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The Ethics of Public-Private Partnerships

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MUCH WRITING ON PUBLIC-PRIVATE PARTNERSHIPS has assumed that such partnerships are a good thing. Success has been defined by whether the partnership flourishes, and authors advise managers on how to bring that about (Kanter, 1999; Smith, 1994; Birchard, 1999). This paper takes a different tack. We explore how participants in partnerships *should* behave from an ethical perspective. How can NGOs, CEOs, and WHO bureaucrats know whether they are doing the right thing in partnership undertakings? What obligations to engage in such ventures are incumbent upon those who manage the various companies and agencies that might become partners?

Our argument is quite general. We will, however, focus on international health, as this is both the context for much partnership activity and a potential example for other arenas of joint action. We begin by analyzing the current debate about corporate responsibility—which constitutes the general frame for corporate participation in partnership activities. Then we ask under what circumstances organizations and individuals have an obligation to try to create successful partnerships. Having argued that there are such obligations, we then go on to discuss what they might be.

We explore the question of corporate responsibility because that is where the most pointed ethical issues arise. Few would deny that the officers of not-for-profit organizations should not ruthlessly defend organizational interests at the expense of the social goals their organizations were created to pursue. We will, however, briefly treat the issues confronting non-corporate partners toward the end of the paper.

We hope that readers who disagree with our particular set of answers will at least accept the importance of our questions. Public-private partnerships raise important issues about national and international social policy and the appropriate role of the private sector. The Nike slogan “Just Do It!” is not a sufficient basis for thinking about these issues.

Not All Partnerships Are Desirable

This point may seem obvious, but it is widely ignored. Not all public-private partnerships are equally desirable. For example, a partnership between an advanced technology company and a grassroots organization, to help the latter acquire the former's products, might seem unambiguously good. But suppose that partnership is between an arms manufacturer and a street gang! Simply looking at whether the resulting partnership has succeeded in meeting the goals of the cooperating organizations is not sufficient basis for evaluating such an agreement.

The underlying point—that carrying out one's role in an organization does not insulate an individual from moral criticism—is broadly applicable. After all, the I-was-just-following-orders defense was rejected by the Nuremberg tribunal. We will argue that managers have an obligation not only to create partnerships, but also to use them to pursue particular ethical goals. Indeed, we believe the ethical appropriateness of a partnership's actions can only be evaluated in terms of such goals.

The particular ethical goal we advocate involves two elements. First, the ethical obligations of any particular corporation depend on its arena of economic activity. Automobile companies and drug companies are not the same. Second, the goal of providing minimum levels of opportunity to the poor of the world—especially in poor nations—should be a major priority. And health, as we will explain, is an important component of opportunity.

Can We Impose Obligations on Corporations?

What rights and responsibilities do corporations have? Our first argument is a negative one. Corporations do not have some fundamental or natural right to pursue profit and only profit. Hence, it is at least conceivable that they might have other obligations—like the ones to participate in certain kinds of partnerships which we are going to argue for shortly.

The conventional view of for-profit corporations is that they have all the rights of individuals, but none of the responsibilities (Moore, 1999, p. 329; see also Crossley, 1999). This perspective we call corporate libertarianism. It relies on a three-step analysis. The first claim is that the philosophical arguments that justify the existence of private property rights are correct. The second argument is that these rights are also possessed by corporations. The third argument is that no other obligations can be expected of, or imposed on, corporations.

As articulated by John Locke, the argument for private property rights is that individuals could legitimately appropriate unclaimed natural resources in pre-modern times (Locke, 1988). Such property was necessary for them to exercise their freedom and autonomy. With ample property to go around, such appropriation did not deprive anyone else of their livelihood. Locke then argued that *if* property had been transferred legitimately since then, the existing distribution of property in turn also would be acceptable.

The second step of the argument is the claim that individuals can transfer these rights as they wish—including giving them to corporations. As legal fictions, with the same rights as individuals, corporations can legitimately exercise these property rights (Iwai, 1999).

Now comes the critical third step. Since the directors and officers of a corporation are the agents of its shareholders, it is their obligation—and their *only* obligation—to act on shareholders' behalf. This means they must do everything they can to maximize shareholders' returns. Pursuing any other objective would constitute an illegitimate appropriation of shareholder property (Leung, 1997).

This view has a good deal of support in the law. Directors traditionally have been legally liable to suits from shareholders for decisions that did not meet the test of shareholder's interests (Orts, 1992, pp. 21–22). Interestingly, a few states have recently begun to modify that standard. So-called constituency or stakeholder statutes allow (but do not require) officers to consider interests of workers, customers, and suppliers in making decisions (Orts, 1992, p.16). Yet this new perspective is far from established compared to the traditional view.

For us, the effort to establish an unlimited right to pursue corporate profits based on individuals' natural right to property is fundamentally unpersuasive. How can the existing distribution of property—the product of generations of force, fraud, and the exercise of monopoly power—have any transcendent moral status?

In our view, the meaning and content of all property rights is not a matter of “natural law,” but rather of legal convention (Moore, 1999, p. 333). Various legal and political processes have defined the particular bundle of rights attached to any piece of property. Regulations require property owners to control pollution, operate safe workplaces, refrain from discriminating, impose zoning limits on their construction activities, and so forth. This is especially evident in the case of intellectual property rights (such as patents and copyrights), which are the artificial creation of the legal system to begin with.

The same arguments apply even more strongly to the rights of corporations. Their internal governance, liability obligations, accounting requirements, etc., are all the product of legislative action and legal adjudication. As legal fictions, corporations are quintessentially legal artifacts. Not just individual corporations, but also their patterns of interaction in the marketplace are subject to social and legal processes. A market economy is a game played according to socially constructed rules. An enormous cultural and legal infrastructure defines the “teams,” the “referees,” and the “stadiums” (consider weights and measures, health codes, contracts law, banking and securities regulation, etc.). Moreover, the law itself is not enough. As Kenneth Arrow, the Nobel prize-winning economist has argued, if transactions are even to be possible, widespread voluntary adherence to an extensive set of specific norms and behaviors is required (Arrow, 1974).

So the question is not whether we can impose responsibilities and expectations on corporations. Because they are socially constructed entities, with socially constructed property rights, playing a socially constructed game, clearly we can. Instead, the question is, Is the existing set of formal contracts and informal rules the best we can construct to meet our objectives? That is an empirical question. Even FIFA, the governing body of world football (soccer) recently changed several rules (the offsides rule, and when goalkeepers could handle the ball) in order to improve the game. That doesn’t mean the rules of football are now perfect. More tinkering may seem advisable in the future. Our claim is that some tinkering now—and perhaps in the future—with the norms of corporate governance could also produce some improvement in the game of world capitalism.

Evaluating the Arguments Against Corporate Responsibility

Should corporations be asked or expected to take actions that do not maximize shareholder value? (We are assuming that at least some partnerships will not maximize shareholder value—otherwise the whole question would be both easy and uninteresting!) The conventional argument against such calls for corporate responsibility is often not libertarian but utilitarian. It comes from the vision of general economic equilibrium in the presence of perfect competition. Given a large number of (empirically incorrect) assumptions, a perfectly competitive economy will be “efficient” in a certain narrow sense. It will produce a situation that economists call Pareto Optimal, where no one person could be made better off without someone else being made worse off. In the models used to derive this result, producers are presumed to maximize profit. Therefore, the argument goes,

imposing social responsibility on corporations will lead them away from profit maximization and, hence, will diminish economic efficiency (Friedman, 1970).

The problem with this argument is that the real world is very far from being perfectly competitive. Well-established economic analysis reveals that once an economy is imperfect, we might be better off *not* trying to satisfy as many of the conditions of the pure case as possible. Instead, in a “second-best” world—which we surely inhabit—compensating imperfections might well produce the best available results (Lipsey and Lancaster, 1956). So the claim that responsibility will spoil perfection and necessarily make us worse off is not compelling. It all depends on the specifics of the situation.

Moreover, other things in life matter beside economic efficiency. The efficient outcome might be very unjust, and some efficiency loss might be acceptable to produce a more equal income distribution. To do this, corporations might have to act in ways other than maximizing profit. Again, such a possibility cannot be ruled out without further discussion.

The case for imposing additional obligations on corporations is reinforced by the realization that managers already use funds in ways that suit their—but not shareholders’—interests. Many corporations operate in markets that are imperfectly competitive. In such oligopolies, where there are only a few sellers, firms can make very substantial profits. Such potential profits are often appropriated by managers: to increase their own compensation, to pay for perquisites such as corporate airplanes, to indulge their desire for technological leadership, or simply to allow them to not work very hard (Simon, 1959). This is possible because the internal controls on managers, namely the ability of boards of directors to coerce them to maximize profits, is highly imperfect. Thus the discretionary use of corporate funds for objectives other than shareholder benefit already occurs on a substantial scale. Why not then subject it to some kind of social control or expectation?

While some defenders of corporate libertarianism criticize calls for social responsibility on the grounds that it would interfere with competition, others oppose such calls on the grounds that it would interfere with monopoly! They invoke the Austrian economist Joseph Schumpeter, who argued that by funding research and by providing the prize that motivated risk-taking, monopoly profits sustain technical progress (Schumpeter, 1947). Only large companies, he argued, were stable enough and protected enough from market forces to undertake long-term risky investments. This analysis has been used to oppose social responsibility on the grounds that such practices would diminish technical progress.

Even if Schumpeter's argument were empirically correct (which we doubt at least in part), it would not justify rejecting out of hand all proposals for changing corporate behavior. Surely it is possible to spend *too much* on new technology. The opportunity cost of what we give up elsewhere in the economy would, at some point, exceed the gains from more spending on research. Thus whether or not our proposals would produce more gain or cost, even if they did diminish technical progress, is an empirical question.

A final counterargument to new expectations is that society cannot renegotiate the social contract implicit in current corporate law without being unfair to those who made investments and commitments based on past rules. However, this too is an overly broad claim. Even under commercial contract law, there are situations in which contracts can be renegotiated—such as unanticipated circumstances or unconscionable outcomes. Courts have also declared contracts unenforceable on grounds of public policy—because, for example, they impair family relations or imply a promise to violate a fiduciary responsibility (Farnsworth, 1998). Following such logic, one might argue, for example, that the drug patent system was developed in a situation where the world HIV epidemic was unanticipated and that relying on that system will deprive tens of millions of people of treatment in a way that is unconscionable.

Clearly, new rules could raise fairness issues. But whether they do or not, in any specific case, needs to be looked at in detail. Moreover, there is at least some hypocrisy in making such a general claim, since industry often proposes changes in rules and regulations to benefit itself. And it seldom characterizes such modifications as unfairly violating society's expectations.

From the Organization to the Individual

Now we have to make the transition from organizations to individuals. The classic position on corporate managers is that they are mere employees whose responsibilities are exhaustively defined by their employment contract. This implies that individual managers should pursue corporate responsibility only to the extent that they are asked or told to do so by their superiors. In contrast, we want to claim that individual managers have a personal moral responsibility to behave in certain ways—even if pressured to do otherwise by the corporate hierarchy in which they operate (Moore, 1999).

One argument for conforming to corporate norms is rooted in the philosophical viewpoint called communitarianism. This doctrine sees individuals as

embedded in communities, which give order and purpose to their lives. Communitarians believe it appropriate for communities to inculcate in their members the character and virtue that will allow the community to flourish (Roberts and Reich, 2002). If we analogize corporations to communities, it would follow that the duties of officers are whatever the corporation says they are. Some corporations might be altruistic—others rapacious. But just as, for at least some communitarians, there is no place to stand outside a community from which to judge it—on this theory, there would be no independent moral reference point for judging the behavior of members of a corporation.

We remain unpersuaded, however, either by this form of communitarian analysis or by its application to corporations. The undeniable sociological importance of communities in producing social values does not—it seems to us—oblige us to accept whatever social values any particular community happens to produce. The same can be said of corporations.

Instead, we would argue, the members of communities and corporations retain both responsibility for, and authority over, their actions. Individuals do acquire obligations by virtue of their membership in various groups. And such membership (whether by choice or historical accident) may be a self-defining, even self-transforming experience. But that membership does not allow one to escape from the web of moral discourse or moral responsibility. Particularly in the case of corporations, where managers can choose their “membership,” they are responsible for their choices. This means that they should bring their moral sense, and that they do bring their potential culpability, into these relationships.

If individual corporate officers do retain their personal moral responsibilities, of what do these consist? We suggest that some of the aspects of professional responsibility—of the sort that society imposes on doctors, lawyers, or accountants—should be extended to corporate managers. Society relies on professional status as a mechanism of social control in certain typical situations that economists call agency relationships (Folland, Goodman & Stano, 1997). In these cases, certain experts—“agents”—have special knowledge and are delegated to make decisions on behalf of others (the “principals”). Because the principals lack knowledge, they are open to exploitation by the agents, especially when the agent’s interests and the principal’s interests do not coincide. The “professional” solution is to inculcate in the agents norms of conduct that limit their self-seeking. In return for such restraint, the organized members of the profession typically

acquire certain forms of collective authority, including some capacity to regulate the training and behavior of the profession's members.

Agents' responsibilities may well extend to the institutional system within which they operate. Because society has limited capacity to monitor and discipline professional conduct, it needs to rely on professionals' internal norms to keep the system functioning smoothly. Thus, lawyers are "officers of the court" and have responsibilities to the court that can conflict with their responsibilities to their clients. CPAs, likewise, have responsibilities to users of their financial statements, apart from their obligations to the firm that hires them. So do engineers toward those who will live or work in buildings whose drawings they approve.

Today's managers do not have all the formal trappings of professionals. They do not have examination-based state licensing, a professional society that disciplines its members, or mandatory training in distinct institutions. However, we are moving closer to that model all the time. We propose a contribution to the code of ethics that the emerging managerial profession should and could adopt. Such a code could fill in the gaps left by the alphabet soup of regulatory agencies that currently constrain corporate managers. In areas of conduct filled with philosophical ambiguity and pragmatic difficulty, we believe that professional norms could be a more flexible mechanism for influencing behavior. The "invisible hand" of the market and the "visible foot" of state regulation may both produce less desirable results.

In overtly giving this task to managers, we are recognizing that managers confront conflicts between profit maximization and personal morality all the time. Telling people to obey the law does not contain enough content to guide many real choices. Motorists often feel it is acceptable to drive "just a little" above the speed limit—especially if "everyone is doing it." And managers can, and do, regularly make similar decisions. For example, just how strictly should they interpret ambiguous EPA or OSHA regulations? Just how aggressive a position should they take in interpreting some provision of the tax code? The reality of their discretion means that managers constantly balance various ethical norms against the pressure for profit. The question is just how far they should go in different situations.

What is Wrong in the World That We Should Try to Fix?

Since we take a "pragmatic" and "postmodern" view of the nature of ethics, we believe no knockdown argument can be made to compel all fair-minded readers

to accept our particular values. Instead, since ethics are made, not found, moral philosophy has at least some of the features of an art or a craft. In judging alternative arguments, postmodernists believe it is necessary to use standards of ethical criticism that are internal to a particular tradition of discourse and for which no ultimate justification is available.

However, we are not paralyzed by this realization. Instead, we believe our task is to get on with the practical work of making the world a better place, as best we understand what that means. Yes, our definition of “better” is influenced by the particular cultural and historical matrix in which we are embedded. But it cannot be justified on *those* grounds exactly because it cannot be justified on *any* grounds. In arguing for a particular set of commitments, we are, as the contemporary philosophical pragmatist Richard Rorty points out, reduced to “poetry” and “prophesy” in an attempt to mobilize other peoples’ sentiments in favor of our particular moral vision (Rorty, 1989).

The particular vision we advocate owes a great deal to the tradition of philosophical liberalism begun by Kant. The (modern) version of Kant’s argument is that human beings are worthy of respect because they have the potential for rational action—for making plans and choices based on impartial norms as opposed to mere desire (Kant, 1998). The next step is to ask, What does respect for others require of us? One answer is simply to respect others’ negative rights—to leave them free to do what they like. The alternative answer, which we find appealing, says individuals have positive as well as negative rights—rights to the resources and other preconditions that will allow them to make meaningful life choices. This implies not only a right to basic political liberties and a society where personal opportunity is not limited by law or prejudice, but also the income, education, and other resources to have real life chances and choices (Rawls, 1971).

Moreover, such reciprocal obligation—if it exists—would seem to extend across national boundaries. Philosophically (not to mention historically) such boundaries are highly arbitrary. If respect is due someone because of their humanity, then their citizenship is irrelevant. The recent development of international law with regards to human rights, war crimes, and labor standards suggests that we are at a moment in history when this principle is increasingly recognized.

Who in the world, then, really lacks the requisite basic opportunity that their humanity entitles them to? Our answer is the truly poor—especially the poor in poor nations. The poor in the rich industrial nations do not live in wonderful

circumstances. But given the extensive public services typically available—health, education, housing, and income support—they are usually much better off than the poor in the developing world.

Moral Obligations in the Health Arena

Let us explore what this general claim would imply in the health arena, since so much of the interest in public-private partnerships has occurred in that context. The first issue is, What “health rights” do people have? While there is not general agreement on this point we are persuaded by Lauterbach’s and Daniels’ arguments for a right to a minimum quantity and quality of life (Daniels, 1985; Lauterbach, 1995). Arguing in slightly different ways, they both propose that the opportunity such a level of health provides is a necessary precondition if people are to develop and implement their life plans.

This analysis thus involves a focus on what might be called absolute—as opposed to relative—equality. The goal is not for everyone to have the same health care, or the same quality and quantity of life. The goal is to get everyone to a minimum level of health that allows for reasonable life choices. Thus, it is acceptable for the rich to have more care or better health than the poor, as long as the poor attain a certain minimum quality and quantity of life.

Admittedly, it is not easy to say exactly what that minimum level should be. But by any plausible standard, many of the world’s poor do not reach that level (World Health Organization, 2000). Sophisticated health care is expensive. Poor people in poor countries cannot afford such services, either as private individuals or through public taxation. Financing is not the only problem, of course. Potentially available resources are often not mobilized due to a lack of political commitment. Furthermore, the available resources are often poorly managed and hence do not produce the health gains they could if the care system were better organized. But whatever the reasons, the question is, Who has what obligation to do something about all of these factors that limit the achievement of minimum health status among the world’s poor?

Who Has What Responsibility?

The classic Kantian argument is that morality by definition must be universal and impersonal. This implies a particular answer to the question posed by the last heading. Everyone all over the world has responsibility for everyone else whose health falls below some—as yet undetermined—threshold.

To us such an argument is not persuasive in part because it fits so little with our sentiments. It is just not how most people view the world. Instead, most people feel a special obligation to those they know, or have harmed, or have benefited from. And employing the philosophical method of reflective criticism, we are led to conclude that the lack of correspondence between Kantian norms and normal human reactions may well reveal a lack in the former rather than the latter (Rawls, 1971, p.48).

As an alternative, the philosopher Thomas Pogge has argued that the obligation to correct inequalities is not, in fact, impersonal and universal (Pogge, 1998). Instead, it depends on exactly how we relate to, or are involved in the situation of a particular needy group. What is the relationship of the individuals concerned? Has one person caused another person's plight or profited from it? Does someone have particular power or competence to assist a certain group in need?

Pogge's suggestions resonate with the writings of the feminist philosophers who are part of the school of thinking called "ethics of care" (Baier, 1994). These writers argue that caring is not impartial, reciprocal, or universal—but instead reflects aid asymmetry and inequality of resources, power, and responsibility. It also involves particularity. We are not equally obligated to care for all. Thus these ideas have some of the same flavor as Pogge's.

We find this idea attractive on several grounds. Non-universal obligations are not as overwhelming and all-devouring as universal ones, and are thus more likely to be accepted. Modest human-scale redistributive maxims that help provoke real action have a lot to recommend them compared to Olympian councils of perfection whose intimidating severity leads them to be ignored. Making responsibility depend on capacity also has pragmatic advantages. We ask the most from those who can actually do the most. And using past benefit as a basis for obligation invokes feelings of guilt and responsibility—"sentiments," in Rorty's terms, that may have power to move us to action.

Taking this argument seriously implies that automobile companies do not have any special obligation to support the ballet, but that they do have a particular responsibility when it comes to reducing auto emissions, developing vehicle crash standards, and improving highway safety. They might well also have a special role in supporting the scientific study of the link between health and air pollution.

This same argument implies that the global pharmaceutical and medical device companies have a special responsibility to the sick poor—especially in poor countries. These companies have the competence, resources, and expertise

to actually make a difference. In addition, many new compounds and treatment regimes have been tested in poor countries. Moreover, there are few segments of the economic world where the socially constructed nature of property rights is more evident than in pharmaceuticals. The foundation of the whole sector is the worldwide system of patent rights—each of which represents an “appropriation from nature” (to use Locke’s vocabulary) that most assuredly diminishes the access of others to nature’s bounty. Of course, the research-based companies risk their shareholders’ capital to develop new compounds on the expectation that very high gains from a few very successful drugs will pay for all their unsuccessful efforts. And this deal, that both they and society have agreed to, has been advantageous to both sides. Still, given current profit levels and the socially sanctioned market imperfections that produce these, it is reasonable for society to ask for something more in return. And that something, we believe, should be voluntary efforts to ameliorate the health status of the world’s poor, and thus help to provide them with a minimum level of human opportunity.

This case is strengthened by realizing that much of the industry’s intellectual capital, in the form of modern molecular biology, and many of the critical individuals doing pharmaceutical research, have benefited greatly from government research and training funds. In a sense, these industries exist in part by privately appropriating some of the gains generated by public investments. This has been possible because the human and intellectual capital those investments have generated is not tightly fenced about with legal rules designed to prevent such appropriation. An obligation on the beneficiaries, of the sort we are proposing, would help the public retrieve some of those gains.

Why and How Partnerships

Suppose we accept, if only for the sake of argument, that there are the kinds of obligations we have suggested on both corporations and their officers (and we should note that, increasingly, companies accept that they have such obligations) (Birchard, 1999). Why should public-private partnerships play a significant role in carrying these out?

The basis of our position lies in the value of conceptual and intellectual diversity. Here is an example to help make that point. Many individuals who have gone through management training have encountered some form of the Desert Survival Exercise. In these exercises, individuals are asked to fill out questionnaires about how they would handle a particular desert survival situation.

Then they are put into groups of six to eight and asked to develop a consensus plan. Almost invariably, when the answers are compared with expert opinion, each group's performance exceeds the average of its constituent individuals.

The reason for this pattern lies in the way human beings think. At issue is the hold over us of what T. S. Kuhn, the historian of science, called "paradigms" (Kuhn, 1996), and the economist and psychologist Herbert Simon called "habits of mind" (Simon, 1966). The idea is that the mind creates models and theories of how the world works and about what is appropriate behavior. Moreover, these patterns of thought and action tend to persist once adopted. This is because the effort required to change our thought patterns is expensive in terms of mental time, energy, and analytical capacity. We hold on to our paradigms until events force us to change them. Indeed, the force of habit is so strong that even when we should change, we often refuse to do so. Such patterns make our thinking both rapid and limited—facile, yet trapped in well-worn grooves.

This reality helps explain why change and learning are so difficult—especially for experienced adults. It is also why multiple perspectives on a problem can be so helpful. A group whose members do not all think alike is less likely to fall into a rut or miss an obvious point. These advantages are likely to be especially large if the group includes individuals with quite different "habits of mind."

This is why we believe public-private partnerships are potentially so useful. Exactly because the participants come from varied organizational cultures and professional backgrounds, there is a great potential for creativity and mutual learning in such arrangements. An international drug company and an activist NGO might actually learn from each other—and both be transformed by their association. They might create something together that neither could have created separately. And if that something is a program or activity that serves the substantive moral goals we have sketched, then real good will have been accomplished.

In this context, it is interesting to refer to Allan Gibbard's work on encounters between members of different communities (Gibbard, 1990). Gibbard notes that such encounters might produce conflicts that are settled by force—by coercion or conversion. Or they might produce some form of live-and-let-live mutual toleration, which leaves both sides unscathed. A third possibility is that both sides enter into a serious conversation. In such an encounter, participants know that their views and values might be affected. They might learn or grow technically or ethically. In that sense, they cede authority over themselves to their future

selves—to selves which, because they have been influenced by the intervening conversation, differ from their current selves in unpredictable ways.

That is exactly what can happen to organizations involved in any but the most superficial partnerships. Even as they pursue their own interests, they may come to redefine those interests. Even as they do deals, they may also create value by creating new possibilities.

This argument gets added force from both the need and the difficulty of improving the health status of the global poor. The health conditions of the world's poor differ enormously from those of the world's rich. Malaria, TB, schistosomiasis and dengue fever, and childhood diseases from upper respiratory infections to measles to diarrheal disease all result in enormous limits on human opportunity. And, unfortunately, tropical diseases rarely offer enough profit to induce much biomedical research. Drugs for such conditions are likely to not be very profitable because they occur primarily among the poor in poor countries. And the continued growth of HIV in these countries will only compound the problem. For those drugs that are developed, economic barriers are likely to make it increasingly difficult to get the fruits of the best science to those who would most benefit. This is an impending moral challenge to the world's economic and social order that is easy to foresee but not easy to deal with.

The strategy we are urging on corporations goes one step beyond the work by one of us over twenty years ago—about how electric utility companies responded to environmental regulation (Roberts & Blume, 1981). There, Roberts and Blume argued that companies that simply resisted all regulatory obligations often had a very difficult time, financially and legally. They also produced a fair amount of environmental harm in the process of forcing society to coerce them into reasonable behavior. In contrast, some companies were positively responsive. That is, they realized that criticisms of their behavior were often both legitimate and politically powerful. They decided to take some initiative—to propose solutions to environmental issues that responded to both their needs and to society's legitimate concerns. They thus gained both credibility and some control over the obligations they incurred. In the current context, public-private partnerships to improve access to drugs, devices, and healthcare services for poor people would constitute a similarly desirable positive response to a legitimate, and increasingly politically articulated, set of concerns. Moreover, we believe the companies involved need to take risks, incur costs, and go beyond that which is merely prudent. Partnerships simply as a self-interested strategy raise none of the

moral issues we have been grappling with in this paper. Indeed one of the values of pursuing social goals through partnerships is that each participant can act as a check on the others. They can establish a dialogue in which the larger goal is kept in focus, and challenge each other's willingness to pay some real costs.

Another way to understand our suggestion is to invoke Robert Putnam's notion of "social capital" (Putnam, 2000). Putnam notes that some societies are better able to solve problems than others—in part because there is more trust and connection among their members. In a way, this argument echoes de Tocqueville's finding in his epic study *Democracy In America* (de Tocqueville, 2000). He attributed much of the effectiveness of American society to the vigor and successful action of non-government institutions that allowed communities to flexibly mobilize to deal with their problems.

We hope and believe that a growing network of public-private partnerships can serve these same goals. They can help build a new form of intersectoral and international social capital. They can create new problem-solving institutions through which different groups can come to know each other and work together. And these networks can function in a decentralized and flexible way outside the cumbersome legislative/regulatory framework of formal multilateral arrangements.

The Other Parties

If partnerships are good, doesn't that imply that all potential partners have obligations to participate, non-corporate as well as corporate? Yes. And doesn't that obligation require other organizations, and their managers, to take risks with their core missions and institutional interests in ways parallel to what we have asked of corporations? Yes. And doesn't that mean self-transformative learning might, and indeed should, occur on both sides of a partnership relationship? Yes, yet again.

The point is that NGOs or international agencies should not just look at partnerships from the self-righteous perspective of their own interests—any more than for-profit corporations should. And the potential costs to these other players are also real. For example, the growth of private initiatives might loosen the control and diminish the role of bureaucrats at WHO or various UN agencies. But if the substantive moral agenda that we have identified is advanced, our claim is that they are obligated to support such efforts, despite potential personal and institutional costs. Similarly, hard-core, anti-capitalist humanitarians might fear the learning that such partnerships could bring about. For them, meeting

with the representatives of global business is not risk free since they might acquire a corrupting understanding of business's legitimate needs and perspectives! Again that is a risk, we believe, purists on all sides need to take.

Final Points

We have argued that global health technology companies have special responsibilities for the health of the poorest citizens in poor nations. How far they can and should go will and should be a matter of social learning. Moreover, in the real world, the exact profit-maximizing strategy is seldom perfectly clear. Does whatever Timberland spends to help City Year, or Texaco spends to sponsor the Metropolitan Opera, pay off in profit terms more than all other possible uses of the same corporate resources (Austin, 1998)? No one can ever know. Given this ambiguity, the intuition, judgment, bias, ambitions, and moral vision of corporate managers all play a role in their strategy choices. To begin, we hope more companies will give "doing good" the benefit of the doubt in the same way they now do to other more conventional uses of corporate discretionary funds, like fancy offices and high levels of executive compensation. As morally accountable human beings, we believe there are ethical reasons for their officers to do as we recommend, as part of an emerging new definition of their professional responsibilities.

Rights without responsibilities are not a sound long-term basis for corporations to seek either social acceptance or social progress. However not every "good thing" is best approached through legislation or coercion. Internationally, the instrumentalities of government are relatively weak and cumbersome compared to the coordinated reach of a well-managed global corporation.

The voluntary efforts we recommend can lead to creativity and learning, both for the partners and for the larger international system. Hopefully, we will all develop a common understanding of what obligations are and are not reasonable and what risks are or are not defensible. We believe that both the need and the opportunity we have reviewed are large and important enough to demand/allow/require/legitimize the paradigm shift we have proposed.

We are not against property or profits. We do not want to end capitalism or abolish the patent system. But we do believe that the world would be a better place if the enormous gains those institutions have generated were used to a greater extent, and in a more purposive manner, for the important ethical goal of improving the health status of the global poor. We also believe that this could usefully be done in partnerships among those whose different perspectives can

provide dialogue, self-correction, and creative self-discovery. And we believe such gains are available on all sides for those who respond to the challenge we have offered.

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