

TECHNOLOGY, MORALITY AND SOCIAL POLICY

CHAPTER 4

Business-Inflicted Social Harm

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Business decisions sometimes cause harm to people closely or only remotely involved with a company. Such harm is not easily attributable to the company itself, though, because of the way capitalist institutions have been set up and are expected to perform. As the very existence of business ethics demonstrates, we as a society do recognize that wrongdoing is not alien to the world of business. But this ethical shortfall is typically attributed to flawed individuals who find their way into even the most wholesome business, not to the business in and of itself. Such narrow individualism is, however, normatively counterproductive as applied to business. For, it lends altogether too much weight to the widely held belief (at least in the United States) that decisions made in behalf of a corporation are not constrained by the maxims of personal morality.

The consequences of this systemic amorality, which has ties to the practice of limiting an agent's personal liability, are sometimes quite devastating. Legal restraints can sometimes be applied, usually after the fact, to compensate those burdened by anything from overheated coffee to environmental degradation. But a wide range of socially harmful corporate decisions violate no law, for example, downsizing. Journalists accustomed to viewing business decisions in their social and political context may even resort to military metaphors

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to describe how seriously a particular decision affects people.² But writers on business affairs tend to accept such "spill-over" consequences as understandable, often unavoidable, and certainly not morally reprehensible.

The roots of this isolationist view of business are to be found, I believe, in the carefully nurtured convention that a business is responsible only (if even) for its contractual obligations to shareholders, employees, providers and customers, not to society at large. This convention has at times been the subject of considerable debate, and is so at present; but this debate has had little effect on business ethics. For, business ethics emerged, and is still perceived as, an offshoot of personal ethics. Its practitioners accordingly tend to formulate ethical issues as they appear from a universalized "moral point of view" that is hopefully embraced by any given individual who finds him- or herself in a corporate quandary. They do, to be sure, debate whether moral responsibility can be assigned to a corporate entity; but the question thus formulated seems to suggest that only if the model of personal ethics applies can a corporation be deemed a moral agent.³ This debate will never transcend conflicting attitudes about metaphor; so business ethics thus construed cannot deal with corporate social responsibility in any systematic way. To be able to do so it would first have to be recast in such a way that business decisions, however arrived at, can be assessed as ethically unprivileged moves made in a broad social and political context in which many other interests are involved and have moral standing.

This deprivileging of business decisions has become politically sustainable in recent years. But its ethical underpinnings have yet to be articulated, for reasons already suggested. To give a name to the problem before us, I suggest as a working hypothesis that at least major corporations be thought of as exercising sovereignty. I have been counseled by political theorists not to make this move, and appreciate the difficulty of attributing to a private sector entity a characteristic usually restricted to the public sector, understood as a state. But I take comfort in Stanley I. Benr's distinction between *de jure* and *de facto*

sovereignty, the latter applying to any person or group of persons whose decisions are usually effectuated in a state in spite of opposition.⁴ Let it be the case, then, that major corporations are collective entities that exercise *de facto* sovereignty. This granted for purposes of discussion, the question before us is: under what circumstances would it be morally permissible for a person or persons to act in behalf of a corporation in ways not morally permissible to individuals acting in their own behalf?

Some would object that this phrasing of the question ignores the introduction of business regulation into the social fabric, and this matters because regulatory mechanisms limit business-inflicted social harm. This at least is the standard story about Big Business in America. According to this account, as businesses got bigger in the nineteenth century their most ruthless practitioners resorted to socially harmful behavior that showed how little they were constrained by ordinary ethical norms. Indeed, they sometimes justified such behavior by appealing explicitly to Darwin's theory of evolution. (In fact, Andrew Carnegie and Herbert Spencer were the best of friends.) The amoral view of business thus espoused had many dire consequences for those left in the dust of progress, and brought forth demands that the "robber barons" be held to minimum standards of human decency. Reformists, including principally the Progressives, established some new government agencies to monitor and regulate Big Business; and thanks to these agencies, along with others added over the years, corporations have become major contributors to social wellbeing.

This standard story is based in fact and squares with our overall perception that business in this century has contributed immensely to people's quality of life. But it is misleading with regard to business-inflicted harm because law-based policing of corporate giants is incurably ineffective.⁵ Many regulatory agencies have been "captured" by the entities they are supposed to regulate; and, in any case, large corporations that operate in a global market are in a position to view a national regulatory system as obstructionist at best. Concerted legal challenges may bring them to redistribute some of their enormous

assets to cover product and other liability costs. And to a considerable extent social pressure still suffices as a monitor of comparatively small businesses. For in these, individuals are so closely identified with their business roles that a distinction between personal and institutional ethics is often functionally irrelevant.⁶ In large businesses, though, one is often expected to subordinate personal ethics to role responsibilities. If these do conflict one may voice disapproval and/or shift responsibility and, these failing, leave the organization.⁷

Such dissipation of personal responsibility among corporate decision makers lends some plausibility to the journalists' military analogy, at least with respect to such exonerative concepts as *raisons d'état* and *esprit de corps*. But a defender of corporate interests would at once object to the implication that corporate, like military, activities might show lack of respect for human life. This implication is not, however, without some basis in fact. Some business decisions—for example, to downsize—result in a diminution of the living standards of individuals and families. A corporate decision, e.g., as to a plant relocation, may lower the living standards of an entire community including many individuals not employed by the company, and compensation if provided is seldom adequate. Multinational corporations sometimes take up where colonizers left off in transforming self-sufficient multi-product economies into monocultural providers of raw materials for export, thereby making them dependent on a global marketplace against which they can exercise no leverage. Sometimes companies knowingly tolerate workers' accidental deaths by not maintaining adequate safety standards; and in some industries even worker fatalities are taken for granted, an attitude understandably referred to as the "coal mentality."⁸ It should also be mentioned for the record that major corporations have been known to resort to violence to protect their interests, directly by hiring "goons" to put down worker unions, indirectly by inducing a government to use its police for internal control and its military for protection of company assets abroad.⁹

These examples of corporate sovereignty in action suffice to make out a prima facie case that some corporate executives do not consider business decisions to be subject to the constraints of personal morality. To be sure, they may personally regret the untoward results some of their decisions have on innocent people. But if questioned as to their propriety they can always claim business necessity as a justification, literally with regard to hiring decisions, figuratively otherwise. Courts in any event are likely to be receptive. Behind business necessity, however, lies corporate survivalism.

By survivalism I mean an end-justified amorality that tacitly assumes a Hobbesian state of nature and turns Darwinism into a normative strategy. In effect in a corporate setting, a company's executives derive from the desire to save and grow their business an authorization to apply any means whatsoever to that end. This objective in view, their decision-making focuses on achieving it. As though in a state of war, they relativize "peacetime" ethical norms and instill their contraries in individual agents assigned to objective-oriented tasks. Success however defined facilitates rationalizing any casualties incurred and these may even help define success.¹⁰ Secrecy and propaganda help limit moral criticisms; and if any do arise they are countered with an opportunistic dichotomy between loyalty and betrayal.

That business decisions sometimes presuppose such corporate survivalism is not demonstrable absent subpoenaed documents; but some harm-causing decisions do support a conjecture that there is a policy or plan behind them. Court records show, for example, that some businesses have mistreated customers, employees, innocent bystanders. In such mistreatment, though, politicians, journalists, and even business ethicists ordinarily see not a pattern but only atypical aberrations. As aberrations become more frequent and repetitive, though, one may discern a trend.¹¹ An offending business may then be said not to be socially responsible enough; and if others behave no better, proposals for reform may be made. Currently being espoused are, for example, tax incentives for being good, in particular by

engaging in corporate philanthropy or retraining the unemployed. Those who see the future in Asia say companies need to instill in their employees a spirit of trust.

One good reason for recommending trust is because many businesses act as though destroying employees' trust is a company objective. Before mid-century, that often was the case—but only with regard to labor, not management. Since then management—middle and even top—has been added to the list of disposable parts. So now that white collars seem to afford little more security than blue, politicians and the media protest the (inverse) betrayal. But the ultimate victim of betrayal is society at large. For almost without its having noticed, it is being systematically partitioned off from the actions of business as though these occur in another world—the world of corporate survivalism.

Where this quasi-military paradigm is in effect, business ethics as usually presented is stymied; for, business ethicists (quite understandably) assume a peacetime state of affairs in which nothing like military rules of engagement are called for. Almost any business ethics textbook will probably include some acknowledgement that workers have rights, but seldom an insistence that these rights go beyond what lawmakers attuned to corporate interests have enacted. Some texts do begin with a review of mainstream ethical theories. And the very best of these even looks to socioeconomic theories to critique business policies and practices. But most draw no conclusions from such theory-scanning that would trouble anyone but the most doctrinaire libertarian. Many do endorse social responsibility; and this is a crucial value to espouse. But few businesses assign it a very high priority unless doing so can contribute to their bottom line.¹² So more is needed to reinstall business in the social matrix.

As some have suggested, corporations need to be "rethought" either as communities in and of themselves or as components of larger communities.¹³ On either reading, this calls for institutionalizing an attitude of mutual interdependence and support, something which is hardly likely in the United States, though, where a century of

lawmaking has given corporations something rather like war powers. One unfortunate consequence of this state of affairs is that a Social Darwinian attitude towards wealth distribution is still being entertained and even defended as incomparably more rational than the more caring policies still in place in other Western democracies. Would it were otherwise. But serious reform is impossible absent a social contract that tempers the prevalent conquistadorial approach to private property with a shared commitment to human rights and fundamental fairness.¹⁴

As I argued in a book on this subject,¹⁵ the post-Depression Era social contract has given way to an oligarchy (I would now call it a corporatist system) in which business exercises de facto sovereignty over government and labor. Workers cannot change this on their own, so they and the communities in which they live and work must come to see their interests as intertwined, and learn to defend these interests cooperatively. In other words, corporations, workers, and communities all have social responsibilities.

Major corporations, first of all, tend to dominate not only their own employees but often their suppliers, marketers, customers, and bureaucrats who regulate or facilitate their activities. They exercise power over communities both locally and at state, national, regional, and global levels. Thus their quasi-trusteeship responsibility for the wellbeing of communities where they locate.¹⁶ Workers, often perceived to be expendable contributors to the goals of business, need to be organized among themselves to stand up to managerial hegemony. But their effectiveness in this regard will be limited at best if they do not expand their horizons beyond the workplace to the community at large. Communities, in turn, need to counteract corporate power by drawing on local resources for their development. They cannot entirely do without help from higher units of government; but they must abandon the top-down concept of community wellbeing and come to the defense of flesh-and-blood working people.

Such were the ideas my book articulated. Though anything but radical, they were not welcome in business schools. One business

school ethicist dismissed it or including "rhetorical questions, ... points of view, ... anecdotes and statistics." Another called it "a philosophical deconstruction of power" that favors play and opposes work. So a reviewer ensconced in the humanities was perhaps right to describe it as "a complement, and antidote, to the usual texts which present issues from the standpoint of management."¹⁷ In particular, he recognized and agreed with a theme of the book that in practice the right to property is a function of power. This is a truism; but it goes to the heart of corporate sovereignty. The connection is not simple and straightforward, however, as can be seen from recent debates over corporate ownership and control and over corporate-community relations.

The oldest focus of the ownership/control debate is on stockholders and management. In principle, the former own a company; but not even heavy investment guarantees control. So analysts disagree as to the real locus of control, depending above all on their assessment of management's ability to overcome if not disregard pressures put on them by stockholders, government, and other companies. Lending agencies may also exercise "financial hegemony" over companies that need their funds. And, finally, worker ownership now has to be included in the corporate mix, although the extent to which this translates into corporate power depends on many factors, including in particular whether meaningful workplace democracy is also in effect.¹⁸

These different perspectives on corporate power disagree for the most part only about which corporate interests dominate the others and to what extent. They all ignore the community. But if those who control a company's local facility have no sense of sharing the community's destiny, both workers and their community may be hurt, sometimes irreparably. This was the case, for example, in the late 1980s in Jay, Maine. To break an 18-month strike at a century-old paper mill located there, International Paper Company hired permanent replacements, turning relative against relative, neighbor against neighbor. "It's not Jay's paper mill anymore," one former worker

observed. "We used to think it was, but it's not. Its workers aren't Jay citizens. It fires Jay citizens."¹⁹

Such seeming indifference to business-inflicted social harm can be attributed to corporate survivalism. For, a company's local management may be deeply aware of local pain yet have no leverage to reverse a decision made at a higher level within their organization and even there based not on autonomous managerial deliberation but on external pressures. In particular, a corporation's investor-oriented bias may drive management to concentrate on short term profit even at the cost of market share over time. These being the sort of expectations that dominate the U.S. business arena, even the most benevolent executives may be driven to a decision that harms a local community for the sake of some purportedly greater corporate good. In such instances, it is convenient to cite the right of private property; for, this mantra resonates in our courts of law.

In 1979 the third steel company in as many years announced it would shut down a mill in Youngstown, Ohio. Local people protested, sought in vain to negotiate a buyout, then took the matter to court.²⁰ The judge ruled against them, with regret. "United States Steel," he said, "should not be permitted to leave the Youngstown area devastated after drawing from the life blood of the community for so many years. Unfortunately, the mechanism to reach this ideal settlement, to recognize this new property right, is not now in existence in the code of laws of our nation."²¹

This "new property right" that Judge Thomas Lambros could not find in his law books is in fact very old: the constitutional preeminence of the people over their political and legal institutions. Though difficult to find in a legal tradition that minimizes private ownership's responsibilities for social wellbeing, its heart is still beating. Communities negatively affected by corporate abandonment are learning to fight back, both in and out of court; and companies sometimes respond with something more than regrets. They may even decide to stay on or at least help a community recover from a severe job-cutting decision.²²

These local reactions signal a sea change in corporate-community relationships; for, until recently community leaders have been slow to challenge corporate indifference to local wellbeing. For example, when an international air freight company decided to relocate to larger facilities elsewhere, an official of the abandoned city (Indianapolis) wrote this off as "a business decision" which inevitably means that "somebody gains, someone loses." Obviously preferring such acquiescence, companies accustomed to going their own way without recrimination would like to have claims to community rights declared unconstitutional. Without going as far as that, the U.S. Supreme Court has nonetheless been quite supportive of "corporate."²³

The Supreme Court's top priority in downsizing cases is managerial rights. These rights, like others in the judicial system, it typically associates not with a powerful corporate entity but with the fiction of a nineteenth-century entrepreneur battling competitors to survive in the marketplace. As a result, corporations in the United States enjoy not just the plain vanilla rights of citizens but many unusual and some unique prerogatives analogous to those of military units combating a fearful enemy.

These corporate prerogatives, for example, indirectly justify mistreatment of people who are relatively powerless to defend their interests in that corporation. For they put narrow economic interests ahead of people, and assume as Adam Smith never did that the market operates in a social vacuum.²⁴ So in practice as in theory communities need to be recognized as stakeholders in any local plant or facility which a corporation owns and controls. But for this to take effect, both states and local communities need to become more involved in the process of constraining amoral corporate giants.

States need to be involved especially because the federal government has been largely indifferent to local community needs. In fact, the federal government goes out of its way to sustain Big Business's many-faceted suppression of smaller, more vulnerable enterprises. Its (usual) benign neglect regarding mergers and

acquisitions and especially regarding condemnation of property are two examples. The states are trying to correct the former, but the latter they perpetuate in their own domain.

Legislation regarding mergers and acquisitions gives meaning to the otherwise abstruse debate about whether management or shareholders control companies; and on this front management has been gaining ground. At one time the only thing hindering takeovers was a federal law known as the Williams Act that merely required disclosure of a five percent accumulation of stock. So state governments in response to corporate pressure sought to bolster management's defenses (thereby diminishing its accountability). First they tried stopping public announcement of a takeover bid until management has had time to communicate with stockholders; but in 1982 the U.S. Supreme Court struck down such laws. Then in 1987 the Court ruled that a state could prevent the holder of twenty percent or more of the stock of a widely held, in-state company from voting those shares until a majority of shareholders agree at a meeting (paid for by the would-be acquirer) that management can delay for up to 50 days.²⁵

Joining fifteen states that had already enacted such protective legislation prior to this endorsement, thirteen more added a version of their own within a year afterwards. Some applied their protective rules to companies incorporated out-of-state. Others required corporate directors in a takeover situation to consider the long-term effects of any offer on the company, its shareholders, the affected community and other corporate constituencies. This set the stage for Delaware, where many companies are incorporated thereby enhancing the local economy.

Though torn between companies threatening to move their incorporation elsewhere if the state did not pass an anti-takeover bill and both federal government and private interests that urged it not to do so, the Delaware legislature did pass a law in 1988 that makes a holder of fifteen percent of a company's stock either wait three years before completing a takeover or get prior approval from the target company's board of directors or begin tender offers with less than

fifteen percent of the shares and end up with at least eighty-five percent of stock not controlled by management.

Such anti-takeover legislation is the result of a long nurtured tendency on the part of state governments to equate corporate survival with the survival of in-place corporate management. Yet a proponent of participatory democracy might favor these protective laws over governmental indifference to the interests of communities. The next, much harder, step to take is one that recognizes the life investment of a local company's workers. For this to happen, the people themselves need to be active participants in the decision-making process.²⁶ But standing in their way are entrenched corporate interests whose power is evidenced, for example, in the politics of eminent domain.

Eminent domain involves government taking private property for reasons deemed to be in the public interest. Its use never pleases all parties, because competing interests usually have to be balanced under very complex circumstances. Whether ownership is terminated outright or its use is limited in some way (inverse condemnation), the owner must by law be compensated for economic loss.²⁷ But the level of compensation remains an issue.

Property owners subjected to eminent domain are often inadequately compensated. But, says Richard Epstein, taxpayers should not be expected to pay what fair indemnification would require; so he would ban all government intrusion on private property, even by way of regulation.²⁸ What he and other libertarians overlook is that government typically uses eminent domain not to aggrandize its own power but to serve economic interests whose influence over government far exceeds that of less powerful property owners. Thus behind any government-effectuated condemnation of private property one is likely to find some steel company, automaker, or other major economic player. In other words, property is being redistributed—not from the private to the public sphere, however, but from smaller to larger actors in the market. So in a sense Epstein has blamed the tool, not the user of the tool.²⁹

The U.S. Supreme Court tends to let states regulate property within their jurisdiction, and in this way it helps enhance the dominance of major corporations. The Fifth and Fourteenth Amendments, respectively, require federal and state governments (or subsidiaries thereof) to take private property only for "public use." This now tends to mean of benefit to major corporations. The emphasis here is clearly on the word major, because what typically happens is that low productivity use of property by smaller businesses is forced to give way to big business promises of higher productivity. For example, in 1963 a New York court approved eliminating all the businesses on thirteen city blocks, however thriving, to make way for the World Trade Center. In 1981 Michigan courts, aided by a new "quick-take" law, upheld the destruction of a 465-acre urban neighborhood because a robotized Cadillac plant that General Motors wanted to build there would bring some jobs to an economically distressed urban area.³⁰ In 1984 the U.S. Supreme Court upheld a 1975 Hawaii law passed to expand real estate ownership by enabling lessees to acquire property their lessors were unwilling to develop.³¹ In each instance those dispossessed were treated as intractable obstructionists. Corporate greed, by contrast, was cosmetized as being in the public interest.

Corporate interests, in other words, can still trump community wellbeing in the juridical mindset. But there have been attempts in recent years to give local governments legal tools with which to minimize the social impact of plant closings. In Massachusetts, for example, a municipal agency for economic development has been encouraged to take over plants scheduled for closing as a way to reduce unemployment. Though less respectful of corporate sovereignty, this view is consistent with the finding in the Michigan case that providing employment is a public purpose.

Why must one resort to arcane jurisprudence to justify an ethos of social responsibility? Because ours is a country whose dominant interests see liberty where others see institutional brigandage. Elsewhere, different values are at work. In Europe, for example, plant

closings and collective dismissals are subject to elaborate requirements as to notification, negotiation, and post-termination compensation. These government-enforced acknowledgements of social responsibility are due in part to the political influence of organized labor; but this in turn was made possible by constitutional arrangements made in the wake of World War II. Elsewhere, respect for workers is likely to be less advanced. But workers in emerging economies are now organizing to improve their own situation and by so doing help lift the minimum terms of involvement in the global economy. Meanwhile, American workers are learning to influence boardroom policies through their pension funds.³²

These developments put a damper on any version of corporate survivalism that endorses untrammelled competition. An older mythology tolerated such misuse of evolutionary theory in the belief that stable communities would impose appropriate constraints as if by an "invisible hand." This in time gave way to greater reliance on the visible hand of government regulation. But today we seem to have moved closer than ever to an economic war not of all against all but of controlling interests against those who are perceived to be only marginally useful. This well positioned attitude is, however, no more inevitable than was totalitarianism. People can reject it, then, in favor of more cooperative and mutually supportive commitments. This, a Hobbesian might argue, is especially likely after an exceptionally bloody century, as ours has been. Moreover, pace Hobbes, as studies of people's behavior in World War II concentration camps has shown, not even the extreme circumstance of imminent death necessarily strips human beings of their moral concern for others.³³

In sum, the journalistic device of applying military imagery to business strategy is appropriate only to the extent that business executives do make decisions as if no norms supersede those associated with furtherance of corporate objectives. That such social priorities are sometimes honored in corporate boardrooms seems evident from the way work force reductions and plant relocations are often carried out, as well as from practices associated with mergers and acquisitions

and with government-effectuated takings. This does not mean, however, that those required to carry out such decisions are themselves indifferent to the social consequences of what they are doing, nor is it naive to envision social structures that will reinforce such sensitivities.

Regulation alone cannot contain corporate excesses; and social pressure, though important, is still an underdeveloped counterforce. So business ethics, especially as nested within the context of a business school, cannot of itself change cultural assumptions endemic to the market. But it can be restructured to include the social and political aspects of business—not just as "the costs of doing business" but as a framework for assessing the social acceptability of business decisions. This done, business school graduates in the future may bring to workplace and boardroom a more comprehensive understanding of their responsibilities than have those of their predecessors who are expected to make business decisions without regard to social harm.

ENDNOTES

1. By a business decision I mean a decision made by an individual or group in the name of and for the sake of a business entity, especially one organized as a corporation. Questions of legitimacy and agency (including problems of *ultra vires* decisions) are relevant but tangential to the discussion here. Strictly speaking, this definition does not allow for depersonalized decisions of the sort that cramped-for-space headline writers routinely create, e.g., "Widget plans takeover of Supertech." But I will also resort to this shorthand on occasion for approximately the same reason.
2. See, for example, the series of articles in *The New York Times*, one headline for which read: "On the Battlefields of Business, Millions of Casualties" (3 March 1996: 1:1+).
3. See in this regard Christopher McMahon, "The Political Theory of Organizations and Business Ethics," *Philosophy & Public Affairs* 24 (Fall 1995) 292-313, esp pp. 298-99.
4. Stanley I. Benn, "The Uses of 'Sovereignty,'" in *Political Philosophy*, ed. Anthony Canteen (Oxford: Oxford University Press, 1967): 66; Id., "Sovereignty," in *The Encyclopedia of Philosophy*, vol. 7 (New York: Macmillan, 1967): 66. Christopher McMahon (op. cit., pp. 294-97) suggests characterizing such exercise of power in a less jarring way as managerial authority; but this expression seems to assume legitimacy (which he does not in fact do).
5. See Victor Wallis, "Lester Brown, The Worldwatch Institute, and the Dilemmas of Technocratic Revolution," *Organization & Environment* 10 (June 1997): 109-25; Robert A.G. Monks and Neil Minow, *Power and Accountability* (New York: Harper Business, 1991); Christopher Stone, *Where The Law Ends* (Prospect Heights, IL: Waveland, 1991; orig. 1975).
6. Recent research suggests this is especially true of small business managers who subscribe to religious principles. See John J. Quinn, "Personal Ethics and Business Ethics: The Ethical Attitudes of Owner/Managers of Small Businesses," *Journal of Business Ethics* 16 (February 1997) 119-27.
7. On this point the ongoing debate about whether and to what extent a whistle blower deserves legal protection is, as it were, at the cutting edge of the *de facto* sovereignty model. See Catharine Yang and Mike France, "Whistle-Blowers on Trial," *Business Week*, 24 March 1997: 172+ (regarding *Hughes Aircraft Co. v. Schumer*); Albert O. Hirschmann, *Exit, Voice and Loyalty* (Cambridge, MA: Harvard University Press, 1970).
8. See Monks and Minow, op. cit., p. 54; Richard T. DeGeorge, *Business Ethics*, 3rd ed. (New York: Macmillan, 1990), p. 99; R. Edward Freeman and Daniel R. Gilbert, Jr., *Corporate Strategy and the Search for Ethics* (Englewood Cliffs, NJ: Prentice-Hall, 1988), p. 129; Stone, op. cit., pp. 235, 238.

9. Anyone oblivious of such geopolitical realities will hardly be persuaded by my saying here that they exist and can be found throughout time and space. Relevant literature is extensive, but for starters one might consult Daniel Yergin, *The Prize: The Epic Quest for Oil, Money & Power* (New York: Simon & Schuster, 1991).
10. See, for example, cases in Richard A. Spinello, *Ethical Aspects of Information Technology* (Englewood Cliffs, NJ: Prentice-Hall, 1996), especially pp. 97-110. Regarding military amorality, see Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977), pp. 14-15, 129; Monks and Minow, op. cit., p. 53.
11. A class action liability suit may take shape in this way. The thought process is well illustrated, however, by analyses of U.S. objectives in the Vietnam War by, e.g., Bertrand Russell, Jean-Paul Sartre, and Hugo Adam Bedau. The latter wisely distinguished between intentional ("express malice") and result-based ("implied malice") arguments. See his "Genocide in Vietnam?" in *Philosophy, Morality, and International Affairs*, ed. Virginia Held et al. (New York: Oxford University Press, 1974), pp. 5-46. See also my "The Labor-Saving Device: Evidence of Responsibility?" in *Technology and Contemporary Life*, ed. Paul T. Durbin (D. Reidel, 1988): 63-85.
12. De George, op. cit., pp. 17-18; Bob Goudzwaard, *Capitalism and Progress*, tr. Josina V.N. Zylstra (Grand Rapids, MI: Eerdmans, 1979), p. 62. (When I asked Professor De George why his text includes social issues, he explained that it was written before anyone had decided what should or should not be included under the heading of business ethics.)
13. See my "Building Community Into Property," *Journal of Business Ethics* 7 (1988) 171-83; Robert C. Solomon, "The Corporation as Community: A Reply to Ed Hartman," *Business Ethics Quarterly* 4:3 (July 1994) 271-86.
14. Courts and the business media are beginning to agree. See *National Law Journal*, 22 April 1996: A1+; *Business Week*, 22 April 1996: 158; *ibid*; 19 Feb. 1996: 102; *Economist*, 16 Dec. 1995: 61. For an example of Darwinian/libertarian aloofness, see Richard A. Epstein, *Forbidden Grounds: The Case Against Employment Discrimination Laws* (Cambridge, MA: Harvard University Press, 1991). Epstein is editor of the *Journal of Law and Economics* and author of *Takings*, discussed below.
15. Edmund F. Byrne, *Work, Inc.* (Philadelphia: Temple University Press, 1990).
16. This focus on stakeholder capitalism, as it is called, would become the basis for tax and other advantages under a proposal to establish federally chartered corporations that meet various responsibility tests regarding the wellbeing of their employees. But defenders of the shareholder model, more favored in America and Britain, think this alternative is ill-conceived. See *The Economist*, 10 Feb. 1996: 23-25.
17. See, respectively, Jennifer Moore in *Ethics* (July 1991) 906; C. Tausky in *Choice* (Nov. 1990) 28-1623; and John Kultgen in *Teaching Philosophy* 15:1 (March 1992) 93.

18. Another contender for power over a corporation is a host government, whose impact on a company may range from bribery to expropriation. But as leaders in developing countries have learned, not even a controlling interest in a company is of much value if one does not also control the political and economic environment, often global, in which that company's business is conducted. Such contextual constraints undermine David E. Schrader's equation of ownership with control in his "The Oddness of Corporate Ownership," *Journal of Social Philosophy* 27:2 (Fall 1996) 104-27.

19. Morning Edition, NPR, 20 Oct. 1988.

20. Local 1330, et al. v. U.S. Steel, 492 F. Supp. 1 (N.D. Ohio 1980), *aff'd in part and rev'd in part*, 631 F. 2d 1264 (6th Cir. 1980).

21. Quoted in Staughton Lynd, "What Happened to Youngstown," *Radical America* 15 (July-August 1981) 43-44. See *Id.*, *The Fight Against Shutdowns: Youngstown's Steel Mill Closings* (San Pedro, CA: Singlejack, 1982), pp. 139-46, 160, 162-65, 175-76, 178-79.

22. Rather than endure a well organized boycott of its products in the Los Angeles area if it closed the last of its California plants in Van Nuys, California, General Motors opted instead to close its plant in Norwood, Ohio, a town that had just invested in considerable infrastructure to placate GM. Kenosha, Wisconsin, turned reminders of promises into some commitments from Chrysler Corporation: a transfer of profits it generated in Wisconsin in 1988 (some \$20 million) to a housing and re-education fund for the 5,500 workers left jobless when the old American Motors plant closed at the end of that year; and assurance that laid off workers would retain full seniority if transferred to another plant. See Eric Mann, *Taking On General Motors* (Los Angeles: University of California Center for Labor Research and Education, Institute of Industrial Relations, 1987); *Business Week*, 11 Sept. 1995: 104-13.

23. The neologism 'corporocracy' is used by Monks and Minow, *op. cit.*, p. 74.

24. See Jerry Z. Muller, *Adam Smith in His Time and Ours* (New York: Free Press, 1993). A Chicago School variation on this theme acknowledges the social but only to subsume it too under the market.

25. C.T.S. Corp. v. Dynamics Corp. of America, 481 U.S. 69 (1987).

26. See in this regard Langdon Winner, "Citizen Virtues in a Technological Order," in *Technology & the Politics of Knowledge*, ed. Andrew Feenberg and Alastair Hannay (Bloomington: Indiana University Press, 1995): 77-82.

27. See *National Law Journal*, 12 Aug. 1996: B5-6; Dennis J. Coyle, *Property Rights and the Constitution* (Albany, NY: SUNY Press, 1993).

28. Epstein says victims of government takings should be compensated as fully under constitutional principles as are victims of private takings under contract and especially tort law. See his *Takings* (Cambridge, MA: Harvard University Press, 1985), p. ix. For a claim that compensation as such cannot justify takings see Ellen

Frankel Paul, "Moral Constraints and Eminent Domain: A Review Essay of Richard Epstein's *Takings*," *George Washington Law Review* 55 (1986) 152, 174.

29. Coyle notices but fails to stress this important aspect of takings cases (*op. cit.*, pp. 187-88, 256).

30. See, respectively, *Courtesy Sandwich Shop, Inc., v. Port of New York Authority*, 12 N.Y. 2d 379, 190 N.E. 2d 402, and *Poletown Neighborhood Council v. City of Detroit*, 410 Mich. 616, 304 N.W. 2d 455. The *Poletown* case is an extreme example of corporate interests dictating the meaning of public use. In legal shorthand, this case stands for the proposition that, in Michigan, potential jobs and taxes are enough to meet the public benefit test. But the realities are quite different. In this instance, a private corporation defined the terms and conditions of the project, an automobile assembly plant, and gave the City of Detroit a deadline for compliance. The City agreed, with the result that 465 developed acres in Detroit and neighboring Hamtramck were condemned at a cost to taxpayers of \$200 million. Some 3,400 people lost their homes; and 1,176 structures, including housing and business property, 3 schools, 16 churches and a hospital, were destroyed. Jobs? Most of these have gone to robots, since the new plant is heavily automated. Taxes? These will come to \$10-20 million/year after 12 years of 50% tax abatement, meaning that in economic terms alone it will take a quarter of a century to recoup the unadjusted dollars spent. See Jeanie Wylte, *Poletown: Community Betrayed* (Urbana and Chicago: University of Illinois Press, 1990).

31. *Hawaii Housing Authority v. Midkiff*, 467 U.S. 229. This case exemplifies everything that is wrong with canonizing private gain as a public benefit. The defendant was in fact a charitable organization devoted to educating native Hawaiian children. The principal beneficiaries of the ruling were wealthy Japanese who replaced buildings on land they acquired with seldom-occupied palatial vacation homes, thereby further diminishing housing stock. Known but discounted in the legal proceedings was the fact that inherent limitations on the amount of habitable land on these islands are exacerbated by the fact that much of that land belongs to the U.S. government. See *Housing Finance & Dev. Corp. v. Castle*, 898 P.2d 576 (Haw. 1995); Sumner J. LaCroix and Louis Rose, *Public Use, Just Compensation and Land Reform in Hawaii* (Lincoln Institute for Land Policy, 1994).

32. See Daniel Lazare, *The Frozen Republic* (New York: Harcourt Brace, 1996): 171-78; *New York Times*, 16 June 1997: A2; *National Law Journal*, 4 Sept. 1995: C12; *Business Week/21st Century Capitalism* (1994): 130-32; Byrne, *Work, Inc.*: 169-70.

33. John Keane, *Reflections on Violence* (New York: Verso, 1996); Tzvetan Todorov, *Facing the Extreme*, tr. Arthur Denner and Abigail Pollack (New York: Henry Holt Metropolitan Books, 1996).