Title

The Future of Corporate Ownership and Governance

Authors

Bridget Kustin, Jonathan Chan, Mary Johnstone-Louis

Abstract (120-160 words)

Corporations are failing to address sweeping societal changes and problems, and concepts of shareholding, ownership, and governance should evolve accordingly. While ownership of legal title carries with it rights to control, we ask whether and how other forms of influence or authority might become salient through alternative conceptions of corporate governance. Central to this are questions of corporate purpose: who can establish it? Can it be made to meaningfully influence corporate activities? Can the rights to financial rewards engendered by ownership of legal title (including by blockholders and family business owners) be linked to responsibilities to manage corporate purpose over time? Focusing on the importance of long-termism, corporate responsibilities and obligations toward stakeholders beyond shareholders, and empowerment and access, we present recommendations (and illustrative case studies) as pathways to transformative change and responsible business for the 21st century.

Keywords (5-10)

Ownership, corporate governance, shareholding, family business, blockholders, corporate purpose, responsible business

Introduction

This paper examines how concepts of shareholding, ownership, and governance should evolve to acknowledge sweeping societal changes and problems that corporations are failing to address. Multi-domicile corporations avoid taxation and government oversight through international regulatory arbitrage. Companies are increasingly reliant upon casual or zero-hours contracts and freelance or subcontracted labour. What does it mean to own legal title to some share of digital, data, and information-based economies[1]? And with the existential threats wrought by this Anthropocene, particularly climate change, how can firms be made accountable to parties other than their owners whose well-being they affect?

These myriad technical issues characterizing the 21st century corporation can be distilled into two main questions, which constitute the topics of this paper. First, while legal title carries with it rights to control, can other forms of influence or authority become salient not just through regulation, but through alternative conceptions of governance? Second, can ownership of assets be de jure or de facto linked to the ownership of corporate purpose? Put another way, can the rights to financial rewards engendered by ownership of legal title be linked to responsibilities to manage corporate purpose over time? This would require statutory change, as well as change to the social form of the corporation and the vocabularies used to describe it. If property rights are no longer necessarily the only rights that matter,

[1] See Zuboff's (2019) 'surveillance capitalism,' Janeway's (2012) 'innovation economy,' Haskel and Westlake's 'intangible economy' (2017), Mayer-Schönberger's and Ramge's 'big data capitalism' (2018), Schneider and Scherer's (2015) 'risk society,' and Armour, Enriques, Ezrachi, Vella (2018).

how might forms of corporate governance instantiate ‘purpose rights,’ especially when purpose may be something that unavoidably, and necessarily, evolves in time?

Following Principles B and C of the new UK Corporate Governance Code,[2] specification of purpose in a company’s articles could become a basis for governance, in conjunction with the changes to the Companies Act 2006. However, this is immediately met with numerous practical challenges: Who should determine corporate purpose? Should a corporation’s purpose be designed to endure or evolve? What are the metrics for measuring purpose? Does corporate purpose engender a new set of rights and obligations? Purpose statements developed in the absence of meaningful answers to these challenges are unlikely to yield structural or material change in corporate activities.[3] Additionally, individual diversity at decision-making levels is lacking, and corporate purpose should implicate multiple stakeholders, not just investors of equity capital.[4] Governance that remains dominated by shareholders alone risks illegitimacy. Significantly better engagement of stakeholders – taking into consideration principles of proportionality and materiality – is required to ensure the legitimacy of governance.

Attentive to the practical, policy, and philosophic goals of the Future of the Corporation project, we explore three possibilities for transformative change. At the end of the paper, we offer recommendations as potential first steps toward such change.

First, advancing corporate purpose requires parsing types of owners (e.g. ultimate beneficial owners versus legal titleholders) in order to better understand their rights and

---

[2] Financial Reporting Council, UK Corporate Governance Code (July 2018).

[3] Eccles, R.G. & Youmans, T. (2015).

[4] Mayer (2018).

responsibilities, and examine how governance might facilitate these rights and responsibilities. If the aim of a corporation is the achievement of a stated purpose, rather than the pursuit of profit for shareholders, what governance mechanisms will be required to hold board members, management, and perhaps even owners to account for the achievement of that purpose?

Second, enactment of meaningful, durable purpose cannot be solely the responsibility of senior managers and directors at the top of corporate hierarchies. The UK signals workers as uniquely significant stakeholders.[5] Yet, existential transformations to the nature of work due to technology (e.g. artificial intelligence, machine learning, automation) and new corporate forms (e.g. platform models, extensive supply chain and subcontracting models) require attentiveness to extant approaches to worker engagement and modes of evaluating stakeholder claims. These existential transformations require imagination of an imminent, but still unknowable future. While this paper surveys some existing options, new governance mechanisms that are without precedent will be needed. Whether or not council decisions (advisory in nature) are as impactful as board decisions (binding/compulsory in nature) is largely a question of corporate culture—and this culture is changing in real time as the composition of the workforces evolves.

Third, prerequisite to representing stakeholder voices, ensuring workforce engagement, increasing diversity, and a 'do no harm' purpose is the dismantling of corporations' plausible deniability surrounding their impact, whether this plausible deniability is actively maintained or the result of 'unknown unknowns'. This involves making visible that which might be invisible, and includes exercises to account for or otherwise make

[5] Good Work: The Taylor Review of Modern Working Practices (July 2017).

transparent obscured supply chains, and identifying causal links between corporate impacts and stakeholders.

Why ownership matters

The company is an entity with separate legal personality from its members, designed to further a purpose determined by its collective members.[6] Being a member[7] or shareholder of a company limited by shares can be identical in practice, at other times distinguished by members possessing voting rights.[8] However, ownership can be confusing, opaque, and outright impossible to identify. A principal challenge remains identifying ultimate beneficial owners who might not possess legal title to the shares. Accordingly, corporate governance and shareholder voting might or might not reflect the preferences of beneficial owners, rather than those entitled to vote on their behalf.

---

[6] '[A] company is an association of persons for an economic purpose, usually entered into with legal advice and some degree of formality.' See *O'Neill v Phillips* [1999] (HL). See also the UK Companies Act 2006, s. 1(1). Armour et al have identified the five legal characteristics of companies across all jurisdiction: "(1) legal personality, (2) limited liability, (3) transferable shares, (4) centralized management under a board structure, and (5) shared ownership by contributors of equity capital." (§1.2)

[7] UK Companies Act 2006, s. 112: Subscribers of a company's memorandum on incorporation or persons who agree to become members and whose names are entered into the company's register of members.

[8] See Practical Law UK (2019), 'Membership of a company, Practice Note 9-613-9765'.

There are also existing structures that companies must work within: for example, UK company law has multiple meanings of ‘company purpose,’ so any specific policy recommendations should be clear about whether they agree with or depart from legal understandings.[9] Not all share structures allow members to meaningfully participate in corporate governance. And as voting rights are often statutorily determined across jurisdictions, companies have generally already determined how voting rights will be distributed, by virtue of where they have chosen to incorporate or become publicly listed. Where companies *can* exercise discretion is in determining how many classes of shares, and whether to have multiple voting shares (in the case of private companies; public companies most often cannot due to stock exchange listing rules).

‘Rethinking the corporation’ necessarily involves rethinking assumptions and perceived truths about elements of the corporate assemblage. One such assumption is that shareholders of public companies are not accountable for the company’s actions—this is why company law is structured to place responsibility for decisions on the board. Under this conventional framework, ‘ownership’ is relevant as a legal category—a bundle of rights and entitlements—that promotes investor confidence[10]. It also shores up[11] the belief in

---

[9] Kershaw and Schuster (2019), pp. 3-8. “The term ‘company purpose’ is also deployed by UK company law in several different ways…” For example, there is rich case law on the purposes set out in the articles of association, companies cannot be formed for “an unlawful purpose” under the Companies Act 2006, and the purposes of the company are described in s. 172(2) of the Companies Act 2006.

[10] Fenwick and Vermeulen (2016).

[11] Mayer (2018). The agency problem, an idea from the 1930s that has come to acquire the force of fact, maintains that managers’ interests conflict with the interests of the owning

shareholder primacy[12]: shareholders can participate in corporate governance, shape corporate trajectories through voting rights and information rights, and participate in the economic success of the company though profit-sharing rights (e.g., receiving dividends). And yet, shareholders are not accountable for the actions of the company beyond the value of their shareholdings. In the words of one informant to this report, "companies get all these rights, [they get] limited liability, [they can] raise money on stock markets we've created, and [society] needs to set the rules of the game."

Owners can exercise control of companies through market control mechanisms, even as stock markets facilitate anonymous acquisition of shareholdings, shielding owners from responsibility or accountability if the corporation does harm. Family owners are sometimes

---

shareholders. The role of owners—that is, shareholders—has thus been understood primarily as one of *control* over the self-interest of managers. The conventional view of the purpose of the corporation, advanced by Milton Friedman in 1970, is the financial maximization of shareholder returns. The incentive for owners to actively engage in corporate governance is profit-sharing rights. *G20/OECD Principles of Corporate Governance 2015* (2015: 20). OECD Principles of Corporate Governance include the following: "Basic shareholder rights should include the right to: 1) secure methods of ownership registration; 2) convey or transfer shares; 3) obtain relevant and material information on the corporation on a timely and regular basis; 4) participate and vote in general shareholder meetings; 5) elect and remove members of the board; and 6) share in the profits of the corporation." Ownership also includes information rights, allowing shareholder to participate in corporate governance on an informed basis.

[12] Stout (2013).

identifiable ('our name is on the door,' as families say); reputational risk and perceived or real community accountability in these cases can promote responsible ownership and business practices, for private and listed companies alike.[13] However, many family owners or blockholders assiduously guard their identity through various holding structures, "tucked away", as one informant described, from accountability and questions of responsible ownership, and rendering governance of their companies non-transparent.[14]

Some research suggests that corporate behaviour is impacted less by the identity of the owner than by properties of the owner, eg. how diversified they are. While dispersed ownership (having many shareholders without a controlling shareholder) is generally considered healthier for governance, it also facilitates more anonymous ownership, with less readily identifiable routes to influence or control. Most of the investment in the FTSE100 is conducted by institutional intermediaries on behalf of retail investors. How should individual beneficial owners be responsible owners of the ever-shifting portfolio of companies represented in their index fund?

As one informant to this report reminds us, ownership can also be "a form of soft power", with owners setting important aspects of corporate culture. (Ir)responsible ownership becomes particularly salient if and when private companies become large, multiplying their impact, or when companies shaped by a responsible purpose or responsibility-minded values of owners transition to new forms of ownership (i.e. dispersed, blockholding, anonymous

---

[13] Kustin, B. (2017-2019); Kustin, B. and Johnstone-Louis, M. (2018-2019)

[14] C.f. Cheffins (2013), who explains that companies with controlling blockholders listed on the LSE do not pose a serious threat to UK corporate governance because of 'regulation of related party transactions, shareholder remedies, reputational concerns, relationship agreements and independent directors' (532).

owners, separation between beneficial and legal owners). Policy recommendations could address stock exchange listing rules, to facilitate ownership that promotes corporate purpose. For example, regarding the constitution of the firm when a company goes public; specifying commitment to purpose as important as part of directors' responsibility; establishing governance and ownership forms that demonstrate that the stated purpose will be upheld. It is unclear, however, how this can be done in a way that does not inspire regulatory competition, with companies moving to exchanges without such requirements.

There are structural and legal challenges to identifying members, based on how shares are held and by whom. Non-transparency of members and other owners can be intentionally created and maintained through legal forms designed to obscure their identity, including limited partnerships, foundations, trusts, and other holding structures.[15] Securities can be held directly or indirectly through intermediaries on behalf of the beneficial owner.[16] Intermediation is not inherently or solely meant to render ownership non-transparent; it is a necessary consequence of immobilisation and dematerialisation of shares (allowing for electronic trading and settlement, rather than paper holdings), and it carries system-wide advantages allowing owners with disparate objectives around the world to quickly settle and trade securities.[17] In these cases, the legal title holder may be the intermediary (e.g. a broker) or even a central securities depository—but is neither the person beneficially interested in the shares, nor the entity who provided the intermediary with the capital to purchase the shares.

[15] Harrington (2016).

[16] Gullifer and Payne (2019), 'Intermediation and Beyond' Workshop Series, Commercial Law Centre, Harris Manchester College, University of Oxford.

[17] Gullifer and Payne (2019: 1-2).

UK company law has not kept pace with this reality; it 'tends to assume direct holding, or, at best, only one level of intermediation' whereas in practice securities are held 'through a chain of intermediaries.'[18] This matters because, for example, members of the securities intermediation chain only possess contractual rights to bring actions against members immediately above and below, resulting in less enforceable rights against the company.[19]

Additionally, different ownership classes have different rights across jurisdictions for cultural, commercial, and regulatory reasons.[20] Privately-held companies tend to be left out various efforts bolster purpose or improve corporate governance. Private companies can be disaggregated into private company subsidiaries of UK-listed parent companies, companies owned by private equity investors, UK subsidiaries of foreign parent companies, founder or

---

[18] Gullifer and Payne (2019: 10).

[19] Gullifer and Payne (2019: 13). Effect in practice illustrated by Eckerle v Wickeder (2013 EWHC 68), where the English Court of Appeal held that a beneficial owner could not make an application to cancel a shareholder resolution to re-register the public company as private, because this right under s. 98 of the Companies Act 2006 is only available to legal titleholders of the shares. However, beneficial owners who are multiple intermediaries away from the legal titleholder may possess statutory claims against the corporation: see SL Claimants v Tesco plc (2019 EWHC 2858) (Ch).

[20] The OECD Principles of Corporate Governance acknowledge the diversity of interests, objectives and investment holding periods of shareholders: 'The corporate governance framework should protect and facilitate the exercise of shareholders' rights and ensure the equitable treatment of all shareholders, including minority and foreign shareholders' (2015: 18).

family-owned businesses, mutual and co-operatively owned companies.[21] Each has distinct ownership structures and attendant manager-member accountabilities. Private equity owners are expected to play active roles on the boards of their portfolio companies, facilitating close monitoring of company activities and often strong board governance. However, fund managers are investing on behalf of their clients, who play no role in the companies.

Subsidiaries pose another set of governance challenges: listed parent companies can be legally held to account for the actions of their subsidiary companies; subsidiaries are also usually covered by governance statements of their parent companies. This can engender 'personal and corporate conflicts for the subsidiary directors between duty to the company and its stakeholders and their duty to the parent',[22] and subsidiaries' ongoing dependence on parents for capital can create ongoing potential conflicts.[23]

Culture also matters: the US dual class share model is the result of New York Stock Exchange rules, not legislation. The nonexistence of dual class shares on the London Stock

---

[21] Association of Financial Mutuals (2018).

[22] Institute for Business Ethics (2018).

[23] Including, as the Institute for Business Ethics notes, 'related party transactions, transfer pricing and the willingness of the parent to commit sufficient resources for stakeholder engagement and reputation management. Also, where the parent sets the remuneration policy for the subsidiary, performance conditions can be calibrated in such a way as to direct benefits to the parent rather than to the long-term interests of the subsidiary itself.' Institute for Business Ethics (2018: 4).

Exchange is mostly cultural; institutional investors, a culturally influential entity in shaping UK governance rules, do not like how they reduce their voting power.[24]

Establishing appropriate structures elicits technical, legal feasibility concerns: members' rights deriving from ownership of a share or stock, including those relating to voting, are statutorily prescribed, e.g. from the UK Companies Act 2006, or from legal instruments such as corporate governance codes or stock exchange listing rules. These rights cannot simply be re-allocated; changing structures and the decisions members are expected to make can have statutory knock-on effects.[25] In the words of one informant to this report, there is a need to be "very careful about identifying a new notion of members". Another simply cautioned, "you can't let the tail wag the dog". This leads to several questions: Are there ways to influence shareholder behaviour that does not rely on statutory change? How might protections for shareholders (minority or otherwise) be extended to other stakeholders, e.g. workers, consumers, and communities where companies operate?

Long-termism

---

[24] Armour and Skeel (2006: 1727, 1736). The authors observe that in the UK, '[d]ual-class voting stock, though not directly prohibited, is strongly frowned upon by institutional investors.'

[25] The G20/OECD Principles of Corporate Governance make clear that 'Any changes in economic or voting rights should be subject to approval by those classes of shares which are negatively affected.' The OECD Principles also state 'The optimal capital structure of the firm is best decided by the management and the board, subject to the approval of the shareholders' (OECD 2015: 24).

Interest in 'long-termism' has grown in a variety of contexts (investing, ownership, corporate strategy, measurement), noted as a contributor to financial performance as well as positive social and environmental impacts. Long-termism is a signature feature of the growing field of 'mission investments,' and 'we think in generations, not financial quarters' is an oft-heard sentiment in the family business community.[26] The term is nevertheless vague. As one informant for this report observed:

> [Family] owners tend to say they are in it for the long term… [such] owners certainly wish to do nothing else in their business lives than look after their company. But I would also venture to say it's very hard, in everyday business life, to separate a long-term view from the realities of today… It's a big ask to stick your head above the everyday needs of the business and develop a long-term strategy… and by that 'long term' probably only really means three to five years, at the very best.

While loyalty shares can be one avenue for minority shareholder protection,[27] they can also unfairly shore up strategic advantages of long-term oriented blockholders. When rethinking advantageous share structures, incentives could be developed to steer capital away from exceedingly short-term ownership that is exclusionary and creates excessive risk (i.e. the 'flash crashes' caused in part by algorithmic high frequency trading), without reducing liquidity needed in markets.[28] Most importantly, long-termism could be explicitly rewarded: time-dependent shares could tie voting rights to the time period shares can be held into the future, not the length shares have been held in the past. This could be accomplished by

---

[26] Kustin, B. (2017-2019).

[27] Kurtulan (2017: 101).

[28] Coombs (2016).

creating a class of shares where voting rights are proportionate to the length of time that shares are non-transferable into the future. Rewarding future long-term share ownership with increased voting power rewards guaranteed long-termism.

When should corporate purpose be determined?

The question of when purpose is determined implicates different actors and components of the corporate assemblage, and thus different pathways to control and influence. These pathways to control and influence are also dependent on the corporation's life stage during the determination of purpose: e.g. new, existing, shifting from public to private or vice versa, undergoing restructuring involving changes to domicile, subsidiaries, or mergers and acquisitions.

If corporate purpose is determined prior to formation of the corporation (e.g., Benefit corporations[29]), then purpose clauses can be placed in the company's charter or articles of association. It is then the board's job to oversee ensure managers' actions steer the company towards its purpose. In this scenario, the board is the venue for ensuring appropriate stakeholder representation. The board's task is therefore less about formulating purpose, and more about holding the company to account in pursuing purpose.

If purpose may be determined at any time, then the board's job is indeed to formulate it. Members with voting rights may effectively determine purpose by voting managers in or out (as a caveat, voters can have short memories, and their voting decisions may not impact

[29] Clark Jr, and Babson (2012). See also https://bcorporation.net/certification.

firm activities in the way they intend[30]). However, can beneficial owners be engaged, when they seek to remain hidden and have been thus far content to delegate governance functions to intermediaries? As noted earlier, they can retain control without necessarily exercising responsibility, or having personal accountability. In the words of one informant to this report:

> Somebody who isn't familiar with the business will always want to do good, they want to keep everybody [employed], they want to be greener than the next guy. But they also want to have more cash so they can send their kids to school and grow the company. I'm being a little bit facetious now, but you can hear what I'm saying.

There is space for firm and industry-level innovation in the area of beneficial owner engagement. For example, index fund managers could survey clients regarding their preferences on a variety of issues, leveraging technology to produce aggregate preference data, and then using the aggregate data to direct their voting.[31]

Market for corporate control

A healthy market for corporate control ensures that managers and directors are accountable to shareholders for corporate decisions and have the necessary freedom to act in

---

[30] Armstrong, Gow, and Larcker (2013) found that in the case of excessive CEO compensation, voters had little impact: when shareholders rejected a compensation plan, management simply asked and received more equity compensation the following year (913).

[31] Griffin, Caleb. 13 May 2019. Blog Post, Faculty of Law: 'We Three Kings: Democratizing Voting at the Index Fund Giants.' University of Oxford. https://www.law.ox.ac.uk/business-law-blog/blog/2019/05/we-three-kings-democratizing-voting-index-fund-giants.

the long-term best interests of the company, otherwise shareholders can vote directors and managers off the board and out of the company. This assumes shareholders have appropriate incentives to manage managerial agency costs,[32] and that shareholders should have a greater say in decisions of the corporation because "markets are intrinsically superior to institutions as coordinators of production."[33] The general critique of this theory is that while the threat of shareholder activism and takeovers incentivizes disciplined management, the market for corporate control may contribute to short-term or myopic decision making.

However, scholars have argued that the case both for and against stronger markets for corporate control is dependent on overly simplistic-to-faulty economic assumptions that ignore relevant variables.[34] This research suggests the need for a 'moratorium' on policy prescriptions geared toward either "shareholder empowerment" or "management insulation," because the status quo market for corporate control functions well enough.[35]

That being said, the existence of reciprocal obligations will not necessarily promote purpose: the impact of culture, for example, can override legal obligations. For example, Japanese company law, like the UK and US, provides a high degree of shareholder protection and shareholder voice. However, US hedge fund activists have largely not succeeded in initiating capital restructuring changes in Japanese firms such as shareholder buy-backs and higher dividend payouts,[36] due to culture. In Japan, corporate law is "only a marginal factor

---

[32] Bratton and Sepe (2019: 3).

[33] Bratton and Sepe (2019: 16).

[34] Bratton and Sepe (2019: 4).

[35] Bratton and Sepe (2019: 4, 6).

[36] Buchanan, Heesang Chai, Deakin (2012).

in shaping economic behaviour and outcomes," in the context of hedge fund activism.[37] US hedge funds complained of a lack of support from Japanese shareholders when agitating for perceived shareholder value-creating proposals, whereas Japanese shareholders "tended to share the view that Japanese companies should not be run purely to maximise shareholder returns" and "were investing to maintain business relationships."[38]

Workers and the future of labour

Responsibility for the enactment of meaningful, durable purpose cannot rest with senior managers and directors alone. While operational responsibility should be fully acknowledged within governance, a more distributed governance structure is needed, with greater decentralization of the interests represented in decision-making. While mindset is also key—there should be a genuine desire to hear other voices, and act upon their guidance—this is an aspirational stance. Until the broader market ecosystem supports this, inducements are needed to ensure the inclusion of multiple voices. These include legal reforms and regulation, pecuniary incentives, cultural reform, stakeholder pressure, and behavioural nudges.

How are firms currently being made accountable to parties other than their shareholders and owners?[39] As of January 2019, the UK Corporate Governance Code

[37] Based upon quantitative financial analysis and qualitative interviews with over 100 managers and investors. Buchanan, Heesang Chai, and Deakin (2014: 16).

[38] Buchanan, Heesang Chai, and Deakin (2014: 16).

[39] See Paper 3, "On Ownership," for a discussion that parses types of owners (from shareholders to ultimate beneficial owners to subsidiaries' parent companies) and the various rights and responsibilities afforded to them.

requires premium listed companies in the UK[40] to include the workforce voice through at least one of the following: 'a director appointed from the workforce; a formal workforce advisory panel; a designated non-executive director.' If the board has not chosen one or more of these methods, it should explain what alternative arrangements are in place and why it considers that they are effective.'[41]

While the first two requirements are relatively transformational governance changes, the requirement to have a designated non-executive director to engage with the workforce may undermine the rule's ability to meaningfully promote worker voices. Since the UK Corporate Governance Code already requires boards to have an appropriate composition of executive and non-executive directors, designating one non-executive director to engage with the workforce is an exceedingly light-touch prescription that can reduce the incentive of companies to undertake more substantive reform, such as establishing a workforce advisory panel or having a director drawn from the workforce. Additionally, a designated non-executive director may not meaningfully represent workers' interests and voices – non-executive directors simply represent interests other than a managerial perspective, and will

[40] In lieu of a premium listing, companies can be listed on the 'Standard segment' of the Main Market of the London Stock Exchange (LSE) in the UK, which is still on the LSE but is purposefully subject to less strict governance and regulation. AIM, for example, is a stock exchange operated by the LSE for small to mid-sized companies. The UK Corporate Governance Code does not apply to companies listed on the Standard segment of the Main Market or on AIM, although companies could voluntarily choose to comply or explain with the code.

[41] Financial Reporting Council (2018: Provision 5).

only represent workers to the degree the non-executive director meaningfully engages with the workforce.

Arguably, the option for companies to appoint a designated non-executive director should be removed, requiring companies to appoint a workforce director or construct a workforce panel. Or, companies should disclose details of how the designated non-executive director is substantively engaging with the workforce (e.g. by chairing a workforce advisory panel).

In any case, given the shift away from 'employees' to other forms of workers, such as 'independent contractors,' models of employee governance are likely to become outdated. The economy continues to shift away from formal employee-employer relations, excluding the increasing percentage of the workforce that does not hold full-time, steady employment with a single employer. This is in tandem with the rise of digital, data, and information-based economies, and has helped beget corporate behemoths whose profits are aided by their reliance upon a largely casual or independently-contracted workforce (e.g. Uber and Amazon).[42]

As the definition of 'employee' and the future of work itself is changing, evolving clarifications will be needed regarding what 'better engagement' with multiple stakeholders

---

[42] See Khan (2017) on the anticompetitive concerns raised by Amazon, Zuboff's (2019) 'surveillance capitalism,' Janeway's (2012) 'innovation economy,' Haskel and Westlake's 'intangible economy' (2017), Mayer-Schönberger's and Ramge's 'big data capitalism' (2018), Schneider and Scherer's (2015) 'risk society,' and Armour, Enriques, Ezrachi, Vella (2018).

might mean. More than 1.3 million people work in the gig economy in the UK. [43] Research from the Chartered Institute of Personnel and Development (CIPD), the UK's professional body for Human Resources , suggests that the majority of these (63%) 'believe the Government should regulate to guarantee them basic employment rights and benefits such as holiday pay.[44] The engagement models sketched in this section present unique challenges when considering the precarious workforce: tenures on a council or a corporate board might not match the length of precarious work contracts. 'Independent contractors' do not have the same legal claims upon the company as employees. Indeed, independent contractors generally do not have any legal claim against the company, other than the specific rights for which they have contracted. In response to the increased casualisation of the UK labour market, the Taylor Review (2017) recommended that the government introduce the designation of "dependent contractor" to refer to "people who are eligible for 'worker' rights by who are not employees":

> There should be a clear distinction made between dependent contractors and those who are legitimately self-employed. Individuals who prefer flexible working should be allowed to continue but they should be granted fairness at work. This fairness could include paths to ownership, information, and governance mechanisms.

---

[43] Chartered Institute of Personnel and Development, *To gig or not to gig? A report on the modern economy*, (17 March 2017) https://www.cipd.co.uk/knowledge/work/trends/gig-economy-report.

[44] Chartered Institute of Personnel and Development, *To gig or not to gig? A report on the modern economy*, (17 March 2017) https://www.cipd.co.uk/knowledge/work/trends/gig-economy-report.

This fairness might also involve shifts in traditional forms of collective bargaining or union activity, with new, creative protections needed to mitigate harmful impacts from the evolving nature of work. For example, where companies might cut jobs due to technological advances such as automation or artificial intelligence, collective bargaining could 'ensure that the productivity gains are shared with incumbent workers, blunting incentives for excess automation.'[45]

While discussions around the future of work are usually critiques, one argument regarding a benefit of the shift away from employees to independent contractors is the deployment of 'dormant human capital.'[46] However, this perceived benefit centres the well-being of the corporation above the well-being of individuals, families, and communities that are, on balance, greatly harmed by the casualization and elimination of regular, full-time employment.

Overview of some current options for worker engagement

Worker representation currently fares much better in European Union countries than in the United States, although for the latter there does exist a precedent of 'worker-oriented, industrial paternalism' from the 1950s to 1980s.[47] Today in the EU, there are four main mechanisms for worker engagement:

> 'involvement in the composition of the top management team (in large Slovenian companies, in Polish privatised companies, in German companies in the iron and steel

---

[45] Naidu (January 2019).

[46] Lobel (2017: 52).

[47] Davoudi et al (2018: 37).

sector); worker representation at annual general meetings (in France, Bulgaria, Hungary, the Netherlands and Sweden); worker representation in boardrooms with a consultative voice (in France, Romania and Sweden) and worker representation in boardrooms with decision-making power (across Europe).'[48]

These options, and a few others, have their own benefits and challenges:

1. Employee advisory councils: Employee or workforce advisory councils could be created, perhaps at multiple levels (local, national, international), reflecting decentralization of decision-making and empowerment of local teams. However, these might not lead to meaningful change if corporate leaders including owners, board members, or senior management are free to dismiss guidance from the councils.

2. Two-tiered boards: Similarly, two-tiered boards risk being an exercise in representation in form, rather than content. Management representatives may be reluctant to share information at board meetings with worker representatives for fear that information which should remain confidential will be leaked to unions or employees. But withholding information prevents employee representatives from participating meaningfully in corporate governance.

As another example of the two-tiered board's shortcomings, the German co-determination board model does not necessarily empower employees meaningfully. In Germany, the proportion of employee representatives on the supervisory board increases with the size of the company. Companies with less than 500 employees are not required to have

[48] Conchon (2015: 6).

employee representatives; companies with 500 to 2000 employees are required to have one-third employee representation on the supervisory board; it is only companies with more than 2,000 employees that must have equal board representation between employees and shareholders. Yet, even under German parity co-determination, the chairman (who is elected by the shareholders) always has the tie-breaking vote (which in practice is rarely used because of political consequences with unions).[49] Co-determination may also lead to 'polarization' between employee and shareholder representatives. In Germany, employee representatives 'regularly meet previously in a caucus and tend to discuss and vote as a single body,' which hinders effective dialogue and discussion at board meetings.[50] Of co-determinism, one informant for this report opined, "you do it for political reasons, you don't do it to make business better".

3. Internal Stakeholders' Council: An internal stakeholders' council, independent from unions and with clear rules to define the nature of the relationship and information sharing, could be created to facilitate dialogue between these stakeholder consultative bodies and management.

4. Employees on boards, with equal voting rights: Unless the statutory framework provides for employee voting or mandatory employee consultations, non-unionized employees are left without a formal means to impact corporate governance. Where workers

[49] See Davies and Hopt (2013: 35).

50 See Davies and Hopt (2013: 36-37).

are represented on boards, country and culture affect how discussions and strategizing unfold, and thus the resulting outcomes.[51] As Hopt and Davies (2013) note:

> 'Mandatory employee representation presupposes that conflicts between capital and labour can be solved within the board by information, discussion, and compromise. If there is a tradition of confrontation between the employers and the trade unions as in Italy, or if there is a strong tradition of collective bargaining as in the UK, or if there are other path-dependent reasons as in Belgium and Switzerland, co-determination at the board level does not exist' (33).

Where worker participation rights are low or where workers do not have a board presence, transitioning to a worker board presence will likely be met with resistance, as a dilution of non-employee power. In order for new individuals to have voting rights, others will experience a proportional loss of voting rights and control over the direction of the firm. It remains a challenge to determine how should boards manage trade-offs between stakeholders. While employees can obtain voting rights if they are given equity in the company, most models of formal employee representation on boards grant voting or decision-

51 In a 2016 report, the Trades Union Congress points out that employee voting rights are common in the EU: 19 out of the 28 member states, plus Norway, 'have some provision for workers' representation on company boards, and in 13 of these the provisions are extensive, applying across much of the private sector.'51 The Trades Union Congress also cites a positive correlation between worker participation rights, including board representation, and country-level scores on 'R&D expenditure, employment rates, educational participation among young people and educational achievement among older workers,' and even reduced poverty, inequality, and reliance on traditional carbon energy.

making rights only to employee representatives. Employee board representatives make decisions; employees themselves aren't given voting rights, except to appoint their board representative(s).

Shifting the balance of power more toward employees—an even taller order—involves giving employees not only voice (which runs the risk of being heard but dismissed), but influence. While such influence might stop short of the ability to formally control decisions of the firm (this would be retained by directors who delegate authority to management and are accountable to shareholders), it might still have profound consequences for company culture and practices. However, employee empowering models would likely be less effective in the UK than in Germany, for example, where the prevalence of unions is much higher.

5. Changes to voting: Rather than increasing the range of stakeholders voting, there can be shifts in what can be voted upon. For example, employees could be given the ability to vote on particular matters relevant to their livelihood, such as mergers.

There is some empirical evidence that providing employees with equity voting rights is detrimental to firm value: a 2006 study found that publicly traded US firms with more than 5% employee ownership 'deviate more from value maximization, spend less on new capital, take fewer risks, grow more slowly, create fewer new jobs, and exhibit lower labour and total factor productivity' in statistically significant ways than public firms with less than 5% employee ownership.[52]

It is also important to note that the framing of what is being voted upon matters: in the UK, shareholders can vote for the appointment and removal of directors. While it is

[52] Faleye, Mehrotra and Morck (2006: 490).

technically fairly easy to remove directors in the UK (since a 5% shareholder can call a general meeting, and then propose a new set of directors), this is not typically framed as a right of shareholders to remove the board – it is a right to call a meeting and vote upon matters proposed.

6. Incentivisation for "purposeful" conduct: If purpose is to be taken as providing "profitable solutions to the problems of people and planet", remuneration committees of the future may develop remits to incentivise and reward purposeful conduct. Trusteeship may become a formal board obligation, although there will need to be incentives to facilitate such a profound mindset shift.

Unions

Historically, unions were powerful ways of leveraging common individual interests into a collective voice, ensuring 'economic redistribution via higher wages for unskilled workers, better workplace amenities and allocations of control rights inside the firm, and political representation.' However, unions are increasingly 'artefacts' of an earlier organizational, legal, and technological era.[53] The rise of the 'platform economy' has turned workers into independent contractors; artificial intelligence and automation are replacing workers; and the rise of casual, zero-hours contracts are replacing more stable forms of employment.

While workers are concerned with pay, benefits, political representation, and a voice in decision-making, they might not necessarily prefer individual voting rights as the means to

[53] Naidu (January 2019).

advance their interests. Nor would individual voting rights necessarily provide a means for advancing their interests. For example, shareholder activism by union or labour-based institutional investors may be an effective means of influencing corporate governance. Union pension funds in the United States have been found to exercise proxy votes to advance union labour objectives rather than solely pursuing shareholder value.[54] Furthermore, there is evidence suggesting labour-friendly policies may enhance firm value: one empirical study of companies announcing 'labour-friendly policies' found that they led to statistically significant positive abnormal stock returns, and found a positive relation between labour-friendly policies, employee productivity, and company value.[55] Policy changes can adapt unions for the modern era, allowing them to serve as an effective vehicle for employee representation.

Stakeholders beyond workers

This paper presents some existing routes to influencing corporate governance for stakeholders beyond managers and members or shareholders. As changes to the nature of work are already reshaping corporations, the most relevant or effective types of possible stakeholder engagement and accountability might be without precedent. This final set of observations focuses on stakeholders beyond workers, particularly in the context of globalization. We address concerns around supply chain, tax and national jurisdiction, environmental impact of corporate activity, and questions of participation, diversity and inclusion.

---

[54] Agrawal (2012: 189).

[55] Faleye and Trahan (2011: 2).

Supply chain stakeholders are implicated in the multinational profile of large companies, but are often invisible. A prerequisite to creating a space for the meaningful expression of the voice of these supply chain stakeholders is first rendering them visible. Achieving this visibility can be accomplished through a number of creative ways. First, through regulations designed to render visible obscure and/or particularly lengthy supply chains. For example, the UK Modern Slavery Act 2015 requires companies operating in the UK with global annual turnover exceeding £36 million to publish annual slavery and human trafficking statements disclosing how the company has ensured modern slavery is not occurring in their first-tier supply chains.

Secondly, by focusing on managers and members or shareholders alone excludes public accountability, thereby reinforcing conventional views of the corporation (including the agency problem, shareholder primacy, and shareholder profit maximization). Linking taxation to physical corporate activities is one way to address this. Akin to the 'Tax in the Boardroom' project discussed by Marnix van Rij in Case Study 1 of this paper, companies could publish their global effective tax rate and compare it to their global statutory rate.

Organisations inevitably create negative externalities, whether by design, accident, or by-product. Firms – and industries – need mechanisms for evaluating the extent of the negative externalities they produce (the drive to move beyond traditional cost-based accounting begins to address this). Protocol for redress must exist, although over-extension of legal liability could threaten the survival of the corporation. This becomes particularly important when considering obligations regarding purpose, because the term is open to interpretation. As one informant to this report explained: 'Finances are easy to measure. If you state a wider purpose beyond finances, some NGO could decide you are not doing it well enough and you might be sued. This makes people nervous.'

Central to this framework is the notion that corporate damages should not be allowed to continue without some sort of mechanism for correction. However, when assessing damage caused by a corporation, how far along supply chains do boundaries lie? One starting point is measuring and disclosing environmental impacts along the entire supply chain. This topic is drawing increasing political attention; Liberal Democrats have recently called for businesses to articulate objectives to reduce their environmental footprint and assess the degree to which company growth is occurring at the expense of the environment. The party is also calling for quantified goals articulated in absolute terms, and not relative efficiency terms.[56]

Finding agreement on appropriate means of stakeholder engagement beyond workers will be challenging. One interviewee for this piece noted that the line of argument could easily devolve into a "very dangerous distraction, causing doubters to doubt even more and people to panic". Another stated:

> If you're working for the company, you could be compensated with money or holidays or maybe shares. But let's not forget [owners] are taking a risk. I have not wrapped my head around other people participating in this great experiment which has probably enriched the world more than anything else, which is property rights, or the establishment of corporations per se. Who says you are legitimised to partake in the success or failure of the corporation? It makes me nervous because I also know that the great experiments in the past [have sometimes] been terrible failures.

Diversity and inclusion

[56] Liberal Democrats Business & Entrepreneurs Network's 'Responsible Business-A Manifesto' (de Selliers, 2018).

Finally, in keeping with the transformational aims of The Future of the Corporation project to alter the existential purpose, governance, and social position of the corporation—and not just advocate for marginal tweaks to the status quo—the legitimization of corporate governance requires that those governing should strive for equality of access. The legitimacy of corporate purpose is compromised without diversity among members and management.

One starting point for discussions on diversity is gender: a significant amount of research has demonstrated that increased presence of women on boards is correlated with better financial performance.[57] The 30% Club, an activist initiative operating across several countries with broad corporate support, advocates for companies attaining board compositions of at least 30% women.[58] Likewise, there is increasing attention to racial diversity, challenging the preponderance of white males on boards and white male corporate culture more broadly.[59]

However, other research suggests that promoting gender diversity is correlated, on average, with worse performance.[60] Some studies suggest the performance evidence

---

[57] Desvaux et al, 2010; Devillard et al, 2013; Newcombe, 2013.

[58] The 30% Club has an excellent repository of research relating to the numerous benefits of increased female participation on boards. See https://30percentclub.org/resources/research-articles.

[59] Prime, 2013; Hsieh et al, 2018.

[60] Adams and Ferreira (2009) find that board gender diversity on average has negative performance outcomes. This should not be taken as an anti-feminist position; on the contrary, Adams (2016) offers this explanation: 'Can female directors help save economies and the firms on whose boards they sit? Policy makers seem to think so. Numerous countries have

correlated to increased gender and racial diversity is inconclusive,[61] with many studies showing stronger performance but many studies showing no impact or negative impact.[62] The most honest sell for board diversity is thus that it is the right thing to do, not that it yields unequivocally positive performance outcomes. In this sense, a robust commitment of

---

implemented boardroom gender policies because of business case arguments. While women may be the key to healthy economies, I argue that more research needs to be done to understand the benefits of board diversity. The literature faces three main challenges: data limitations, selection, and causal inference. Recognizing and dealing with these challenges is important for developing informed research and policy. Negative stereotypes may be one reason women are underrepresented in management. It is not clear that promoting them on the basis of positive stereotypes does them, or society, a service.'

[61] In a leading meta-analysis of female board diversity and firm performance, Post and Bryon (2015) acknowledge that "the evidence is mixed". See Post and Bryon's (2015: 1546) discussion of the evidence in support and against more female directors increasing firm performance. Post and Bryon (2015: 1559) find that "firms with more female directors tend to have higher accounting returns but not necessarily stronger market performance", and that "firms with more female directors have better market performance in countries with greater gender parity."

[62] Carter, Simkins and Simpson (2003) find a positive relationship between racial and gender diversity on boards and firm value among *Fortune 1000* firms; Ntim (2015) finds a positive relationship between ethnic and gender board diversity and firm value in publicly listed South African firms; Terjesen, Barbosa Couto and Morais Francisco (2015), in a study of almost 4,000 firms in 47 countries, find that firms with more female directors have better performance (Tobin's Q) and return on assets.

corporations to improving board-level gender and racial diversity can be understood to demonstrate a true commitment to a particular ethical stance.

Going beyond this, a commitment to *intersectional* diversity[63] holds the potential to prevent broader stakeholder inclusion from devolving into a 'box ticking' exercise that does not meaningful challenge extant power structures that determines who can have seats at the table. Intersectionality identifies that elements of an individual's identity, e.g. race, gender, class, and sexual orientation, interact in ways that shape the uniqueness of that individual's experiences. An intersectional approach to diversity means recognising that when individuals are accommodated within frameworks that address only one factor, e.g. race, all elements of their identity risk marginalization, as they remain unacknowledged.

Recommendations

Based on interviews conducted for this paper, and on the review of the relevant literature, our recommendations, grouped into three categories (rights and responsibilities of ownership and governance; workers as key stakeholders; and stakeholders beyond workers), aim to support four overarching goals:

1. Long-termism: Holistic stakeholder value is created over the long-term, and so should be measured across years, decades, and even generations – not exclusively in financial quarters. One informant referred to a long-term approach as 'sustainable stewardship.'

[63] Crenshaw, 1991; Crenshaw, 1989.

2. Reciprocity, emphasizing corporate responsibilities and obligations toward stakeholders: Responsibilities and obligations of shareholders and other stakeholders, in the words of one informant, 'have to be a two-way street.' Stakeholders include full-time employees and irregular workers, legal titleholders, beneficial owners and directors, as well as those involved along corporate supply chains.

3. Transparency and trust, focusing on access to information. As one interlocuter explained, this will be a 'required characteristic of trust in business for the future.'

4. Empowerment and access: Empowerment of the disempowered is an ethical imperative when considering structural, systemic bias and inequality and the harm they engender. This also impacts who should have the power and privilege to determine corporate purpose, and which stakeholders should be represented in formal governance mechanisms.

Rights and responsibilities of ownership and governance

1. Publish a Statement of Purpose: The board should publicly articulate the purpose of the corporation, including identifying stakeholders who materially contribute to the achievement of that purpose, and develop governance structures that unambiguously reflect this contribution. The firm's purpose should be published in a clear statement signed by all board members. The statement should clearly prioritise stakeholders and provide timelines and metrics for measuring performance.

2. Incentivise long-termism: To incentivise long-termism, reward long-term share ownership with increased voting power. Systematically investigate potential costs and

benefits of the creation of a class of shares where voting rights are proportionate to the length of time that the shares are non-transferable into the future. These time-dependent shares tie voting rights to the time period that shares can be held into the future, not the length that shares have been held in the past.

3. Explore legal avenues for change: Section 172 of the UK Companies Act 2006 currently requires corporate directors to promote company success for the benefit of the members as a whole. Investigate costs, benefits, and avenues for implementation of revision of Section 172, so that companies are managed for the benefit of members *and* the benefit of society and the environment in a manner commensurate with the size of the company and the nature of its operations. Companies should also be required to reduce harms they create or costs they impose on wider society or the environment, with articulated goals for eliminating such harms or costs.

Purpose and workers

1. Governance roles for employees and workers: Business principals interviewed for this paper repeatedly emphasized that corporate agility and the ability of principals to make swift decisions are key to corporate performance and thus endurance. However, long-termism creates opportunities and imperatives to involve stakeholders creatively in governance processes. As a starting point, companies over a certain size should establish an internal stakeholder’s council or similar forum, or publicly explain why they have not done so and what alternate mechanisms they are adopting to gather and discuss internal stakeholder

views. The composition of such councils will vary, but should reflect employees from all levels of the organization, including representation for dependent contractors.[64]

2. Informing employees and workers: Corporate authorities should increase financial literacy across their organizations, sharing the highest possible amount of financial and operational information with the widest reasonable set of internal stakeholders. This will require creativity, as in the case example of UK public service mutuals who regularly present standard accounts to their internal stakeholders in a visual, engaging manner. Internal stakeholders should be given training or assistance to understand this data and make decisions from it, e.g. identifying where they can personally influence efficiency, cost, and other objectives.

3. Identify barriers to employee ownership: According to the Employee Ownership Association (EOA), employee owned businesses currently account for 2% of UK GDP.[65] Employee ownership is typically open to executives (e.g. via partnership at professional services firm) or to employees who take advantage of tax schemes to incentivise share ownership. Such ownership nevertheless does not always come with a recognizable governance role. Employee Ownership Trusts (EOT), on the other hand, offer an employee ownership model that does not require employees to purchase shares.[66] A recent review led

---

[64] Good Work: The Taylor Review of Modern Working Practices (July 2017). The Taylor Review was an independent review of modern working practices in the UK led by Matthew Taylor, chief executive of the Royal Society of Arts.

[65] Employee Ownership Association (2018).

[66] The Ownership Dividend: Report on the Ownership Effect Inquiry (2018)

by the EOA argued that low levels of awareness of EOT among business owners and professional advisors represents the key barrier to employee ownership in the UK.[67]

Purpose and stakeholders beyond workers

1. **Transparency and reporting:** Businesses should increase the quality, transparency and clarity of their information and reporting, particularly about their supply chains and the structure of their workforces.

2. **Rights for workers and employees alike:** We endorse the Taylor Review's (2017) recommendation that the government should introduce the designation of 'dependent contractor' to refer to 'people who are eligible for "worker" rights but who are not employees'. In particular, 'there should be a clear distinction made between dependent contractors and those who are legitimately self-employed. Individuals who prefer flexible working should be allowed to continue, with consideration made to fairness at work: fairness could include paths to ownership, information, and governance mechanisms.' [68]

3. **Collective Bargaining**: Promote the role of collective bargaining in the new economy by accounting for supply chains, the particularities of sectors/industries rather than individual companies, and specific ownership forms. The 'legal architecture' of collective bargaining

[67] The Ownership Dividend: Report on the Ownership Effect Inquiry (2018)

[68] Good Work: The Taylor Review of Modern Working Practices (July 2017).

could, for example, '[move] the level of bargaining away from employer-employee and [encapsulate] the whole value chain, including the financial entities at the top of it.'[69]

4. **Taxes**: There should be reciprocal obligations between companies and the general public, and companies and their workers, e.g. through disclosure of company tax policy and reporting on its tax payments, and alignment of a company's pension funds options with its purpose and associated values.[70]

5. Focus not just on companies, but on the professional service providers that guide, enable, and audit their operations: Professional services firms should become empowered partners in providing information to their clients on key issues regarding the future of the corporation. In the UK, this could include 'purpose' clause in the most recent Financial Reporting Council code, the Wates Corporate Governance Principles for Large Private Companies, and mechanisms for ownership and governance by employees. Companies must be made aware of, and supported in meeting these directives. Trainings and incentives for professional services providers with a broad client base is an efficient method to facilitate corporate change.

Case Study 1: Tax in the Boardroom

---

[69] Naidu (January 2019) summarizes several other policy options, including exempting unionized corporations from other labour regulations; legal bans on hiring replacement workers during strikes; and allowing 'minority unionism,' whereby 'a subset of workers can get legal recognition and strike protection without needing the whole firm.'

[70] Business in the Community (2018).

Guest Authored by Marnix van Rij[71]

Before the 2008 financial crisis, tax matters were not a particularly high priority for the boards of public or private companies. Tax was primarily seen as something technical to be dealt with by the tax director of the company who had to report to the Chief Financial Officer (CFO). For many CFOs, taxes were costs which negatively influenced the profit per share. The overall effective tax rate was a key performance indicator (KPI) for the CFO, the Tax Director and his team.

'The lower the better' was the prevailing attitude, inspired by shareholder primacy. Tax issues and tax policy was something which primarily took place in a closed shop: outside a company, tax specialists were tax advisors and the tax inspector. Together with the corporate tax director, these three parties formed a relatively 'safe triangle.' Each had their own responsibilities, but they were often educated at the same universities and spoke the same language. They formed a tax elite, both on a national as well as on an international level.

In the Autumn of 2008, however, the fall of Lehman Brothers was the start of an unprecedented chain of events. Banks in several European countries were nationalized overnight. National governments raised taxes to finance the acquisition of shares in banks and insurance companies. The same governments also injected billions into their respective economies, by raising expenditures and introducing temporary tax incentives.

Further interest in tax was to follow. At the conclusion of the G-20 summit in the spring of 2009, U.K. Prime Minister Gordon Brown and French President Nicholas

[71] Tax professional, former Dutch Parliamentarian, and former EY Global Head of Family Business

Sarkozy communicated that the era of 'non-transparency' was over, and that the twenty largest economies in the world would 'take action against non-cooperative jurisdictions, including tax havens.' This communiqué continued, 'We stand ready to deploy sanctions to protect our public finances and financial systems….'[72]. The same week the cover page of April 4, 2009 edition of *The Economist* featured French painter De La Croix's painting, 'Under attack,' which adroitly summarized the French public's sentiments about the revolution of 1830 with the telling slogan, 'Get the Rich.'

The same emotions were again surfacing nearly 200 years later, only this time on an international scale. Those in the corporate world who thought the explosion of public anger about 'wrong tax behavior' would naturally lessen with time would be sorely mistaken.

Since 2009, the Organization for Economic Co-operation and Development (OECD) has taken the lead in the combat against tax evasion and tax avoidance by multinationals and high net worth individuals. The OECD came up with initiatives to make cooperative compliance for high net worth individuals transparent and they also introduced the Global Forum against the international standard for exchange of information (2009). These steps resulted in an extensive action plan in 2015 and is comprised of 15 initiatives under the name, 'Base Erosion and Profit Shifting.'[73] Many national jurisdictions, and also the supranational jurisdiction of the European Union, have translated the well-balanced package of soft law into hard law legislative initiatives. A part of the multilateral recommendations was related to better exchange of information

[72] G20 Communique London Summit-Leader's Statement, 2 April 2009

[73] www.oecd.org/tax/beps-2015-final-reports.htm

and more transparency. A second part of the recommendations was a concrete proposal about how to combat aggressive tax planning by multinationals.

The 'Safe Triangle' of insiders was suddenly confronted with a new triangle, the 'Assertive Triangle'. The new tax players were non-profit organizations (NGOs), the media, and politicians. For the traditional tax elite, this development was a shock-and awe experience. Tax directors were grilled by parliamentary committees that started to investigate their tax planning and potential tax avoidance. Media from all over the world caught wind of this sudden change in climate and started in-depth investigations into the use of tax havens by wealthy individuals and corporations. Reputations of companies and individuals were put in the spotlight. Inevitably, politicians and political parties started to zoom in on the bad behavior of corporations and governments in respect to their tax planning techniques. The era of non-transparency by multinationals and high net worth individuals was over. An era of harsh controversy relating to tax behavior had replaced it. But new rules were still undefined.

Slowly but surely several multinationals and corporate initiatives took public stances in the debate.[74] Now, good tax governance should be part of every multinational's strategy. It is essential that companies formulate their tax policy in a comprehensive document. For that reason, in 2015 in the Netherlands, EY started the 'Tax in the Boardroom' project. More than twenty publicly quoted companies on the Dutch Stock Exchange participated. On basis of three questionnaires (tax policy, transparency and governance) different company stakeholders were interviewed, producing a self-assessment. Corporate Social Responsibility frontrunners took the project very seriously;

---

[74] See The B Team's recommendations, 'A new bar for responsible tax: The B Team Responsible Tax Principles' (2015).

it was important for them to end up with a good score in the Dow Jones Sustainability Index, including for tax policy. Others had to develop a cohesive tax policy. A lot of companies are struggling with embedding a tax policy in their governance processes. And many companies remain reluctant to publish their tax policy, due to market competitions or fear to be put into the spotlight.

The tax policy of a company reveals whether the company is following 'the letter of the law' or 'the spirit of the law'. The tax policy paper should list the overall tax contribution of the multinational company, shown per country and region and itemized into corporate income tax, wage tax, value added tax (VAT), etc. It must also clearly indicate which stakeholders within the company are involved in the tax policy making. Is the structure reflecting a traditional situation, led by the tax director and the CFO? Or, is the CEO and audit committee chair also involved? What is the official stance of the head of communications and legal department? Do the internal stakeholders dialogue with external stakeholders about tax policy? What is the communication and public affairs strategy? Lastly, how does the company guarantee, by internal procedures and escalating mechanisms, that tax policy is really enforced in case of a breach, a conflict or a controversy?

From 2019, multinationals and high net worth individuals' tax behavior will be further scrutinized. They should develop a tax policy as part of their overall strategy, including the input by different non-tax stakeholders inside and outside the company. This is part of good corporate governance. Indeed, several governments have started the dialogue with corporations, NGOs and academics about the desirability of a 'tax governance code'. This consensual approach is much more effective than unilateral legislative measures taken by national politicians. The companies which are focused on the 'Future of the Corporation' should take the lead to get 'tax in the boardroom' to stay.

Paying a fair amount of tax is contributing to society. It is a form of social responsibility appreciated by 'the people.'[75]

Case Study 2

Connecting purpose and ownership: Reflections on Enterprise Foundations

Enterprise foundations are foundations that own companies. They exist around the world, but are most common in Scandinavia. Examples include home retailer IKEA, shipper Maersk, and brewer Carlsberg. Enterprise foundations are created when the owner donates their company to a foundation charged with running the company according to specific, fixed purposes over the long term.

According to Copenhagen Business School professor Steen Thomsen, enterprise foundations are often established by "founders who love their company and regard it as their contribution to humanity". The main purpose of the foundation therefore, is typically to preserve the company. Thomsen describes enterprise foundation charter as a kind of "software for what the company should be doing". He gives the example of IKEA, whose founder, Ingvar Kamprad, expressed strong commitment to the idea that his company existed "for the many", meaning that their products should be high enough quality for daily use and widely accessible in terms of price.

While "tweaks" to the purpose of an enterprise foundation may be possible, Thomsen emphasises that such entities are "are bound by their purposes", creating "a committed ownership" and a corporate purpose with unusually strong staying power.

[75] See the recent report published by the OECD 'Tax Morale': 'What drives people and businesses to pay tax?' September, 2019

Importantly, this kind of ownership is characterized not only by a commitment to the longevity of the company, but to public benefit as prescribed in the foundation charter. This creates an inbuilt, ongoing requirement to balance financial and stakeholder concerns. Thomsen cites continuity of ownership, management, and governance in enterprise foundations, as well as protection from threats such as demands for dividends or hostile takeovers, as conductive to foundation-owned companies' development of strong core market competencies as well as ongoing commitment to "add value to society". From a legal perspective, it is very difficult to change the purpose of enterprise foundations.

Foundation ownership has important implications for governance. Employees often have strong representation on enterprise foundation boards. In some enterprise foundations, the foundation board is composed of present and former employees. When it comes to ownership, the foundation also acts as a middleman of sorts in these companies; employees buy stock from the foundation and sell it when they leave, but the foundation always maintains a constant majority of the stock. Many enterprise foundations also have an employee-elected foundation board.

Stakeholders beyond employees can in principle be easily added to the foundation board via a note to the charter. This is nevertheless relatively uncommon. How, then, might enterprise foundation ownership map onto the modern economy in which traditional employment models are becoming more and more scarce? The structure of enterprise foundations reflects precisely the kind of specialisation and long-term commitment that is fast disappearing from the corporate landscape.

Ownership by enterprise foundations offers unique potential advantages in terms of continuity of corporate purpose. No doubt, readers will be more familiar with foundations as a tax planning vehicle. In Denmark, where enterprise foundation ownership is most common, tax policy across the 1970s and 1980s was characterised by high wealth tax and tax

protection for foundations. In this period, ownership by enterprise foundations proliferated. Today, wealth taxes in Denmark have reduced and foundations benefit from fewer tax protections. New enterprise foundations are established with correspondingly less regularity. Establishing an enterprise foundation, however, has always required a donation of the company. This donation is irrevocable, i.e. cannot be clawed back by subsequent generations of family members, for example. Disbursements by the foundation to individuals are subject to income tax under Danish law. Hence, Thomsen notes that strong and effective regulation is a requirement of effective enterprise foundation ownership, which is open to abuse.

There is currently no legal framework enterprise for foundation ownership comparable to Denmark in the United Kingdom. Nor is there, as in Denmark, an independent supervisory body for UK enterprise foundations.

Case Study 3:

Connecting purpose and ownership: Reflections on John Lewis Partnership

The John Lewis Partnership, an “experiment in industrial democracy”, operates two prominent British retail brands, John Lewis & Partners and Waitrose & Partners. They are owned in Trust by over 80,000 employee “Partners” for the benefit of current and future members. Today, partnership founder John Spedan Lewis’ vision for the partnership has been colloquially captured by the phrase, “rather than capital deploying labour, labour should deploy capital”. The Partnership model of employee ownership sought to address concerns regarding the relationship between financial capital and human capital in the context of the interwar period in Britain. Salient in the early 20th Century, these debates remain alive today.

The Partnership is governed by seven Principles, the foremost of which is Principle 1: “The Partnership's ultimate purpose is the happiness of all its members, through their

worthwhile and satisfying employment in a successful business. Because the Partnership is owned in trust for its members, they share the responsibilities of ownership as well as its rewards - profit, knowledge and power." The John Lewis Partnership Council is a governing authority of Partners elected to represent the Partners as a whole. The Chairman of the Partnership is accountable to the Partnership Council "for leadership of the business in line with Partnership principles, and in particular, Principle 1". The Council has the ultimate power to dismiss the Chair.

The John Lewis Partnership structure represents a potential model to enable reciprocity in terms of ownership. However, structure is not enough to ensure reciprocal relationships. To function effectively, this reciprocity requires Partners to be both appropriately informed and equipped to engage management with clear, business-relevant recommendations. Likewise, management must be prepared to clearly communicate strategy, listen effectively and actively engage Partner voice. Developing these management and leadership skills, as well as the skills required for effective ownership, requires substantial investment and expertise.

Reciprocity in terms of ownership involves transparency and trust, both of which require information sharing. In recent years, members of the John Lewis Partnership Council have gained insider status in terms of access to financial results, enabling them to get a better understanding of the Partnership's financial position. The business' thousands of Partners, however, do not have the ability to review this market-sensitive information early. In a social media age, firms cannot assume that a line between an internal communication and external communication is fixed and permanent. This highlights a crucial issue regarding building trust and transparency via information sharing under alternative models of ownership.

The John Lewis Partnership operates in a fiercely competitive retail landscape. According to the Local Data Company for PricewaterhouseCoopers, 2018 saw a record net

total of 2,481 high street shops close across the United Kingdom; a rate of more than 16 per day. Fashion retailers were among the most strongly affected by this trend. In October 2019, John Lewis announced restructuring plans resulting in the loss of approximately one third of its senior head office roles in a bid to reduce costs. Retailers operate in a competitive landscape characterized by non-employees including delivery drivers as well as outsourcing of key service functions. As the definition of 'employee' and the future of work itself changes, firms like the John Lewis Partnership continues to review what Partnership means, and how their corporate purpose affects their engagement with stakeholders who are not employees.

Case Study 4: Social Business in the Age of Precarious Work: Cordant Group plc

Central to debates surrounding the future of work are the technologies (automation, artificial intelligence) and business models (freelancing and the 'gig economy, platform employers such as Uber) producing fewer unskilled jobs overall - a grim reality for workers. This 'precariat' is defined by short-term, variable jobs and exclusion from workplace benefits and career development opportunities extended to full-time employees; exclusion from forms of collective bargaining; and low wages and profound personal financial instability.

The narrowing of prospects for this labour class has enabled the exponential rise of the fortunes of other actors whose business models are contingent upon access to flexible, temporary, or 'gig economy' workers. Often caught in the crosshairs are the human resources companies recruiting and managing the precariat. Should human resources companies be aligning their purpose to the benefit of the worker, or to the corporate clients to whom they supply workers? Razor-thin margins in this part of the human resources sector leave very little room for manoeuvring when serving both workers and corporate clients. Given this, is it

possible for human resources companies to have a purpose genuinely benefitting *both* individual, precarious workers and corporate clients?

In 1957, émigré brothers Harry and Jack Ullmann set up a small security staffing firm in their adopted country of Britain. That small firm has evolved into Cordant Group plc, a holding company focusing on recruitment and facilities services and employing approximately 125,000 staff per annum across several companies and sectors, including warehousing and logistics, food manufacturing, IT, healthcare, security, and cleaning. The Group is in its second generation of private family ownership; Jack's son Phillip Ullmann is 'Chief Energiser,' Phillip's reconceptualization of his chief executive role. Combined annual revenue totals just under £1 billion.

In 2017, Phillip publicly announced that Cordant was becoming a 'social business,' citing inspiration from Nobel Peace Prize Laureate Mohammed Yunus' writings, which align closely with Colin Mayer's view that businesses should provide 'profitable solutions to problems of people and planet.' For Cordant, this has meant a legal change to its shareholder agreement, capping annual dividends to shareholders, with any excess profits given to social impact measures within Cordant. Executive compensation is also capped to a maximum of 20 times the salary of the lowest paid employee.

Cordant's redefinition of itself as a 'social business' has three noteworthy features: first, the willingness of the family owners to pocket less profit, and senior executives' acceptance of a compensation cap—the implication being that society cannot be served when there is runaway income inequality. Second, the willingness of Phillip to publicly announce Cordant as a social business before the 'social impact measures' in which Cordant will invest are defined. This sets expectations high, and holds Cordant accountable to its stakeholders.

Third, the systematic, grassroots process by which Cordant is working to understand its social impacts, through roadshows across the group, staff interviews, and research on their

markets, led by external advisors. This bottom-up approach facilitates buy-in, greater accuracy, and the input of those who will likely be most affected by the social impact measures—a process akin to 'participatory development' practices common to the international development sector.

The next step for Cordant is actualizing its social impact vision. A primary challenge will involve Cordant leveraging its size, scale, and relationships so that investing in its social impact yields better social returns than if Cordant were to simply redistribute the excess profits to its precarious, low-wage workforce. Cordant must also organize finances such that its social impact programme is not imperilled in lean years, when the excess profits earmarked for social impact might be reduced.

Finally, can Cordant lead by example, embracing transparency in their social impact strategy, goals, and financing arrangements, to convince competitors to follow suit and corporate clients to rethink their business models for the benefit of the precarious workforce?

Acknowledgments

For their in-depth comments on this piece at various stages of its development, the authors wish to thank Marc Fielmann, Chief Executive, Fielmann AG; Colin Mayer CBE FBA, Saïd Business School, University of Oxford; Deb Oxley OBE, Chief Executive, Employee Ownership Association; Guy de Selliers, President and Co-Founder of HCF International Advisers Ltd; Marnix van Rij, Senior Counsel, EY; Andrew Wates OBE DL, Chairman Emeritus, Wates Group Ltd; and the participants of two expert 'Governance' Roundtables convened by the Future of the Corporation project at the British Academy in June and July 2019. For their reflections on the development of individual case studies in this article, thanks also to Steen Thomsen, Copenhagen Business School; Benet Northcote,

Director of Corporate Responsibility for the John Lewis Partnership; and Phillip Ullmann, Chief Energiser, Cordant Group plc, and Ken Steers, Director of Human Resources, Cordant Group plc.

The Authors

Dr. Bridget Kustin (corresponding author, bridgetkustin@sbs.ox.ac.uk) is an economic anthropologist and Research Fellow at Saïd Business School, University of Oxford, where she is also Qualitative Lead on the Ownership Project, and Co-Director of the Oxford Programme on Responsible Ownership. **Jonathan Chan** is a DPhil Candidate in Law and Research Assistant on the Ownership Project, Saïd Business School, University of Oxford. **Dr. Mary Johnstone-Louis** is a Senior Research Fellow and Programme Director of the Ownership Project, Saïd Business School, University of Oxford, and Co-Director of the Oxford Programme on Responsible Ownership.

References

Adams, R. (2016), 'Women on Boards: The Superheroes of Tomorrow,' ECGI Finance Working Paper No. 466/2016. European Corporate Governance Institute. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2696804

Adams, R. B. and Ferreira, D. (2009), 'Women in the boardroom and their impact on governance and performance', Journal of Financial Economics, 94(2), pp. 291–309.

Aberdeen Standard Investments (2018), 'Public Comment: The Wates Corporate Governance

Principles for Large Private Companies.'
https://www.frc.org.uk/getattachment/42f50d6d-b272-49a4-b53e-0a8580ac84ac/Aberdeen-Standard-Investments;.aspx

Agrawal, A.K. (2012), 'Corporate Governance Objectives of Labor Union Shareholders: Evidence from Proxy Voting.' *The Review of Financial Studies*, Vol. 25, No. 1, pp. 187–226.

Armour, J., Enriques, L., Ezrachi, A., and Vella, J. (2018), 'Putting technology to good use for society: the role of corporate, competition and tax law.' Journal of the British Academy, 6(s1).

Armour, J. and Skeel, D.A. (2006), 'Who Writes the Rules for Hostile Takeovers, and Why – The Peculiar Divergence of U.S. and U.K. Takeover Regulation.' 95 Georgetown Law Journal

Armstrong, CS., Gow, I., and Larcker, D.F. (2013), 'The Efficacy of Shareholder Voting: Evidence from Equity Compensation Plans.' 51 Journal of Accounting Research.

Association of Financial Mutuals (2018), AFM Response to FRC consultation 'The Wates Corporate Governance Principles for Large Private Companies.'
https://www.frc.org.uk/getattachment/beb4a0ce-584a-4abd-92c6-fccab1e22fcf/Association-of-Financial-Mutuals;.aspx

BDO LLP (June 2018), 'BDO response to the consultation on 'The Wates Corporate Governance Principles for Large Private Companies (June 2018).'
https://www.frc.org.uk/getattachment/063fa434-ef39-49dd-ad6c-d183404d17ea/BDO;.aspx

Bratton, W.W., and Sepe, S.M. (2019), 'Corporate Law and the Myth of Efficient Market Control.' Research Paper No. 19-21.

Buchanan, J., Heesang Chai, D. and Deakin, S. (2012), *Hedge Fund Activism in Japan: The*

Limits of Shareholder Primacy. Cambridge University Press.

Buchanan, J., Heesang Chai, D. and Deakin, S. (2014), 'Empirical Analysis of Legal Institutions and Institutional Change: Multiple-Methods Approaches and Their Application to Corporate Governance Research.' *Journal of Institutional Economics* 10 (1): 1–20.

Business in the Community (2018), 'Business in the Community's response to the FRC's consultation on The Wates Corporate Governance Principles for Large Private Companies.' https://www.frc.org.uk/getattachment/e08cf63c-de98-4ac6-847a-98fd6d10a6eb/BITC;.aspx

Carter, D. A., Simkins, B. J. and Simpson, W. G. (2003). 'Corporate governance, board diversity, and firm value.' *The Financial Review*, Vol. 38, pp. 33–53.

Cheffins, B.R. (2013), 'The Undermining of UK Corporate Governance (?)' 33 Oxford Journal of Legal Studies.

--- (2010), 'The Stewardship Code's Achilles' Heel.' The Modern Law Review 73 (6): 1004–25.

Clark Jr. W.H., Explanation of the Companies Act 2006 (Amendment), (Responsible Business) Act, Private Communication, 20 September 2019.

Clark Jr., W. H. and Babson, E. K. (2012). 'How benefit corporations are redefining the purpose of business corporation.' William Mitchell Law Review, 38(2), pp. 817–851.

Coleman, A.R. (22 May 2019), 'Black Capitalism Won't Save Us.' *The Nation.* *https://www.thenation.com/article/nipsey-killer-mike-race-economics/*

Conchon, A. (September 2015), *Workers' voice in corporate governance: A European perspective*. London: Trades Union Congress.

Coombs, N. (2016), 'What is an algorithm? Financial regulation in the era of high-frequency

trading,' Economy and Society, 45:2, 278-302, DOI: 10.1080/03085147.2016.1213977

Crenshaw, K. (Jul., 1991), 'Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color.' *Stanford Law Review*, Vol. 43, No. 6, pp. 1241-1299. http://www.jstor.org/stable/1229039.

---. (1989), *Demarginalizing the Intersection of Race and Sex*. University of Chicago Legal Forum, 139.

Davies, P. & Hopt, K., 'Boards in Europe – Accountability and Convergence.' *European Corporate Governance Institute Working Paper No 205/2013*, pp. 1-61. ttp://ssrn.com/abstract_id=2212272

Davoudi, L., McKenna, C., Olegario, R. (2018), 'The historical role of the corporation in society.' *Journal of the British Academy*, 6(s1), 17–47. DOI https://doi.org/10.5871/jba/006s1.017

De Fontenay, E. (2017), 'The Deregulation of Private Capital and the Decline of the Public Company,' 68 Hastings Law Journal 445, 449–450.

de Selliers, G. (2018), 'Responsible Business-A Manifesto.' Liberal Democrats Business & Entrepreneurs Network.

Desvaux, G., Devillard, S. & Sancier-Sultan, S. (2010), 'Women Matter, Gender diversity at the Top of Corporations: Making it Happen', Women Matter 2010, McKinsey & Company

Devillard et al. (2013), 'Gender Diversity in Top Management: Moving Corporate Culture, Moving Boundaries', Women Matter 2013, McKinsey & Company.

Eccles, R.G. & Youmans, T. (2015) 'Why Boards Must Look Beyond Shareholders', MIT Sloan Management Review, Massachusetts Institute of Technology.

Employee Ownership Association: Annual Review (2018), Employee Ownership Association.

Faccio, M., Marchica, M. and Mura, R. (2011) ,'Large Shareholder Diversification and Corporate Risk-Taking.' *The Review of Financial Studies* 24 (11): 3601–41.

Faleye, O., Mehrotra, V., and Morck, R. (2006), 'When Labor Has a Voice in Corporate Governance.' *Journal of Financial and Quantitative Analysis*, 41(3), pp. 489-510.

Faleye, O. & Trahan., E.A. (2011), 'Labor-Friendly Corporate Practices: Is What Is Good for Employees Good for Shareholders?' *Journal of Business Ethics*, Vol. 101, No. 1, pp. 1–27.

Fenwick, M. and Vermeulen, E. (2016), 'Disclosure of Beneficial Ownership after the Panama Papers.' Lex Research Topics in Corporate Law & Economics Working Paper. 2016–3.

Financial Reporting Council (July 2018), 'The UK Corporation Governance Code.' https://www.frc.org.uk/getattachment/88bd8c45-50ea-4841-95b0-d2f4f48069a2/2018-UK-Corporate-Governance-Code-FINAL.pdf

Flint, D. (2006), 'Computers and Internet - Don't Be Evil?' 27 Business Law Review, Issue 4, pp. 102–104.

Gullifer, L., and Payne, J. (2018), 'Intermediation and Beyond: Conclusion." SSRN. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3300157.

Hansmann, H. and Pargendler, M. (2014), 'The Evolution of Shareholder Voting Rights: Separation of Ownership and Consumption.' *The Yale Law Journal* 123 (4): 948–1013.

Harrington, B. (2016), *Capital Without Borders: Wealth Managers and the One Percent*. Cambridge, MA: Harvard University Press.

Hart, O. and Zingales, L. (2017), 'Companies Should Maximize Shareholder Welfare Not Market Value.' Journal of Law, Finance, and Accounting, 2: 247–274.

Haskel, J. and Westlake, S. (2017), *Capitalism Without Capital: The Rise of the Intangible Economy.* Princeton University Press.

Hsieh, N., Lange, B., Rodin, D., and Wolf-Bauwens, M. (2018), 'Getting clear on corporate culture: conceptualisation, measurement and operationalisation.' *Journal of the British Academy*, 6(s1), 155–184. DOI https://doi.org/10.5871/jba/006s1.155

Hu, H., and Black, B. (2006), 'Empty Voting and Hidden (Morphable) Ownership: Taxonomy, Implications, and Reforms.' *The Business Lawyer* 61.

Institute for Business Ethics. (2018), 'Response of the Institute of Business Ethics to the Financial Reporting Council Consultation on the Wates Corporate Governance Principles for Large Private Companies.' https://www.frc.org.uk/getattachment/83921dad-32fe-4061-9ae7-3edd73e568a9/Institute-of-business-Ethics-response;.aspx

The International Integrated Reporting Council (2013). *The International Framework*. The International Integrated Reporting Council. http://integratedreporting.org/wp-content/uploads/2015/03/13-12-08-THE-INTERNATIONAL-IR-FRAMEWORK-2-1.pdf

Janeway, W. (2012), *Doing Capitalism in the Innovation Economy: Markets, Speculation and the State*. Cambridge University Press.

Joseph, J. and Selvaraj, P. (2010), 'Caste and Social Emancipation through Retail Entrepreneurship Networks: An Ethnographic Exploration of the Nadar Caste in Southern India.' International Journal of Interdisciplinary Social Sciences. Vol. 5 Issue 1, p401-411.

Kershaw, D., and Schuster, E. (2019), 'The Purposive Transformation of Company Law.' 4. LSE Law, Society and Economy Working Papers.

Kraakman, R.H. et al. (2017), *The anatomy of corporate law: a comparative and functional approach.* Oxford University Press.

Khan, L. (2017), 'Amazon's Antitrust Paradox.' *Yale Law Journal*, Vol. 126, No. 3.

Kingman, J. (2018), 'Independent Review of the Financial Reporting Council.' https://www.gov.uk/government/publications/financial-reporting-council-review-2018.

Kurtulan, G. (2017), 'Minority Shareholder Protection in Cross-Border Mergers: A Must for or an Impediment to the European Single Market?' European Business Organization Law Review 18: 101. https://doi.org/10.1007/s40804-017-0061-7

Kustin, B. (2017-2019), Research conversation with large family business family members and non-family executives. The Ownership Project at Oxford Saïd.

Kustin, B. and Johnstone-Louis, M. (2018-2019, ongoing), Executive Interviews on Responsible Ownership. The Ownership Project at Oxford Said.

Lobel, O. (2017), 'The Gig Economy & the Future of Employment and Labor Law.' *University of San Fransisco Law Review*, Vol. 51., No. 1, pp. 51-74.

Mayer, C. (2018), *Prosperity: Better Business Makes the Greater Good*. Oxford University Press.

Mayer-Schönberger, V., and Ramge, T. (2018), *Reinventing Capitalism in the Age of Big Data*. John Murray.

Naidu, S. (January 2019). Research Brief: "Worker Collective Action in the 21th Century Labor Market." Economists for Inclusive Prosperity. https://econfip.org/wp-content/uploads/2019/02/8.Worker-Collective-Action-in-the-21th-Century-Labor-Market.pdf

Ntim, C.G. (2015), ‘Board diversity and organizational valuation: unravelling the effects of ethnicity and gender.’ *Journal of Management & Governance*, Vol. 19, No. 1, pp. 167-195.

Newcombe, T. (2013), ‘Male Corporate Culture the Biggest Barrier to Women Reaching the Top’, HRmagazine.co.uk. http://www.hrmagazine.co.uk/article-details/male-corporate-culture-the-biggest-barrier-to-womenreaching-the-top

OECD (2015), ‘G20/OECD Principles of Corporate Governance 2015.' OECD Publishing. https://www.oecd-ilibrary.org/governance/g20-oecd-principles-of-corporate-governance-2015_9789264236882-en

O'Neill v Phillips [1999] 2 All ER 961 at 966, [1999] 1 WLR 1092 at 1098, HL (Hoffmann LJ).

The Ownership Dividend: Report on The Ownership Effect Inquiry (2018), Employee Ownership Association and LID Publishing. http://theownershipeffect.co.uk.

Posner, E., and Weyl, E.G. (2014), ‘Quadratic Voting as Efficient Corporate Governance.’ *University of Chicago Law Review* 81: 251–72.

Post, C., and Byron, K. (2015), ‘Women On Boards and Firm Financial Performance: A Meta-Analysis.’ *Academy of Management Journal*, Vol. 58, No. 5.

Prime, J. (2013) ‘Creating an Inclusive Workplace—Starting with White Men.’ *The Guardian*. https://www.theguardian.com/women-in-leadership/2013/apr/17/inclusive-workplace-starting-men

Practical Law UK (2019), ‘Membership of a company, Practice Note 9-613-9765’.

Queen, P.E. (2015), ‘Enlightened Shareholder Maximization: Is This Strategy Achievable?’ *Journal of Business Ethics* 127 (3): 683–94.

Quinn, R., and Thakor, A. (July-August 2018), 'Creating a Purpose-Driven Organization.' *Harvard Business Review. https://hbr.org/2018/07/creating-a-purpose-driven-organization*

Schneider A and Scherer AG. (2015), 'Corporate Governance in a Risk Society.' 126 *Journal of Business Ethics.*

Shafik, Nemat. (2018), 'A New Social Contract', www.imf.org.
https://www.imf.org/external/pubs/ft/fandd/2018/12/lse-a-new-social-contract-shafik.htm

Stout, L.A. (2013), 'The Toxic Side Effects of Shareholder Primacy.' *University of Pennsylvania Law Review* 161 (7): 2003–23.

Taylor, M. (2017), 'Good Work: The Taylor Review of Modern Working Practices'. https://www.gov.uk/government/publications/good-work-the-taylor-review-of-modern-working-practices

Terjesen, S., Couto, E.B. & Francisco, P.M. (2015), 'Does the presence of independent and female directors impact firm performance? A multi-country study of board diversity.' *Journal of Management & Governance*, Vol. 20, Iss. 3, pp. 447-483.

Villalonga, B. (2018), 'The impact of ownership on building sustainable and responsible businesses.' *Journal of the British Academy*, 6(s1), 375–403. DOI https://doi.org/10.5871/jba/006s1.375

Williamson, Janet. (2016), *All Aboard: Making Worker Representation on Company Boards a Reality*. London: Trades Union Congress.

Zuboff, S. (2018), *The Age of Surveillance Capitalism.* Profile.