

Navigating Our Way Between Market and State

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ABSTRACT: In this address I argue that different perspectives on the normative foundations of corporate responsibility reflect underlying disagreements about the ideal arrangement of tasks between market and state. I initially recommend that scholars look back to the “division of moral labor” inspired by John Rawls’ seminal work on distributive justice in order to rethink why, and to what extent, corporations take on responsibilities normally within the purview of government. I then examine how this notion is related to recent theoretical work in the field of business ethics. I thereafter turn to provide a brief outline of an alternative view that sees corporations as having responsibilities in so far as markets are sites of delegated oversight over the production of social goods that might otherwise be administered by the state.

KEY WORDS: Rawls, Habermas, corporate responsibility, division of moral labor, political CSR, market failures approach to business ethics

The initial thoughts behind this address were prompted during a quiet, comfortable lunch in the Belgian countryside with our colleague and my counterpart as former president of the European Business Ethics Network Luc van Liedekerke. We were discussing a noticeable political reorientation in the last fifteen years within the field of normative business ethics, often in the pages of *Business Ethics Quarterly*.¹ This reorientation has captured the attention of individuals across different continents and theoretical traditions, but it is also significant because it has effectively united the various disciplines that make up our field, including philosophy, management, political science, and law.

Examples of this shift toward a political grounding of normative business ethics are clear to see. A substantial amount of scholarship in management has focused on the development of a political conception of corporate social responsibility, which envisions corporations as quasi-state actors with governance obligations and the capacity to facilitate democratic deliberation among stakeholders (Scherer and Palazzo 2007; Scherer, Palazzo, and Baumann 2006; Baur 2012; Noland and Phillips 2010; cf. Néron 2010). Others, notably philosophers inspired by the work of John Rawls, have invested substantial time thinking about the normative implications of the fact that business firms are intimately involved in the provision of liberal goods such as liberty, opportunity, and self-determination (Hsieh 2009; Moriarty 2009;

Anderson 2017). This has led to a deeper debate about whether egalitarian theories of justice have anything to say about the ownership, management, and governance of the modern firm (Singer 2015; Blanc and Al-Amoudi 2013). A number of other theorists have embraced a return to the institutional presuppositions of the market and its “implicit morality” to advocate for political arrangements that prescribe a narrower, theoretically tidy conception of business ethics as the ethics of beneficial competition (McMahon 1981; Boatright 1996; Heath 2014; Martin 2013; Norman 2011).

I submit that these (and perhaps other) politically-centered movements in our field, while exhibiting some deep differences on certain conclusions about the scope of ethics and responsible business, share something in common: specifically, they represent attempts to figure out how we should partition responsibilities within modern economic life. They provide different answers to the question of how—and to what extent—corporate activity upsets or blurs our expectations regarding what goods the market should provision and what goods the state should provision.

This observation may not be particularly impressive or even controversial on its face. But it suggests one important way that research in business ethics is revisiting a foundational matter in a more systematic fashion. Moreover, the reexamination of this issue signals that normative business ethics is, at bottom, best understood as a holistic endeavor to explain and justify the manner in which firms should navigate the messy space between being an actor in the market while also being an actor under license by the state to serve the public interest. Understanding the contours of this conceptual terrain is what makes normative business ethics philosophically unique and, within the last decade or so, an area ripe for change. Or so I will try to argue.

I will begin by focusing on an idea that has received comparatively little attention within business ethics; specifically, I will explore the “division of moral labor” between market and state (Scheffler 2005; Nagel 1995). This notion provides some initial insight into how corporations may shoulder responsibilities to advance dimensions of the common good, especially those related to justice. In the second and third parts of this address, I will make the case that different politically oriented approaches to business ethics—either implicitly or explicitly—address this division of moral labor in significantly different ways. My hope is that in pointing out these differences, we will not only better understand what unites some of the prevailing theoretical work in our field, but also gain a clearer picture of where our disagreements rest and where future avenues of inquiry exist. I will conclude on a more constructive note by painting an alternative theoretical picture, one that is thoroughly political but that also seeks to bridge some of those disagreements.

THE DIVISION OF MORAL LABOR

In the wake of John Rawls’s *A Theory of Justice*, many commentators, notably Thomas Nagel (1995) and Samuel Scheffler (2005), examined the division of moral labor suggested by his work. The division of moral labor expresses the notion that justice is an attribute of the *configuration of social institutions* not a matter for which individuals have a responsibility. Thus, in the case of his own theory, Rawls famously argues that justice is a characteristic of the “basic structure” of society,

and individual actors and other private associations do not directly bear responsibilities to facilitate just outcomes (Rawls 1977, 159). “Rawls presents his principles [of justice] as having limited scope; they are framed so as to apply to major social institutions and do not constitute principles for the general regulation of groups, associations, and individuals” (Scheffler 2006, 103).

The plausibility of this restriction rests with some straightforward premises. First, actions undertaken by individuals to facilitate justice are fruitless when large-scale social arrangements stand behind (and reinforce) the prevailing distribution of rights, authority, income, and wealth. The locus of moral concern for the value we assign to distributive justice should, therefore, be on the configuration of broad-based political, legal, and economic institutions, not what we expect of individuals and the lives they choose to lead. Second, apart from this systemic problem, we would find ourselves morally overwhelmed if justice imposed obligations directly on us as individuals. Poverty, social immobility, political disenfranchisement, and other injustices would demand too much of individuals if they were the primary parties obligated to address those ills.

None of this implies that individuals have no responsibilities at all with regard to justice. Rawls is very clear that he thinks one of the most important “natural duties” individuals possess is the duty to support, or “further,” justice (Rawls 1971, 334). Once a just basic structure is designed, there may be a range of obligations I have to support it and to act in concert with the demands it places on me as a citizen. Common examples of this are the obligations to vote and pay taxes. These actions are obligatory in virtue of a prior system of justice, but they remain indirect obligations created by a just basic structure that shoulders the moral labor in assuring that civil rights, basic income, and economic opportunity are realized as part of the fabric of everyday life.

The conceptual advantage of dividing moral labor in this fashion actually runs even deeper. Apart from better enabling justice itself, “offloading” the demands of justice onto the basic structure has the effect of allowing individual citizens to pursue their own moral excellence. As Onora O’Neill (1998) puts the point, injustice interferes with our ability to thoughtfully and deliberately craft lives that do good for others in our midst; we cannot easily act with respect toward others when we—and those in our communities—lack the ability to live together cooperatively, on terms that secure our basic dignity. Think of this as a more sophisticated, Kantian version of Bertolt Brecht’s oft-cited line from *The Good Person of Szechwan*: “first we eat, then we have morals”; in this case, first we have justice, then we have virtue.

The notion that justice is best handled by the design of the basic structure creates a second set of tailored moral obligations beyond the indirect ones that citizens have to further justice. I am thinking here of the obligations possessed by those who lead or occupy roles within institutions of the basic structure itself. Judges, regulators, policy makers, civil servants, and legislators have obligations vis-à-vis justice that rise above the indirect duty to “further” justice. Their decisions are shaped and evaluated by how well they exercise discretion—as specified by the institutions within which they work—to advance justice. When we casually discuss obligations of “the state” to address injustice, thus, what we are often referring to are the obligations

of particular institutions of the state and, by extension, the particular individuals who lead those institutions.

This observation is relevant to the current line of thought because if we subscribe to some version of the division of moral labor being discussed, the conception of justice as a feature of the basic structure essentially amounts to the designation of obligations that fall to roles occupied by individuals who are charged with the administration of justice. Note that these obligations are unique in that they aren't simply obligations to play a supporting role as citizens, but are obligations to exercise careful discretion as to the meaning, application, and implementation of justice over time. So, justice, even if we agree it is primarily a characteristic of the basic structure, creates at least two categories of responsibilities that fall to individuals: the obligation to further (or support) a just basic structure, in virtue of simply being a citizen, and the obligation to administer (or institute) a just basic structure in virtue of occupying a specific institutional role within the basic structure.

Some will already see how dividing moral labor with respect to justice has some relevance to how we conceive of corporate responsibility, broadly understood. Corporations are market actors. If markets in capital, labor, and goods and services are, as Seumas Miller (2017) describes it, "metainstitutions" of the basic structure, and corporations are entities that act within those institutional arrangements, then it remains an open question how, if at all, corporations might play a role in the administration of justice. Do corporations have responsibilities to enact justice in virtue of occupying nested positions within the basic structure of society?²

The challenge in even framing the question in this manner, of course, is that market arrangements by their very nature are spheres of freedom among private actors. So, the very notion that market actors—in this case corporations—engage in the administration of justice in the same way that actors within political or legal institutions do is going to be, for many, a nonstarter. The terms and conditions that allow markets to function well arise from other basic legal and economic arrangements that, in turn, allow corporate actors the latitude to focus privately on matters of investment, production, and trade.

A standard corollary of the division of moral labor, thus, is that some institutional actors within the basic structure, i.e., those of the state, have responsibilities to administer justice because they are publicly accountable in a way that market actors are not. Corporations, therefore, do not characteristically have as their central task things related to creating a more just economic order.

For the time being I will set aside objections to this way of thinking and simply highlight that it exposes one conceptual limitation. The division of moral labor does not provide any specific guidance on the division of administrative, justice-related tasks between different institutions of the basic structure itself. This is important. Theorists might be quite comfortable thinking that justice is a matter of how the basic structure is designed and not a matter to be shouldered by individuals in their private decisions. But it is a separate matter altogether as to how the administration of justice within the basic structure—and the responsibilities that different actors have *within* this structure—should be divided. The former matter is a question of

where the locus of justice-related responsibilities rest, and the latter is a matter of *how justice should be instituted among different actors* within the basic structure.

I submit, then, that the interesting set of ideas presented by the political turn in normative business ethics that I outlined in my introduction has more to do with how moral labor is divided within the basic structure; specifically, the turn explores how moral labor should be divided between the institutions that make up—and create—a background of social conditions that preserve justice over time. This is why Scheffler (2006), drawing on language used by Rawls himself, distinguishes, on the one hand, the “division of moral labor” between individuals, and on the other hand, society’s basic institutional configuration from the “institutional division of labor,” which is a division of how the administrative tasks of justice are distributed within the basic structure.

The later Rawls provides some additional clarity here. He notes in *Political Liberalism* (Rawls 1993) that justice demands a set of institutional arrangements that structurally perpetuate just outcomes (think of constitutionally recognized political liberties, an independent judiciary, and regimes of progressive taxation), as well as systems of general rules that govern how private contracting can take place fairly (here think of the common law of contracts or the regulations written by a labor authority about employee compensation). The former are firm, systemic backstops against injustice, and the latter are rules that provide constraints for private actors deciding how to interact and come to fair agreements with one another. This is one way in which Rawls imagined that institutions and actors internally divide labor with respect to justice: individuals can freely form agreements with one another and, as long as those private agreements are made under fair terms, the systematic backstops that form the backbone of the basic structure will secure the ends of justice.³

In this context, it is easy to see why some interpret this institutional division of labor as a kind of license for individual actors to free themselves of the demands of justice. Rawls himself writes in this vein that

if [the institutional] division of labor can be established, individuals and associations are then left free to advance their ends more effectively within the framework of the basic structure, secure in the knowledge that elsewhere in the social system the necessary corrections to preserve background justice are being made (Rawls 1993, 269).

Here certain aspects of a just basic structure allow private activity to proceed according to the interests of individuals, as expressed in their choices, whilst preserving just outcomes.

This explains why the Rawlsian development of the institutional division of labor may be seemingly resistant to the notion that corporations are actors with obligations tied to the administration of justice. They neither develop nor enforce broad-based economic and legal arrangements that assure justice; moreover, as with any individual actor, they make decisions out of largely private concern. They seek to form contracts with an aim to enhance interests of discreet individuals and groups. The institutional division of labor would seem to allow corporations to

“free” themselves from overarching concerns of justice with the knowledge that there are needed background conditions to assure justice is maintained over time.

But there are some complications to note with this line of thinking. First, as I’ve already suggested, from the fact that justice falls to certain institutions and thereby actors within the basic structure, it doesn’t follow that other dimensions or aspects of justice are not also duties of corporations. The requirement to support or further justice may indeed apply to corporate actors just as it does to individual citizens. This would leave ample space to consider the question of what it means for corporations to properly further justice, especially in circumstances where the basic structure is weak or incomplete.⁴ Second, corporate decisions may be part of a larger Rawlsian story regarding the cultivation of a sense of justice. Rawls confines his discussion of the sense of justice to refer to the attitudes and supporting motives of individual citizens needed for a stable, as well as just, social order; however, it would not be a stretch to think that the larger tapestry of social support for a just basic structure encompasses positive steps taken by corporations to assure that the spirit and content of just attitudes are cultivated among its stakeholders. This allows business ethicists inspired by Rawls to think more fully about how corporate conduct is implicated in the creation of social solidarity needed for a just political order. I will have more to say about these two alternatives a bit later in this address.

POLITICAL CSR AND THE DIVISION OF MORAL LABOR

The political corporate social responsibility (political CSR) movement, which continues to occupy the attention of many of our colleagues, provides another opportunity to examine the contours of the division of labor suggested by Rawls’ theory of justice. Political CSR purports to conceive of corporate “social” responsibilities as obligations to coordinate and legitimately govern collective action to address various impediments to justice, including poverty, the infringement of basic rights, and the lack of rule of law. Corporations are thought to be analogous to states or “quasi-governmental” actors in that they not only have the sheer ability to shape the conditions of justice but they have actually assumed the role of administering just outcomes in a global economy (Matten and Crane 2005; Scherer and Palazzo 2007).

A key component of this line of thought is the idea that corporations legitimately govern when they serve as conduits for deliberation between affected stakeholders, where different corporate constituencies have the opportunity to hear from others and engage in a critical discourse about what corporate policies are appropriate from a moral point of view. It is helpful to think of political CSR as an emergent normative stance on how the tasks of market and state are divided under certain non-ideal circumstances, in particular when states are weak or otherwise underdeveloped; corporations assume the obligations of the state to administer justice when—in Rawlsian terms—the basic structure is incomplete. The exact warrant for this inference is not always made explicit. Is it because corporations are *derivative beneficiaries* of the lack of state oversight of justice within the basic structure? Is it because corporate activity *makes claims and imposes burdens* on others that require assent? Or perhaps is it simply that corporations are best positioned to

rectify injustice given their *power and influence* in particular locations? I suspect that once these and other basic questions are answered, advocates of political CSR will have a more complete explanation for why the institutional division of labor between market and state should be set aside when it comes to corporate activity.

But there is a deeper concern with political CSR that also requires attention since it has implications for the exact contours of how we divide labor between market and state. The intellectual inspiration behind political CSR is the critical theory of Jürgen Habermas, who not only provided his own procedural account of justice for modern societies, but grounded this account in an overarching social theory about how collective action within modern societies is even possible in the first place, something that Rawls (arguably) gives short shrift. At the heart of this theory is the notion that different forms of social action characterize different spheres of life. Those areas in the so-called “lifeworld” proceed communicatively, or following consensus. Communicative action is often unexamined but represents a deep agreement in basic beliefs, moral principles, and overlapping behavioral norms (Habermas 1990). In contrast, within certain functional “subsystems” in society, action proceeds purposively, where individuals engage in coordinated, strategic action to accomplish specific functional objectives. Habermas emphasizes that the market economy is an example of one such system and it proceeds according to a logic of rational self-interest, rather than through any sense of agreement on basic norms of conduct (Habermas 1987).

Advocates of political CSR argue that building stakeholder consensus among those affected by business conduct through free, open, and critical discourse is the mechanism through which corporate activity can be woven back into the communicative fabric of modern life and thereby, from a moral point of view, be seen as legitimate. But the instrumental nature of reasoning within the marketplace—as well as the profit-centered conceptions of corporate ownership and governance that accompany modern market arrangements—cut against the ability of corporate leaders to engage in, and facilitate, genuine deliberation about what constitutes morally responsible conduct. In Habermasian terminology, market exchange is functionally predicated on “norm free” sociality for the larger purpose of providing better means to society’s “material reproduction” (Habermas 1987, 171–81). This means that corporations and their stakeholders are oriented toward self-interested exchange in the market as a functional component to their economic well-being, and their interactions are not in service of shared norms or a sense of common values apart from this material objective. In this light it is not altogether clear how the instrumental logic of the marketplace would be a suitable social site for the stakeholder discourse needed to uncover standards of socially responsible corporate conduct.⁵ Habermas, writing after the financial crisis, offers a version of this point forcefully when he emphasizes (with seeming frustration) that the moral failings of the market system cannot be easily laid on the doorsteps of firms, which acted within a “legal framework” of a “socially recognized logic of profit maximization.” He stresses, in this context, that “politics, not capitalism, is responsible for promoting the public good” (Habermas 2009, 184). Advocates of political CSR arguably gloss over this basic Habermasian concern.

But there may be more to be said for political CSR. Commentators have noted how the split between communicative and strategic forms of interaction may not be as rigid as is often interpreted (cf. Jütten 2010). An obvious example of this is the fact that Habermas himself acknowledges that another important subsystem, the administrative state, coordinates social action through both strategic and communicative means. Here Habermas holds that discursive accountability to moral principles needs to guide the creation and enforcement of legitimate law precisely because aspects of it need to remain “pervious” to moral examination by citizens (Habermas 1986, 244). One might reasonably wonder if the same kind of targeted examination should not remain possible within the market system despite its strategic core.

Still, we need to think more about whether we are too quick to deviate from the Habermasian ideal of separating the objectives (and motives) of market actors from the objectives of those occupying state-defined roles to administer justice for the common good. Legitimate state roles are structured by principles that are subject to the moral scrutiny of citizens and a search for what policies and practices reflect an application of a shared conception of justice. To this extent, there might be fertile ground to rethink the responsibilities held by corporations within political CSR not as the responsibilities of state-like actors or responsibilities to administer justice writ-large, but rather to conceive of these responsibilities as either (a) the exercise of virtue that comes with cultivating a sense of justice among stakeholders, or (b) the support needed to further just outcomes that would otherwise be assured if the business environment was accompanied by a more secure basic structure. This route may have the dual advantage of not only limiting what responsibilities corporations possess, thereby allowing them to fulfill an important function tied to material reproduction, but also emphasizing that the goal in operating environments with weak or underdeveloped state institutions should be to remain focused on shoring up legitimate states rather than serving as their replacement. Recent work in political CSR has begun to explore these possibilities (cf. Schrempf-Stirling 2018).

MARKETS AND THE DIVISION OF MORAL LABOR

This brief foray into Habermasian social theory provides us some additional reasons why Rawls might have been inclined to take seriously the institutional division of labor I described earlier. The material conditions for citizenship are more stable when economic decision making is grounded in decentralized, self-interested exchange and profit-making. These functional characteristics enable capital formation, investment, and production, which allow for heightened material well-being that would be less than forthcoming through other means. This type of material well-being is instrumental for a range of liberal goods, including preference satisfaction, liberty of individual pursuits, economic opportunity, and social mobility.

Joseph Heath’s (2014) examination of the institutional division of labor in the development of his “market failures” approach to business ethics builds upon this point, both because of the influence of Habermas on his ideas but also because of the commitment he has made to situate business ethics within a larger theory of political economy. Market arrangements and the institutional scaffolding of those

arrangements are, for Heath, predicated upon the value of efficiency, understood in Paretian terms; the division of labor between market and state recognizes various tradeoffs between efficiency, on the one hand, and justice, on the other. Both are important goods for which a compromise must be found, and partitioning off the goals of efficiency-enabling institutions from the goals of justice-enabling institutions is one way to accomplish this task.

Heath is fully prepared to recognize a number of robust corporate responsibilities that are tied to the value of efficiency. Markets are characteristically imperfect and corporate responsibilities are essentially understood by Heath as those generalizable behaviors that would naturally surface if markets operated with ideal competition, access to information, and fair bargaining positions. Heath notes that such constraints include a respect for voluntary and fair contracting; a commitment to compete only on price and quality; the requirement to treat prices as “exogenously” determined; a proscription against seeking “tariff or trade protections” and other “rent-seeking” behaviors, such as political lobbying to gain subsidies from government; a spirited commitment to comply with efficiency-enabling regulations; a rejection of overly “opportunistic” transacting; and the commitment not to “exploit” standard market failures, which, for example, prohibit taking advantage of significant information asymmetries, negative externalities, and low levels of competition for the sake of enhancing profit (cf. Smith 2018).

The theoretical picture given to us by Heath is noteworthy not only for its simplicity and elegance. It is also powerful in upsetting the convictions of those across the theoretical spectrum in business ethics. On the one hand, those who simply want to foist a full range of social responsibilities on corporations without acknowledging their distinctive economic identities ignore the recent history of ideas underscoring the social stability and liberal advantages that come with an understanding of the market as a sphere of special, competitive interaction. And, on the other, those who have misplaced confidence in the “invisible hand” of the market do not recognize that social science and the presuppositions of efficient collective action give way to robust responsibilities on the part of corporations. Heath’s work illustrates, *pace* Habermas, that there are hallmarks of norm-governed behavior even within the market “system” despite its instrumental function in material reproduction.

An increasingly common reaction to this approach, however, is that reducing corporate responsibilities to efficiency-derived imperatives overlooks a number of other “noneconomic values” that are relevant in our ethical assessment of business conduct (Cohen and Peterson 2017). I am somewhat sympathetic to these responses. How can we make sense of the corporate responsibility to respect human rights based purely on mid-level norms derived from efficiency? At what point does it become relevant to evaluate firms on how well they support equal opportunity in the workplace even if it turns out to, say, run afoul of a generalized efficiency norm against collusion in the labor market? Here I think Heath needs to simply highlight that his contribution to the field is to showcase what makes business ethics distinctive within a liberal political theory. Yes, corporations may turn out to have moral responsibilities to respect rights, comply with the law, and avoid harm to others. But these responsibilities, as Nien-hê Hsieh (2017) noted two years ago in his address to

this society, are “basic” in that they are applicable to any actor engaged in a range of social actions. The question before us is what makes business ethics distinctive and different from, say, ethics in civil service, ethics in the conduct of military affairs, ethics in medicine, or ethics in family life. It is efficiency, for Heath, that identifies the uniqueness of business ethics, but this marker neither exhausts nor grounds the full range of responsibilities—general and particular—that business firms possess. It simply explains why we give different answers to similar questions when the actor is a corporation, as opposed to a regulator, military officer, medical doctor, or parent.

This reply illustrates once again how the institutional division of labor does a lot of heavy lifting for business ethics. It encapsulates what makes business ethics an ethics *for business* and it does so by recognizing that business is housed within the larger network of institutions that make up a well-ordered society, each of which has a purpose that its actors are responsible for putting into practice.

This reply also exposes a potential limitation that I want to highlight as a way to conclude this address on a more constructive note. Heath’s project carries forward Rawls’s notion that a well-ordered society is one where an institutional division of labor is present, providing private actors latitude in their commercial lives while structurally providing confidence that the basic tenets of a just society are secured elsewhere, through means of the state. But, to press what motivates advocates of political CSR, what if society is not well-ordered? The normative license provided to business firms to focus on private dealings and not the administration of justice presupposes that there are structures in place—as well as compliance within those structures—that take care of justice-related matters effectively. What do we say of business firms when those conditions are not met?

Abraham Singer (2018) puts a finer point on this issue in a recent discussion of “justice failures,” i.e., situations in which state actors have failed in their justice-related obligations. In such an environment, is it plausible to suggest that corporations assume responsibilities for the administration of justice in order to secure the background conditions that legitimize their private pursuits within the market? Can we begin to talk about justice-related obligations floating into the discretionary purview of corporate managers in a manner that interrupts the normal division of labor between market and state?

Singer answers these questions in the affirmative because in nonideal circumstances it makes sense for normative theories to take account of second- or third-best social arrangements in service of justice. In the absence of, say, labor rules that assure equal bargaining in the workplace, or in the absence of suitable steps to enforce antidiscrimination statutes, it may be incumbent on corporations to engage in operations that take into account the value of fair opportunity in employment alongside of the constraints associated with ethical competition in the market for labor. The rationale for this institutional shift of responsibility is that firms are in a position of “power” to effectively respond to justice failures and, not unlike advocates of political CSR, corporations have voluntarily assumed tasks traditionally left to the state in a whole host of areas related to social and environmental governance. Singer writes that it is “sensible” to expand the domain of corporate responsibility to include business practices that address injustice when the state fails to do so.

He stresses that corporations have responded to injustice and, in some cases, have done so very well.

Note that this kind of move does not, by itself, suggest a need for fundamental changes to the Rawlsian or Habermasian picture of institutional labor I have painted above. The fact that there has been an (effective) shift from the liberal state to corporations in matters related to the administration of justice does not mean that the normative ideals expressed by the institutional division of labor are to be jettisoned. In the case of Heath's approach, the normative requirements derived from efficiency neatly coincide with the prescribed, functional objectives of the market; in the case of addressing justice, however, the associated normative requirements are potentially at odds with the imperatives associated with efficiency. And it is this basic tension that motivates the division of labor in the first place. Separating which actors oversee these sometime oppositional values is a lever we can pull to find a more suitable configuration of liberal goods.

MARKETS AS POLITICAL CHOICES

What I am suggesting we come to grips with, then, is a need for more thought about how to navigate this difficult terrain between market and state in a manner that respects capitalism's subtle differentiation of institutional roles. We, as members of the Society for Business Ethics, have made some important, exciting strides, and it is my hope that we continue to be a source of creative thought on this front. In this concluding section of the address I will offer another option to consider, one that recognizes some of the theoretical insights of our colleagues, without falling into the trap of relying on actual corporate practices to dictate ideals to which we should aspire.⁶

I start with two observations. First, markets are enabled by a host of other, enforceable social arrangements—commercial regulations, property rights, civil tribunals, statutes of incorporation, and transactional regimes—that demarcate how capital, labor, goods, and services are provisioned through private exchange. Complex, modern markets are social venues where freedom is expressed, to be sure, but they are not a venue where this expression occurs naturally. Whatever freedom is expressed in the market is enabled by deliberate moves to create a prior, market infrastructure that makes commercial life possible. Second, on top of this general fact is the notion that markets facilitate investment in and the production of what Christopher McMahon calls “morally important social values” (McMahon 2012, 150). This means that the markets serve political objectives other than just a Paretian one; markets are also concurrently designed to realize a plurality of other valuable ends, such as knowledge, public health, national defense, transportation, education, ecological integrity, social mobility, opportunity, and justice. This is one of the reasons why it is bit misleading to think of the efficiencies created by market arrangements as valuable ends themselves. Efficiency often takes on an adverbial form precisely because it is a qualification of how other ends are realized: e.g., is health care being provisioned efficiently within the current insurance market?

These premises suggest that market arrangements represent deliberate moves by the state to grant a kind of authority to private actors over how to invest, produce, and trade goods that serve a range of morally important social values by (I should stress) using the price system of the market to help make collective decisions about how to track the social costs involved in advancing this plurality of objectives. And thus, to recognize some of the concerns of CSR scholars, responsibilities tied to upholding these values are normatively appropriate for business firms because firms voluntarily participate in a decentralized institutional configuration that has granted them a kind of legislative discretion over how those values are realized. An inherent part of this role is to exercise leadership over matters that have been delegated to them by other political institutions with legitimate authority over the marketplace.⁷ In making decisions about what forms of investment and production to engage in, business firms are, in effect, participants in a role that is not merely economic, but also political in that their economic decisions are framed by the task to provision certain social goods, based on the values that are supported by particular firms in particular industries.

With this picture, we are walking a fine line along the institutional division of labor between market and state. Corporations are market actors but serve the same goals as some state institutions in a limited sense; not only are they bound by the expectations derived from efficiency, but insofar as they have the privilege of working within the artifice of the market system to realize other goods, it is an expectation that their decision making will be constrained by how well they do this. Facebook and other social media firms innovate social policy with respect to how information is collected, used, and misused in the service of knowledge. Pharmaceutical companies by and large set forth action on research and development in disease, a critical component of maintaining public health. In these and other contexts it is the constitution of the market that transmits the concurrent expectation that corporations be responsible in how they provision the morally important social values that they produce.

Notice as well that this picture is not predicated on the nature of the corporation and the governmental provenance of corporations, which has been the subject of a lot of renewed conversation (Cipley 2013). The suggestion I am making is that we explore how market arrangements themselves are designed political arrangements to the extent that there is a larger set of institutional permissions that create the possibility of markets that provision various morally important social values. So, just as the market-failures approach to business ethics finds corporate responsibility within the presuppositions of efficient markets, my suggestion is methodologically on a par in that we simply need to think about the responsibilities presupposed by the morally important social values that happen to be politically layered on top of the price system of the market.

The advantage of looking at the complicated interface of market and state in this way is that it does not run the risk that advocates of political CSR do; specifically, there is a limited set of politically derived expectations tied to the particular good that a firm or industry is involved in producing. The overdemandingness of becoming quasi-state actors, simply because of weak-state environments,

raises a host of worries about the scope of corporate responsibility. As an alternative, I am encouraging us to think about limiting such responsibilities to the goods that a specific firm is involved in provisioning. At the same time, the suggestion I am making provides a larger account of why normative business ethics cannot be grounded purely in the value of efficiency without a grasp of the behaviors that also support the social outcomes that market arrangements enable.

The political service of markets also helps explain why broad-based, morally important social values, such as justice, are partially the task of corporations because aspects of justice—such as income and access to opportunity—are within the purview of most corporations in most markets. The decision-making latitude that is formalized within market arrangements encompasses decisions that have been, in McMahon's (2012) words, delegated to corporations.

There is certainly a lot more to be said about the direction being suggested thus far; but I want to end by saying that the push I am giving is first, to respect the division of labor suggested to us by Rawls, as applied to corporations operating within the marketplace; and second, to be open to the fact that private contracting within the market is enabled by a prior commitment to allow such contracting to determine how morally important social values are produced. This added step in our thinking can form the basis of what responsibilities corporations have that overlap and support the responsibilities we often attribute to the state.

NOTES

1. Examples will be discussed throughout this address, but some of the most seminal work in *Business Ethics Quarterly* includes Phillips and Margolis (1999), Heath, Moriarty, and Norman (2010), and Scherer, Palazzo, and Baumann (2006).

2. Some may note that since corporations are private associations *within* the larger institutional configuration of the market, they are not, strictly speaking, part of Rawls's basic structure. For a more in-depth discussion of this problem, see Singer (2015).

3. My remarks here benefited from Murphy's (1999) discussion of the institutions that make up Rawls's basic structure. See also Porter (2009).

4. Hsieh (2009) provides one of the most direct explorations of this idea. For a more sustained examination of the duty to further justice within Rawls's political philosophy, see Klosko (1994).

5. An excellent discussion of the problem in applying Habermas's discourse ethics to corporate conduct can be found in Sabadoz and Singer (2017). A related set of problems is explored in Whelan (2012).

6. I raise some of these issues in an earlier paper published as part of symposium at the University of Pennsylvania on the topic of corporate citizenship (Smith 2014).

7. My thinking about these matters, including the corporate authority over how "morally important social values" are realized, is heavily influenced by McMahon (2012). An important point of contrast, however, is that McMahon's description of the authority exercised by corporate managers is simply tied to their directive power over the actions of employees. The view I am sketching here takes corporate managers to have authority also in a legislative or policy-making sense in that they exercise discretion over how certain social goods are realized.

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