnerability have a complex application in relation to living nature (Rendtorff 1997, 1998, 2002, 2003, 2008, 2014c; Jørgensen and Rendtorff 2018; Jørgensen et al. 2018; Rendtorff and Kemp 2019). They thus express a challenge to a purely anthropocentric approach to the relationship between human beings and the nonhuman living nature. The ethical principles manifest a culturally mediated understanding of life's self-organization, its natural evolution, as justified by the human community's openness to nature's otherness in the context of human meaning. It is a matter of using the technology in a way that is ecologically acceptable to the ideal of sustainability represented by the basic ethical principles (Rendtorff and Kemp 2000).

It is thus a difficult but not logically impossible task to use the ethical principles as the basis for legislation and case law regarding biotechnological interventions and other violations of nature's sustainability (Ost 1994). This can be expressed neither in a purely anthropocentric nor in depth ecological perspective. The legal status of nonhuman nature can be defined as being between the subjective and the objective. The nonhuman living nature is granted legal status without dissolving the qualitative moral differences between humans, animals, and the nonhuman living nature. This status has been illustrated by an interpretation of sustainability in light of the basic ethical principles (Rendtorff and Kemp 2000).

From Bioethics to Business Ethics and Sustainable Innovation for Business Legitimacy

However, such a demonstration of the importance of the principles for animals and nature is not complete until we move from bioethics to business ethics. As mentioned at the beginning of this article, John Elkington has in his book *Cannibals with Forks: The Triple Bottom Line of 21st Century Business* sought to make sustainability the core ethical, value theoretical, and market strategic principle of twenty-first-century management as the foundation of business legitimacy and philosophy of management (Rendtorff 2009a, b, 2010a, 2013a, b, c, d, 2014a). Likewise the chapter has been pointing out of the integrative function of the sustainability ideal in relation to the connection between the human and the non-human area, Elkington emphasizes that sustainability must be seen in light of a three-fold bottom line between economics, ecology, and social responsibility. We cannot avoid the fact that many companies in industry and agriculture are directly involved in the degrading treatment of animals and predatory behavior on nature.

Although not mentioned in the direct context, it can also be said that the ethical principles of autonomy, dignity, integrity, and vulnerability play a role in the corporate ethical understanding of the ideal of sustainable development, as recently expressed as sustainable innovation in the SDGs and the other principles of sustainability policy of the UN. Respect for autonomy can be seen in light of the requirement to involve all corporate stakeholders (interested parties) in sustainable decisions (animals and nature can also be considered as possible stakeholders). Respect for dignity is present in a persistent reference to human rights as key dimensions of social responsibility. Respect for integrity is expressed in a concern for the integrity of ecosystems and the demand for corporate respect for the entirety of nature (Rendtorff 2015a, b). Finally, the notion of respect for the vulnerability of nature can be said to be a central point of departure for Elkington's project, and it is expressed very well in the title "Cannibals with Forks" (Elkington [1997] 1999).

Cannibals with Forks can therefore be read as a defense of green capitalism, where market economy and business make the triple bottom line the basis for a sustainable economy (Elkington [1997] 1999). Elkington develops a range of ideas for managing and implementing sustainability principles in modern companies. Of particular interest is a "Sustainable Accounting" in which shareholders (investors), managers, consumers, environmental activists, and other stakeholders are involved in the assessment of the company's sustainability in order to provide innovation for business legitimacy.

In *Cannibals with Forks*, sustainability is defined, according to the Brundtland report, as an endeavor to secure the development of the present world in a way that does not destroy the possibilities of existence for future generations (Elkington [1997] 1999). Economic growth should be in harmony with ecological and social conditions. Due to the seriousness of the environmental problems, companies with major environmental problems in the longer term have less chance of survival (WCED 1987).

In a future, globalized, and intensive economy with open competition markets, it is necessary to be at the forefront, and we cannot avoid that a lack of respect for the economic, social, and ecological bottom line is dangerous for the survival of the company. It is necessary to address political, environmental, and social issues in the assessment of the company's accounts. In the face of fierce competition in open markets, companies cannot escape the threefold bottom line with economic, social, and environmental considerations. The company should consider the economic, social, and environmental considerations of the development.

Sustainable efficiency and sustainable innovation in a company should, in line with the Brundtland report and the SDGs, aim to improve the integrity of life and ecosystems. It is about maintaining the economic, ecological, and social sustainability of nature, so that it can also be available to future generations. It is important to emphasize that the ideal of sustainability is realized in close connection with both corporate intrinsic and external cultural and social conditions. It is about productively utilizing all the different types of capital of the company, that is, that physical and mental human capital also plays a role. Elkington emphasizes that societal respect for sustainability depends on the social virtues and cultural capital of the community.

Therefore, accounts that measure the company's ability to respect sustainability following the SDGs ideals must contain a wide range of social and cultural indicators. These include, for example, the company's involvement in arms trafficking, the use of nuclear energy, employment and respect for ethnic minorities, respect for human rights, dialogue with consumers and local areas, etc. in addition to the ecological considerations of animal welfare, for example, by limiting animal testing and the integrity of ecosystems. The new types of accounting and social reporting that already exist in many companies, such as Novo Nordisk and SHELL, are concrete expressions of whether companies are making progress in realizing the ideals of sustainability in practice.

It is implicit in recent bioethical and environmental ethics discussions that respect for sustainability is a requirement that cannot be escaped. In *Cannibals with Forks*, Elkington mentions a number of current trends that require companies to adapt to sustainability strategies. Globalization of the economy, trade liberalization, new investment, and restructuring opportunities are all societal factors that intensify corporate power (Elkington [1997] 1999).

The emergence of the global politically conscious environmental activist and consumer has also helped to focus on the company's values. This is the case of the struggle against climate change and the efforts to make companies comply with the SDGs (Rendtorff 2005, 2017a, b, c, 2019a, b, c). Incorporating soft values, such as respect for sustainability and human rights and awareness of CSR, has become an integral part of corporate public relations. The company's ability to listen to the public's ethical requirements and be open to criticism characterizes the modern stakeholder-based market economy (Stakeholder Capitalism). We cannot ignore the fact that social values and cultural identity relationships, as an invisible hand of morality in economic matters, play a major role in the success of companies. However, this also means that we must not forget the social dimension of sustainability. The population issue, for example, is an integral part of the struggle for a sustainable society.

At the same time, it is no longer possible for companies to keep the relationship between economy, ecology, and social responsibility secret to the public in their accounts. In a globalized information economy, the public has strong opportunities to access knowledge about the company's accounts. At the same time, the need to incorporate values into the company's activities is based on demands for transparency and openness. Management in modern companies cannot avoid being based on open disclosure by all interested stakeholders (Stakeholders). Therefore, the company cannot avoid engaging in a dialogue with stakeholders on basic values and action scenarios. This entails, for example, extended strategic cooperation with NGOs, which today have become an integral part of many companies' relationships with their stakeholders (Rendtorff 2005, 2017a, b, c, 2019a, b, c).

Elkington argues that international businesses today face openness as a key public legitimacy requirement. Where they previously kept the information to themselves, many companies today find it an advantage to engage in communication with many different stakeholders. Big companies like the biotech giant Monsanto, SHELL, or Novo Nordisk have understood the need to listen to their stakeholders. Openness gives the company improved knowledge of its surroundings.

The new willingness to be transparent shows up in a number of circumstances that go beyond traditional accounting requirements, for example, in the new social reports. Some of the new dimensions of openness have been introduced into the legislative requirements for green and social accounting, others are voluntary, while others are becoming involuntary, as in companies that have not understood the need to engage in dialogue with a wide range of stakeholders. This also involves future generations, animals, plants, and the biosphere as a whole, as relevant new stakeholders to improve sustainable innovation and business legitimacy. Such concern for future stakeholders is based on a high level of social capital in society.

The concrete realization of sustainability ethics based on the principles of autonomy, dignity, integrity, and vulnerability can thus be achieved through an intensified dialogue with the company's stakeholders (or in the case of animals and nature, dialogue with representatives thereof). There must be continuous involvement of stakeholders in management decisions (through regular meetings, introduction of sustainability accounts and reports, development of an eco-efficient management plan for the company (Eco-Efficiency and Lifecycles)) in order to achieve harmony between the economic and ecological dimensions of corporate management.

The new types of ecologically oriented perceptions of the organization's interaction with the outside world can be seen as an attempt to put the ethical principles into business planning into practice with focus on innovation for sustainability and business legitimacy. An ecological technology is based on a constant recovery of what is destroyed as well as a sustained understanding of any unintended consequences of actions. It is a matter of using the technologies in light of the company's ecological and social responsibility. There are six dimensions of such an eco-compass: understanding of health and environmental risks, resource conservation, care of energy consumption, care of material consumption, recycling of material, and ensuring long-term product use (Rendtorff 2014b). Making these dimensions an integral part of the company's creative innovations is extremely important. This is about developing products that do not violate the harmonious integrity of ecosystems.

In this context, companies should develop future-oriented planning. A shift toward sustainable production involves the involvement of future generations' interests in production. The ultimate requirement of sustainability is responsibility for future people, as well as fairness and equality between the generations.

Management based on the triple bottom line aims to avoid ecological disasters as a result of a non-future production. The principle of sustainability and sustainable innovation for the SDGs should be integrated into the day-to-day management of the company to ensure an efficient and sound use of resources.

Finally, it is important to emphasize that the sustainability strategy for business legitimacy and the SDGs is only accomplished when the company makes its ecological and social objectives part of accounting and reporting. The transition to sustainable development is linked to the development of coherent and compelling reporting procedures based on impartial analysis and audit. It is a major challenge for future accounting, how to measure the development of respect for the ethical principles of autonomy, integrity, dignity, and vulnerability in a company (Rendtorff 2001). In addition, a sound measure of sustainability should incorporate many of the above dimensions into reporting: dialogue with stakeholders, openness and transparency, sustainable technology, long-term planning, etc.

Conclusion

It is now time to summarize this long and complex argumentation, which was tasked with formulating the link between bioethics, environmental ethics, and business ethics with focus on sustainable innovation and business legitimacy. This is a cosmopolitan horizon for business ethics and business legitimacy (Rendtorff 2017a, 2019d). Here it has been a key issue to show how the principles of autonomy, dignity, integrity, and vulnerability can form the basis for a sustainable market economy, animal, and nature ethics (Rendtorff 2010b). The chapter has shown that the ideal of sustainable development is not an empty utilitarian concept, but must be understood in light of the ethical principles. At the same time, Stakeholder Capitalism's liberal stakeholder economy means that sustainability must be interpreted in light of social and economic equality and justice. The principles must be seen in light of the concepts of responsibility and solidarity. The triple bottom line here is an important precision of sustainability. It is also important to emphasize that the principles extend from the human sphere and have a different but different application in relation to plants, animals, and the entire biosphere. The ethics of sustainability is based on a symbiosis between human beings and nature. This is based on a phenomenological analysis of the bodily affinity of humanity and embeddedness of human beings in to a life world. Here, the relationship with the living nature is justified as a respect for the self-worth of self-organizing organisms. Here, the concept of interest is linked to body phenomenology as the basis for one's self-sustaining life systems self-interest. The task of the judiciary is to balance different life interests. Judgment is also put into play in organizational theory as a basis for identifying relevant stakeholders where the ethical principles apply. In this connection, the chapter has pleaded for a biohumanistic respect for the self-worth, dignity, and integrity of the living beings. At the organizational level, an ecologically oriented life cycle is developed. Here, the company's environmental and social accounting and reporting become extremely important. The sustainability ideal is thus integrated into business ethics while incorporating the triple bottom line as a basis for improving the social, environmental, and economic considerations of society for sustainable business legitimacy.

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Part XXIII

Business Legitimacy and the Sustainable Development Goals (SDGs)

Role of Corporations in the Great Transformation to Achieve Global Sustainable Development Goals: A Pragmatist Perspective

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Bettina Hollstein

Contents

Abstract

In order to achieve the global Sustainable Development Goals (SDG), a new great transformation, reintegrating and re-embedding different spheres like the economy, society, politics, and science, is needed. This great transformation is merely a moral project including technological, economical, institutional, and cultural processes. Different actors are part of this project, such as civil society, science, and corporations. In this paper, the focus is on the role of corporations as change agents within the great transformation.

The SDG are, in this respect, the moral compass for the transformation, but the true question is what makes corporations start to go in the direction the compass shows. To answer this question, a pragmatist framework relating on Hans Joas' work on action theory is used in an interdisciplinary manner. When and how do change agents have an impact on societal change? To answer this question, a close look is taken at the interdependencies of individual and collective action, rational and emotional aspects, intended and non-intended results, etc.

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Sustainabel development goals · Pragmatism · Business ethics · Intergenerational justice

Introduction

Achieving all of the different dimensions of sustainability, such as integrating welfare, social justice in a global and an intergenerational perspective, as well as respect for environmental boundaries, is much more than a technical or organizational challenge, for corporations and many other actors. Due to different rebound and causal effects, irreversibility, complexity, and real uncertainty (Schneidewind 2018: 57; Hollstein 1995: 23ff.), it is not sufficient to rely on innovative technical solutions for global problems of non-sustainable development. The vision of a green growth via an efficiency revolution (von Weizsäcker et al. 1998) seems not to be a realistic one, even if most governments appear to believe in it. In addition to such technical innovations creating more efficiency, new products, and industrial processes leading to more sustainable development, it seems obvious that the lifestyle of those living in the global north with an ecological footprint requiring more than one planet has to change in order for this to even start becoming possible (Schneidewind 2018: 60). Such a great transformation as conceptualized by Polanyi ([1944] 2001) requires both a normative goal, namely, the value of sustainability in a broad sense by combining global and intergenerational justice, and practices and actions implementing this goal.

Whether this goal of sustainability is really a goal of most people, and if it can be founded by universal ethical principles, will not be investigated in this paper. The starting point is simply the fact that most nations subscribed to this goal in the UN conference in Rio on sustainability in 1992 – creating a political statement of most nations in the world and institutionalizing it through different agreements, such as the Local Agenda, the Climate Agreement in Paris, etc. (Schneidewind 2018: 107ff.).

Meanwhile, sustainability was differentiated into 17 Sustainable Development Goals (SDGs) that came officially into force on January 1, 2016. They are part of the 2030 Agenda for Sustainable Development – adopted by world leaders in September 2015 at a historic UN Summit (United Nations 2015). Additionally, many multinational companies assented – at least formally – to this goal of sustainable development and committed themselves to negotiated agreements like the Global Compact.

On the level of so-called "ordinary" people, it can be seen that according to the World Survey, "[p]rotecting the environment should be given priority, even if it causes slower economic growth and some loss of jobs," is a proposition agreed on by 47% of the global population (Inglehart et al. 2014, V81). As Schneidewind (based on Maja Göpels investigation (2016)) argues, the implementation of sustainability requires a "Great Mindshift," that is a cultural change leading to institutional reforms and new practices (Schneidewind 2018:103). However, the fact that a cultural "mind shift" or a moral revolution is needed does not say anything about how it may come into effect.

Theories of sustainability normatively assume that a universal conception of the good life should be valuable to all peoples and should be granted to all human beings. Such a conception should consider the natural sources of life in a global way, including future generations. Sustainability, intending to combine global justice with intergenerational justice, is a normative value (Ekardt 2010). It is a second order volition that can help evaluate first order wishes. Societal norms can be derived from it, and these norms can be institutionalized through juridical and organizational frameworks. However, often nothing like this happens.

Because of this gap between proclaimed goals and realized actions, now a turn to the Pragmatist Action Theory as developed by Hans Joas (1996) is taken, a theory that has something to say about how values become reasons for action. While Hans Joas develops an action theory for individuals, the actions of corporations and how pragmatist economic ethics may help to understand which role corporations can have in a great transformation are here at the core of the analysis.

In the following, (1) the Pragmatist Action Theory is presented as a relevant framework for analysis, (2) on this founding some concepts of a pragmatist economic ethic are developed, and (3) how this can help to explain the role of corporations in the great transformation is shown.

Pragmatist Action Theory

This paper wants to show that the Pragmatist Action Theory as developed by Hans Joas (1996) based on the work of George Herbert Mead (1943 [1934]) and John Dewey (1922) is a fruitful way to conceptualize how values and actions interfere. The starting point is a critique of rational action theories. Joas is criticizing three main points in rational action theories, namely, the assumed teleological character of human actions, the assumption of corporeal control by the actor, and the conceptualization of the actor as autonomous and individual. This does not mean that rational action theories are completely wrong, but that they can only partly explain human behavior and have to be extended by specific aspects. The following points derived from this critique are crucial for a Pragmatist Action Theory:

- The embeddedness of human thinking in human practices means that people are constantly struggling in concrete situations with their natural and social environment. Ends are never fixed independently from action but are developing and changing in a creative process while persons are acting.
- The human subject is a concrete, embodied person acting both in the world and experiencing it. This means that the analysis has to start by assuming individuals are a concrete corporeality with emotions, living in concrete social structures, and a specific material lifeworld with ecological boundaries.
- Norms and ethical practices are not purely subjective or culturally relative. People cannot completely define and give reasons for their values. However, they can

discuss them in a reasonable way with others because every action has an essentially social character opening up the possibility for mutual understanding.

Pragmatists presuppose that people normally act according to routines: We use the car to go to work every morning; we eat at the canteen every day, and so on. It is only when this routine is disturbed and broken that people are obliged to reflect on it, to balance their wishes and their deeper aspirations and values. It is only then that they create a new way of acting, which can become a new routine: My car breaks down and I have to decide whether I buy a new one or start cycling. Does my daughter insist on trying an electric car? Do my colleagues laugh at people coming to work by train? Are there affordable options for using car sharing models or public transport? Do I feel uncomfortable on public transport? How much money can I budget? Do I consider myself a member of the world population? Do I feel solidarity with people far away or with future generations?

In such a situation, people do not only evaluate the pros and cons as a cost-benefit analysis but also consider implicit normative aspects. When they develop creative solutions, make decisions, and act accordingly, they may experience that this was not the right solution, and they then readjust their decisions in order to find a new, better one. When they feel comfortable with their decision, they integrate new routines, and the experiences they have with these new routines may enforce their values. Accordingly, experiences are a crucial aspect for how values become relevant for their creative actions, as well as how they arise out of experiences in actions (For an elaborated theory of the genesis of values, see Joas (2000), based on James (1902)).

What can economists learn from these pragmatist insights for economic ethics? Conceptualizing economic ethics in a pragmatist perspective means that at the beginning some sort of disturbance is needed to initiate reflection and creative action.

Pragmatist Economic Ethics

American Pragmatism is a philosophy oriented toward action and must therefore be based in an action theory as developed above. Following the first critique of Joas concerning rational theories, economic ethics cannot be reduced to rational ethics like utilitarian ethics or deontological ethics. For both types of ethics defining clear goals that have to be pursued, the critique of Joas is central. Since ethical behavior is – as all action – embedded in routines, it is necessary to take a closer look at virtue ethics or ethics focusing on models or attitudes (Mieth 1977, 1998). Ethical actions have to be taken in specific situations and in a routinized way in most cases. Since it is often impossible to derive clear goals and means from general moral norms in a concrete situation, general moral attitudes or ethical role models are important to acting correctly, as they reinforce habits. Additionally, a clear analysis of the situation and of the different options is necessary to make good decisions.

Concerning the second point – the corporality of action and the sensual perception of the world, emotions play a crucial role. A moral dimension can be found in qualitative experiences that can be articulated (Jung 2009: 507) as, “[t]he underlying pervasive quality in the last instance, when it is put in words, involves care or concern for human destiny" (Dewey 1998 [1930]: 201). The articulation of moral intuitions is necessary to motivate ethical behavior and opens up the possibility for criticism (Jung 2009: 484). Only articulated feelings and conceptions of the good can become values, and reflecting these aspects in discussions can result in the articulation of norms that are not only learned in an abstract way but also experienced in real life. For pragmatists, goals and means are not separated from each other, but in a circular relationship. In the same way, values and actions are interconnected and part of a creative process. That is why within the pragmatist framework, emotions play an important role for ethics.

Additionally, interpretative narratives are important as articulations of values generating experiences for communities. Especially historical contextualization of normative propositions can help to actualize universal validity claims (Joas 2011: 147–203). Pragmatist ethics articulate moral intuitions and argue in a narrative manner and genealogically. Genealogical formulation adds plausibility because of its role to address a biographical narration (Jung 2009: 490 f.).

The third aspect, the sociability of action, can be interpreted as a normative claim for universalism. In that sense, norms in economic ethics have to be generalizable, which means that the exclusion of human beings according to group-related criteria like sex or class is not allowed. Mead, for example, argues for ethics enforcing the impulse that helps to achieve *general* happiness or well-being (Mead 1968, 435).

In order to achieve this, ideal and real discourses in which people can debate concerning concrete norms are necessary. Through articulation, a public discourse concerning social moral intuitions is possible (Taylor 1996: 49 and 79). Public discourses also provide justifications for principles and institutions that are necessary for the implementation of a pragmatist economic ethic aiming at social issues and the economy beyond individualism. Social communication and discourse are the basis for a consistent critique of social issues (Joas 2000 [1980]: 134).

In sum, a pragmatist economic ethic is based on an actions theory that does not reduce action to rational action and therefore values virtues and models and an analysis of the situation. Articulation of qualitative experiences and emotions are important. Narrativity is an important aspect for collectives, as well as universalism justified in ideal and real discourses. Public discourses are additionally important for the justification of regulations and institutions (for more details, see Hollstein 2015: 293–307).

The Role of Corporations in the Great Transformation

Corporations, as well as individuals, are acting according to routines. Even for the development of innovations, corporations have institutionalized routines, for instance, in research labs to further creativity by using specific creativity techniques. The claim for more sustainable development may disturb these routines: either because new regulations are put in place or because existing regulations are controlled in a stricter way (an example being the Clean Air Act in cities) or because consumers protest against specific, non-sustainable products (an example being pesticides causing the death of bees) or non-sustainable processes (like using the slash-and-burn method in the rain forest).

In such a situation, corporations not only have to react, but they will have to balance different aspects and arguments of different stakeholders. Of course, the state or the consumers are important stakeholders, but other stakeholders are important, too. The shareholder or owners of the corporation want the corporation to produce revenues for them and for investments into the future of the corporation. The employees want the corporation to provide secure and well-paid jobs. The neighbors want the corporation to produce no dangerous emissions, etc. In situations in which a win-win situation can be realized by creative innovation or adaptation, everything is fine. For example, if the corporation changes the way it produces by creating a new technical process, and with this innovative technique, it can produce in a more efficient and sustainable way, realizing economic gains as well as a greater sustainability will not only be alright, but it will be optimal. In this case, markets will remunerate – at least in ideal cases – these innovative corporations, and sustainability will be attained automatically.

The case is more complicated, when the gains on the one side are connected with losses on the other. In the case of intergenerational justice, the problem that future generations cannot act themselves and give voice to their interests, while the living generation has to claim the rights of the future is significant. Problems that are difficult to describe, because they are complex, outcomes partly unknown, and the result of cumulative processes, as is the case in environmental issues, are difficult to articulate by stakeholders. It is also difficult to viably predict cultural changes with problematic outcomes like the loss of life rhythms or the erosion of family structures due to increasing demands for greater mobility (in space and time) (Maurer 2018: 129ff.).

Which kind of attitudes and models can help corporations to deal with such problems? For example, concerning problems related to uncertainty and complexity, a prudent attitude might be necessary. Which kind of institutions and processes are necessary to give a voice to future generations so that the conflicts can be articulated and produce a productive irritation leading to changes in the direction of greater sustainability? Most corporations install a CSR officer in charge of dealing with these issues, but the question remains: Which role do CSR officers or CSR departments have in a corporation? Do they really have the power to disrupt the processes of the organization, or are they the response of corporations in order to avoid substantial changes, by delegating the conflicts to the CSR officer as a sort of lightning rod? An attitude of openness and willingness to hear the claims of stakeholders is necessary instead of an attitude trying to lock up the corporation in order to prevent any change. This attitude of openness might be not only helpful in order to hear claims of future generations but may also be helpful to analyze situations and to distinguish new opportunities and chances for the corporation.

Corporations are not abstract entities but material bodies with real people acting within them, interacting with each other, with furnishers and consumers, neighbors and politicians, lobbyists, and NGOs. Emotions are part of all of these interactions and determine how situations are perceived and experienced. The communication of corporations is – especially in the realm of marketing – often related to emotions. Emotions are not only important in the communication with consumers but also with employees, especially regarding motivation. Relating the goals of the corporation to sustainability may induce positive emotions for consumers. Using green labels is one example how corporations try to use positive emotions related to nature and the environment as a selling argument. However, this may cause greater indignation for consumers and lead to consumer boycott, when such green labelling is unmasked as "green washing" without substantial commitment of the corporation.

How can corporations contribute to real experiences of sustainable engagement? For the employees of a corporation, corporate volunteering can be a way to experience engagement for sustainability in a joyful atmosphere organized by the corporation. For example, asking colleagues to help realize a sustainable project during a corporate volunteer day could procure positive experiences, emotions, and motivation. Nevertheless, these experiences have to be interpreted within a credible narration and actions relating the corporation's engagement to sustainability.

Corporations often develop codes of conduct relating it to the history of the corporation and its historical development. Traditions are important arguments in this respect, relating a narration of the corporation to embodied and sometimes ritualized practices. Traditions of family-owned corporations are a good example for this. These traditions are not fixed, but evolve in time, and the history of a corporation is interpreted in different ways in different situations. To provide a motivational basis, the narration has to adapt to new situations without losing its core message that gives the corporation a specific corporate identity.

Finally, corporations take part in global discourses concerning the relation between the economy and sustainability. However, global problems need local activities, changes in lifestyle, habits, and everyday life. Corporations act locally and globally; they have an impact on lifestyles by creating products and relating these products to specific messages that address general topics of the good life as marketing campaigns show (see, e.g., the campaign of NIKE: "to bring inspiration and innovation to every athlete in the world") (NIKE 2020).

What can corporations do to act according to the necessities of the great transformation, and what can be done to make corporations that are not interested in acting according to the necessities of the great transformation acting according to the SDGs?

How to realize the great transformation		
Ideal types of corporations	*Corporations that want to act in a sustainable way*	*Corporations that want to maximize profit*
Values	Communicate sustainability internally (codes of conduct, corporate identity, marketing use) and externally (lobbying, marketing) Develop a genealogical narrative of a sustainable firm	Comply with political agenda of sustainability to prevent negative public opinion and regulations
Institutions	Support institutionalization of strict legal regulations concerning environmental issues in order to compete in a fair manner Install stakeholder dialogues with consumers, neighbors, employees, etc.	Lobbyism for less regulations Comply with legal regulations in order to avoid higher costs or penalty fees React to consumer protests with stakeholder dialogue in order to avoid consumer boycotts

(continued)

How to realize the great transformation		
Ideal types of corporations	*Corporations that want to act in a sustainable way*	*Corporations that want to maximize profit*
	Compliance institutions within the firm	
Practices	Flat hierarchies in order to further participation and dialogue with employees Corporate volunteering	Incentives for innovations for efficient processes and products that realize win-win situations (less pollution/ waste, more profit)

One lesson that can be learned from pragmatism is that these ideal types of profit-maximizing or value-driven corporations do not exist. In fact, both aspects are constantly balanced in a creative way in situations when corporations are challenged and have to change their routines. Having this in mind, the table above provides some examples for how corporate action is influenced by the state, competitors, employees, consumers, and other stakeholders and, in turn, influences others.

In sum, corporations can play a major role as change agents for sustainability. Understanding the creative ways of corporate action may help to develop norms, attitudes, institutions, and practices in economic ethics for a more sustainable development of the world.

Conclusion

The legitimacy of business in a society facing global challenges as the great transformation toward sustainability depends not only on its ability to create economic welfare. Rather, companies must take into account their embeddedness in the world in which they live and meet their intergenerational responsibilities. A pragmatist business ethic that wants to react to this situation will pay special attention to a precise analysis of the situation, to the consideration of emotions and attitudes as well as to participatory discourses in the development of creative solutions. Additionally, it will keep in mind the level of guiding values as well as that of the regulating institutions and finally that of everyday practices.

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Cross-Sector Partnerships as a Source of Business Legitimacy in the Sustainable Development Goals Era

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Oda Hustad

Contents

Abstract

This article explores cross-sector partnerships as a source of business legitimacy in a time where the United Nations Sustainable Development Goals (UN SDGs) arguably are a leading agenda for social, economic, and environmental development. In the SDGs and their accompanying "2030 Agenda for Sustainable Development," partnerships are emphasized as an essential tool for implementing sustainable development, and more and more business firms are consequently engaging in partnerships with government and civil society actors to contribute to the SDGs. In the research literature, partnerships have mainly been studied separately from their institutional context. However, it is the overall argument of this article that the institutional context of partnerships has played an important role in shaping the idea of the legitimate partnership today. This article incorporates the institutional context of partnerships in the assessment of their legitimacy by looking at three aspects: partnerships as a

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form of extended stakeholder management, partnerships as a means for corporate social responsibility (CSR) implementation in the globalized and Anthropocene era, and partnerships as a result of institutionalization and legitimation in the UN system. Finally, the article presents some current challenges to the legitimacy of partnerships and provides some concluding remarks on how these challenges should be addressed.

Keywords

Legitimacy · Partnerships · Social partnerships · Cross-sector partnerships · Sustainability partnerships · Sustainable Development Goals · SDGs · United Nations

Introduction

We live in a time where the triadic divide between the public, private, and nonprofit sectors in society is blurring. Governments and international organizations are incorporating the private and nonprofit sectors in decision-making processes, non-governmental organizations (NGOs) are working increasingly strategic and business-like, and business firms have gone from being more or less entirely focused on profit-making toward being perceived as political actors with responsibility for the "common good" of societies. At the same time, we live in the time of the Anthropocene, in which humankind is creating major disruptions of Earth's physical and biological systems due to the massive impacts of world economy (Sachs 2015). This has put climate change and sustainable development at the forefront of the international agenda, led by the United Nations (UN). Cross-sector partnerships have become widely perceived as a critical means for addressing the complex and multilayered social and environmental problems in the Anthropocene era, creating a "partnership society" (Googins and Rochlin 2000). This comes from the acknowledgment that problems such as social inequalities and climate change do not only require addressing from governments alone but from all sectors in society (Bendell 2000; Selsky and Parker 2005). As transnational corporations are growing in size and power, the old role of the nation-state is changing, and its former sovereignty in controlling resource flows across national borders is challenged. At the same time, the nonprofit sector plays a growing role in managing the social and environmental problems that used to be the responsibility of governments (Seitanidi 2010). This has led to a new emphasis on business firms as political actors with a social and political responsibility to help fill the regulatory vacuum in global governance (Scherer and Palazzo 2011). Thus, many cross-sector partnerships involving actors from the private, public, and nonprofit sector aim to fill "governance gaps" where governments fail to successfully address social and environmental issues, by adopting governance functions that have formerly been the sole authority of governments (Schäferhoff et al. 2009).

This article explores cross-sector partnerships as a source of business legitimacy in a time where the United Nations (UN) Sustainable Development Goals (SDGs) arguably are a leading agenda for sustainability. In the SDG framework, which consists of 17 goals and 169 associated targets addressing the world's most pressing problems within environmental, social, and economic sustainability today, partnerships are emphasized as an essential tool for implementing sustainable development. Partnerships are declared as one of five building blocks for realizing the SDGs before 2030, and SDG number 17 is devoted to partnerships, stressing multi-stakeholder partnerships across sectors as important vehicles for sharing and mobilizing knowledge, expertise, technology, and financial resources to contribute to the SDGs (United Nations 2015, 2019). Where their predecessors, the Millennium Development Goals (MDGs), were manifested as a duty-based and state-centered agreement aimed at developing countries, the SDGs are expressed as a more positively framed ambition aimed at all countries and all sectors. Thus, the SDGs have been widely embraced by the private sector, and there is a growing prevalence of cross-sector partnerships involving business firms that aim to contribute to the SDGs (Scheyvens et al. 2016). Using Suchman's (1995) conceptualization of legitimacy as a point of departure, this article explores how cross-sector partnerships create new opportunities to strengthen business legitimacy in the SDG era. In the research literature, partnerships and their drivers have mainly been investigated as if they were occurring in a vacuum, and many studies have overlooked their embeddedness within the larger institutional context (Vurro et al. 2010). It is the overall argument of this article that the institutional context of partnerships has played an important role in shaping and defining the legitimate partnership. The article therefore aims to incorporate this institutional context in order to assess the legitimacy of partnerships by looking at partnerships as a form of extended stakeholder management, as a means for corporate social responsibility (CSR) implementation in a globalized society, and as a result of institutionalization and legitimation in the UN system. Finally, the article presents some current challenges to the legitimacy of partnerships and provides some concluding remarks on how these challenges should be addressed.

Scope and Structure of the Article

This article is divided into nine parts. The first part briefly explains cross-sector partnerships as a research area and the specific type of partnerships that is discussed in this article as a source of business legitimacy. Drawing on Suchman's (1995) theory of legitimacy as well as neo-institutionalist theory, the second part aims to conceptualize legitimacy, why it is important for business firms, and how it can be obtained, maintained, and repaired. The third part discusses partnerships as a form of extended stakeholder management where the legitimacy of partner organizations from the civil society and public sectors plays into the legitimacy of partnerships. The fourth and fifth part consider globalization and the Anthropocene as important drivers for partnerships as a source of business legitimacy today and outline how business firms in recent years have been given a larger space for action as legitimate environmental governance and international development agents. As the UN has been an important driver for promoting partnerships as a solution to sustainability issues for the past 20 years, special attention is given to the history of the UN's conceptualization of partnerships in the sixth part of this article. The seventh part looks more specifically at the conceptualization of partnerships in the SDG framework. In the eighth part, challenges to the legitimacy of partnerships are discussed. The article is rounded off with concluding remarks.

Cross-Sector Partnerships: A Rapidly Developing Research Area

In the last 30 years, collaborative activities between the public, private, and civil society sectors have become increasingly extensive, and cross-sector partnerships have emerged as a research area in pace with their growing prevalence in practice. During the first years, however, partnership practice and research largely took on an instrumental approach, focusing on how strategic partnerships could create benefits for the partnering organizations (Vurro et al. 2010). The millennium marked a shift in partnerships as a research and practice area, moving to a stronger emphasis on the potential of partnerships to address broader societal issues (Seitanidi 2010; Selsky and Parker 2005). The academic interest for so-called social partnerships, defined as "cross-sector projects formed explicitly to address social issues and causes that actively engage the partners on an ongoing basis" (Selsky and Parker 2005, p. 850), is rapidly increasing these years. Since 2010, more than 25 articles on social partnerships have been published every year compared to one or two published articles a year at the turn of the century. It is safe to say that we are in the middle of a rapidly expanding field in theory and practice, where social partnerships are being studied from a wide range of academic disciplines (Seitanidi and Crane 2014; Selsky and Parker 2005). As in many relatively new research areas, there is not a coherent terminology describing cross-sector partnerships formed explicitly to address societal issues. In the organizational literature, the diversity in terminology spans from "social partnerships" and "cross-sector social partnerships" to "multi-stakeholder partnerships" or "multi-stakeholder relationships," "cross-sector social interactions," and "social alliances" (Seitanidi and Crane 2014). In the political science literature, some research has been done on "sustainability partnerships" and "public-private partnerships for sustainable development," using the sustainability term in a broad sense to embrace both environmental and social sustainability (Bäckstrand and Kylsäter 2014; Biermann et al. 2012; Mert 2014). However, most researchers describe the phenomenon as "social partnerships" or "cross-sector social partnerships" (Seitanidi and Crane 2014). To keep it simple, the term "partnerships" is mainly used throughout this article, but "partnerships" in this context are understood as partnerships that explicitly aim to contribute to sustainable development and/or adressing social issues.

Defining Legitimacy

The concept of legitimacy has become increasingly important in organization theory throughout the past decades. Many scholars credit Max Weber (1978) for introducing legitimacy into sociological theory and consequently into organization studies. Weber's writings suggest that legitimacy can result from conformity with both general social norms and formal rules and laws (Weber 1978). Neo-institutional theory, which was developed from the late 1970's, was however more concerned with embracing Weber's concept than with adopting his conceptualization. According to Meyer and Rowan (1977) legitimacy can result from presumptions of "rational effectiveness," "legal mandates," and "collectively valued purposes, means, goals, etc." (Meyer and Rowan 1977). Meyer and Scott (1983) discussed legitimacy even more in depth, emphasizing legitimacy's cognitive aspects: explanation, theorization, and the incomprehensibility of alternatives. This focus is still particularly prevalent within neo-institutional sociology (Deephouse and Suchman 2008; Meyer and Scott 1983). Suchman's (1995) article represents a milestone within the legitimacy literature. Adopting a constructivist approach to legitimacy, he defines legitimacy as "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman 1995, p. 574). Deephouse et al.'s (2017) updated definition of legitimacy as "the perceived appropriateness of an organization to a social system in terms of rules, values, norms, and definitions" is likewise built on the assumption that the criteria for organizational legitimacy today are a result of negotiation and debate among organizations and stakeholders (Deephouse et al. 2017, p. 34). Suchman observes two basic perspectives on legitimacy within the literature: a strategic perspective, which considers legitimacy as an operational resource that organizations can extract from their cultural environments, and an institutional perspective, where legitimacy is depicted as a set of constitutive beliefs which determine how organizations are built, run, and understood and evaluated as more or less legitimate. While strategic legitimacy researchers "generally assume a high level of managerial control over the legitimation process" and "predict recurrent conflicts between managers and constituents over the form of legitimation activities," institutionalists "downplay both managerial agency and manager-stakeholder conflict" and "tend to emphasize the collective structuration of entire fields or sectors of organizational life" (Suchman 1995, p. 576). Thus, the strategic perspective largely adopts the internal viewpoint of organizational managers, while the institutional perspective looks at organizational environments and their norms and values. Taking a middle course between the strategic and institutional perspectives, Suchman addresses the dilemmas that organizations may face in managing their relationships with demanding constituents and stakeholders, as well as considering the cultural environments that constitute organizational life (Suchman 1995). In this article, Suchman's middle course perspective on legitimacy is adopted to discuss the legitimacy of partnerships, as corporate engagement in cross-sector partnerships both can be understood as a form of extended stakeholder management and as a reaction to pressure from the organizational environment.

So why is legitimacy important for businesses? Studies have shown that an organization's legitimacy has a clear effect on its social and economic exchange, as most stakeholders will only engage with legitimate organizations (Deephouse et al. 2017). Consequently, neo-institutionalist scholars suggest that an organization's survival depends on its legitimation processes as well as its ability to manage continuous legitimacy pressures and challenges (Meyer and Rowan 1977). It has also been suggested that legitimate organizations have a largely unquestioned freedom to pursue their activities, as they avoid questions or challenges from society (Deephouse et al. 2017; Meyer and Rowan 1977; Meyer and Scott 1983). From the neo-institutional perspective, a static understanding of legitimacy is rejected, and it is therefore suggested that maintaining legitimacy is equally as important as gaining it. Some scholars therefore suggest legitimacy as dichotomous, so even though an organization can find itself in the intersection between legitimate and illegitimate, it will eventually fall into one of these categories (Deephouse et al. 2017). Suchman (1995) presents several strategies to gain, maintain, and repair legitimacy. He argues that organizations can gain legitimacy through either *conforming* to the norms and values in the organizational environment, *selecting* among multiple environments in pursuit of an audience that will support the organization's activities, or trying to *manipulate* the structure of their environment by creating new audiences and legitimating beliefs. In efforts to maintain legitimacy, Suchman suggests that organizations should aim to perceive change through monitoring their cultural environment and assimilate elements of that environment into organizational decision-making. He suggests that they should protect past accomplishments by stockpiling organizational goodwill and avoiding unexpected events that might make the organization an object for scrutiny. Finally, Suchman suggests that to repair legitimacy, organizations should formulate a normalizing account that separates the legitimacy threat from larger assessments of the organization as a whole and facilitate re-legitimation through strategic structuring and avoiding panic. In cases of delegitimation, organizations must first address the immediate legitimacy threat before implementing more general legitimation activities (Suchman 1995).

Partnerships as Extended Stakeholder Management

As suggested by Suchman, organizations can gain legitimacy by trying to manipulate the structure of their environments through creating new audiences and legitimating beliefs. Moreover, they can maintain legitimacy by monitoring their cultural environment and assimilate elements of that environment into organizational decision-making. In this context, partnerships could be perceived as a new "legitimating belief" appealing to new audiences who have not previously been known for appraising business endeavors, such as organizations from the public and civil society sector. Moreover, partnerships allow businesses to strategically assimilate elements from legitimate actors in their environments, such as NGOs and governmental organizations, into their decision-making and practice. Thus, when considering partnerships as a source of business legitimacy, it is firstly relevant to look at the legitimacy of potential partner organizations as business stakeholders. When entering into cross-sector partnerships with businesses, organizations from the private and civil society sectors do not only bring their own level of legitimacy into the partnerships: as representatives from their sectors, they also have their own histories in making legitimacy claims against businesses. NGOs are business stakeholders in the sense that they are either formed by or represent groups of people who are affected by business activities, and many NGOs originally emerged as watchdogs toward the harmful societal impact caused by corporate activities. Considering this, NGOs might seem as the most surprising potential business partners. Bendell (2000) defines NGOs as “groups whose stated purpose is the promotion of environmental and/or social goals rather than the achievement or protection of economic power in the marketplace or political power through the electoral process” (Bendell 2000, p. 16). Thus, NGOs have a high level of legitimacy in the sense that they advocate the rules, values, and norms of society (Deephouse et al. 2017). This has often been in opposition to the profit-making objective of business. The relationship between business firms and NGOs has therefore historically been conflictual and antagonistic. In recent years, many NGOs have experienced an empowerment, as the Internet and social media have allowed them to communicate their messages cheaper and more effectively. This empowerment has also grown out the acknowledgment that governments are not able to address all public dissatisfactions with certain social, economic, political, or technological problems in society, whereas NGOs as social movements have been considered as relatively effective means to address some of these problems. As a result, NGOs are now being recognized as symbols of equal power with business, but a different type of power (Seitanidi 2010; Yaziji and Doh 2009). NGOs have been important actors in influencing legal and institutional structures, shaping governmental policy and practice, and a driving force for transparency and accountability in business organizations (Höllerer et al. 2017). As business stakeholders, NGOs can constitute a powerful stakeholder catalyst, as they are capable of mobilizing other powerful stakeholder groups to adopt and impose their demands on businesses. Examples include consumer boycotts, media pressure, and moral outrage (Rodgers 2000). These kinds of NGO campaigns have been described as a form of “normative delegitimation process,” making NGOs a particular threat to business legitimacy, as they are institutionally proactive agents that either hold business firms accountable to institutional norms or pursue institutional change through their campaigns against firms (Yaziji and Doh 2009). This “normative delegitimation” has made it difficult for business firms to have unquestioned freedom to pursue their interests. As a result, the increasing power and pressure of NGOs have forced companies to exercise extended stakeholder management, seeking acceptance and endorsement of their activities from other agencies than the state (Rodgers 2000). Interestingly, research has shown that businesses that engage in international partnerships mainly work with NGOs. This has been explained by the fact that NGOs do not have direct regulatory power, and that NGOs represent the company's consumers more directly than the state (Kolk et al. 2008).

State actors constitute a different type of stakeholders to business firms in the context of legitimacy. Early legitimacy research focused on the importance of the state as a source of legitimacy through its power to legislate, regulate, and sanction. Even in an era of neoliberal deregulation and "private governance," state actors remain important in conferring legitimacy, as most private and nonprofit organizations are regularly evaluated by a state agency (Deephouse et al. 2017). However, global citizen surveys have shown that governments rank lower than NGOs and business firms in terms of factors related to legitimacy, reputation, and credibility. Despite being the least trusted institution globally, governments remain the institution that is usually perceived as most responsible for helping solve global problems (Kolk 2014). With globalization, the old role of the state has changed with globalization as well as the liberalization of markets in developed economies, creating a globalized market society with a decreasing level of traditional state regulation. In the past, the state was considered to possess an ethical monopoly in providing safe, just, and trustworthy public, but today, business firms and NGOs share this responsibility in different constellations and circumstances (Rodgers 2000; Seitanidi 2010). Moreover, both NGOs and companies play an important role in shaping the agendas of governments (Matten and Crane 2005). State actors as stakeholders can constitute a legitimacy threat to business firms when posing legitimate claims on to firms. However, business firms can no longer rely on state actors' approval as the primary sources of corporate legitimacy (Grolin 1998).

Being unable to reject the claims of increasingly powerful NGOs, business firms today have an increasing tendency to seek partnerships with them, as partnerships with NGOs provide a means for linking the social- and sustainability-oriented claims of civil society with the economic- and production-oriented world of business (Waddell 2000). Moreover, business partnerships including active participation from government organizations can provide partnerships with government expertise, "supporting services, facilitating implementation, brokering, convening, delivery and outreach" (Kolk 2014, p. 18). Cross-sector partnerships also affect government regulation, as they can replace, preempt, and precede regulation by filling out governance gaps, as well as supplement regulation (ibid.).

Globalization and the Anthropocene as Drivers for New Notions of Business Legitimacy

Recent decades' fast-evolving market globalization has posed challenges to business legitimacy but has also enabled businesses to be perceived as legitimate actors in new arenas. With globalization, the criteria for business legitimacy are constantly changing, and having the unquestioned freedom to pursue business activities has become increasingly difficult. Abiding the law and increasing profits used to be the main conditions for business legitimacy, as business firms mainly operated on a national level where governments were largely able to regulate their impact on society (Holmström and Kjærbeck 2013). In the recent decades' globalization of trade and finances, however, transnational corporations have grown in power and size and are to a high extent outpacing national governments in terms of economic impact and power. Due to this empowerment of the private sector, there has been a renegotiation of the relationship between the state and the market, where traditional command and control forms have been rejected as insensitive to the transformative capacities of the market (Newell 2000; Seitanidi 2010). This has created a "moral free-space" in which transnational corporations in reality can operate under the radar of enforcement of national rules and regulations. At the same time, the globalization of governance is dragging behind, and intergovernmental organizations have been slow in delivering meaningful international regulatory systems, leaving a governance gap in addressing global problems such as social inequalities and climate change (Newell 2000). It is important to note that in parallel with this, the responsibilities and control that used to belong to the owner(s) of a corporation have increasingly been separated and dispersed among corporate shareholders and management. Even though this has contributed positively to business profitability, its interface with corporate greed has surfaced harmful impacts on wider society problems such as violation of human rights, climate change, and social and economic inequality. Consequently, much public attention has been directed toward the harmful effects of corporate activities, which has led to a general cynicism toward business (Seitanidi 2010). To obtain legitimacy and justify their practices in and toward the modern globalized society, then, business firms can no longer only focus on increasing profits and abiding the law; they also need to initiate active measures to work against society's general cynicism toward business. This involves building and sustaining a "social license to operate" according to the actions that are currently perceived as acceptable in society. Where business firms previously have been perceived as largely apolitical, there is now a growing recognition of corporate power in shaping politics (Matten and Crane 2005). Moreover, business firms are increasingly considered as important actors in filling governance gaps in global sustainability and development governance, due to the perceived failure of governments and international organizations in addressing sustainability and development issues. This has led to a perception of the firm as a political actor with political responsibilities on the same level as governments (Bendell 2000).

For business firms, corporate social responsibility (CSR) activities and communication have become the most obvious way to adhere to societal norms and values that create legitimacy. There is a vast body of literature on CSR aiming to clarify the social responsibilities of business firms and how they can implement them in their activities (Carroll 2016). CSR as a concept has developed from philanthropy and paternalism to more integration in the business, from a leadership characteristic to a corporate practice, and from focusing on the company's workforce and immediate community to focusing on its value chain and impact on larger societal issues such as climate change and human rights (Moon et al. 2017). Many interrelated and overlapping concepts describing companies' engagement in societal issues have emerged, such as corporate citizenship, corporate social performance, corporate social responsiveness, corporate governance, corporate sustainability, and creating shared value (Matten and Crane 2005; Porter and Kramer 2011). In this sense, the concept of CSR is constantly evolving, and business firms are increasingly expected to assume political responsibility that goes beyond legal requirements (Scherer and Palazzo 2011). CSR has also changed in its organizational and regulatory forms. There has been a shift from CSR being organized entirely by the company itself to reflecting shared organization with other actors, as seen in partnerships (Moon et al. 2017). In a time where global problems such as poverty, climate change, and social inequalities have grown too big for governments to solve on their own, partnerships between different sectors are hailed as the solution to these problems. This has created a new space for action for business firms, who are encouraged to engage in partnerships to serve the common good. Cross-sector partnerships have therefore been characterized as “one of the most exciting and challenging ways that organizations have been implementing CSR in recent years” (Seitanidi and Crane 2009, p. 413).

Business as a Sustainable Development Actor

Partnerships that address social and sustainability issues respond to a broad societal concern for sustainable development where all societal actors, not just governments, are called upon to solve the world’s most pressing problems. In the Anthropocene era, sustainable development is widely considered as the most pressing agenda of our time (Sachs 2015). However, the challenge of maintaining social and environmental sustainability in an economic growth context is not new and was first brought to the global agenda during the UN’s 1972 Conference on the Human Environment. Sustainable development was later popularized with the UN Commission on Environment and Development’s so-called Brundtland report from 1987, named after chairwoman Gro Harlem Brundtland. In the report, the Commission called for stronger coordinated political action and responsibility, stressing institutional and governance gaps as a main challenge for achieving sustainable development. The Brundtland report’s definition of sustainable development as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (Brundtland 1987, p. 41) has since prevailed. However, in the aftermath of the UN World Summit of Sustainable Development (WSSD) in Johannesburg in 2002, the concept of intergenerational justice has become secondary to a more holistic approach to sustainable development, embracing economic, social, and environmental development. Sachs (2015) describes this approach to sustainable development as a “three-way normative framework” providing a normative vision of what a good society should be like. He defines sustainable development in practice as a “scientifically and morally based problem solving” (Sachs 2015, p. 43). The SDG framework, launched in 2015 with 17 goals targeting specific societal issues related to environmental, social, and economic sustainability, can be considered such a normative framework. Business strengths as innovation, responsiveness, efficiency, and provision of specific skills and resources have been hailed as important contributions to the SDGs and sustainable development in general (Blowfield 2012; Porter and Kramer 2011; Scheyvens et al. 2016). In this context, partnerships for sustainable development show an important expansion in the reach of business firms as legitimate actors. In contrast to the public and nonprofit sector, the private sector has historically been criticized for lacking the democratic mandate, legitimacy, and historic role to make socially justifiable decisions in deploying their resources to serve the common good. However, in cross-sector partnerships, nonprofit and public organizations bring in the mandates to make these socially justifiable decisions, strengthening the legitimacy of companies as actors that serve the public and exercise political responsibility (Seitanidi 2010).

The continuously expanding legitimacy of business firms as contributors to the common good is also seen in recent decades' discourse on environmental governance and international development. Throughout the 1990s, many voluntary and market-based mechanisms were adopted in environmental governance, providing an alternative to governmental regulation as the obvious policy instrument for governance in this field. This can especially be observed in the UN and its increasing promotion of voluntary, business-oriented practices and policies to deal with climate change, such as the Global Compact. According to Mert (2014), the formation of the World Trade Organization (WTO) in 1995 and intensified business involvement in the UN system has led to an influence of economic liberalism on environmental discourses in the UN. Consequently, the private sector has become increasingly encouraged to assume responsibility in environmental governance (Mert 2014). The private sector and international development have historically been separated due to a distrust of business and a reluctance to hold companies responsible for development outcomes. However, the private sector has in recent years been strongly encouraged to play an active role in international development due to the perception that governments and international institutions have failed in combatting inequalities and poverty. At all three major UN conferences on sustainable development, namely the 1992 Earth Summit, the 2002 World Summit on Sustainable Development, and the 2012 Rio + 20 conference, the UN highlighted an expanded role for the private sector as a development actor (Scheyvens et al. 2016). Consequently, business firms have moved from being perceived as a "development tool," contributing to development through its economic activities by, e.g., leading investments and creating job opportunities, toward being increasingly constructed as a consciously engaged "development agent," creating quality jobs and answering to stakeholder concerns regarding, e.g., fair employment (Blowfield 2012). This resonates well with the SDGs and their emphasis on inclusive growth to fight poverty, sustainability, and inequalities.

The Legitimation of Partnerships in the UN System

During the past 20 years, the UN has increasingly institutionalized partnerships as an implementation mechanism for sustainability goals and has thus strongly contributed to making partnerships an important norm in business firms' organizational environment. As Suchman describes, conforming to such norms and assimilating them into business practice increase organizational legitimacy (Suchman 1995). In international governance, the study of legitimation starts by looking at how international organizations legitimize their activities and create perceptions of legitimacy among communities. In international organizations such as the UN, legitimacy does not have to be created by democratic participation but can just as easily be obtained by rational justification and reason-giving (Bäckstrand and Kylsäter 2014). This corresponds, in Suchman's (1995) terms, to creating legitimacy through "manipulating" organizational environments by creating new legitimating beliefs (Suchman 1995). When discussing partnerships as a source of business legitimacy in a time where the SDGs are arguably the leading agenda for sustainable development, it is important to assess how partnerships have been institutionalized, justified, and legitimized in the UN system for the past two decades, thus making partnerships a "legitimating belief." When the Johannesburg summit in 2002 failed to agree on binding agreements and major new legislative initiatives to reduce global climate change, partnerships became a so-called type 2 outcome of the summit as a means of implementing sustainability. By this time, partnerships were already a part of the UN's mandate with the 1998 establishment of the UN Fund for International Partnerships and the 2000 launch of the eight Millennium Development Goals (MDGs). MDG number 8, to "develop a global partnership for development," was aimed at increasing official development assistance (ODA), creating a more open trading and financial system, and addressing debt problems of developing states. The MDGs, then, applied the partnership term in a broad sense, aiming it primarily at states. However, partnerships including actors from all sectors were increasingly mentioned in the run-up to the WSSD as a means to address the implementation deficit of globally agreed commitments on sustainable development, such as the Agenda 21, which was agreed upon by UN member states at the 1992 Earth Summit in Rio. Up to the WSSD, the Commission on Sustainable Development (CSD) prepared the Bali Guiding Principles for partnerships, as the CSD considered partnerships as an important implementation tool for the Agenda 21 and prospective binding agreement outcomes from the WSSD (UNDESA 2015).

When the WSSD failed to create binding international agreements, partnerships remained the only tangible outcome of the summit. It was then stressed that partnerships should not be a substitute for government responsibilities and commitments but that they were merely a means for strengthening the implementation of the MDGs and the globally agreed commitments in Agenda 21 (Mert 2014; UNDESA 2015). The conceptualization of partnerships as flexible, collaborative, and market-oriented was promoted by the USA and the business sector, and the UN consequently adopted this conceptualization. However, the conceptualization was heavily criticized by environmental NGOs and governments from the south, who feared that partnerships would lead to the retreat of the state and the privatization of sustainable development. A CSD session in 2003 confirmed that the guidelines for partnerships were non-binding and that reporting on partnership progress and results was voluntary. During the WSSD, more than 200 partnerships were registered with the CSD, and around 150 more were registered during the first 2 years after the summit. These partnerships have later proven to have limited effect on sustainability goals (Bäckstrand and Kylsäter 2014; Mert 2014). Bäckstrand and Kylsäter (2014) find that in the aftermath of the WSSD, a delegitimation and a subsequent re-legitimation of partnerships took place in the UN system. Up to the Rio+20 summit in 2012, the CSD was criticized for its lack of effectiveness and for not succeeding in reviewing the progress of the WSSD partnerships as implementation mechanisms, leading to a delegitimation of partnerships. Consequently, the UN Division for Sustainable Development (DSD) convened a Partnership Forum at the Rio+20 summit to evaluate, strengthen, and revitalize partnerships. In the aftermath of the summit, the DSD reinvented and re-legitimated the partnership model by renaming and broadening the concept of partnerships and shifting the terminology from embracing only multi-stakeholder partnerships to embracing "voluntary commitments" and "sustainable development action networks." Bäckstrand and Kylsäter (2014) describe this re-legitimation of partnerships as an effort from the UN to reinvent their own mission and legitimacy and importance in an era of private-public multilateralism (Bäckstrand and Kylsäter 2014).

The paradigm shift from binding to voluntary contributions to sustainability persists in the SDGs and their accompanying 2030 Agenda for Sustainable Development. In the 2030 Agenda, partnerships is emphasized as one out of five essential building blocks for achieving the SDGs, and SDG number 17 is devoted to partnerships, urging actors to "strengthen the means of implementation and revitalize the global partnership for sustainable development" (UNDESA 2015; United Nations 2015). Each SDG has a number of targets attached to them, which are intended as guidelines for implementing the goals. SDG 17 has two targets specifically related to cross-sector partnerships:

> ***17.16***: *Enhance the global partnership for sustainable development, complemented by multi-stakeholder partnerships that mobilize and share knowledge, expertise, technology and financial resources, to support the achievement of the sustainable development goals in all countries, in particular developing countries.*
> ***17.17***: *Encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships.* (United Nations 2019)

These targets carry on the voluntary character of partnerships in the UN context. Under the SDG agenda, businesses, governments, and NGOs are equally called upon to pursue sustainable development until 2030. Consequently, the SDGs and their emphasis on partnerships for implementing the SDGs have been widely appraised by actors from businesses, governments, and civil society actors. As of September 2019, almost 5,000 partnerships and voluntary commitments are registered with the UN's "partnerships for the SDGs" online platform (United Nations 2019).

Challenges to the Legitimacy of Partnerships

Although the SDGs in general and their conceptualization of partnerships have been widely accepted by actors from all sectors, some remain critical toward them. SDG 17 has been caught up in an ongoing debate about the normative divide between obligation and voluntarism and between legally binding agreements and weaker, optional alternatives. Critics have pointed out its lack of accountability mechanisms and have remarked that SDG 17 pays little attention to any meaningful role for regulation, considering that partnerships invite multinational corporations to play an important part in the sustainability plans of developing countries. SDG 17 has also been criticized for being too vague in terms of defining the exact utility of partnerships in achieving the specific targets of the SDGs (Cooper and French 2018; Pogge and Sengupta 2015). A more general critique against the SDG framework is its strong emphasis on market-based approaches to sustainability and economic growth as a means for combatting inequalities. As many scholars assert that neoliberal mechanisms have led to social inequalities and increased the power imbalance between developing countries and Western capitalist countries, there is a widespread skepticism toward relying on the same mechanisms to solve inequality issues. It is relevant to mention that business firms played an important part in the development of the SDGs, as industry leaders were a designated "major party" involved in the UN Open Working Group (OWG) which was tasked with the development of the SDGs. There is therefore a general concern that the SDGs could end up as a framework for business as usual, and the term "SDG washing" has already been introduced as a new version of "greenwashing" (Pogge and Sengupta 2015; Scheyvens et al. 2016).

According to the existing partnership literature within organizational and political science, the main challenge to the legitimacy of partnerships is the question of their effectiveness on sustainability issues. Several studies of the registered partnerships from the 2002 Johannesburg summit have shown that their effectiveness in implementing international sustainability agreements and developing new norms for sustainability governance is limited (Bäckstrand and Kylsäter 2014; Pattberg et al. 2012). Moreover, existing research on partnerships has not paid much attention to the monitoring, reporting, and evaluation of partnerships' outcomes and impact on societal problems. This has been difficult due to the dynamic and evolving nature of partnerships and the fact that no existent analytical framework for impact assessment is applicable for all partnerships. There is therefore a growing pressure from organizations investing resources in partnerships, as well as from researchers questioning whether partnerships are merely a hype for solving social and sustainability problems, to develop methods for assessing the impact of partnerships on social issues. This is necessary in order to inform and support their legitimacy and credibility (van Tulder et al. 2016). A secondary challenge to the legitimacy of partnerships is that NGOs have relatively high reputational risks when collaborating with businesses, which can threaten their legitimacy. This could also pose a threat to the legitimacy of businesses engaging in partnerships with NGOs, as business draws on the legitimacy of NGOs when partnering up with them (Herlin 2015; Kolk et al. 2008). Finally, it has been argued that in order to be legitimate, partnerships should fulfill core democratic values such as participation, accountability, transparency, and deliberation, but that few partnerships succeed in fulfilling these values (Bäckstrand 2012).

Conclusion

This article has discussed partnerships as a source of business legitimacy in the SDG era. It has illustrated how market globalization and the Anthropocene's strong focus on including all sectors in sustainability efforts have created a new role for business as a legitimate actor in environmental governance and international development. Partnerships also enable business firms to create legitimacy by managing the demands of stakeholders from the public and civil society sectors who have the power to delegitimize business and integrating the demands of these stakeholders in their decision-making through collaboration. With the SDGs and the UN's institutionalization and legitimation of partnerships, businesses now have the opportunity to obtain a "UN seal of approval" on their partnership activities and thus to strengthen their legitimacy through partnerships. However, there are several challenges to the legitimacy of partnerships, among which the most important is the lacking proof of their effect on sustainability goals. Moreover, the SDGs including SDG 17 about partnerships have been critiqued for adopting a neoliberal and market-based approach to sustainable development and for their lack of accountability mechanisms. This has led critics to fear that the SDGs could end up being a framework for "SDG-washing" business as usual. Concerns have also been raised on whether partnerships are democratically legitimate and whether they negatively affect the legitimacy of NGOs. In order to strengthen and maintain partnerships as a source of business legitimacy in the SDG era, which lasts until 2030, business firms engaging in partnerships for sustainable development should take action to disprove these concerns by enhancing the accountability and transparency of partnerships and develop better impact assessment to prove the effect of partnerships on sustainability issues. When working in partnerships to contribute to the SDGs, proving impact on the SDGs can be difficult, as many of their indicators primarily are measurable at a macro level (United Nations 2019). Research is currently being conducted in order to assess and improve the methodologies and indicator systems that measure and evaluate the performance of different actors in relation to the SDGs, and to adapt methodologies of impact assessments to modern conditions and challenges (United Nations Research Institute for Social Development 2018). In the meantime, business firms engaging in partnerships to address the SDGs and sustainability issues more generally should conduct impact assessments of their own efforts. Better impact assessments of partnerships and general business engagement in sustainability and SDG efforts can contribute to strengthen these efforts and to prevent them from being delegitimized through accusations of "green-washing" or "SDG washing."

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Accounting Systems and Integration of Sustainable Development Goals (SDGs) into Corporate Operations

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Contents

Abstract

Following the introduction of the Sustainable Development Goals (SDGs), many companies claim to adopt them in one way or the other. Guided by the "SDG Compass" and other tools, companies are advised to go through a process of trying to understand the SDGs, defining priorities, setting goals, integrating, and reporting and communicating the results. The article points to the nature of implementing the SDGs in business, including going from macro to micro goals, managerialism, and instrumental rationality, all implicitly present in the discourse of SDGs. Such an understanding on how to implement the SDGs, however, requires a strong role of the accounting system of the firm. Based on a theoretical framework, the various roles of accounting assumed in the managerial and instrumental approach to the SDGs are discussed. These roles include the potential of the accounting system to territorialize (sustainability) issues, mediate these to other arenas or higher-order contexts, adjudicate between success and failure, and subjectivize or incentivize people within the organization. The problem of playing out these roles in relation to the SDGs is discussed, as well

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as the perils of doing it, including the risk of losing sight of ethical business conduct as an action-guiding principle.

Keywords

Accounting · Integration · Roles of accounting · SDG Compass · SDGs · Sustainability

Introduction

The introduction of the Sustainable Development Goals (SDGs) in late 2015 implied points of reference for social and environmental development on a worldwide scale. The support for the SDGs has been massive, at least in leading political circles as well as in other parts of society, including business. Scores of representatives of political bodies, business itself, researchers, and others contend that the SDGs are of relevance to business. It has been claimed that the SDGs "represent an unprecedented political consensus on what level of progress is desired at the global level—and this is an opportunity for companies to apply a similar approach across a wide range of sustainable development challenges" (GRI et al. 2015, p. 18).

Commonly, the SDGs are treated as distinguished points of reference through which business operations are modelled or shaped to provide specific contributions to the achievement of the goals. As argued by former UN Secretary-General Ban Ki-moon: "Business is a vital partner in achieving the Sustainable Development Goals. Companies can contribute through their core activities, and we ask companies everywhere to assess their impact, set ambitious goals and communicate transparently about the results" (GRI et al. 2015, p. 4). From a goal-setting perspective, the SDGs have been understood as "governance through goals" (Biermann et al. 2017, see also Lashitew et al. 2018). Accordingly, the SDGs can be seen as action-guiding goals that tend to be understood as something that should be integrated into business operations. From a business perspective, the entire approach builds on an outside-in perspective where companies face and try to solve sustainability challenges through applying its resources, competencies, and innovation skills (Muff et al. 2018). Through the overarching framework of the SDGs, companies steer, shape, communicate, and report their strategies, goals, and activities (GRI et al. 2015).

Some attention has been paid to *how* companies could and should integrate the SDGs into their operations. Even though many agree that business has a role to play in the achievement of the SDGs, it is not altogether clear what companies should do with regard to the SDGs, as these goals do not contain any binding framework for specific action (Biermann et al. 2017; Voegtlin and Scherer 2017). Scholars have recently argued that companies should "support" them (Bowie 2019), for example, through collaborating with NGOs and other interested parties. Others have seen the SDGs as catalysts or sources of inspiration for companies to develop sustainability strategies (Burritt et al. 2018) or for innovation (Voegtlin and Scherer 2017). However, more specifically, intellectual and practical support devices and frameworks are designed to assist companies in their work of integrating them. One example is the SDG Compass (GRI et al. 2015). An important aspect of the suggestions given in the framework(s) is the use of the *accounting system* as a tool to integrate the SDGs in business operations – through various, in particular calculative, micro-level accounting technologies (Bebbington et al. 2007; Bebbington and Unerman 2018). Significantly, PWC (2018) found that while 72% of more than 700 surveyed companies mention the SDGs in their reporting, only 28% of them disclosed "meaningful" key performance indicators (KPIs) related to the SDGs. Using the accounting system as a tool for integration is strongly recommended by practitioners and researchers.

A consequence of such recommendations is that the enactment of SDGs in business will be conditioned by the features, roles, opportunities, and limitations of the accounting system. This article focuses on the roles of the accounting systems and their relevance for the integration of the SDGs in business operations. The specific research question of the article is: "How is it possible to integrate SDGs in corporate operations through the accounting system given the acknowledged roles of this system?" Specific accounting technologies are not the focus of the article but rather the roles of the accounting system in relation to the SDGs as adopted by the firms and, in particular, as described by Miller and Power (2013).

Thus, the article first characterizes the way the SDGs are recommended to be integrated through the accounting system. Then it brings up four specific roles of the accounting system and links these to the idea of integration of SDGs into business operations from a performativity perspective. An analysis follows and conclusions are drawn. Specifically, two features of using the accounting system to integrate the SDGs will be highlighted: the aspect of "role weakness" and the issue of arbitrary presentations of success and failure through the accounting system.

Integrating the SDGs

The nature of the SDGs – global governance tools to be used, translated, and adapted at local levels – has implied a need to understand how to use and implement them in specific contexts. One such context is business. Reaching the SDGs requires economic growth under socially and environmentally acceptable conditions. Business faces expectations to act responsibly in all its operations, thereby leveraging and contributing to the fulfilment of the SDGs.

This is not just a general stance of central actors in the field. Indicators for measuring and evaluating the achievements of the SDGs are not just developed at the macro-level (Hák et al. 2016). Concretizations with regard to how business should act have been published. The SDG Compass has been developed by the UN Global Compact, the Global Reporting Initiative (GRI), and the World Business Council for Sustainable Development (GRI et al. 2015). The SDG Compass could be seen as guidelines for integrating the SDGs into business operations. Other initiatives also exist, for example, the SDG Accelerator, developed by UNDP Denmark, aimed specifically at small- and medium-sized companies.

Overall, in the SDG Compass, companies get the advice to go through a process consisting of five stages; understanding the SDGs, defining priorities, setting goals, integrating, and reporting and communicating the results. This is a process that entails an understanding of integration not only in a general sense, through an overarching strategy, but also more specifically, through integration into the *accounting system* of the companies. Through the accounting system, representing and to some extent defining the business operations to be pursued, the company gets a means through which the SDGs are not only communicated and/or decoupled from the organizational realities. Rather, the constitutive and action-guiding frames of the accounting system help to define, visualize, and measure what the company should strive for – also with regard to sustainability.

To exemplify how the SDG Compass illustrates this idea, the second stage of the process, that involves setting goals, consists of four actions: defining the scope of goals and selecting key performance indicators (KPIs), defining baseline and selecting goal type, setting the level of ambition, and announcing commitment to the SDGs. At the time of this writing, and illustratively, the online resource of the SDG Compass contains no less than 1,553 indicators relating to the SDGs, many of them GRI indicators. Clearly, the use of KPIs is considered essential when it comes to setting goals that are driving, monitoring, and communicating progress. The accounting system is not just an option to use, rather, it is understood as the way through which goals can be reached. It represents an idea of how sustainability is actually realized from a functional perspective. Using the accounting system facilitates the materialization of a corporate sustainability strategy (Adams and Frost 2008, and many others).

Such an understanding of how to integrate the SDGs – i.e., through the accounting system – is not only reflecting a practical "how to do it" approach, developed by practitioners. It has also been advocated among accounting and sustainability researchers. Corporate sustainability "requires integrative measurement and management of sustainability issues rather than isolated applications of different tools in the organization" (Maas et al. 2016, p. 237). Pointing more specifically to accounting technologies and the SDGs, Bebbington and Unerman (2018, p. 16f) claim that "the technologies of accounting, target setting and reporting are required within the UN SDG architecture of 'metagovernance' and this represents an opportunity for scholars in evaluating and advancing how accounting is used in this context." The possibility of integrating SDGs into "integrated reports" has been discussed (e.g., Adams 2017). Pointing to the participation of various actors, Bebbington and Unerman (2018, p. 10) also mention the accounting profession and its potential to "develop an important role for itself as part of the intervening process in helping translate and adapt the government-level commitments within the SDG targets into organizational-level actions and achievements." This is also congruent with the more general idea of "governance through goals" (Biermann et al. 2017), which requires from a business perspective that companies identify key areas in which they can contribute. A general control and accountability perspective entails going from awareness of macro goals to the definition of micro goals at the business level. Another way of putting it is to point to the holistic and multidimensional view of (sustainable) development that the SDGs provide (Pradhan et al. 2017) and the need to translate or reenact the overarching ambitions of the SDGs into more specific issues, within the scope of companies to grasp.

As said, establishing the SDGs, making them work in a business context, seems to presuppose the accounting system as the entity *through which* the company can define goals, targets, and objectives – and, also, through the system, measure the achievements of all these. It is rationalized into an architecture of means-ends relations, relating to sustainability (cf. Meyer 1986). In the literature and practical approaches to integrating the SDGs, it is obvious that a relatively uniform understanding of the accounting system is present. Two features stand out. First, the system is instrumental to reaching sustainable ends. Second, the application or use of the system follows more or less a managerial route, where “the company” (reasonably enough top or departmental managers) sets targets, chooses indicators, and so on. An implication is a relatively unproblematized hierarchical conception of how the accounting system works and “should” work. Little reflection, however, seems to be devoted to more deeply rooted analyses of what an accounting system is and the roles it plays out – and, as a consequence, how that conditions and challenges the possibilities of using the system to achieve relevant ends. The following section provides a theoretically grounded discussion on the topic.

The Roles of Accounting

The integration of SDGs in business operations, thus, presumes the use of the accounting system to achieve relevant ends. Considering the development of sustainability reporting, tools, and systems for sustainability control, this hardly comes as a surprise. Accounting also contributes, or may contribute, to transparency, facilitation of control, visualizing performance, evaluation, and comparisons of performance.

However, a consequence of using the accounting system to attain sustainable outcomes is that sustainability as such (or, rather, how it is dealt with and understood) becomes conditioned by the frames and roles of the system. Relevant not only to financial accounting or management accounting but also to various forms of sustainability accounting or control, the accounting system plays out a number of roles that have been identified theoretically.

The literature points to somewhat problematic roles of accounting, stretching far beyond attempts to make corporate activities transparent and manageable. From a theoretical perspective, the comprehensive account of Miller and Power (2013) offers insights into how various roles or functions of accounting play out. Behind this, one finds a recognition of the mutually constitutive nature of accounting, organizing, and economizing. Accounting is not (only) to be seen as a technical activity of instrumental kind. It is not a literal, objective representation of occurrences in the organization (Boland and Pondy 1983). Accounting is better understood as construction than representation (Mouritsen and Kreiner 2016). It is also constitutive of the practices that it is supposed to measure and visualize, that is, it has a very strong role with regard to the activities and people it is supposed to represent (see also Vosselman 2014). Relating this to the integration of sustainability issues into the accounting system also requires an understanding of how it relates to the acknowledged roles of accounting. Following Miller and Power (2013), accounting takes on four roles, in turn, *territorializing*, *mediating*, *adjudicating*, and *subjectivizing*. Through enacting such roles, accounting tends to *shape* and even *constitute* the areas that it is supposed to represent. Economic theory, in this sense, manages to shape, format, and perform reality, a belief that has been labeled the “performativity thesis” (Vosselman 2014).

Abandoning the idea of accounting as pure representation of a certain development or state of the art, Miller and Power (2013) bring up the *territorializing* role of accounting. This role implies the recursive construction of calculable spaces, inhabited by actors within organizations and society. Put in other words, accounting is not a passive representation of something that is given. Rather, it is constitutive when it comes to creating or making up the territories that it is supposed to represent. Reality is not passively mirrored or visualized. Through territorializing, spaces are constructed that accounting is claimed to represent. Mennicken and Miller (2012, p. 21) contend that the territorializing capacity of accounting is conducive to “making the previously incalculable calculable, reframing the concerns of others in ways that are amenable to its repertoire of ideas and instruments.”

Relating this to performance measured in specific ways, spaces (activities, etc.) that are measured are defined by the very fact that (and how) they are measured. Expressed somewhat differently, measures are “forms of social territorialization, that institute simultaneously a range of tools and the environments where they are deployed” (Brighenti 2018, p. 38). Territorialization entails territory-making acts, achieved through active reduction of “space” –for example, reducing the performance of a professional teacher to whether he or she communicates clearly, measured on a scale ranging from 1 to 5 (Englund et al. 2019). With regard to sustainability, this is not a denial of the fact that, for example, CO2 emissions or sick leave rates can be measured as higher or lower. But what accounting does is to shape the territory in which such measures constitute “environmentally friendly” or “sustainable.” This is usually done in quantitative terms implying a domain configuration into numbers, through which criteria for good and bad sustainability, etc. are shaped. Essentially, what is complex and vague goes through a formatting (in terms of numbers) that implies a reduction. The very activity is constructed through the accounting system.

When territorialization has taken place, a recontextualization may follow, implying that the numbers, narratives, or what has been defined as the measure of performativity have the capacity of being mediated. *Mediation*, thus, is the second role of accounting, as understood by Miller and Power (2013). Mediation can be seen as the “linking capacity” of accounting. Miller and Power (2013) talk about how accounting (instruments) links up distinct actors, aspiration, and arenas. Once the reduction into one specific format has been made (cf. territorialization), what has been reduced can be related to other contexts that have also been reduced in the same way.

The spaces that are linked to each other are frequently calculable and can, for that reason, be related to each other. Performance on different arenas are formatted in equal or comparative ways. Importantly, mediation can be done in space, but also in time, suggesting improvement or deterioration over time. And, further, such mediation may also be related to higher levels of abstraction, rationales, etc. For example, once again relating the discussion to sustainability, the comparisons of different achievements with regard to emissions, workplace incidents, etc. are linked to each other at a higher level, as "sustainability," where one company may be deemed better than another. That is, a reframing of the domain to higher (or other) discourses and narratives takes place. This also allows for links to ideologies or understandings of a higher order. Mediation, in this sense, creates links and relations to other contexts, inhabited by other actors, procedures, or activities. Polluting industries can be classified as unsustainable compared to others. Or employee satisfaction indices of blue-collar workplaces can be compared with white-collar workplaces. Essentially, what is complex and to a high degree different can be reduced into one format and transferred to other contexts.

Adjudicating constitutes a third role of the accounting system. After constructing (territorializing) and mediating activities, achievements, performances, etc. in space, time, and to higher levels of abstraction, the role of adjudicating refers to the active or even decisive role that accounting plays in evaluating performance, both of organizations and individuals. This also entails determining what should count as failure. Adjudicating, however, is not just about preferring one figure or achievement over another in a more technical sense, as visualized in the accounting systems. The process or role of adjudicating is essentially normative. Making actors (individuals, companies) responsible or holding them accountable for their visualized achievements mirrors and reproduces various norms, ideologies, or preferences concerning how to understand performance of the task at hand. Various ideas (in the literature often related to as the market, efficiency, responsibility, etc.) work and manifest themselves through accounting. The accounting instruments also convey such ideas through its technologies of accounting. They, thus, reconstitute and manifest normatively the domain that they are supposed to measure. Normativity, thus, is supported *through* the use of the accounting system. In the case of sustainability and how it is measured, normative assumptions also play an important role in constituting what good performance actually is.

Finally, Miller and Power (2013) point to how performative technologies tend to elicit particular *subjectivities*. The *subjectivizing* role, consequently, pertains to the individuals within the system. Accounting is a subjectivizing practice in the sense that individuals are subjects of control or regulation by others, while retaining the idea of the free individual, free to choose among a number of alternatives. This essentially human aspect relates to individual within the system. Mennicken and Miller (2012) point to the capacity of accounting numbers to create and constrain subjectivity. Essentially, subjectivizing can be explained by the visibility and transparency of each individual's efforts that accounting creates. When individual performance is assessed, it tends to concern the individual and affect in the sense that a "calculating self" comes into being. That is, someone fully responsible for his or her actions and achievements in relation to others or some pre-defined norm. In doing so, the individual accepts the demands of performativity and internalizes them to such an extent that external control becomes less necessary. Comparing oneself to others and to keep track of one's performance in relation to others and to normative expectations becomes part of what you are as a professional actor. This form of self-regulation ties the individual to the accounting system and makes its normative assumptions part of the individuals' self-understanding of what a good performer is.

It should be said that the analysis of these roles has been made primarily within financial or management accounting. But notably, the roles are also supported by the development of sustainability accounting standards, such as the GRI Standards. Essentially, the integration of SDGs into the accounting system requires an analysis of the ways in which the roles of the system play out and make integration possible, if it does.

Analysis: The Roles of Accounting and the Integration of the SDGs

The accounting system visualizes in particular ways, as described, a calculated notion of performance, where the "results" generated in different places and in different arenas can be linked to each other at increasingly higher levels of abstraction. A fundamental question is whether it is possible to treat sustainability in this way. Another way of asking the question is whether it is possible that vague performance objects become operational through the accounting system (Power 2015). Integrating the SDGs through the accounting system is an effort "to create new accounting and performance facts and their associated technical infrastructures" (Miller and Power 2013, p. 581). Of course, this is not unique to the SDGs, but pertains to the entire sustainability accounting/control discussion. Evidently, and also as Miller and Power (2013) argue, this is not only a macro-level phenomenon but relates to idealized action and performance within organizations. From a research perspective, the adoption of the accounting system as instrumental to behavioral changes requires a "micro-level behavioral examination of the roles of accounting within organizations and in relation to group dynamics" (Miller and Power 2013, p. 563). In modern society, accounting is fundamental to subjectivizing and responsibilizing individual actors.

However, there is a difference between a macro-level understanding of the very strong capacity of the accounting system and the micro-level organizational worlds where the roles of the system play out (or not). Once again emphasizing the linkage between integration of SDGs and the accounting system, it is worth asking which possibilities that exist to turn sustainability into a calculable space and to do so within the organizational context presumed in the discussion. And if such a thing is possible, one may wonder about the consequences thereof, and whether such integration is, given the consequences, something to aspire for.

Some researchers (e.g., Englund et al. 2019) have seen the roles of accounting as interrelated. The nature of the interrelation of the roles is worth highlighting in an analysis, in particular since one could relate the interrelation to the "functionality" of the accounting system to achieve performative outcomes. That the roles play out, more or less in relation to each other, is a fundamental explanation for the accounting system's (assumed) capacity to "work" as conducive to sustainability performance. Seeing the roles as interconnected facilitates an understanding of, and a theoretical explanation for, the potential success or failure of integrating the SDGs into the accounting system of individual firms.

Thus, let us take a closer look at the roles in relation to the SDGs and treat them in a coherent context. What Miller and Power (2013) say is that (the roles of) accounting has evident effects on how we look upon performance and ourselves. The accounting system is strong, according to such a view. If it is used in a way that makes all roles come into play, the calculable spaces will be conditioning how we look upon performance in relation to others – and ourselves as performing actors within the organization. Integrating a logic of (measurable) sustainability performance into the accounting system has been widely discussed in the literature. However, so far, it is hardly fair to say that companies have managed to achieve such performance logic through the accounting system, at least not to such levels that it has fulfils the roles possible to carve out within and through the system when it comes to performance measurement.

The issue of territorializing sustainability is probably not the most difficult one with regard to the accounting system, at least not in a more technical sense. The interpretation or translation phase of an overarching SDG requires reflection on business operations in relation to the goal(s). Indicators are chosen and/or constructed. Measurement of specific actions, events, or states related to sustainability is possible. The history of sustainability reporting and the development of standards for it prove that it is possible. Mediating, the second role, is more problematic. Mediation requires linkages in time and space and to higher levels of abstraction. One can ask whether this refers only to a measurement or comparability problem. Probably not. CO2 emissions from various industries are actually possible to compare. The mediation process is, rather, linked to the translation process of linking overall goals to specific corporate metrics, that is, a reverse procedure compared to Miller's and Power's (2013) understanding of mediation. The spaces where sustainability is territorialized are created differently, seen from the perspective of different companies. That does not undermine the possibility of creating such spaces, but due to their mutual (potential) differences or even incompatibilities, a vagueness of mediation follows. Being "better or worse" when it comes to sustainability, and with regard to the attainment of the SDGs, is difficult to establish.

The vagueness of mediation also affects the possibilities of adjudication. The normativity inherent in the system relates to understandings of better and worse achievements of sustainability. The profitable company and the high-performing individual are possible to identify, but hardly the sustainable company in relation to others.

Furthermore, embedding sustainability across all functions, as the SDG Compass suggests, involves the personalization of the duty to meet sustainability expectations. "In all cases, individual accountability for progress on individual goals and targets will help drive success" (GRI et al. 2015, p. 23). The framework of Miller and Power

(2013) sees subjectivizing as a role of accounting, as something it produces with regard to the individual that faces it. The normative understanding of the SDG Compass (and other parts of the sustainability literature) is that such subjectivizing is key to success. Such a contention (or wishful thinking) presumes that the subjectivizing force of the accounting system actually plays out in relation to sustainability (control). Do the demands of sustainability that are channeled through the accounting system affect me in any way as an employee or manager? Reasonably, this is hardly the case unless specific controls are developed that point to individual performance and a coherent understanding what it means to be a contributor to the company's sustainability goals. Subjectivizing requires, from a theoretical and practical standpoint, that individuals become performative subjects within the organization.

Considering such concerns, it is possible to single out at least two features or even problematic aspects inherent in the very idea of integrating SDGs into the accounting system of firms. First, perhaps lacking better labels, one could describe the predicament of integrating SDGs into the accounting system of business as a case of *role weakness*. Second, another issue is the potentially *arbitrary presentations of sustainability success and failure* given the use of the accounting system.

The argument of "role weakness" refers to the inability of the accounting system to enact the various roles that it usually has – even though the accounting system is actually used. Another way of putting it is to say that the logic of performativity does not operate in the same way or to the same extent as it does in quantitative performance measurement situations. In particular, the vagueness of the issue at hand, the general SDG and its translation into corporate goals, requires territorialization that becomes difficult to mediate, adjudicate, and subjectivize. Both managerial and employee responses tend to be weak or disinterested if the possibility to comparing or keeping track of performance in relation to others does not exist. The self-regulation of the accounting system does not take place since the goals are not used in a way to inform an operative self-understanding within the firm about the need to achieve sustainable ends.

The strong "productive force" of the accounting complex (Miller and Power 2013) tends not to be materialized when it comes to sustainability, since the accounting system does not allow for all the roles in a coherent and productive way. Another way of putting it is that the logic of performativity does not play out in the sense that it could (or should, but that is something that could be contested). Even though it is fair to say that companies (with the support of guidelines, etc.) are able to invent or construct calculable spaces, they are hardly able to recontextualize them through linking them to other arenas or spaces through relational linking or abstraction. Thus, the comparative contextual definition of what constitutes good sustainability never comes about. What it is to perform from a corporate (or individual, cf. subjectivization) perspective is technically possible to arrive at but lacks relevance in a wider context because such performance does not find its way into overarching mediations where it makes sense. In other words, the link between accounting, economizing, and organizing can actually be relatively weak. The accounting system does not play out its roles, which means that it fails to arrive at higher-order constructions and representations that make sense in a more concrete way.

In this, we see a paradox. Miller's and Power's (2013) exhortation to us is that we should view accounting as something that goes far beyond an instrumental and purely technical activity. That is, essentially a word of advice or even a warning against underestimating the power and consequences of accounting. Paradoxically, when assuming a strong role of the accounting system in achieving sustainable ends, such a belief in the capacities of accounting goes hand in hand with a reality where the accounting system actually fails to bring about (or at least has a tough challenge in doing it) the transformative changes of business operations that its advocates seem to suggest. Another way of putting it is that the "accounting complex" (to use the words of Miller and Power 2013) is not as productive as supposed. Its power and productive force to act as a representation for social and economic life is lesser than could be expected to judge from the critical accounting literature.

Relatedly, a second aspect of the integration of SDGs into the accounting system is the way in which it allows for arbitrary presentations of success and failure. Since it is technically fully possible to territorialize sustainability without mediating it, the experience of success (or failure) is strongly related to the achievement of a self-defined target or objective as given with the accounting system. One can relate this to the lacking role of adjudication.

The risk of this is the manifestation of less relevant action (with regard to the SDGs and responsibility in general) as successful achievements. This is not only a matter of reporting "wrong" things in the sense that there is always a risk that unsustainable companies manage to report limited or defined issues where they come out well. Rather, the arbitrary presentations of success and failure can be linked to an "atomistic" translation process of macro into micro goals, where issues that are possible to relate to the SDGs are given the status of satisfying criteria for being sustainable. That is, if the company has the possibility to identify activities of relevance to one or more of the SDGs, and the achievement of such goals follows, an understanding of success (or if the contrary prevails, failure) with regard to sustainability.

The possibility of the territorializing aspects of sustainability leads us into temptation not only to mediate and adjudicate in questionable ways but also to establish social worlds where the decision about right and wrong (related to sustainability) becomes fixed and unrelated to other normative concerns fundamental to responsible business. This is not just a question about which sustainability issues (or SDGs) that are chosen arbitrarily but also a matter of establishing the ways in which the goals (targets, objectives, etc.) are reached. Stafford-Smith et al. (2017) have pointed to the risk of "perverse outcomes" and unrealized synergies if interlinkages and interdependencies between goals are not taken into account. The argument here, though, is not so much the potential piecemeal treatment of the SDGs in relation to each other, but the paradox that "good" objectives can be promoted and strived for with questionable means and dubious intentions not necessarily in line with fundamental principles for ethical business conduct, which the accounting system is unable to "measure." The provocative thought that we can be sustainable without being ethical may be dismissed if you claim that being sustainable always implies being ethical. But considering the fact that companies that have been considered "good at CSR" or sustainable have been subject to scandals contradicts a definitional congruence between sustainability and ethicality. The point to be made here, however, should be made in relation to the accounting system. Ethicality can never be achieved through the accounting system, but must always build on fundamental convictions, values, and norms of the organization and its constituents.

One can certainly reflect on whether the problems brought up here relate typically to the SDGs or to sustainability in general. Most likely, the very same problems apply to sustainability as an issue even without the SDGs. However, the character of the SDGs, as global governance tools, create already from the outset a distance between macro and micro goals that must be overcome.

Concluding Discussion

As suggested by Bebbington and Unerman (2018), concerns about the SDGs are likely to take two routes, either focusing on the commitments inherent in the SDGs or the very execution of them (in business). Without excluding the former discussion, this article focuses on the latter concern. In particular, linking the SDGs to the technologies of control and accountability implies a use of the accounting system that does not escape the roles that the system plays out. The fact that sustainability – rather than finances – is in some way controlled and accounted for does not change the conditioning frames of the accounting system.

What the article provides is a theoretically grounded argumentation about the problems that a fully fledged integration of SDGs into the accounting systems of companies may imply, which is also an answer to the question of how it is possible (or not) to integrate SDGs in corporate operations through the accounting system. It points to two aspects: *first, the problem (or blessing) of "role weakness" and, second, the problem of arbitrary presentations of success and failure, risking to downplay other central responsibility criteria (e.g., ethical accountability) within the firm*. To sum up, technological approaches (in the sense of accounting technologies) capture only a minor aspect of the areas that the SDGs comprise. By necessity, they territorialize certain activities. This is probably not strange at all and hardly problematic in itself. All activities, for example, performance evaluations, go through such a process. More problematic, however, is that the SDGs, when introduced in the accounting system, presume managerial understandings and instrumental processes, where more or less arbitrary criteria of success and failure contribute to exposing the firm as more successful than it is. One aspect that has been pointed to is the lack of controllability the further the roles play out. It becomes increasingly more difficult to relate or attribute responsibility for sustainability performance the further the accounting system is used.

The social reality that accounting has been assumed to construct entails a close relationship between accounting and organizing. The strong belief in the accounting system as instrumental to sustainable ends goes, one could argue, even further. Through accounting, companies actually contribute to the fulfilment of the SDGs, the argument goes. Questioning such a strong interrelatedness is not intended to be a cheap remark, for example, pointing at the relative difficulty to establish processes and practices through which individuals, activities, and organizations will be constituted as economic actors and entities, a process that Miller and Power (2013) call economizing. The corresponding process or practice would, in this case, be "sustainabilitizing," through the constitution of sustainable actors and entities through the (accounting) system. If the accounting system helps producing a "Homo Economicus version 2.0" (Vosselman 2014), it seems far-fetched to believe that it actually produces a corresponding sustainable human actor, whether version 1.0 or 2.0.

A point to make, thus, is not just to contend that "this hardly works" but to reflect on through what and through which rationality sustainability works. The article questions the instrumental managerial rationality channeled through the accounting system as the necessarily "best one" in business. What is not contained within the accounting system but may be a way of promoting sustainable ends? Well, for example, the inner motivations of value rationality and a sincere ethically grounded analysis of what the company should be and do with regard to sustainability.

The article can be seen as an alert against a strong belief in the accounting system to "do the job". Drempetic et al. (2019) ask whether it is necessary to adapt all sustainability measurement systems to the SDGs. Given the issues mentioned in this paper, the answer is most likely no. At least it is not self-evident that it must go through the accounting system. One explanation for it has already been given, that the accounting system is frequently unable to play out all the roles that it usually does when sustainability issues are dealt with through it.

Are the arguments put forward in this article just a rebuttal or criticism of the possibility to report or control sustainability? Yes and no. It is correct that sustainability reporting and control suffer from the same problems if integrated into the accounting system of the firms. Sustainability can be constructed as a calculable space, although the roles of accounting described in this article do not necessarily come into play as the managerial instrumentality of accounting (based on the logic of performativity) presumes. However, on the other hand, the special thing about the SDGs is their character of macro governance mechanisms that are translated into micro-level control issues, through a process of (internal) interpretation and evaluation. Companies do not just adopt the SDGs, but co-construct selected ones among them at the micro-level through the accounting system. Thus, it is not just a matter of adopting an accounting standard (e.g., the GRI Standards) but to reconfigure business through (accounting) techniques assumed to be conducive to the achievement of the SDGs. To put it differently, the questions one could ask are – in the first case – how a company could report to fulfil legal and soft requirements on sustainability reporting and in the second case how it could assist in achieving the SDGs. The questions are not identical, and it is the second one that is relevant to this paper and "unique" to the SDG discussion.

The article contributes in a general way through pointing to and analyzing the assumption of using the accounting system as a tool to achieve the SDGs through corporate action. More specifically, it applies a theoretical understanding from the accounting literature which also provides a theoretical argument relevant to the sustainability literature and in particular the sustainability accounting tradition.

Empirical research would be very helpful not only when it comes to showing how the SDGs are integrated into the accounting systems but also the consequences of such integration. Alternatives to integrating the SDGs into the accounting system should be discussed and identified. For example, are there other alternatives than the top-down approaches suggested by practitioners and researchers? Could, for instance, the normative preferences and ambitions of individual employees be of benefit to the fulfilment of SDGs and if so, how? The relation between corporate governance, the ownership perspective, and the SDGs also remains to be examined.

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Social Innovation Through Tradition: The Many Paths to Sustainable Development

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Milena Valeva, Hagai Katz, and Yotam Lurie

Contents

Abstract

Through a thick cross-national discussion of a number of cases in both Germany and Israel, we examine how traditional-regional small- and medium-sized enterprises located in traditional communities devise and adopt socially innovative strategies, as they transform themselves into hybrid organization on the road to sustainable development. The roadmaps fleshed out provide insights for organizations seeking to bring about sustainability and development for their communities. The cases demonstrate the importance of considering the unique cultural contexts of specific regions facing economic and social challenges. They tell us how different sociocultural contexts are embedded and expressed in sustainable

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solutions. Evidently, sustainability has a specific meaning within the shared values of a community. These meanings are intertwined in these societies' traditions, and it is the dialectic adaptation of tradition with innovation that allows them to develop viable solutions of their own to ecological, social, or economic problems and challenges.

Keywords

Social innovation · Multiple modernities · Social enterprise · Sustainable regional development · Cross-national comparison

Communities at Risk: Facing Crises of Sustainability and Sociocultural Change

In a time of accelerated sociocultural change and a crisis of sustainability, social innovations are direly needed in order to harmonize the tensions between economic development, community, and sustainability. This is a tricky triad to manage. Our identity as members of a community, especially in regions facing socioeconomic challenges and issues of identity politics, is under threat. These fragile identities are threatened by the social and economic challenges that globalism has brought about in our conception of place and distance and in response to the neoliberal breakdown of the thick social connectedness of regional commercial activity. To be more explicit, small- and medium-sized enterprises (SMEs) located in peripheral communities, outside of the large metropolitan centers, are experiencing both economic difficulties in the face of global changes and sociocultural challenges due to the negative migration of the younger people to the city and the aging of society, among other factors.

These sociocultural issues go in synch and are related to a growing interest in sustainability in the broad sense. Sustainable development in the broad sense refers to the three foundational pillars of sustainability, economic, social, and environmental, but also includes broader issues of cultural identity and the people's ability to live and flourish as distinct cultural communities, within the global economy, with a sense of a "we" that is tied to their shared practices and historical identities. Sustainable development is also affected by growing pressures exerted by multiple stakeholders on firms to undertake responsibilities beyond their narrow economic-financial responsibility (Delmas and Toffel 2008).

One type of organizational responses to this tension is found in the blurring of boundaries between market relations and societal values and specifically in the emergence of business-social hybrid organizations. This organizational response is of particular interest within the European context, which is comprised of small communities, with unique cultural identities and numerous small- and medium-sized enterprises. If and when these traditional SMEs succeed in adopting hybrid identities, they become more sustainable. While the mainstream academic research literature in organizational and business ethics has all too often focused on mega corporations, i.e., multinational corporations (MNC), it has neglected the SMEs which are locally embedded in their communities, who play a vital role in Europe. The contemporary challenge for these traditional SMEs is to become sustainable.

Global and socioeconomic challenges bring substantial threats to SMEs that are located in the periphery, far from the opportunities that proximity to the political and economic power offers their counterparts in large metropolitan centers. The solution to their complex socioeconomic predicament requires more than just a business plan aimed at economic value. What is required is a model of sustainable innovation. The idea behind the notion of sustainable innovation is to provide an action plan through which interrelated economic, social, cultural, and environmental actions are taken. In this sense social innovation provides not piecemeal economic patches to the global social and economic challenges facing SMEs, but rather it provides a holistic solution bringing about both a vision and coherence to the SME's actions. The outcomes of such actions, which may be performed by corporations to guarantee a safer future, is aimed at generating shared added value for all stakeholders (Porter and Kramer 2011). Social entrepreneurship and its organizational form, hybrid social-business organizations, seem to be particularly equipped to handle such challenges, as they are bottom-up, locally and regionally embedded, and focus on social innovation, aimed at sustainable development goals (Haigh and Hoffman 2011).

Hybrid organizations, aka social enterprise, have gained prominence in the development discourse and on the ground over the last 20 years. These organizations are aimed at achieving development goals (such as poverty reduction, fair employment, social integration, and more) through the application of business principles and models. They operate through manifold forms and multiple business models, such as providing employment for marginalized groups, bridging between small growers and manufacturers and customers using fair trade principles, producing goods using sustainable industrial and agricultural practices, and many more.

Seeking Insights Through a Cross-National Comparison

In order to explore this issue more in depth, we propose examining it through a cross-national study of traditional communities in different peripheral regions. An instructive analysis could be a comparison between different examples of such regions. Specifically, we explore the eastern and the western periphery of Germany and the Negev region in Israel. The challenges in the German cases include demographic challenges (decreasing population), high population homogeneity, and an untapped potential for innovation in the enterprise landscape dominated by middle-sized traditional industrial firms in the first case study and by rural environment in the second and third one. The two Israeli case challenges include marginalization, underdevelopment, and inequitable distribution of resources between communities, particularly between center and periphery. In contrast, the Negev region in Israel includes a mix of start-up firms and community-based social enterprises, even within traditional Bedouin and religious communities, coupled with economic underdevelopment, marginalization, and inequitable distribution of resources. Such a cross-national comparison is of interest because of two focal points. On the one hand, we are looking at traditional societies and traditional communities, which vary greatly between geographies; on the other hand, there is huge potential for cross-learning from socioeconomic innovation. The demonstrative cases that we present below show how traditional societies and social innovation can coexist. Not just that, it is innovation brought about through tradition.

Innovation Through Tradition: Five Demonstrative Cases

We present now five demonstrative cases, three from Germany and two from Israel.

Kleintettau, a small town in Upper Franconia (Germany), is a traditional and industrial community in the heart of a rural region. The economy of Kleintettau is dominated by one family-owned medium-sized glass manufacturer, Heinz-Glas & Plastics Group. It is almost 400 years old – founded in 1622 and is still owned by the Heinz family – operating internationally, but centered in the same region since its founding (Heinz-Glas Group 2020). With 1,500 employees, it is one of the major employers in Kleintettau and Piesau (situated in Thuringia, ca. 12 km. away from Kleintettau). The enterprise is a family-owned glassmaker (in 1955 plastic packaging production was added) with a focus on flacons for high-end perfumery and cosmetics. It is a global quality-based leader in the particular niche (Heinz-Glas Group 2019). The community of Kleintettau is predominantly catholic and belongs to the Franconian ethnic group, and it boasts a strong regional identity. However, it is facing serious challenges, including a declining and aging population, partly due to negative migration of young persons. Kleintettau is still home of the headquarters of the Heinz-Glas Group, and it can be called a family-/company-owned township. Through 15 generations of the Heinz family (there are documentary evidence from as early as 1523 about a glassmaker named Hans Hein(t)z from Thuringia), the enterprise built a strong traditional identity and has developed as a constitutive part of the identity of the region. The patriarch Carl-August Heinz is 70 years old and leads the enterprise since 1977. He recognized on time the potential of internationalization of production and acquired in 1985 his first international glass factory outside of Upper Franconia, in Belgium. After the fall of communism and the reunion of Germany, he continued with the geographical expansion to Thuringia, Poland, and also USA, China, Peru, and India (InFranken.de 2018). The corporation takes care of everything in Kleintettau, including providing an elaborate system of sustainable business and social, cultural, and educational services, leaving no space for grassroots development. For example, in 2011 Heinz-Glas established the tropical greenhouse "Klein Eden," powered by the residual heat from the glass factory in Kleintettau. This unique sustainability-oriented project aims to increase ecological utility by sustainable food production of tropical fruits and edible fish, from the region and for the region. The tradition is not only part of the formal corporate identity but also a part of the sustainability strategy, whereby the regional development is an explicit topic next to the social, ecological, and economic pillars (Heinz-

Glas Sustainability Report 2018). The firm assumes comprehensive responsibility over the town's people's lives, in an innovative business-social hybrid, which is an example of corporate intrapreneurship taking the place of social entrepreneurship.

Birkenfeld Nahe is a rural area close to the western border of Germany with France and Luxembourg. The Environmental Campus of the public Trier University of Applied Sciences – the Umwelt Campus in Birkenfeld – was established in 1996 as a flagship in terms of sustainability through environmental education. This education initiative is the foundation for a strong environmental profile of the Birkenfeld Nahe area (Trier University of Applied Sciences 2020). The Environmental Campus Umwelt-Campus Birkenfeld is ranked the most sustainable University in Germany and number six in the world in 2019 (UI Green Metric World University Rankings 2020). The Environmental Campus Birkenfeld offers different study programs whereby the environmental perspective is an integral part of all of the different study programs. Next to the specific teaching profile, different research institutes on the campus have the common denominator of sustainability. According to the general self-understanding of universities of applied sciences in Germany as institutions for education and research with practical application, the Environmental Campus Birkenfeld offers know-how for international students with clear focus on practical applications, mostly in cooperation with organizations in the region. The Campus supports real projects with impact for the region – brought through specifically manufactured citizen governance organizations and collaborations, spearheaded by local government collaborations, and supported by business, citizen participation, and collaboration building (Environmental Campus Birkenfeld 2020).

Additionally, in order to economically develop communities in this rural countryside, the regional administrative unit of Birkenfeld Nahe established in cooperation with other affected communities the Hunsrück-Hochwald National Park in 2015. This initiative harmonizes with the regional identity of Birkenfeld Nahe – "green" sustainability.

These projects promote at the same time financial growth, for example, through sustainable tourism, environmental preservation, and community building. This case is an example of manufactured community and regional identity, which is not organic, what one could call "social innovation and sustainable development by design."

Despite its small size, Israel has a strong center-periphery distinction, characterized by major differences in employment, income, access to services, education, health, and more. While the central region is home to most of Israel's industry, high-tech, cultural institutions, higher-education, the northern region (The Galilee) and the southern region (The Negev) are predominantly rural, are relatively underdeveloped, an also enjoy less government investment. Both regions have been under rocket fire for extended periods of time. Both regions suffer from negative migration, predominantly of younger persons and more affluent families. The city of Ofakim in the west of the Negev is a prime example of Israel's periphery. Located in the Negev, this peripheral "development town" has been facing multifaceted economic, social, educational, and cultural underdevelopment. It is surrounded by rural/agricultural small cooperative communities (kibbutz/moshav). Like other development towns, it is a product of failed planned regional design from the 1950s. In the large wave of Jewish immigration of the 1950s after the establishment of the State of Israel, many of the Jewish immigrants from North Africa and the Middle East were placed by the government in the periphery, in small towns or communal villages (Moshav), to bolster the Jewish presence in what then were newly acquired frontier areas. Development towns were supposed to be employment and economic hubs for the surrounding rural communities but failed to do so due to unsuccessful industrial, economic, and population planning. The original plan was to base traditional industries in these towns, such as textile industry in the case of Ofakim, and to base their economy on blue collar and services jobs. These aspirations fell short due to a crisis in the textile industry in the 1970s and a failure to attract new industries and stronger populations. Inequitable governmental allocations, lacking infrastructure, and failed local governance exacerbated the situation and left many development towns, Ofakim probably more than most, far behind. Today Ofakim is populated by mostly traditional north-African Jews, who were joined mainly by families from the lower socioeconomic strata of the wave of immigration from the Former Soviet States in the 1990s. Today Ofakim is afflicted by high poverty and unemployment, a failed education system, and negative migration of young persons and stronger families. Its educational outcomes in 2019 were at the bottom of the list nationally, only slightly better than the outcomes of the poorest and most marginalized communities in Israel (such as the Bedouin community, mentioned below). On top of that, due to its location in close proximity to the Gaza Strip, it has been under repeated rocket fire from the Gaza strip since 2001. These rocket attacks were the impetus for the founding of the organization “Community Resilience Ofakim” (Hosen Kehilaty Ofakim). Hosen Kehilaty Ofakim (or Hosen – resilience – in short) is a grassroots organization promoting personal and community resilience, through two main efforts – trauma first-response services (upon rocket fire) and a multi-age education and empowerment program. Its inception was triggered by one activist’s disillusionment by the lacking local and national government response to the needs of residents that are psychologically affected by rocker attacks. Meant at first to mobilize and train local volunteers to be first responders for such residents, the founder and her first recruits later developed a notion of resilience by which emergency resilience is reliant on developing ongoing resilience, including capacities for active citizenship. The organization mobilized hundreds of volunteers, mostly traditional women of northern African origins, with low levels of post-secondary education, and even some with no secondary education. These women also share a passive and clientelist political culture, and they and their families lack access to educational, economic, and cultural opportunities. In order to develop active citizenship in this specific group of women, without resistance borne out of fear of change and low self-esteem, the organization’s tactics involve doing so through traditional means. Thus, to promote active citizenship, encourage individual autonomy, and develop a culture of free discourse, Hosen operates Judaic studies where debates of religious scripts are done through a modern lens and are used for teaching about civic action, democratic culture, and independent thought.

Hence, the case of Hosen Kehilaty Ofakim is an example of local social entrepreneurship mobilizing traditional values and practices to promote modern ones.

The next two cases share very similar regional contexts, despite being thousands of miles apart. The two unique ethnic communities are the Sorbs in the Lusatia region, on the German-Polish and German-Czech borders, and the Bedouins in the Negev in Israel. The Bedouin community maintains a nomadic tradition and is still characterized by post-primary economies. The Sorbs community is characterized by traditional and religious identity, the local economy is post-primary, and they are peripheral in both a geographic and an economic sense, experiencing multiple marginalization, poverty, and unemployment (relative to the rest of the country). Both the Sorbs and the Bedouins are traditional communities, with at least some resistance to cultural modernization and westernization.

In the eastern part of Germany, next to Poland and Czech Republic, the ethnic minority of the Sorbs is at home. This is the only German indigenous minority. Since the early Middle Ages, these Slavic communities – there is a division between Upper and Lower Sorbs, each with their own Slavic language – are inhabiting Middle Europe and are settled nowadays in the western part of Saxony (Upper Lusatia inhabited by the Upper Sorbs) and southwestern part of Brandenburg (Lower Lusatia inhabited by the Lower Sorbs). During the ages the many dangers faced by these communities and their struggles for survival fostered the emergence of a strong tradition-based identity. Contemporarily, there are approximately 60,000 bilingual Sorbs, the predominant part of which belongs to the Upper Sorbs in Upper Lusatia in Saxony. The historical capital of the Sorbs is Bautzen, situated also in Saxony. The Upper Sorbs are Catholics. For them the active practice of the catholic religion is a vital part of the Sorbs' identity – next to their own language and traditional customs. The constitution of Saxony protects the basic rights of the Sorbs, including the protection of the culture and traditions, and since 1999 a special law covers all their special rights in detail (Saxon State Ministry of Science, Culture and Tourism 2020). The region of the Upper Sorbs in Saxony is rural and post-transitional. Saxony was part of the former German Democratic Republic and is the leading state in terms of economic development of the former socialist states of East Germany.

However, the strong economic development is focused on the western and central part of Saxony (mainly in the two biggest cities Dresden and Leipzig). The unemployment rate in Saxony is still significantly higher compared with the western German states (former Federal Republic of Germany), but it has been decreasing continuously since the beginning of the new millennium (Statista 2020). In the eastern part of Saxony (Upper Lusatia), the economic development is significantly lower. Traditionally, next to agriculture, the textile and brown coal mining industries dominate the local economy. After the fall of the Wall in 1989, the economic profile of the Sorbs was marked by farming and services – mainly SMEs in the tourism and creative industry. Within this unique German region, an untapped economic potential can be reached, based on tradition and identity. The topic of sustainability is a very promising opportunity due to current structural change in the regional economy, namely, the exit from brown coal mining (Gürtler et al. 2020). The Sorbs region in Upper Lusatia is enforced to change in terms of economy; therefore the potential of the traditional identity of the Sorbs has to be interpreted as a chance for socioeconomic change of the region (Jacobs and Nowak 2020).

Missionshof Lieske, in Lusatia, is a Work Integration Social Enterprise (WISE) (Nyssens 2007). WISE are autonomous organizations aimed at professional integration in the labor market of people experiencing serious difficulties and whose unemployment is mostly structural in nature. Despite substantial diversity between different types of WISE, they normally achieve this integration through productive activity accompanied by additional services and training programs to qualify the workers. This is done within the WISE itself or in mainstream workplaces. Missionshof Lieske is an organic bottom-up sustainable development, founded by a Sorb religious mission, as part of a comprehensive center which provides also residential and social care for the elderly and persons with disabilities. The social enterprise provides employment and economic development for Sorbs with disabilities, as part of the comprehensive service provided by the Mission. The enterprise is a business operating in traditional food manufacturing (cheese, beer) and old-fashioned carpentry, where the workers undergo training, rehabilitation, and integration in the community through their employment.

The Bedouin organization Sidreh is also a WISE, empowering women through traditional Bedouin craft businesses (weaving, embroidery) and introducing a Liberal/Muslim feminist standpoint into a strongly patriarchal society. Bedouins were nomadic Muslim tribes residing for hundreds of years in the Negev area, as well as in Jordan, the Sinai Peninsula and Saudi Arabia. This is a strongly traditional society, with considerable aversion to modernization and change. In Israel, since the 1950s, being a Muslim minority in a Jewish state, they were pushed into a limited territory, most of it in nomadic tent villages in the Negev region. Since the 1970s, they started moving into townships due to a combination of push and pull factors, including government oversight and co-optation, poverty, limited access to land, inner struggles, and more. Many of them have turned seminomadic as a result and lost their traditional way of life and sources of income. Consequently, Bedouin communities are among the poorest, most marginalized, unemployed, undereducated, and underdeveloped in Israel. Women, who are traditionally subordinate in this patriarchal society, have lost the economic roles they had in the nomadic herding economy. This has further marginalized them, and now they experience political, economic, gender, and religious discrimination simultaneously. In such circumstances, defying cultural norms of women's domestic role will lead to painful results; these women usually find themselves outside the social circle. To empower women to gain economic independence, Sidreh and similar organizations developed social businesses where women work without being exposed to men who are not in their family. The occupations and businesses that they develop in these organizations are traditional feminine Bedouin trades, such as cooking or producing traditional artefacts. The employment in Sidreh is also accompanied by an education and empowerment program.

Hence, both Sidreh and Missionshof Lieske are small/medium grassroots organizations, locally owned, locally run, and completely detached from big corporate powers. Both are also examples of local social entrepreneurships mobilizing traditional values and practices to promote modern ones.

Discussion: Multiple Modernities Through Tradition?

This project is not seeking a prescriptive model but rather a deeper thick understanding of dynamics and processes, through which we can trace out the various routes on the roadmap from traditional communities to sustainable development. The resulting roadmap will be able to provide useful insights for particular organizations seeking to bring about sustainability and development for their communities. The cases briefly described above demonstrate the significance of sustainable regional/local development innovations and social collaborations for entrepreneurs, organizations, and communities, in search of shared value for the common good. The cases also stress the importance of considering the unique cultural contexts of specific regions facing economic and social challenges. They tell us how different sociocultural contexts are embedded and expressed in sustainable solutions. Evidently, sustainability has a specific meaning within the shared values of a community. These meanings are intertwined in these societies' traditions, and it is the dialectic adaptation of tradition with innovation that allows them to develop their own to viable solutions to ecological, social, or economic problems and challenges.

The academic discourse is still dominated by a single notion of sustainable development that is linear, unidirectional, and classical modernist in nature. This means that it has a single embedded notion of progress, based on western views of development. Part and parcel in this discourse is a rejection of the so-called "authentic" cultural traditions. Yet, as Eisenstadt (2000) has argued for "multiple modernities," we suggest a similar multiplicity in sustainable development as well. Eisenstadt's concept of multiple modernities refers to a "continual constitution and reconstitution of a multiplicity of cultural programs" (Eisenstadt 2000, p. 2). Multiple modernities are engendered by a cultural plurality and diversity of identities and practices, which are promoted by a variety of actors, often from civil society and social movements, that realize an ideological and identity-driven program of modernization. While adopting ideas and practices from more powerful and institutionalized actors, they select, reinterpret, and reformulate these appropriated ideas and introduce innovative ideologies, institutional patterns, and organizational forms (Kaya 2004).

Just as Eisenstadt (2000) said about modernity: "These ongoing reconstructions of multiple institutional and ideological patterns are carried forward by specific social actors in close connection with social, political, and intellectual activists, and also by social movements pursuing different programs of modernity, holding very different views on what makes societies modern," so can be said about sustainable development. Our five demonstrative cases reveal this multiplicity well. They reflect different views on the trajectories of sustainable development that reflect and sustain identities, brought forth by social enterprises and by social collaborations that reflect local histories and cultural identities. They suggest a locally rooted contestation of single unitary hegemonic vision of how sustainable development can be achieved. This hegemonic vision is propagated by powerful institutions, like the World Bank and the OECD, which promote a singular script of modernization, and rejects the possible role of traditional views, customs, and solutions. The emphasis on local processes and dynamics and on the power of tradition that our cases propose is in stark contrast to the conception of the modernist project as portrayed by scholars such as Lerner (1958) and Inkeles and Smith (1974), who stressed wider trans-local and dynamic communities. Instead of individual autonomy, these cases reveal cultural embeddedness. They adopt the concepts of sustainability and sustainable development, but in a syncretic fashion, resulting in novel ways and organizational paths of action, deeply rooted in local identities and histories.

The points raised above suggest a new research agenda for organizational and business studies, one that incorporates an understanding of regional dynamics with an understanding of social enterprises' roles in sustainable development. Therefore, research needs to address the characteristics of the sociocultural, economic, and organizational landscapes in specific regions and explore the business models for sustainable local/regional development that emerge in the different regions from these rich and longstanding traditions. Next, it is important to explore the catalysts and obstacles that promote or hinder the emergence of these models and how these correspond to the cultural and socioeconomic factors of the regions. In parallel to this, we should attempt to understand the relevant factors and SDG indicators, how are they interrelated, and how they can be targeted with the specific strategies and business models that social enterprises implement. This can help us understand how coherent is "sustainable regional/local development" in terms of variation within diverse contexts, as well as the types of cross-cultural learning that are possible between the regions, and can possibly lead to a more formal roadmap for culturally embedded multiple sustainable developments.

These cases also bring forth a new outlook on the relations between tradition and innovation. Usually treated as opposites, evidently tradition and innovation have more nuanced and varied relations. Tradition can serve as a source for innovation, and in certain societies, particularly societies that are trying to safeguard their collective identities from change and external influences, tradition may be the only path for innovation.

This is in fact a call for scholars and economic actors to remember to situate sustainability within specific socioeconomic-cultural contexts. Also, the cases ask us to consider the dialectics between innovation and tradition, since they reveal how traditional values and practices can be effective leverages for socioeconomic innovation. We thus drag into the discourse on sustainable development the essential tension between tradition and innovation proposed by Kuhn (1977). As in Kuhn's view that both convergent (traditional) and divergent (innovative) thought are equally necessary for progress, so it is for the understanding and promotion of sustainable development. Perhaps the term to invoke here is that of "generative tradition" suggested by the Indian sociologist Dhurjati Prasad Mukerji (Madan 1978), used in his analysis of the tension between modernization and tradition in India.

As argued, tradition can be a vehicle for innovation and a concrete context for providing a specific meaning to sustainability indicators in the development process.

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The 2030 Agenda for Sustainable Development, the SDGs, and Corporations: A Critical Reflection

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Neil Eccles and Ben van der Merwe

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Abstract

In this chapter, a critical reflection on the 2030 Agenda for Sustainable Development (the Agenda), on corporations, and on the nexus between these is presented. The starting point, at the risk of upsetting the popular utopian view that the key to achieving sustainable human development is simply the implementation of the Agenda, is to explore two important points of dissensus with the Agenda itself. These are (a) its framing as a singular agenda implicitly devoid of contradiction and (b) the inclusion of economic growth as an apparently legitimate end. These two points of dissensus, together with a brief exposition of the capitalist essence of corporations, then provide a clarifying context within which to contemplate the question of what corporations *have done* and *are doing* with respect to the Agenda. This scrutiny reveals how, having recognized the serious legitimacy risks posed by the rising sustainable development movement, the

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immediate corporate response was doing everything within their considerable power to ensure that the Agenda did not stray materially from capitalist governing rationality. The inclusion of economic growth into the Agenda as an apparently legitimate end is an indication of the success of this effort. Finally, having rendered the Agenda business-friendly, we see how corporations have begun to engage with the Agenda and, in so doing, have ought to shroud themselves in the legitimacy of *apparent* alignment with sustainable human development.

Keywords

2030 Agenda for Sustainable Development · Corporation · Economic growth · Economic degrowth · Sustainable development · Legitimacy · Sustainable Development Goals (SDGs) · Dissensus · Modernism · Millennium Development Goals · Poverty · Critical research · Contradiction · Selectivity · Human development indicators · Gross domestic product · Health · Education · Happiness · Trickle-down · Marxist · Employment elasticity · Capitalism · Environmental sustainability · Environmental Kuznets curves · Material throughput · Dematerialization · Circular economy · Value realization crisis · Compound growth · Entropy · Thermodynamics · Planetary limits · Profit · 1992 Rio World Summit on Sustainable Development · 2002 Johannesburg World Summit on Sustainable Development · Governing rationality · World Business Council on Sustainable Development · Power · Social alienation · Human-nature metabolic rift · Neoliberal globalization

Introduction

The 2030 Agenda for Sustainable Development (the Agenda) with its now almost universally recognized 17 Sustainable Development Goals (the SDGs) was endorsed by the United Nations in 2015 (United Nations 2015a). One of the key features of the Agenda is the dramatically increased focus on or “foregrounding” (Scheyvens et al. 2016, p. 372) of the role of corporations. When considering the role of corporations in terms of the Agenda, at least two top-level questions emerge, each of which, in their turn, spawn the whole myriad of interesting avenues of investigation. The first of these questions is the morally aspirational question of what *ought* corporations to do with respect to the Agenda. Frequently, the answers to this question settle on the conclusion that there is a “Need to Move Beyond ‘Business as Usual’” (Scheyvens et al. 2016, p. 371) or “[a] greater obligation towards embedding responsible and ethical practices across all aspects of company operations” (Scheyvens et al. 2016, p. 380).

The second top-level question arising out of a consideration of the role of corporations in relation to the Agenda is the more empirically loaded question of what corporations *have done* and *are doing* with respect to the Agenda. This latter question offers a launch pad for a critical reflection, not only on the role of corporations in relation to the Agenda but also on the Agenda itself. The prospect of such critical reflection was what originally animated this chapter, and it is out of this critical reflection that a commentary of corporate legitimacy emerges.

The chapter proceeds as follows. Firstly, a brief reflection on the emergence of the Agenda is presented together with instinctive warning bells that its popular appeal triggers. This is followed by an exploration of two points of dissensus with the Agenda: (a) its framing as a singular agenda implicitly devoid of contradiction and (b) the inclusion of economic growth as an apparently legitimate end. Finally, with these points of dissensus as clarifying context, the chapter returns to the question of what corporations *have done* and *are doing* with respect to the Agenda.

The 2030 Agenda for Sustainable Development: The SDGs

The first port of call then is the Agenda itself. Very few would dare to argue publicly against the modernist project of sustainable human development perhaps best encapsulated in the famous refrain of "development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs" (United Nations 1987, Chap. 2). And it was of course this popular modernist project that ultimately legitimized and motivated the crafting of the Agenda as the successor to the earlier Millennium Development Goals (MDGs). The MDGs had been (self-) heralded as "the most successful anti-poverty movement in history" (United Nations 2015b, p. 3). To reduce matters to their essence, the task of the Agenda was to improve on this. In the imagination of the United Nations, this sought-after improvement was/is to be achieved through an expanded set of goals which "[go] far beyond the Millennium Development Goals" (United Nations 2015a, paragraph 17; see also Fukuda-Parr 2016). This expanded set of goals was rendered together in the colorful schematic of 17 squares that we are now all so intimately familiar with as the 17 SDGs.

Given the broad popular appeal of sustainable development generally, it is then hardly surprising that this colorful rendition of a set of 17 highly intuitively appealing SDGs, formulated under the banner of the Agenda, has been met with widespread approval, bordering on popular consensus. From a critical research perspective (Alvesson and Deetz 2000), however, widespread approval is the surest possible marker of a need for profound suspicion and conscious dissensus. Two dimensions of dissensus in particular are germane to the discussion here.

Dissensus 1: The Singular Agenda

The first point of dissensus is essentially linguistic in character and on the surface might seem to be rather semantic. However, it has potentially profound implications as we shall see. This is the linguistic framing of the SDGs in popular discourse as singular – "*the* Agenda." To a significant extent, the argumentative basis for this singular framing of the Agenda is the United Nations' (2015a, Preamble) definitive rather than normative assertion that the SDGs "*are* integrated and indivisible" (emphasis added). Because the SDGs "*are* integrated and indivisible," they constitute a singular "*the* Agenda." The consequence of this is a tacit suppression, even denial, of the possibility of contradictions within and between the goals.

This suppression of contradiction, in turn, lays the foundation for a rather paradoxical outcome – the divisibility (and perhaps even the disintegration) of the SDGs through a process that Fukuda-Parr (2016, p. 50) has labeled as "selectivity." Essentially, if the goals "*are* integrated and indivisible," then participating entities need no longer to concern themselves with integration. Instead, they can quite legitimately proceed with the task of prioritizing the goals in relation to either their capacities or, more often, issues that they consider most material to themselves or to their local (i.e., parochial) interests.

Somewhat more cynically, this creates conditions conducive to the appropriation of the Agenda (as a whole) as a legitimizing shroud for the pursuit of narrow special interests. An entity may opt to focus on their local priorities (their own special interests), and because the SDGs "*are* integrated and indivisible" with the insinuation that no contradictions exist within the Agenda, this pursuit of self-interest can be celebrated as an "obvious" contribution to the greater good or to the Agenda as a whole.

Dissensus 2: Economic Growth as a Development Goal

The second dimension of dissensus particularly germane to the discussion here is much more controversial and warrants significantly more argumentative effort. It relates to the far more pronounced intrusion of conventional economic indicators as goals into the Agenda as compared to its predecessor, the MDGs. While this intrusion has been celebrated by Fukuda-Parr (2016), a contrary view might well be that many economic objectives ought ideally to be seen as means to more material social and environmental (i.e., human developmental) ends rather than ends in and of themselves (Briggs et al. 2013).

The most striking instance of this "problem" of course emerges in SDG number 8. In the Agenda this is framed as "Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all," while in schematic representations, it is typically stripped of several comforting signifiers to "Decent work and economic growth." Economic growth is a problematic agenda, and its concatenation with comforting signifiers like "sustained, inclusive, and sustainable" goes only so far in obscuring this fact.

The problematic relationship between growth and development is by no means a new realization. This relationship has been politicized in the degrowth movement since the 1970s with the work of Georgescu-Roegen (1971) and Schumacher (1973), both influenced to some extent by the ideas of Arendt (1958). But why exactly is economic growth problematic? A good starting point in answering this question is a critical examination of why it is that economic growth has been allowed to find its way so compellingly into the "common sense" (in the Gramscian formulation) of development agendas across the world. Why is it that economic growth has been accepted as a centerpiece, if not *the* centerpiece, of just about every mainstream development plan that exists today? Two major arguments are typically advanced in support of this inclusion.

The first revolves around a set of striking empirical representations of the relationship between per capita GDP on the one hand and human development indicators such as health outcomes, or education levels, or even happiness on the other (Fig. 1a, b, and c). From representations such as these, it is argued that if development indicators are so clearly positively and linearly related with economic indicators such as per capita GDP, then increasing these economic indicators through economic growth must surely be good for development. However, a careful inspection of these representations reveals that almost universally the per capita GDP data is transformed by logging it. When this transformation is reversed, very different pictures emerge (Fig. 1d, e, and f). All of a sudden, the “lovely” linear relationships are replaced by relationships of rapidly diminishing returns above a certain per capita GDP, which, as it turns out, is quite low (less than US$ 10,000 in 2017 terms). In short, even without reference to the thorny philosophical issue of causation, these representations are fundamentally flawed. Indeed, given that they are typically advanced by orthodox economists, who pride themselves on the mathematical rigor of their discipline, they might even be seen as dishonest. That such a group would accidentally miss the implications of these mathematical transformations does not seem at all reasonable. In short, it seems that these tales of the developmental merits of unlimited economic growth are just that, tales.

The second argument popularly advanced in support of pursuing economic growth as a centerpiece of development revolves around the belief that economic growth *inevitably* brings about poverty reduction through some sort of trickle-down effect. However, even beyond abstracted theoretical critics of such an inevitability emanating particularly out of Marxist circles, empirical studies across different countries have demonstrated compellingly that the relationship between economic growth and poverty reduction is far from trivial and far from inevitable. Representing data originally contained in his 1980 book, Fields (1984) noted examples of every possible combination of high and low growth vs high and low poverty reduction. This in a sample of countries including Brazil, Costa Rica, India, the Philippines, Sri Lanka, and Taiwan. Islam (2004) reported a similar range of relationships in Bangladesh, Bolivia, Ethiopia, India, Indonesia, Uganda, and Vietnam. He went on to interrogate complex interplays between poverty, economic growth, employment efficiency, productivity, wages, and inequality both empirically and theoretically in his discussion. Striking in this discussion was his noting of an apparent inverse relationship between the employment elasticity of economic growth (the ratio of change in employment to change in GDP as a proxy for employment efficiency of growth) and labor productivity. In other words, it seems that the employment efficiency of economic growth might decrease with increasing labor productivity. This has very important implications when one considers the fact that, under the guidance of the coercive force of competition, labor productivity increase is a key capitalist impulse (Marx 1890/1990). All of this undermines the

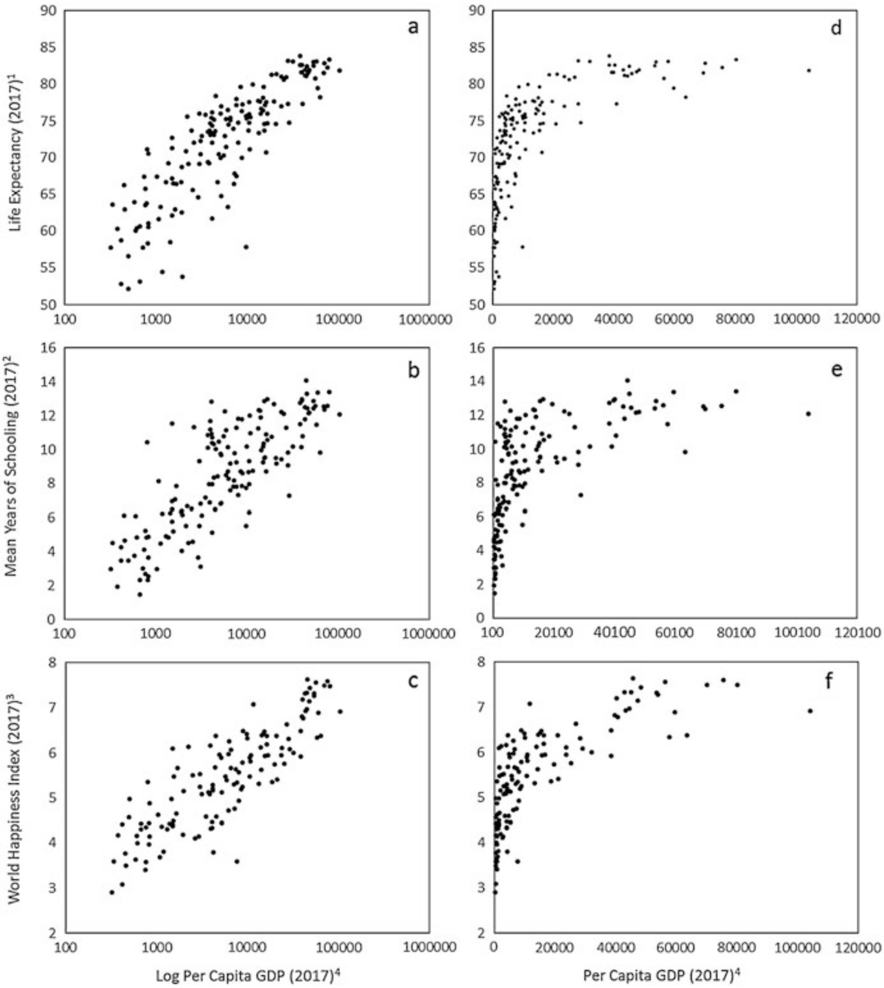

Fig. 1 Country-level development indicators vs per capita GDP on log and linear scales using 2017 data. Data sources: (1) life expectancy, UNDP http://hdr.undp.org/en/data; (2) mean years of schooling, UNDP http://hdr.undp.org/en/data; (3) world happiness index, Wikipedia HYPERLINK "https://en.wikipedia.org/wiki/World_Happiness_Report"https://en.wikipedia.org/wiki/World_Happiness_Report; and (4) per capita GDP, World Bank https://data.worldbank.org/indicator/NY.GDP.PCAP.CD

common-sense notion that economic growth inevitably leads to employment and therefore to poverty reduction. As Fields (1984, p. 75) put it, "A high rate of economic growth is neither necessary nor sufficient for poverty to decline."

Of course, the undermining of these two cases for the ideology that economic growth is good does not suggest in any way that economic growth might actually be bad. It simply suggests that economic growth might (a) not be universally good in terms of delivering development outcomes and (b) that even in the case of poverty

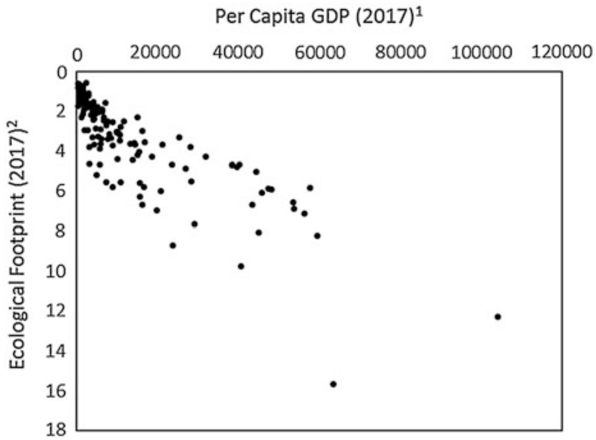

Fig. 2 Country-level ecological footprint data in hectares per capita (plotted in reverse order because increasing the ecological footprint implies decreasing environmental sustainability) vs per capita GDP using 2017 data (linear scale only). Data sources: (1) per capita GDP, World Bank HYPERLINK "https://data.worldbank.org/indicator/NY.GDP.PCAP.CD"https://data.worldbank.org/indicator/NY.GDP.PCAP.CD, and (2) Global Footprint Network, https://www.footprintnetwork.org/licenses/public-data-package-free-2018/

reduction, one would need a specific type of economic growth before any benefit accrues and that paths other than economic growth might well lead to the same result. However, when we turn to the matter of environmental sustainability, an altogether more troubling likelihood emerges. This is the likelihood that economic growth might in fact be bad (Daly 2008; Georgescu-Roegen 1971; Harvey 2014). This possibility becomes immediately apparent when one plots country-level ecological footprint data against per capita GDP (Fig. 2) and sees the almost linear negative relationship between per capita GDP and ecological footprint. No nice neat environmental Kuznets curves apparent. The reason for this strong apparent relationship is not difficult to grasp. To a significant extent, GDP is based on the consumption of stuff, or if you prefer, on material throughput. And, as a general rule, the higher the material throughput, the higher (or worse) will be the ecological footprint.

Given the level of global "investment" in propagating the economic-growth-as-good ideology (more on this later), it is hardly surprising that the debate regarding this has raged back and forth. The arguments of those clinging to the growth-as-good ideology have, in the main, revolved around the possibility of dematerialization of economic growth – the decoupling of economic growth from environmental harm alluded to in SDG target 8.4. Examples of this type of argument would include ideas such as the circular economy (Geissdoerfer et al. 2017) popularized by Ellen MacArthur. However, as Daly (2008, p. 513) so eloquently put it:

> Theoretically in the limit perhaps a dollar of value added to GDP can become "angelized," inhering in only a few molecules of resources. But then it will be of no use – except to angels

> and growth economists – certainly not to poor people who need food on the plate more than recipes on the Internet.

One might add here the fact that "recipes on the Internet" are hardly materially "angelized." Vast material flows are necessary to sustain the technology industry, particularly in its fashionized form where people change their devices almost as frequently as they change their underwear.

Harvey (2018) presented an equally striking and perhaps more concrete (if you will excuse the pun) illustration of the fragility of dematerialization arguments. He noted how, in response to the declining global demand precipitated by the 2008–2009 financial crisis, China turned to a rather large internal infrastructure program to absorb its surplus production capacity and thereby stave off a massive value realization crisis. The fact that China, of all countries, would potentially fall victim to a quintessentially capitalist crisis of value realization is a telling indication of the dominant political-economic system globally. In any event, during this period, in just 2 years, China consumed 45% more cement than the USA had consumed in the whole of the twentieth century! Confronted with this sort of empirical anecdote of what it actually takes to achieve the growth that the prevailing growth-as-good ideology demands, the theoretical discussions around dematerialization appear somewhat like a small fart in a large perfume factory when it comes to real practice.

Harvey's focus, however, in drawing attention to this striking illustration of the enormous scale of infrastructure development in China had as much, if not more, to do with the final "little" problem with economic growth that ought to be introduced here. This is the issue of the compound nature of economic growth demanded by capitalism in order to sustain itself. Harvey (2014) dealt with this issue at length in a chapter entitled "Endless Compound Growth." In this, he emphasized the profoundly misleading apparent modesty of the magical 3% global growth purportedly necessary for capitalism to sustain itself. To illustrate Harvey's concern, we might begin with 2018's global GDP that was in the order of US$ 85 trillion. To hit the 3% growth target by 2019 would mean adding a "modest" US$ 2.5 trillion to the annual GDP. The modesty of this of course falls into question when one realizes that it was only in the late twentieth century (around 1973) that the global GDP actually reached the US$ 1 trillion mark for the first time in history. Beyond this, if we keep GDP growing by 3% per annum till 2050, GDP will then be around US$ 219 trillion, and at this stage, it will take almost US$ 6.5 trillion to grow at 3%. And within 120 years, the world economy would have to grow by the total 2018 GDP of US$ 85 trillion in 1 year to hit the 3% target. By that stage the global economy would be approaching a total GDP of nearly US$ 3 quadrillion. And if the abstract numbers above are not sufficiently moving, a graphical illustration of this exponential rise in GDP that 3% growth will bring about might be (Fig. 3).

This exponential economic growth can, of course, be related back to environmental sustainability concerns with some rather crude calculations. If one assumes no changes in the material efficiency of economic activity, then the 1.7 odd planets required to sustain our economic activity of US$ 85 trillion would rise to around 4.5

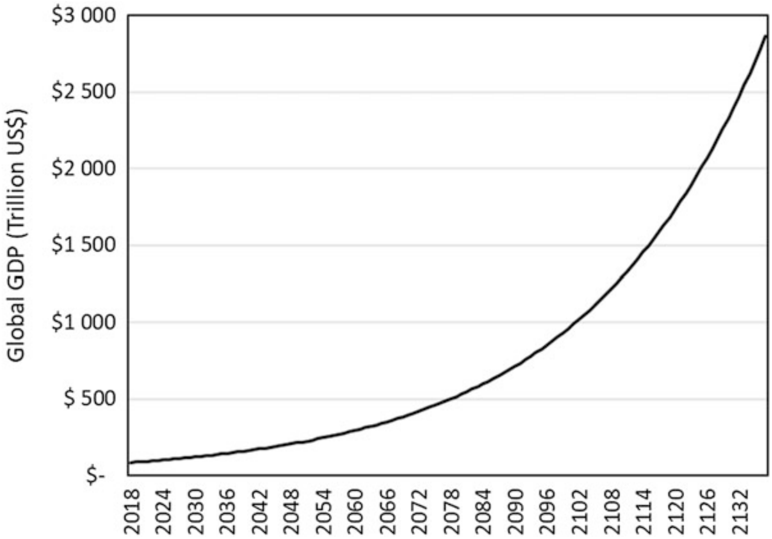

Fig. 3 The consequence of global *GDP* growth at 3% per annum

odd planets by 2050 to sustain the economic activity of around US$ 219 trillion. And within 120 years, it would have risen to an absurd 57 planets. The assumption of no changes to the material efficiency of economic activity is of course unrealistic. But so too are the techno-optimistic suggestions that we might be able to achieve a 5700% improvements in our material efficiency.

In short, apart from the fact that evidence suggests that growth is not a guarantee of current development, we are confronted with the likelihood that mechanistic conceptions of continual growth is inherently irreconcilable with basic laws of entropy and thermodynamics. As many authors point out (Cosme et al. 2017; Daly 2008; Fournier 2008), there are real planetary limits to growth and conceptions of development dependent on growth. Indeed, Bartolini and Bonatti (2002, p. 1) have gone so far as to raise the possibility of "Environmental and social degradation as the engine of economic growth." At the very least, these real problems must confront us with the question: Why was economic growth, with all of its potential contradictions, embedded in the Agenda (singular) as a legitimate end in the first place rather than just left as a potential means to be used, *where appropriate*, to achieve actual human development ends?

Corporations and the SDGs: Naming the System

With these two dissensus concerns regarding the Agenda as a backdrop, it is now possible to return to the original framing question of this chapter, which was "what corporations have done and are doing with respect to the Agenda." The first task in pursuit of answers to this is to "name the system" (Burkett 2009, p. 290). This can be done by recognizing (a) that corporations in their modern form are the primary institutional vehicles through which contemporary capitalism finds expression and (b) that capitalism is, to all intents and purposes, an economic growth junky. As Marx (1890/1990) demonstrated way back in the late nineteenth century, and as contemporary critics (e.g., Brown 2015; Harvey 2014) continue to elaborate, capitalism subsumes or subjugates all other human ends under its ultimate end of ceaseless accumulation of capital through profit appropriation. This is the essence of capitalism if you like. And it turns out that generating profit in the aggregate sense is fundamentally dependent on economic growth (Binswanger 2009). As Burkett (2009, p. 170) put it, "Any market economy in which production is motivated by profit must rely on growth, since money-making only makes sense if the amount of money made is greater than the amount of money advanced." Without economic growth, capitalism *must* collapse because corporations *en masse* will be unable to turn a profit (Harvey 2014). It is therefore structurally inevitable that corporations will seek to prioritize anything that promises to bring them their opium, economic growth.

This named essence of corporate identity provides us with a lens through which to scrutinize corporate involvement with respect to the Agenda. And the first port of call in this scrutiny is a consideration of the historical involvement of corporations in the Agenda – what *have* corporations done in relation to the Agenda? Almost inevitably, the focus here must be on the role that corporations have played in actually defining the Agenda. To do this, a brief historical caricature is useful. In this regard, the 1992 Rio World Summit on Sustainable Development represented something of a watershed event in terms of the nexus between corporations and the sustainable development discourse. Two things happened in Rio in 1992 that are particularly important here. The first was that the issue of sustainable development became a major global sociopolitical consideration. The sustainable development discourse moved from a fringe consideration to occupy a center stage in the imaginaries of multilateral organizations, governments, community groups, and ultimately your average Joe Soap. The second was that all of a sudden significant attention began to be focused on the role of corporations in relation to sustainable development (Scheyvens et al. 2016). And much of this attention was not particularly complementary. Furthermore, by the 2002 Johannesburg World Summit, it was patently clear that this attention on business was not going away. In fact, it seemed to be intensifying. The mantra in this increasingly powerful sustainable development sociopolitical movement seemed to be that, if sustainable development was to be anything more than a pipe dream, corporations would have to be made (forcibly if necessary) part of the solution.

Ultimately, these two developments confronted corporations with a very significant risk in terms of their social legitimacy. Their response was proportional to the magnitude of this risk. Vast corporate resources and power networks were mobilized with the aim of ensuring that the Post-2015 Sustainable Development Agenda (the Agenda) did not stray materially from capitalist governing rationality (Pingeot 2014). Not surprisingly, the first port of call in this campaign was to "put growth at the center of [the] vision for the future of sustainable development" (Pingeot 2014,

p. 17). This then provides at least part of the answer to the question we posed earlier regarding why it is that economic growth found itself embedded in the Agenda. And the net effect of this was to create a basis upon which an *apparent* of a convergence between corporate sustainability and sustainable development could subsequently be constructed.

Turning attention then to the question of what businesses *are* doing in relation to the Agenda, while it would be easy to speculate on the basis of the essence of corporate identity presented above, it turns out it is possible to go one better and present some actual empirical evidence. For this, the World Business Council on Sustainable Development (WBCSD) is a useful point of departure. By way of background, this organization describes itself as a "global, CEO-led organization of over 200 leading businesses working together to accelerate the transition to a sustainable world" (https://www.wbcsd.org/Overview/About-us, Accessed 24 July 2019). In this regard, many would hold that the members of the WBCSD represent the most progressive positions of corporations in relation to the role of business in contributing to the Agenda.

In 2018, they published results from a survey of their members entitled "Business and the SDGs" (WBCSD 2018). Of particular interest in terms of this chapter is the prioritization of SDGs that emerged in the survey. Armed with the preceding discussion, it is not at all surprising that SDG 8 with its controversial embedded goal of economic growth emerged as one of the three "most prioritized" goals. The other two were "13: Climate action" with its promised business opportunity of US$ 100 billion mobilized annually from 2020 under target 13.a and "12: Sustainable consumption and production" which, as argued by Gasper et al. (2019), was fundamentally constituted into a "business-friendly" set of indicators through the SDG negotiations. That this prioritization is hardly surprising was quite comfortably acknowledged by the WBCSD. As they remarked in their annotations, "it is natural that these SDGs should be key focus areas for business, given their strong connections to private sector activity" (WBCSD 2018, p. 15).

But how are we to interpret this short empirical finding? Well, lest we fall into the trap of being lulled into a sense of comfort by the WBCSD's labeling all of this as "natural," it is useful to juxtapose this structurally inevitable corporate prioritization of economic growth, against the goals that were, as the WBCSD rather euphemistically put it, "perhaps being overlooked" (WBCSD 2018, p. 15). These least prioritized goals included (1) no poverty, (2) zero hunger, (10) reduced inequalities, (14) life below water, (15) life on land, and (16) peace, justice, and strong institutions. Even on a purely intuitive level, this essential "selectivity" (Fukuda-Parr 2016, p. 50) of corporations is surely an "odd" inversion of ends when viewed from the perspective of a real sustainable human development agenda. Indeed, in the context of the SDGs, such an inversion could only be reasonably entertained under the assumption of a singular SDG agenda devoid of contradictions (recall dissensus 1). The minute that one begins to admit the possibility of contradictions between these high and low priority goals, this selectivity would surely move out of the realm of "odd," and into the realm of perverse. And as has been argued above under dissensus 2, there is a very distinct possibility that economic growth is likely to be contradictory to environmental development goals and possibly even those goals construed as social.

Conclusion

Fukuda-Parr (2016, p. 46) has argued that the MDGs, as the predecessor of the SDGs, failed to recognize "the root causes of poverty embedded in power relations and exacerbated by current economic models of neoliberal globalization that prioritize corporate profit over human rights." With Fukuda-Parr's concerns as a backdrop, Dodds et al. (2017, p. 36) noting of how, in the UN's Open Working Group deliberations around the SDGs, "Ambassador Kamau [as co-chair] regularly reminded delegations that 'sustainable development is not business as usual'" take on a particular (although probably unintended) relevance. Sadly, it seems that the SDGs that emerged out of the deliberations of this Open Working Group are, at the very least, accommodative of business as usual and more than likely even positively supportive of it. By including economic growth as an apparently legitimate end, and in the framing of the Agenda as a singular agenda (and thus apparently devoid of contradictions), the SDGs in effect paved the way for corporations to quite legitimately prioritize what has always been the priority of business – corporate profit. This in spite of vast bodies of empirical and argumentative evidence, accumulating from Marx (1890/1990) through to today, all highlighting the social alienations and human-nature metabolic rifts inherent in capitalist social production (and consumption) – i.e., in business as usual. Once again, capitalist governing rationality (Brown 2015) appears to have prevailed, and the SDGs appear to be just as vulnerable as their predecessor (the MDGs) to Fukuda-Parr's criticism regarding their potential for allowing corporate profit to take precedence over human development. And businesses response to all of this? Not surprisingly, given the central role they seem to have played in engineering this business favorable agenda, they seem to have pounced on the opportunity presented by the Agenda to obfuscate the "distinction between capitalist development and sustainable human development" (Burkett 2009, p. 288). And through this, great strides seem to have been made in weaving an "amazing technicolor dreamcoat" in which "current economic models of neoliberal globalization that prioritize corporate profit over human rights" are very comfortably shrouded in the legitimacy of alignment with the Agenda for sustainable human development.

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