

The Responsibilities and Role of Business in Relation to Society: Back to Basics?

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ABSTRACT: In this address, I outline a “back to basics” approach to specifying the responsibilities and role of business in relation to society. Three “basics” comprise the approach. The first is arguing that basic principles of ordinary morality, such as a duty not to harm, provide an adequate basis for specifying the responsibilities of business managers. The second is framing the role of business in society by looking to the values realized by the basic building blocks of contemporary economic activity, i.e., markets and firms. The third is making explicit the basic institutions that structure the background against which business operates. The aim is to develop a plausible framework for managerial decision making that respects the fact of value pluralism in a global economy and that fosters meaningful criticism of current business practices while remaining sufficiently grounded in contemporary circumstances so as to be relevant for managers.

KEY WORDS: business and society, corporate responsibility, harm, human rights, institutions, Pareto efficiency

In the field of business ethics, a good deal of scholarship has been devoted to articulating and justifying the responsibilities and role of business enterprises and their managers in relation to society.¹ Much of this scholarship is framed as providing alternatives to “shareholder primacy”—the view that managers should maximize shareholder returns subject to the law (Friedman 1962, 1970; Jensen 2002).² Perhaps the most prominent alternative is stakeholder theory, according to which business enterprises are to be managed in the interests of all who are and who can be affected by managerial decisions (e.g., Freeman et al. 2010). Other alternatives include corporate citizenship (e.g., Logsdon and Wood 2002; Scherer and Palazzo 2008; Néron and Norman 2008a, 2008b; Post 2002) and the creation of shared value (Porter and Kramer 2011). There also are alternatives that draw explicitly on traditions in moral and political philosophy, such as Kantian theory (e.g., Bowie 1999; Dubbink and van de Ven 2012; Arnold and Harris 2012), virtue ethics (e.g., Hartman 1996, 2013; Koehn 1995; Solomon 1992), social contract theory (e.g., Donaldson 1982; Donaldson and Dunfee 1995, 1999; Dunfee 2006; Wempe 2008, 2009a, 2009b), Confucianism (e.g., Kim and Strudler 2012, Kim 2014), and deliberative democracy (e.g., Scherer and Palazzo 2007).³ In addition, theories of corporate social responsibility (CSR) and the idea of a social license

to operate reflect the idea that business enterprises have responsibilities to society independently of what is required by law.⁴

I am grateful for this opportunity to share an account I have been developing about the responsibilities and role of business enterprises in relation to society. Parts of this account have been presented elsewhere and parts of it have been published (Hsieh 2009, 2013a, 2013b, 2015a, 2015b). In this address my aims are 1) to motivate the overall account, 2) to provide in one place a succinct statement of the account, and 3) to highlight key issues that need to be addressed going forward to further develop this account. Given these aims and limitations of space, the address leaves out detailed discussion of parts of this account. I call this account “getting back to basics” or “back to basics.”

Three “basics” comprise the back-to-basics account.⁵ The first “basic” refers to the idea that basic principles of ordinary morality—principally, a duty not to harm—provide an adequate basis for specifying and grounding the responsibilities of business enterprises, or more precisely, the responsibilities of their managers (Hsieh 2009, 2013a). As basic principles of ordinary morality, the thought is they apply to all managers in their capacity as natural persons independently of one’s view about the purpose or nature of business. The second “basic” involves framing the role of business in society by looking to the values realized by the basic building blocks of contemporary economic activity—namely, markets and firms. According to a widely held view, markets and firms are justified on grounds of allocative efficiency or maximizing social welfare (Hsieh 2010). In contrast, the back-to-basics account focuses on other grounds, including the value of autonomy (Hsieh 2013a, 2015a). The third “basic” of the account refers to what John Rawls (1999) terms “the basic structure”—roughly, the main social and political institutions of society.⁶ In referring to the “basic structure” I do not mean to limit the account to Rawls’s theory of justice. Instead, the thought is to acknowledge the role of political and legal institutions in structuring economic activity and to make explicit the institutions that form the background against which business operates. In doing so, the back-to-basics account holds that the responsibilities of business toward society may vary with the institutional context and that there are limits to what business enterprises are permitted or required to do to respect the authority and legitimacy of legal and political institutions (Hsieh 2015b).

Given the number of existing accounts of the responsibilities and role of business in relation to society, it may help to say more about the motivation for developing the back-to-basics account. I take it that a primary task for these existing accounts is to provide a framework for evaluating the conduct and policies of business enterprises in relation to society and for guiding managerial decision making independently of what the law permits or requires. The back-to-basics account aims to fulfill this task while calling attention to and addressing two challenges not always made explicit.⁷ One challenge concerns the degree of critical distance to adopt with respect to the institutions and policies that structure contemporary business activity. For example, one approach—associated predominantly with political philosophy—is to examine economic institutions and policies that best realize values such as justice. Much work remains in this area, and investigation along these lines can identify

institutions or policies that have implications for what economic actors are permitted or required to do (Hsieh 2005, 2008). At the same time, these institutions or policies may differ significantly from the circumstances that business managers in fact confront, and questions about institutional or policy reform may be better addressed to actors outside the economic sphere. This suggests an approach at a level much closer to existing practice, taking as given some features of economic institutions. The challenge is to ensure that the evaluation and guidance remains critical and meaningful, and not simply a restatement of existing practices. The second challenge is to provide a plausible justification for the role and responsibilities of business in relation to society, with special attention given to the fact of value pluralism in the context of a global economy.⁸ Plausibility is important not only for meeting the standards of academic scholarship, but also from the perspective of business practice. That is, if an account lacks a plausible justification, there is little reason for managers to follow the account.

With respect to the first challenge, the back-to-basics account takes as given what many consider to be core institutions of economic activity—namely, markets and firms—and accepts that the responsibilities of business managers in relation to society may vary with existing institutional contexts. At the same time, the account incorporates standards regarding economic activity that are independent of existing institutional arrangements and practices. For example, as part of the third “basic,” the account invokes the criterion of political legitimacy—that is, the idea that certain actions on the part of business enterprises are inappropriate because they require the sort of political legitimacy associated with states. Also, as part of the first “basic,” the account looks to basic principles of ordinary morality, such as a duty not to do harm, that apply across institutional contexts. In appealing to general concepts, such as political legitimacy and basic principles of ordinary morality, the back-to-basics account also aims to address the second challenge noted above. Elsewhere, I have described such an approach as “minimalist” (Hsieh 2013b, 133). The thought is to ground the responsibilities and role of business enterprises in widely accepted foundations and to avoid controversial assumptions, such as the idea that corporations are moral agents (Hsieh, forthcoming) and highly specialized theories that are specific to business ethics (Hsieh 2015c).

The rest of the address is organized as follows. To help motivate and situate the back-to-basics account, I begin by summarizing another account with which it shares key features—specifically, a view that the basic institutions of business activity, such as markets, help specify the responsibilities of business managers. This account is the “Paretian” or “market failures” approach as put forward by Joseph Heath (2004, 2006, 2007, 2013, 2014) and Wayne Norman (2011, 2014). This approach involves two central claims. The first is that market ethics are adversarial in a way that may sanction or even require participants to ignore duties of ordinary morality. The second is that considerations of allocative efficiency or aggregate social welfare justify this adversarial ethic and the use of markets, more generally. I then challenge the first claim by arguing that the market is not uniquely adversarial, or no more adversarial than other domains of life. Accordingly, one can look to ordinary morality, and in particular the principle of not doing harm, as the basis for market morality.

This leads to the first “basic” of the back-to-basics account. I then challenge the second claim by arguing for characterizing the role of business in terms of values in addition to efficiency or social welfare. This brings us to the second “basic” of the back-to-basics account—the role of business framed in terms of markets and firms. I then turn to develop the third “basic”—social and political institutions—by using examples from the practice of human rights and the practice of corporate social responsibility (CSR). I conclude by summarizing what I understand to be the promise of the back-to-basics account and the key questions that need to be addressed to develop the account further.

THE PARETIAN OR MARKET FAILURES APPROACH

In their article, “Business Ethics and (or as) Political Philosophy,” Joseph Heath, Jeffery Moriarty, and Wayne Norman call for development of a “unified normative theory of markets, firms, and business practices” (2010, 446). More specifically, this includes “a) markets and the regulation of domestic and international markets; b) corporate law and governance; and c) the beyond-compliance norms, and principles of self-regulation, that businesses and those interacting with businesses ought to adopt” (428). By a “unified” theory, the authors mean “there should be a fair degree of consistency or compatibility among the kinds of normative concepts and principles used to justify rights, duties, and institutions in each of these realms” (429).

Along these lines, Joseph Heath and Wayne Norman have advanced what they term the “market failures” or “Paretian” approach to business ethics (Heath 2004, 2006, 2007, 2013, 2014; Norman 2011, 2014). Norman summarizes the approach as follows (2014, 23):

Roughly speaking, and allowing for plenty of ongoing disagreement about details and scope, partisans of this approach believe:

- a) that our grounding for a broad range of obligations and rights in business ethics—including some obligations to follow a “higher standard” than required by law, but also rights, and even obligations, to ignore certain duties of everyday morality—should be closely related to our most basic justifications for markets and the regulation of markets; and
- b) that increasing what economists call “efficiency,” especially variations on the idea of Pareto optimality, or the “aggregate welfare of society” (Hansmann and Kraakman 2004: 18), is the most basic justification of markets, and serves as the basis for a broad range of market regulations.

By looking to what justifies the market, the Paretian or market-failures approach (hereafter “Paretian”) aims to ground business responsibilities in the “powerful ethical resources hiding in plain sight within the ‘implicit morality of the market’” (Norman 2014, 27-28).

The morality of the market, according to this approach, falls within the domain of “adversarial ethics” (Heath 2007). Within the domain of adversarial ethics, what is prohibited by ordinary morality may be permissible or even required.⁹ Competitive sports are often said to fall within the domain of adversarial ethics. In soccer, for

example, the rules allow players to engage in physical contact in ways that would not be permitted on the street. In the case of an adversarial legal system—another commonly given example—lawyers are not only permitted, but may even be required to advocate on behalf of their clients using strategies and tactics that would be impermissible in other domains of life. What justifies such behavior in each case is the idea that permitting or requiring such behavior helps to realize the ends or values associated with the relevant area of practice or sphere of activity. In the case of soccer, the end may be the enjoyment that comes from watching a vigorously contested game. In the case of an adversarial legal system, one value to be realized is justice. In the case of the market, according to the Paretian approach, behavior that would not be permitted in everyday morality is permitted, or perhaps even required, in market activity on grounds that such behavior helps to realize Pareto efficiency or aggregate social welfare, which are the values that justify markets.

This characterization of market ethics may call to mind the “invisible hand” metaphor of Adam Smith (1776, IV.II.9):

Every individual...neither intends to promote the public interest, nor knows how much he is promoting it.... He intends only his own security; and by directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention.

An even closer expression, however, is found in Bernard Mandeville’s *Fable of the Bees: Or, Private Vices, Public Benefits* (1732, 36-37):

To make a Great an Honest Hive
T’ enjoy the World’s Conveniencies,
Be fam’d in War, yet live in Ease,
Without great Vices, is a vain
Eutopia seated in the Brain.
Fraud, Luxury and Pride must live,
While we the Benefits receive: ...

So Vice is beneficial found,
When it’s by Justice lopt and bound;
Nay, where the People would be great,
As necessary to the State,
As Hunger is to make ’em eat.
Bare Virtue can’t make Nations live
In Splendor; they, that would revive
A Golden Age, must be as free,
For Acorns, as for Honesty.

In Smith’s metaphor of the invisible hand, the claim is that in the market, there is no need to rely on anything other than an individual’s self-interest for there to be a socially beneficial outcome. Depending on how one construes the relationship between self-interested behavior and ordinary morality, however, it need not follow that the behavior permitted by the market conflicts with ordinary morality.

Furthermore, taken on its own, the metaphor of the invisible hand does not state explicitly that exclusively self-interested behavior is required to realize socially beneficial outcomes. In Mandeville's *Fable*, however, the conflict between ordinary morality and social benefit is much more stark. Individually virtuous behavior, in Mandeville's account, is what leads to ruin in the hive. It is only through fraud (as opposed to honesty), the pursuit of luxury (as opposed to frugality), and feelings of pride (as opposed to humility), that the hive can be great. As has been discussed, the conflict to which Mandeville points depends on his definition of virtue (1732, xlvi). This, then, suggests that to evaluate the first claim of the Paretian approach to business ethics—namely, that the morality of the market permits or requires behavior that is at odds with ordinary morality—we need to examine more closely how ordinary morality is construed within the Paretian approach. In what follows, I ask whether the market is uniquely adversarial when compared to everyday life in a way that requires participants to ignore the duties of ordinary morality.

MARKET MORALITY OR ORDINARY MORALITY?

Heath's view is that "much of everyday morality has as its goal the prevention of collective action problems." As an example, he continues, "it is possible to secure certain advantages by lying, but if everyone did it, no one would believe what anyone said, and everyone would be worse off" (2007, 365). Ordinary morality, in Heath's view, requires individuals to forgo their own self-interest in ways that avoid making people being worse off. Heath draws on game theory to sharpen his point using the framework of the prisoner's dilemma.

Here is one way to formulate the prisoner's dilemma (Hsieh 2010, 67). Two suspects have been arrested by the police for a crime. If both suspects stay silent, the police have enough evidence to result in convictions that put each suspect in jail for one year. The police separately offer each suspect the following deal. If the suspect testifies against the other, and the other does not, then the one who testifies can go free while the one who does not will receive three years in prison. If both testify against each other, then they each will receive two years in prison. The prisoners are not allowed to communicate before making their decision whether to testify or not. Assuming each prisoner only cares about minimizing his own time in prison, in the standard approach to game theory, each prisoner will testify. Doing so is better for each prisoner no matter what the other does. If the other does not testify, then by testifying, he goes free. If the other does testify, by also testifying he spends only two years in jail, as opposed to three. Each prisoner would be better off if neither testified, and yet, knowing this, it remains in their individual self-interests to testify.

The situation facing the two prisoners is often used to characterize the sorts of collective action problems that commonly confront members of society.¹⁰ In the generalized version of the prisoner's dilemma (see Figure 1), the options facing the players are to "cooperate" (to stay silent, which is to the benefit of the other prisoner) or to "defect" (to testify against the other prisoner). The benefits to each player of cooperating and defecting can be summarized as in the figure. Returning to the narrative above, the numbers represent the benefit to prisoners of avoiding

| | | | |
|----------|-----------|-----------|--------|
| | | Player 2 | |
| | | Cooperate | Defect |
| Player 1 | Cooperate | (2,2) | (0,3) |
| | Defect | (3,0) | (1,1) |

Figure 1: The Prisoner's Dilemma

time in jail relative to the worst sentence, so 3 represents the benefit to a prisoner of avoiding jail altogether, 2 represents one year in jail, 1 represents two years in jail, and 0 represents three years in jail. In each pair, the number on the left is the benefit to the first player and the number on the right is the benefit to the second player.

With Figure 1 we are now better positioned to understand Heath's characterization of morality as the solution to collective action problems using his example of lying. Lying, according to Heath, is an example of defecting. If Player 1 lies while Player 2 does not, Player 1 secures certain advantages. However, if both players were to lie, they would be worse off than if they were not to lie—i.e., cooperate. If both players were to follow the injunction not to lie—a principle of ordinary morality—then the collective action problem is solved and the cooperative outcome is achieved. Hence, Heath's view that "much of everyday morality has as its goal the revention of collective action problems" (2007, 365).

According to Heath, business firms operating in the same market also are confronted with a prisoner's dilemma. To state things simply, if all firms raise their prices ("cooperate"), they all benefit. At the same time, each firm stands to benefit by lowering its price and gaining market share from its competitors ("defect"), but if one firm lowers its price, then other firms must follow suit or risk losing customers. From the perspective of overall social welfare, society is better off if firms do not cooperate and instead compete. The kind of behavior the market requires—competition—is precisely not aimed at solving the collective action problem. Given the characterization of ordinary morality as solving collective action problems, Heath concludes, "there are bound to be numerous prima facie conflicts between competitive imperatives and those imposed by everyday morality" (2007, 365).

In response to Heath, I raise a question about how much ordinary morality demands of us, especially in relation to pursuit of our own personal projects and interests. If one is a thorough going maximizing consequentialist, then ordinary morality is rather demanding. What it means to be moral is to subsume one's own

self-interest and to act in ways that maximize the overall good. For most other views of morality, however, ordinary morality is less demanding than a maximalist interpretation of consequentialism (Hussain 2012), particularly in at least two ways that are relevant for our inquiry. The first is that even if behavior is cooperative, it does not follow that behavior is required by everyday morality. Some cooperative behavior involves refraining from certain actions, but some cooperative behavior involves positive action. Everyday morality, according to these other views, is not as demanding when it comes to positive actions. We may be required to refrain from certain uncooperative actions, but there is reason to doubt whether we are required to engage in all cooperative action.

The second point is that everyday morality allows us to pursue our self-interest in ways that are adversarial. On this point, allow me to share a personal story. The International Society for Business, Economics, and Ethics (ISBEE) Congress, which is held every four years, convened last year in Shanghai, China. Thirteen years ago, it was held in Melbourne, Australia. I attended, and there I had a wonderful afternoon touring the local wineries with my wife's ex-boyfriend. My wife and he remained on good terms after their split, so my wife suggested I meet with him as he was from Melbourne and would be able to show me around. Although I started dating my wife after the two of them ended their relationship, imagine if he and I were vying for her affections at the same time. This would be an example of competition in everyday life that is morally permissible even if there are no benefits to the broader society. In fact, it seems odd to justify competition in courtship on grounds that it has positive externalities. How different, then, is the ethic of the market? If we don't owe it our competitors in the domain of courtship to refrain from beating them, do we *prima facie* owe it to market competitors to refrain from beating them?

If the market is not uniquely adversarial as a domain of activity and ordinary morality permits us to pursue our self-interest even if there is no broader social benefit, the question is whether ordinary morality has within it the resources to provide guidance to business actors. As I have argued elsewhere, a number of features recommend taking the duty not to harm as a starting point for specifying the standards that ought to apply to multinational enterprises (MNEs) in their business activities (Hsieh 2009, 2011, 2013a).¹¹ As Judith Lichtenberg writes, "no one disputes that people have duties not to harm others; these so-called negative duties are about as well established as any moral duties could be" (2010, 557). In addition, because the duty applies to all moral agents, which includes the managers of MNEs (Lane 2005, 238), framing their responsibilities in terms of a duty not to harm avoids having to assume that corporations themselves are moral agents for there to be standards that apply to their activities and policies independently of legal standards (Hsieh, forthcoming). Hence, framing the responsibilities of MNEs and their managers in terms of a duty not to harm illustrates one way to draw upon ordinary morality to frame the responsibilities of business in relation to society. This brings us to the first element of the back-to-basics approach.

At this point, it may be objected that when applied to the case of market competition, the duty not to harm would prohibit a great deal of market activity considered permissible—that is, market morality permits behavior otherwise prohibited by

ordinary morality. Activities commonly considered permissible in the market may include advertising that a competitor's products perform worse, introducing benefits to draw customers from one's competitors, or trying to attract talent away from competitors. All these activities, if successful, result in harm to competitors. So, the objection goes, if ordinary morality includes a duty not to harm, then market morality is, in fact, at odds with ordinary morality and does permit behavior that ordinary morality does not.

In response to this objection, it may help to return to the example of courtship. If it is the case that both A and B would like to marry C and A marries C, then B has been harmed. B is worse off and has been deprived of marriage to C by A's actions. Consider now the sorts of competitive behaviors considered permissible in the market. In the case of the market, I take it that proponents of the Paretian approach are not arguing that the internal morality of the market permits direct harm—say, for example, stealing from competitors, damaging their factories, or tainting their products. Instead, the harm that results from permissible competition involves depriving one's competitors of benefits they otherwise would receive, as represented by market share or profits. This sort of harm is more akin to the harm that results in the courtship example in which B is made worse off because of being deprived of the chance to marry C. There is reason to doubt that market morality is uniquely permissible with respect to harm in comparison to ordinary morality.

Rather than trying to specify a distinctive morality for the market, there is reason to hold that ordinary morality has the resources to ground a framework for the responsibilities of business and their managers in relation to society. The challenge is to focus on refining what sorts of harmful activities are permissible, a challenge to which I return at the end of this address in discussing the sorts of questions that need to be addressed to further develop the back-to-basics account. I now turn to discuss the second "basic" of the account, which involves framing the role of business in society by looking to the values realized by the basic building blocks of contemporary economic activity.

CHARACTERIZING THE ROLE OF BUSINESS

As a way into the second "basic" of the back-to-basics approach, I turn to the second claim of the Paretian approach, which is that "increasing what economists call 'efficiency,' especially variations on the idea of Pareto optimality, or the 'aggregate welfare of society,' is the most basic justification of markets, and serves as the basis for a broad range of market regulations" (Norman 2014, 23). In what follows, I first consider the justification for market activity grounded in Pareto optimality and then turn to its justification in considerations of aggregate social welfare.

The Pareto optimality justification for the market in the Paretian approach follows the fundamental welfare theorem of economics.¹² The fundamental welfare theorem holds that if certain conditions are met (e.g., no information asymmetry, well-defined property rights, no collusion), then the resulting allocation of goods, services, income, and wealth in a market is efficient in the sense that it is Pareto optimal—that is, no one can be made better off without someone being made worse off.

Regulations play an important role in helping to ensure the conditions required to ensure the efficiency of the market. Labeling requirements, for example, help to address the problem of information asymmetry between customers and sellers. Rules of intellectual property help to ensure well-defined property rights so that entrepreneurs and companies are not dissuaded from developing new products and services for fear of not being able to retain control of their innovations. Anti-trust regulation helps to ensure the sellers do not collude by setting prices or engaging in other anti-competitive behavior. The responsibilities of business managers, under the Paretian approach, are to comply with these regulations and, in the absence of regulations, to act in ways that are consistent with maintaining the efficiency of markets (e.g., not to collude in the absence of antitrust laws).

It seems, however, that many of the regulations governing markets are not easily accommodated within this Paretian conception of efficiency. Consider two examples often found in economics textbooks: rent control and the minimum wage.¹³ On one reading of the Paretian approach, such regulations should not be in place. They lead to inefficient outcomes. Yet there may be good reasons from a broader societal perspective to have such regulations. In these examples, market regulations are at odds with the Paretian conception of efficiency. In other cases, the Paretian conception of efficiency is silent on questions of regulation. Consider, for example, regulations that prohibit the sale of certain goods and services in the market, say for the reason that they are considered harmful to consumers. Justifying such regulation on the basis of a Paretian conception of efficiency involves comparing two equilibria: one in which there is no such prohibition and one in which there is. Although consumers may be better off with the regulation, the sellers of those goods and services are not. Neither allocation is Pareto superior to the other. In short, the difficulty in relying on the Paretian conception of efficiency to justify regulations is that the criterion is indeterminate when comparing allocations in which even just one person is made worse off (Hsieh 2010).

Aggregate social welfare can accommodate evaluation of these sorts of regulations, but turning to aggregate social welfare raises two questions about the Paretian or market failures approach as a guide to managerial decision making. The first is to specify the relevant conception of well-being to be maximized. In addition to the preference-satisfaction view of well-being that informs the fundamental welfare theorem of economics, there are, of course, a range of conceptions of well being that have been put forward in the scholarly literature, including the capability approach (Nussbaum 2000; Robyns 2005; Sen 1993) and the traditional view of well-being as pleasure (Bentham 1789; Mill 1863), among others (Parfit 1984). Second, if the aim is to aggregate social welfare, the question arises as to whether we are operating from within the framework of the “internal logic of the market.” In some cases, aggregate social welfare may be increased by regulating markets or by not relying on markets at all.¹⁴

None of this is to deny the value of efficiency or social welfare. Rather the point is to ask whether there are other ways to characterize the value of market activity that can provide guidance to business managers along the lines described in the introduction. This aim raises another series of questions in relation to framing the

underlying rationale for business activity in terms of the maximization of aggregate social welfare. From the perspective of an individual business manager, there are multiple steps required for any one decision to contribute to maximizing aggregate social welfare. Consider, for example, the situation of a pharmaceutical company CEO considering whether to develop a new drug. While there is uncertainty whether research to develop the drug will be successful, even after the drug's successful development, manufacture, and sale, a number of steps remain before the CEO's decision can be deemed welfare-improving. Not only must patients be able to have access to the drug, for example, but even after access there remains the question of whether patients properly take the drug. In producing and selling the drug, what value does the CEO help realize?

One answer is to frame the value of the CEO's decision in probabilistic terms. That is, the value of the CEO's activity resides in her contribution to expected aggregate social welfare. In response to this answer, consider something like genetic testing for disease. In receiving the information, a customer may be said to be better off insofar as she is better placed to address and avoid certain diseases. At the same time, with respect to certain diseases, there may be little a customer can do to prevent them and she may be worse off insofar as she experiences worry and anxiety. Furthermore, suppose there are enough people in her situation such that aggregate social welfare is less than what it would be if no customers had access to this information. Does this mean such testing should not be made available commercially?

In answering this question, I draw upon an account of the role of business I have advanced elsewhere (Hsieh 2013b, 2015a). As I have argued, in a situation such as this, one value the CEO plausibly can be said to help realize is that of autonomy. Autonomy has been defined in a variety of ways (e.g., Raz 1986). One view understands autonomy as the exercise of choice. Having even the choice to obtain the information in question is autonomy enhancing. According to another view, having the information is what matters from the perspective of autonomy. This view understands autonomy in terms of authorship or control over one's life. To be clear, the point is not that the market respects all desired choices; there are many wants and desires that remain unmet in the market (Waldfoegel 2007). Nor is this to deny the criticism raised that in some cases, business activity can give rise to wants and desires on the part of consumers in ways that undermine their autonomy, for example, through advertising (Crisp 1987). Rather, the point is that in providing a service for which customers are willing, and have reason, to pay, the CEO helps to promote the autonomy of customers. Promoting individual autonomy, rather than aggregate social welfare, characterizes the value of market activity in a way that allows economic actors to take this value directly into consideration when making decisions.¹⁵

Another value associated with market activity is what I have termed "access to livelihood" (Hsieh 2015a, 99). Recall Adam Smith's view that in the market, "the most dissimilar geniuses are of use to one another; the different produces of their respective talents, by the general disposition to truck, barter, and exchange, being brought, as it were, into a common stock, where every man may purchase whatever part of the produce of other men's talents he has occasion for" (1776, I.II.5).

While this passage raises a range of issues to consider, for our purposes the focus is the basis on which people are paid for their products or talents—namely, what others are willing to pay. In highlighting willingness to pay, I do not mean to attach any significance to the amount people are paid through market mechanisms. As I have argued elsewhere (Hsieh 2000), there is reason to reject the view that what people are paid in the market corresponds in some deep way to the bases on which people are said to be deserving (e.g., social contribution). Instead, for our purposes, what matters is that norms underlying market activity make it permissible for willingness-to-pay to serve as the basis for what people are paid. As Anderson (1993) argues, the norms of the market allow for impersonal and instrumental transactions. Under market norms, being paid depends on being able to offer something for which another person is willing to pay independently of social status, personal relationships, or even merit. This is not to deny that in reality, people may be paid more based on social status or personal relationships, or that business, more generally, does not involve social status or personal relationships. Nor is this to suggest that impersonal and instrumental transactions ought to permeate all spheres of our social lives. Rather the point is that the norms of the market make permissible a way of gaining access to livelihood that need not rely on social status, personal relationships, or merit.

I now turn to a third set of values associated with market activity that are distinct from the value of efficiency. Efficiency, as discussed above, is a criterion by which to compare different allocations.¹⁶ In focusing exclusively on efficiency as the underlying rationale for the use of markets, however, we overlook the process by which goods, services, income, and wealth are allocated in the market. The process by which they are allocated through market activity, I argue, has independent value. One way to make this case is to return to the debate over the merits of socialism and capitalism carried out by Ludwig von Mises, Oskar Lange, Abba Lerner, Frederick Taylor, F.A. Hayek, Lionel Robbins, and others. In this debate, a key question is whether the socialist planner could, in theory or in practice, direct actors in a socialist economy to replicate the efficient allocation achieved by market activity. At the same time, the debate calls attention not just to whether the outcome can be achieved, but the way in which it is achieved in the market. As Hayek writes, “This is not a dispute about whether planning is to be done or not. It is a dispute as to whether planning is to be done centrally, by one authority for the whole economic system, or is to be divided among many individuals” (1945, 520-521). Whether or not one subscribes to Hayek’s overall philosophy, what this passage highlights is a key difference in the process by which market allocations come about. They involve the independent decisions of many people in a decentralized manner. While the resulting outcome is important, the thought is that there is something to be said also for having a vibrant and robust marketplace in which individuals come together to engage with one another. These are values at the level of society as a whole.

Thus far, the discussion has focused on values realized in the market from the perspective of buyers (autonomy) and sellers (access to livelihood), and at the level of the market as a whole. In thinking about business practice, however, it is not only the market that plays a role, but also the firm. One way in which firms are distinguished from markets is to follow Ronald Coase’s well-known formulation that “within a

firm these market transactions are eliminated and in place of the complicated market structure with exchange transactions is substituted the entrepreneur-co-ordinator, who directs production” (Coase 1937, 388).¹⁷ This elimination of market transactions suggests we not locate the primary value of firms in relation to the third set of values discussed above. However, there are ways in which firms can help advance the first two values. As already discussed in the pharmaceutical company example, there is reason to value offered products and services not simply as welfare enhancing, but more fundamentally in relation to autonomy. Firms also provide access to livelihood for workers, suppliers, and investors.

At the same time, there is a case to be made that firms help realize values in addition to the ones discussed above. Briefly, the basic thought is that the intentionally coordinated nature of activity within a firm can provide an opportunity for members to participate in and contribute to a common activity with a shared purpose or end, which is of value in itself. One way, but not the only way, to understand this is to call to mind John Rawls’s idea of a “social union founded upon the needs and potentialities of its members that each person can participate in the total sum of the realized natural assets of the others” (1999, 459). What defines a social union is “that there be a shared final end and accepted ways of advancing it which allow for the public recognition of the attainments of everyone” (1999, 461). Given the amount of time employees may spend at their place of work, firms also can give rise to networks of relationships and a sense of belonging to a community. To be clear, the point is not that members of business enterprises, in fact, view their places of work as realizing these values for them. There may be many places of work that lack a shared purpose or provide a strong sense of community. Rather, the thought is that given their role as coordinators of productive activity within firms, business managers are in a position to help realize these values of shared purpose and community through business activity, values that are independent of the efficient production and allocation of goods and services.¹⁸

This brings us to the end of the brief discussion of the second “basic” in the back-to-basics approach. This “basic” considers values associated with markets and firms (the basic building blocks of economic activity) not only in relation to efficiency or aggregate social welfare, but also in terms of autonomy, access to livelihood, a vibrant and robust marketplace, shared ends, and a sense of community.

BACKGROUND INSTITUTIONS

The third “basic” of the back-to-basics approach takes into account institutions that structure economic activity and the background institutions of society more generally.¹⁹ In this section, I briefly outline the main considerations that arise for managers with respect to this third “basic.” I describe two examples in which business enterprises engage directly with society in ways that raise questions about the responsibilities and role of business in relation to background political and legal institutions.

The first example is taken from a debate that I have engaged in elsewhere (Hsieh 2015b), which concerns assigning to MNEs not only a responsibility to refrain

from infringing on human rights, but also responsibilities to protect individuals against human rights violations by third parties.²⁰ The debate is particularly relevant for MNEs operating in societies where legal and political institutions are weak or burdened. A responsibility to refrain from infringing on human rights, for example, is consistent with an approach to a corporate responsibility to not do harm, as discussed above. A responsibility to protect individuals in the exercise of their rights, however, is a responsibility normally attributed to states. One reason for this is that states have jurisdiction. In the words of Samantha Besson, “jurisdiction refers to de facto authority, that is to say the practical political and legal authority that is not yet legitimate or justified authority, but claims to be, or at least is held to be, legitimate by its subjects” (2015, 254). According to Besson,

Jurisdiction consists in effective, overall, and normative power or control (whether it is prescriptive, executive, or adjudicative). It amounts to more than the mere exercise of coercion or power, as a result: it also includes a normative dimension by reference to the imposition of reasons for action on its subjects and the corresponding appeal for compliance (2015, 254).²¹

By assigning to MNEs a responsibility to enforce the human rights obligations of other parties, the question is whether MNEs take on a kind of authority normally reserved for states and for which MNEs are not suitably organized. There are no formal mechanisms by which to hold them accountable, for example, and more generally, the ideal is that MNEs ought to be subject to the jurisdiction of states like other non-state actors and not in the position of exercising the authority of states. To be clear, none of this is to deny something like a duty to come to the aid of another party when important interests of that party are under threat (Dunfee 2005). Nor is this to deny that MNEs should do more to help establish and support appropriate background institutions to protect and promote human rights. Rather, the point is that we risk undermining the legitimacy of the state once we move to the realm of positive rather than negative responsibilities on the part of business enterprises and their managers in relation to society.

Questions about the responsibilities and role of business enterprises in relation to legal and political institutions arise not only in states that are weak or burdened or when business enterprises are asked to take on responsibilities normally associated with states. To see this, consider a second example. In 2012, General Electric (GE) decided to donate \$18 million through its philanthropic arm to Student Achievement Partners, a nonprofit consulting organization dedicated to training and supporting teachers in the use of the Common Core standards for primary and secondary schools in the United States (Rotherman 2012). GE’s contribution was the largest corporate commitment at the time (GE Foundation 2012). Although the Common Core was controversial among politicians, public policy experts, and educators, it had been adopted by 46 states at the time (Ravitch 2013). GE’s contribution to help train teachers in the use of the standards represents, in one sense, a significant contribution to the public good by a business enterprise done in a way that is supportive of its business. At the same time, questions may be raised about activities along these lines once managers take fully into account the background legal and political institutions against which their businesses operate.

At first, the concern may be thought similar to Milton Friedman's objection to the idea of corporate social responsibility. Recall that for Friedman, if a manager spends corporate resources for the social good in ways that do not maximize profits, then the manager "becomes in effect a public employee, a civil servant, even though he remains in name an employee of a private enterprise," and "if they are to be civil servants, then they must be elected through a political process" (1970). According to Friedman, because managers are agents of shareholders and shareholders are presumed to want to maximize profits, by diverting corporate resources to activities that benefit society at the expense of profits, managers in effect impose a "tax" on shareholders that is then spent to benefit the greater public. Taxation and its expenditure, however, are matters of legislation, thereby giving rise to Friedman's objection.

The questions that arise are also about legislation and taxation, but do not rely on Friedman's claim that managers are agents of shareholders. Instead, while there are questions for managers about the impact of their decisions on shareholders, for our purposes the questions are mainly externally focused. With respect to the legislative process, one question is whether there are certain issues (e.g., the content of public education) that business enterprises ought to avoid, so that business engagement occurs only after decisions are made by legislatures (e.g., training teachers in the use of accepted content). Even if it is permissible to engage in the decision-making process for certain issues, there are questions of whether that engagement is consistent with fair, democratic processes. For example, is the ability to contribute large sums of money toward specific issues or the ability to gain access to legislators through lobbyists consistent with norms of equal access and participation by all citizens in the legislative process?²² Turning to the issue of taxation, notice that many of the areas in which business enterprises devote their resources (e.g., public education), are areas over which states exercise jurisdiction and decisions about funding. One question, then, is whether engaging in corporate social responsibility (CSR) or philanthropic activities represents a displacement of the state's judgment with the judgment of business managers, even leading to a kind of crowding out of government expenditure, especially in the case of business enterprises that aggressively seek to minimize their tax burden.²³

To be certain, many of these questions are not unique to business. For example, questions have been raised about the influence of private philanthropy in relation to political democracy,²⁴ and there remains the more general question of what role private money and lobbying should play in the political and legislative process. Although it is beyond my scope to provide answers to these and related questions, the aim of this brief discussion is to underscore the point that if we do not make explicit the background political and legal institutions against which businesses operate, managers risk overlooking important questions about responsibilities and the role of business in relation to society.

Three general points emerge from this discussion of the third "basic" of the back-to-basics approach. The first is to understand the limits of what business ought to do beyond avoiding harm (the first "basic") and realizing the values associated with business activity (the second "basic"). Respect for these limits is for reasons of political legitimacy and legal authority, and not simply for reasons relating to the impact on shareholders, as Friedman argues. The second point is to acknowledge that many

of the demands made on business in relation to society arise because states may be weak (e.g., in the case of human rights) or lack resources (e.g., in the case of public education). In such situations, the role and responsibilities of business enterprises may be better understood in terms of what business can do to strengthen and support the background institutions of society rather than in terms of acts of CSR or corporate philanthropy. The third point is that by making background institutions explicit, it also becomes difficult to ignore the role of these institutions in enabling business activity itself, so that even if we leave aside the first two points, managers still must engage questions about their responsibilities to maintain and support those institutions.²⁵

CONCLUSION

If the back-to-basics account I have outlined here is headed in the right direction, there are two issues requiring attention. The first concerns developing an account of permissible risk. Almost any activity involves the possibility or risk of harm. For nonconsequentialists, this poses something of a challenge. Specifically, if there is a claim against being harmed, this suggests a claim against the risk of being harmed. However, if there is a claim against the risk of being harmed, this suggests that individuals have a claim against all risky behavior, which leads to the “problem of paralysis” in which almost all activity is impermissible (Hayenhjelm and Wolff 2012). The second is whether there are conditions under which states are sufficiently weak or burdened that business enterprises have responsibilities to engage in activities normally reserved for states, and if so, how best to reconcile these responsibilities with the account developed so far.²⁶

What these issues reveal is that while the back-to-basics approach is meant to be “basic,” it need not be simple. Instead, the sense in which the approach is meant to be “basic” is in the sense of being foundational or fundamental. That is, in thinking about their responsibilities, managers would do well to get back to basics – that is, to focus on what is foundational and to concentrate on core activities. This may not be simple. It may be rather complicated.

In closing, I want to acknowledge that this address has covered a great deal of ground. I have omitted many details and at times provided only the briefest of argumentation. For some, this address may raise more questions than answers when it comes to thinking about the responsibilities and role of business toward society. Nevertheless, what I hope to have done in this address is made the case that the back-to-basics approach is an approach worth pursuing.

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NOTES

1. This overview draws from Hsieh (2015a). Additional accounts include “order ethics” (Luetge and Mukerji 2016) and “humanistic management” (Dierksmeier 2016).
2. Friedman writes, “there is one and only one social responsibility of business—to use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud” (1962, 133). In the frequently quoted *New York Times Magazine* article, Friedman provides a slightly different formulation of managerial responsibility. He writes, “In a free enterprise, a private property system, a corporate executive is an employee of the owners of the business. He has a direct responsibility to his employers. That responsibility is to conduct the business in accordance with their desires, which generally will be to make as much money as possible while conforming to the basic rules of the society, both those embodied in law and those embodied in ethical custom” (1970). Strictly speaking, this formulation opens two avenues for managers to follow standards above and beyond what is required by the law: the desires of shareholders and ethical custom. However, most commentators interpret Friedman’s view as consistent with shareholder value maximization. For one line of response, see Stout (2012).
3. For a collection of approaches to business ethics grounded in different moral theories, see Smith (2008).
4. For an overview of the literature on corporate social responsibility, see Crane, Matten, and Moon (2008). For examples of references to the idea of a “social license” in the popular press, see Black (2013), Davis (2005), and Klein (2012).
5. This tripartite division bears some similarities to what Dominic Martin (2013) has put forward.
6. Rawls defines this as “the way in which the main political and social institutions of a society fit together into one system of social cooperation, and the way they assign basic rights and duties and regulate the division of advantages that arise from social cooperation over time. The political constitution within an independent judiciary, the legally recognized forms of property, and the structure of the economy (for example, as a system of competitive markets with private property in the means of production), as well as the family in some form, all belong to the basic structure. The basic structure is the background social framework within which the activities of associations and individuals take place” (Rawls 2001, 10). For a helpful overview, see Freeman (2007).
7. Questions about the aims and challenges extend to the field of business ethics as a whole. For discussions about the aims of business ethics as a field see Sorell (1988a, 1988b), Cowton and Crisp (1998), and Brenkert and Beauchamp (2009). For one discussion of role responsibilities and professional ethics, see Thompson (2005).
8. An example of another account that makes explicit a concern with value pluralism in a global economy is Donaldson and Dunfee (1999).
9. For one extended treatment of adversarial ethics, see Applbaum (1999).
10. There is a broader question of the extent to which collective action problems facing members of society resemble the prisoner’s dilemma. Consider, for example, the problem of which side of the street on which to drive. For a helpful discussion of the uses, interpretations, and general applicability of the prisoner’s dilemma, see Peterson (2015).
11. For an earlier account that also emphasizes a duty not to harm in the context of international business, see DeGeorge (1993).
12. For one treatment, see Mas-Colell, Whinston, and Green (1995).
13. Heath and other proponents of the Paretian approach may view such regulations as unjustified precisely for reasons of efficiency.
14. For a helpful discussion on whether it is adequate for managers to follow what market regulations would require or whether managers must have as part of their intentions the rationale for those regulations, see Smith (2016). On the relationship of corporate purpose and managerial responsibility more generally, see Smith (2014).
15. For a historical analysis of the values associated with the market, see Herzog (2013).
16. Some have argued for including the process by which an allocation arises in the description of the allocation itself (Sandbu 2007).
17. As economists have pointed out, there can be markets internal to the firm.
18. This discussion sets aside the question of whether there is intrinsic value to engage in the productive process as some have argued. For a discussion for a general audience see Crawford (2009). On incorporating a conception of meaningful work into liberal philosophy, see Hsieh (2013c).

19. Other accounts that emphasize embedding business within social and political institutions include Cieply (2013) and McMahon (2013).
20. Parts of this section follow from Hsieh (forthcoming).
21. Here Besson draws on Raz (1995, 215).
22. For discussion of the role of business in politics, see Néron (2010, 2016).
23. I thank Mihir Desai for raising this point.
24. See, for example, Skocpol (2016).
25. This last point is similar to what Norman writes about “‘the duty to engage constructively with state and non-state regulatory processes, industry competitors, and other stakeholders, to find ways to dealing with the harms associated with X’—or at the very least ‘the duty not to engage destructively with attempts by governments and others to find reasonable regulatory solutions’” (Norman 2011, 54).
26. For one discussion on this point, see Wettstein (2009, 2010).

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