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Michael Lower

Excerpt

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Introduction

Employee participation as an ethical issue

Catholic Social Thought (“CST”) is often said to begin with Leo XIII’s 1891 encyclical *Rerum novarum*. Written in response to the inhumane treatment of labour during the industrial revolution, it spelled out the fundamental rights of workers. While it stressed the importance of respect for private property rights for a well-ordered society it set out the ethical parameters within which these rights should be exercised. In a sense, the need for capital-labour relations to be governed by ethically legitimate rules is at the heart of CST. *Rerum novarum* does not mention employee participation specifically but the theme emerged several times in later magisterium (official teaching).

CST is used in this book to refer to the official teaching of the Catholic Church on social matters. It can be distinguished from the attempts of individual scholars either to critique CST or to apply their understanding of CST to particular issues. The first part of this book attempts an explanation and exposition of CST. It sometimes prays in aid non-CST sources (natural law theorists and moral theologians) with a view to providing a fuller explanation of CST. It attempts neither to critique CST nor to defend it from criticism, but simply to explain it. The second part of the book uses CST to carry out an ethical evaluation of the status of employee participation in UK (and EU) corporate governance law and practice. It considers whether they adequately respond to CST’s calls for employee participation and, hence, whether or not improvements are possible which might make the corporate governance environment more conducive to the integral human fulfillment of those affected by it.

CST’s exclusive focus is on the integral human fulfilment of each individual human person. Integral human fulfilment is a very expansive concept. Grisez, Finnis and Boyle explain that:

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ideally the freely chosen actions shaped by moral truths would bear fruit in the fulfillment of all persons in all the basic goods. This *ideal community* is what we mean by 'integral human fulfillment'.¹

Clearly, there is a limit to the extent to which any individual human being (or even all humans of all times) can achieve this goal. Grisez, Finnis and Boyle suggest, though, that the morally good will is a will towards integral human fulfillment.²

CST is concerned with social phenomena because it is convinced that human communities exist to serve the individual (though they can legitimately make great demands on him or her) and that the way that communities are organised has a profound impact on individual well-being. The 'social' in CST should not mislead one into imagining some kind of breach between individual ethics and social ethics; each are concerned with the integral human fulfillment or flourishing of each individual person. Healthy social structures are important because they facilitate the lives and moral growth of individuals.

CST looks at corporate governance, and at social phenomena in general, from the point of view of human self-development (or 'happiness', 'flourishing' or 'integral self-realisation'). The point of any social institution is that, usually in a variety of ways, it meets the needs of individuals. Clearly, the corporation exists to meet the needs of customers or clients. It also meets the needs of its employees and shareholders as well. In a sense, it provides services to employees and shareholders to allow them to meet their own needs, for work and a return on capital respectively. Much of the first half of this book is devoted to an ethical exploration of the relevant needs. Some are obvious, others are less so (though just as real and just as important).

Charity, properly understood,³ is at the heart of CST and this point should be made from the outset. In modern parlance, charity is seen as a matter of personal taste and disposition and certainly not a factor to be counted on in the 'real world'. Benedict XVI emphasised in *Caritas*

¹ G. Grisez, J. Boyle and J. Finnis, 'Practical principles, moral truth and ultimate ends', *The American Journal of Jurisprudence* 32 (1987), p. 128.

² Grisez, Boyle and Finnis, 'Practical principles', p. 128.

³ See the discussion in J. Messner, *Social ethics. Natural law in the western world*, (St Louis and London, B. Herder Book Co, 1965), pp. 334–341, J.-Y. Calvez and J. Perrin, *The Church and social justice. The social teaching of the Popes from Leo XIII to Pius XII*, (Chicago, Henry Regnery and Company, 1961), pp. 162–173 and in G. Grisez, *The way of the Lord Jesus. Living a Christian life*, (Quincy, Illinois, Franciscan Press, 1983), pp. 306–320.

in veritate that charity is very much a factor in human nature and in all inter-personal relations. Charity, he argues, is not something at the margins of the human personality but is rather, ‘the principal driving force behind the authentic development of every person and of all humanity’.⁴ An impulse to love authentically is built into every human person.⁵ For this reason, charity is at the heart of the Church’s social doctrine.⁶

CST urges that social structures should be at the service of the integral self-realisation of the individual. It insists that effective communities can only be constructed on the basis of an adequate anthropology (understanding of human nature). Since the need to love and be loved is so central to the human person, any sound system of social ethics must take it into account. Thus, charity, ‘gives real substance to the personal relationship with God and with neighbour; it is the principle not only of micro-relationships (with friends, with family members or within small groups) but also of macro-relationships (social, economic and political ones).’⁷

Charity might seem an alien concept to the reader of a book about corporate governance. Corporate governance is, however, principally about the organisation of relationships between the people who engage with each other within the firm. If charity truly is such an important human need and such an important driver of behaviour and relationships then a respect for truth demands that it be taken into account.

Benedict XVI highlighted the link between truth and charity. Charity is not simply a sentiment but is a central aspect of human nature that can be thought about and understood. Charity ‘can be recognised as an authentic expression of humanity and an element of fundamental importance in human relations, including those of a public nature.’⁸

One of the major ideas in CST, that this book will seek to explain, is that capital and labour are mutually interdependent (again for a range of reasons some of which are economic but others of which belong to the realm of moral theology). One of the most pressing tasks for societies in general, and for corporations in particular, is to bring about an alignment of the interests of capital and labour. Old images of them as two impersonal (and often mutually hostile) forces need to be discarded, for the right to own private property and work each play a vital role in human self-development. Indeed, in the last analysis private property ownership both serves work and represents work. Employees and shareholders work together in the corporate community.

⁴ Benedict XVI, *Caritas in veritate*, para. 1.

⁵ Benedict XVI, *Caritas in veritate*, para. 1.

⁶ Benedict XVI, *Caritas in veritate*, para. 2.

⁷ Benedict XVI, *Caritas in veritate*, para. 2.

⁸ Benedict XVI, *Caritas in veritate*, para. 3.

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Employee participation can be seen as an important strand in a programme that puts respect for the individual human person at the heart of economic, political and civic society. CST's ultimate aim is to humanise communities and institutions with pride of place being given to the workplace and to the economy. It seeks, where necessary, the transformation of the workplace so that the employee is always in some sense in charge of his or her own work and is never a commodity, never a mere object to be manipulated.

Catholic Social Thought

Catholic Social Thought (CST) is primarily to be found in a series of papal encyclicals beginning with Leo XIII's *Rerum novarum* in 1891. The timing of the encyclical is significant; it was the Catholic Church's response to the problems faced by workers at the time of the industrial revolution. Leo XIII lamented that, 'a small number of very rich men have been able to lay upon the teeming masses of the labouring poor a yoke little better than slavery itself'.⁹ At the same time, he was concerned to point out the inadequacies of the socialist response to the 'worker question' which saw the abolition of the institution of private property as the solution. *Rerum novarum* proposed an understanding of the question that avoided the excesses of individualistic, *laissez faire* capitalism and the collectivist approach of socialism. CST proposes a much more subtle, and much more realistic understanding of the relationship between the individual and the various communities of which he or she forms part.

John Paul II gave this concise summary of CST's essential nature:

The Church's social doctrine is not a "third way" between liberal capitalism and Marxist collectivism, nor even a possible alternative to other solutions less radically opposed to one another. Nor is it an ideology, but rather the accurate formulation of the results of a careful reflection on the complex realities of human existence, in society and in the international order, in the light of faith and of the Church's tradition. Its main aim is to interpret these realities, determining their conformity with or divergence from the lines of the Gospel teaching on man and his vocation, a vocation which is at once earthly and transcendent; its aim is thus to guide Christian behaviour. It therefore belongs to the field, not of ideology, but of theology and particularly of moral theology.¹⁰

⁹ Leo XIII, *Rerum novarum*, para. 3. ¹⁰ John Paul II, *Centesimus annus*, para. 41.

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This is an extremely rich passage. It classifies CST as a branch of moral theology; that is to say that it is practical (rather than speculative) and aims to shape Christian life.¹¹ It draws its primary data from faith and the Church's tradition. It interprets social realities 'determining their conformity with or divergence from the lines of the Gospel teaching on man and his vocation'. This vocation or call is to human self-development or integral self-realisation or holiness. CST is not addressed to Catholics alone, as other Christian denominations share at least some of the same theological sources as Catholics and are also concerned with how to lead a Christian life. CST is addressed to everyone for everyone sees the point of pursuing the goal of integral self-realisation, has it inbuilt so to speak. And, in natural law, CST has a philosophical vocabulary that allows it to speak to anyone, believer or not.

The passage also makes the point that CST is not a 'third way' between capitalism and socialism. First, extreme forms of each of these systems are constructed on materialistic premises that are incompatible with Christian faith. Second, moral theology cannot be thought of in terms appropriate to political or economic discourse for it is a fundamentally different activity. It is an error to try to place CST somewhere on the left-right political axis (though it can be embraced by people who themselves espouse left-wing or right-wing views).

Although theology is a distinct discipline the boundaries between it and other disciplines, such as economics and politics, are not watertight. Economic and political choices always have a moral element¹² for any purposeful human choice (whether it results in action or not) necessarily determines one to some extent for or against the goal of integral self-realisation. Catholic theology is attached to the notion that there is a unity of knowledge; there can be no truth or knowledge in one discipline that conflicts with the truth or knowledge in any other. And this proposition equally holds where one of the disciplines is theological.¹³

Rerum novarum dealt with the ethics of the employment relationship and with the legitimacy of private property as an institution. The capital – labour relationship in general, and employee participation in particular, has been a central theme of CST throughout its history. 'Employee participation' is to be understood in a very broad sense to include employee participation in management, in corporate governance, in profits and in

¹¹ G. Grisez, *The Way of the Lord Jesus. Volume One. Christian moral principles*, (Quincy, Illinois, Franciscan Press, 1983), p. 10.

¹² John Paul II, *Sollicitudo rei socialis*, para. 36.

¹³ Grisez, *Christian moral principles*, p. 10.

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ownership. CST has also called for employees to play a part in the governance of the broader economy. At stake is the human self-development of the employee. CST is convinced that putting the employee in charge of his or her work and making the employee at least a partial owner of the workplace are of central importance.

CST's call for employee participation, in the variety of senses just mentioned, has profound theological and philosophical roots. John Paul II devoted an entire encyclical, *Laborem exercens*, to an ethical analysis of human work (and its relationship to capital). This analysis draws upon the Book of Genesis in which man is called upon to work and to exercise a stewardship over the earth's resources. Work has a central and indispensable part to play in a person's life; it would be difficult, probably impossible, to grow as a person without a commitment to work. Employee participation is important because it creates the conditions in which one's work makes a contribution to one's development as a person.

Human self-development or integral self-realisation and work

Catholic moral theology proposes the concept of human self-development or integral self-realisation as the goal or vocation of each human life. The primary moral criterion is whether any given choice, and the more fundamental commitments that underlie one's choices, are consistent with a will to human self-development. Christian anthropology sees the human person as having an inner urge to pursue human self-development and the human intellect as able to discern the goods that are fulfilling for human persons. Human self-development is the fruit of an effective commitment to integrate those goods into one's life; this is the essence of ethics.

Catholic moral theology focuses on the free choices that one makes and enquires whether or not they are consistent with a will to human self-development. One develops one's humanity through a pattern of choices and of commitments that are so consistent. If one's choices form part of a coherent whole (a life plan anchored in certain core commitments) and are consistent with a will to human self-development then they will contribute to the formation of a mature, well-rounded personality. Christian anthropology sees the human person as having an inner urge to pursue human self-development. The intellect, through reflection on the inbuilt inclinations that it apprehends, can grasp the goods that are fulfilling for human persons. These goods will be discussed at greater length in the next chapter.

The foregoing is the account of human self-development given by the natural law school of philosophical ethics. Catholic moral theology makes use of natural law but its primary sources are theological (the Christian scriptures, Tradition in its technical theological sense and the Church's magisterium). Catholic moral theology holds that everything necessary for salvation (a theological version of human self-development) can be found in Scriptures. Revelation then confirms the central findings of natural law theory so that no-one is left without the guidance they need to allow them to pursue the goal of human self-development. But it goes much further for it also gives a picture of human self-development that builds on and enriches the philosopher's vision of the flourishing personality.

John Paul II's treatment of human work in his encyclical *Laborem exercens* provides an illustration of the interaction between faith and reason in moral theology. *Laborem exercens'* theme is the role that human work plays in the development of the human personality. It identifies work as one of the basic goods that are fulfilling for human persons. This truth, obvious to unaided human reason, is confirmed and deepened by Scripture. John Paul II recalls God's command to Adam and Eve to work and to subdue the earth. Theologically speaking, work is part of man's calling from God and is a way for the human person to act as co-creator. The attributes that separate the human person from non-rational animals (reason and free will) are brought to bear in the process of making the earth's material resources fruitful. Reason and free will are the most specific reflection of the divine image in the human person and in work they are brought to bear on the process of meeting human needs. Thus, work has both an external dimension (the change produced by work) and an internal dimension (the development of the human personality brought about by work).

It may seem that these ideas are other-worldly and that they lack practical importance when compared with the hard facts proposed by, say, economic analyses of corporate governance. Nothing could be further from the truth! Catholic moral theology claims that it can help us to understand who we are, the purpose of our lives and the point of human communities. It does so with a view to helping individuals to build successful lives. Further, an adequate understanding of the human person and the nature of human communities is the foundation on which any discipline committed to the study of human affairs must build.

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The corporation and corporate governance

CST has only rarely mentioned the corporation as such. The first such mention was in *Quadragesimo anno*.¹⁴ There Pius XI expressed his concern that its structure would lead to a certain anonymity; the fear was that no person or group within the corporation would accept moral responsibility for the overall well-being of the corporation, its members and those it dealt with.

It is obvious that any study of corporate governance has to begin with an understanding of what the corporation is for. CST assumes that the purpose of the corporation is to meet some range of human needs (a newspaper publisher responds to a need to be informed, a supermarket responds to the need for food and so on). It also has to meet the needs of its employees for jobs that pay reasonable wages and are fulfilling. It has to make enough profit to sustain itself and to pay the market price for any outside capital that it uses. Management's job is to run the corporation with at least these core goals in mind (other tasks may be imposed upon it because of the political and legal environments in which it operates). Achieving these goals will require enormous skill, effort and ingenuity on the part of management (and employees in general). It will require a constant effort to build up the knowledge and competence of the organisation and its members and a search for human needs that the organisation can meet profitably. This vision of the corporation is very compatible with a dynamic society in which the ways in which human needs are met and the constellations of group and individual preferences and ways of doing things is constantly changing. CST nowhere assumes that a job or an organisation will last forever.

The quality of management and of corporate governance is important to employees because it plays a significant role in determining whether the corporation meets its responsibilities to its employees. Those in charge of the organisation are responsible for finding opportunities that the organisation can exploit (human needs that it can profitably serve). They are primarily responsible for enhancing the capabilities of the organisation and of its people. They are responsible for securing the financial and other resources that the corporation requires. In the last analysis, management and corporate governance are responsible for securing the survival of the organisation so long as there are human needs that it can usefully and profitably meet.

¹⁴ Pius XI, *Quadragesimo anno*, (1931), (available at www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_19310515_quadragesimo-anno_en.html, last accessed on 28th July 2009).

The corporation is a community; management, employees and shareholders pursue a common goal at the same time as they seek to meet some of their own needs. One of CST's core principles is that of participation. The members of a community should play as full and active a part as is reasonably possible in the governance of their communities. This is how the design of social institutions pays its respects to the intelligence and free will of their members. Participation is especially important when it comes to a community that organises human work. Work can only play its part in the development of the human personality if the worker is an active subject. CST is concerned with the practical impact of governance arrangements; it asks whether a given arrangement amounts to a reasonably effective way of promoting the cause of human self-development. If co-determination (worker representation) allows the organisation to secure its goals including the goal of making employees into the active subjects of the production process then *prima facie* there is a case to be made for adopting it. But it may be that better solutions can be found to achieve the same goals. CST is concerned with the impact of social structures on human self-development and not to promote a particular form of governance arrangement for its own sake.

To say that the corporation is a community is to say that it has a reality of its own that is to some extent independent of its members. The corporation has a personality that is distinct from its members. But there is more to it than that. The corporation has its own knowledge, memory and capacity to adapt to changing circumstances. The corporation has its own culture (a particular way of addressing fundamental human issues such as interpersonal relations and the organisation of the production process). The corporation has its own purpose.

It is important, however, not to press this idea of the separateness of the corporation (or of any human community) too far. Communities arise because individuals choose to co-operate with each other. As we have seen, employees, shareholders and management work together in the corporation, each with a view to meeting certain of their needs (such as a decent wage and fulfilling jobs). Looked at in one way, the corporation exists because it meets the needs of its employees and shareholders. Further, the corporation as an institution bears the impress of the personality of the people who form part of it. The development of the corporation is in the hands of those who form part of it. One purpose of the principle of participation is to make it possible for every member of a community to shape it in some way.

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CST sees the corporation as forming an integral part of a much broader whole. The corporation is an intermediate association that sits between the state on the one hand and the individual and the family on the other hand. CST sees the corporation as forming part of a system of interconnected vessels that have a shared responsibility to meet human needs within the societies of which they form part. Each intermediate association makes its own specialised contribution to meeting the full range of needs within the society. This social purpose, the goal of meeting some specialised needs of its customers or clients, is not one imposed from outside by the state but is in large measure the organisation's *raison d'être* and its means of making a profit and meeting the needs of employees and shareholders. Each organisation makes its contribution to the common good of the state or states that it operates in.

This does not, however, turn the corporation into a public sector (state-owned or state-controlled) organisation. By pursuing its own private aims, the corporation necessarily helps to meet the goals of the state. The corporation makes its own specialised contribution to meeting the human needs of the members of a particular society. In doing so, it enhances the state's ability to promote the cause of human self-development within its borders.

CST's principle of subsidiarity is a staunch defence of the (permeable) boundaries between the state and private organisations. According to the principle of subsidiarity the state's primary role is to encourage individuals, families and intermediate associations to bear the brunt of meeting human needs and promoting the cause of human self-development. If some important human needs are going unmet and state intervention seems necessary then this intervention should, preferably, take the form of helping (providing *subsidium*) to a private sector actor. Only as a last resort (or in exceptional cases that are peculiarly the province of the state) should the state act directly. When the state does take direct responsibility for some activity that families or intermediate associations could meet, it should try to keep its intervention as brief as possible.

Maritain proffers an explanation of the good sense of the principle of subsidiarity:

The fact remains that the State has skill and competence in administrative, legal and political matters, but is inevitably dull and awkward – and, as a result, easily oppressive and injudicious – in all other fields.¹⁵

¹⁵ J. Maritain, 'The people and the state', reprinted in *Logos* 11 (2008), p. 180.