

AN ALTERNATIVE VOICE IN AND AROUND CORPORATE GOVERNANCE

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[I]mages of soft and hard, fluid and solid, open and closed, particular and universal, connection and distance, reception and assertion, are gendered in the sense that they ride on an already constituted and widely circulated set of understandings about appropriately feminine and masculine ways of being in the world.¹

I INTRODUCTION

Much of the work within the social sciences that offers a feminist reading or understanding of particular phenomena is based upon the work of Carol Gilligan,² the precise nature of which I turn to later in this paper. Gilligan's work is often used as a way of labelling an oppositional voice to a predominant culture without necessarily offering an alternative paradigm. This is certainly the case within the scholarship on legal structures for corporations. There is an emerging literature that describes itself as taking a feminist approach to the corporation, while drawing upon Gilligan's work.³ It is presented as an oppositional voice to what can best be described as the 'gung ho, never mind human needs and frailties' approach of law and economics.⁴

The major weakness of this oppositional voice to date is that it refers to a system built around the ethics of care — a system central to Gilligan's work — yet fails to present a picture of what a corporate structure and corporate activities

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1 Kathy Ferguson, 'On Bringing More Theory, More Voices and More Politics to the Study of Organization' (1994) 1 *Organization* 81, 91.

2 Carol Gilligan, *In a Different Voice* (1982).

3 See, eg, Theresa Gabaldon, 'The Lemonade Stand: Feminist and Other Reflections on the Limited Liability of Corporate Shareholders' (1992) 45 *Vanderbilt Law Review* 1387; Kathleen Lahey and Sarah Salter, 'Corporate Law in Legal Theory and Legal Scholarship: From Classicism to Feminism' (1985) 23 *Osgoode Hall Law Journal* 543; Alice Belcher, 'Gendered Company: Views of Corporate Governance at the Institute of Directors' (1997) V(1) *Feminist Legal Studies* 57; Terry O'Neill, 'The Patriarchal Meaning of Contract: Feminist Reflections on the Corporate Governance Debate' in Fiona Macmillan Patfield (ed), *Perspectives on Company Law* (1997) vol 2, 27.

4 Possibly the best description of this sort of scholarship, which emphasises its rhetorical power and dependence on conceptual simplicity, is provided by Mary Frug, who describes it as 'singular, daunting, rigid and cocksure': Mary Frug, *Postmodern Legal Feminism* (1992) 116.

would actually look like under this system. The reference to weakness is not meant as criticism but rather as recognition of the force and influence which masculine models of both macro and micro economy assert over the space available for discussion. However, it would be unfortunate if this emerging feminine voice were to contribute nothing more positive to the theory of the corporation than a rejection of the pervasive model of law and economics. In this paper, then, I too wish to use Carol Gilligan's work as a basis for my intervention in this arena, but I wish to use it as part of a suggested application rather than as a mere instrument of deconstruction.

In my previous work I have described at some length the current social and political climate which I think has created for corporations a crisis of legitimacy within society.⁵ My arguments on this point are strengthened by the recent corporate collapses of Enron and WorldCom in the United States. Rather than reiterate the reasons for this view here, I take this point as a given. Current governance arrangements in much of the developed world have not lived up even to their own limited horizons of shareholder wealth maximisation. I examine instead the discourse of masculinity which clothes both the discussion of globalisation (macro economy in my schema) and corporate governance regimes (micro economy in my schema). The purpose of this discussion is to highlight the ways in which a feminist account of these narratives, relying on the culturally conditioned characteristics identified by Ferguson in the quoted segment that opens this paper, would construct different spaces and insights. Following this discussion I look at how, using an approach grounded in feminist theory, corporations might respond to their current legitimacy crisis by directing some of their profits towards social interventions. I focus specifically on corporate social intervention in the United Kingdom. My definition of corporate social intervention is one that demonstrates the feminist approach to governance that I advocate. It involves harnessing corporate power to a strategic intervention, based around care, that addresses the needs of society. What I am arguing for is a corporate view of involvement within society that consists of considered and targeted interventions. These interventions would impact upon structures and groups that require not just assistance, but require the specific type of assistance that is being offered. In this way corporate programs will move the status quo forwards, rather than backwards, by negative impacts on infrastructure.

There are several interrelated reasons for this focus both on the UK and social intervention. The model of corporate governance in the UK attracts the label 'Anglo-American'. I want to show how distance can be created from this sort of received paradigm by paying greater attention to the cultural specificity of a particular context than is usual.⁶ I am not suggesting that corporate governance in the UK is converging towards a Rhinish or more European model of governance,⁷ if there is such a thing, only that there may be more dissonance between Anglo and American than is often presented. The founding cultures of

5 Sally Wheeler, *Corporations and the Third Way* (2002).

6 Lawrence Mitchell, *Corporate Irresponsibility* (2001) 1–11.

7 Cf Michael Albert, *Capitalism v Capitalism* (1993).

industrial development and corporate social intervention in the US and the UK are fundamentally different. American corporations consciously cultivated the image of caring establishments, in which workers and customers were held in high esteem. The dominant image was of the pioneer⁸ sending his new found wealth back home to those less fortunate. In the UK, after 1851, industrialisation slid slowly towards toleration rather than veneration.⁹ Hence the traditions of corporate social involvement are very different. To this it is necessary to add the very different regulatory regimes in which industrial practice now takes place. Transnational and multinational corporations conduct the majority of their business activity in their home territory.¹⁰ Within the UK this means conducting their affairs within a normative framework set not only by national government but more importantly by the European Union ('EU') as a supranational trade vehicle. Examining potential structures for corporate social intervention in the UK provides an illustration of global-localism. Intervention at a local or regional level is also encouraged through membership of trade and investment blocks such as the North American Free Trade Agreement ('NAFTA') and the EU. Nation states can encourage and channel such activity but are unlikely to be in position to demand such conduct.

II THE GLOBALISATION SCRIPT

A A Masculine Reading

A constant refrain of the 1990s has been that we are in an 'information age' and in, or progressing towards, a 'globalised economy'. Advances in technology allow capital markets to vary the price of stocks across the world in a matter of seconds.¹¹ Large and complex global financial transactions can be undertaken without the need for face-to-face interaction.¹² The opening up of the former planned economies, the rapid industrialisation of China and the desire of developing countries to attract inward investment, have created a global playing field for corporations in terms of the opportunities to reduce labour costs and find more favourable taxation and employment regimes.¹³ Events and meetings can take place anywhere and be reported everywhere. The focus of information is now at least national (if not extraterritorial) geographically local news, relayed

8 Andrew Wicks, Daniel Gilbert and R Edward Freeman, 'A Feminist Reinterpretation of the Stakeholder Concept' (1996) 4 *Business Ethics Quarterly* 475, 479.

9 Martin Wiener, *English Culture and the Decline of the Industrial Spirit* (1981).

10 Paul Hirst and Grahame Thompson, *Globalization in Question* (1996) 98.

11 Robert Reich, *The Work of Nations: Preparing Ourselves for 21st Century Capitalism* (1991) 3, 8.

12 However, face to face interaction is still regarded as being significant in terms of doing business deals. Boden and Molotch explain the utility of co-presence in these circumstances: Deirdre Boden and Harvey Molotch, 'The Compulsion of Proximity' in Roger Friedland and Deirdre Boden (eds), *NowHere: Space, Time and Modernity* (1994) 257, 268-70, 274.

13 Martin Woollacott pointed out that three European firms had announced sufficient job cuts in Europe (often followed by job creation in East Asia) in three days, compared with British and French government announcements on jobs to be delivered by their job creation programs: Martin Woollacott, 'All Change', *Guardian* (London), 14 June 1997, 20.

through national and extranational sources. There is now a cluster economy: nodes of activity across the world with relatively flat hierarchical structures. Cities such as London and Tokyo have emerged as leading centres for international finance. There have been large increases in trade between North America, Western Europe and the Asia Pacific rim as countries have organised into supranational trade blocks and accepted multilateral economic governance from the World Trade Organisation ('WTO'). Various changes have taken away the importance of space¹⁴ to capitalism, especially: the globalisation of capital, generally, and, for individuals, increased mobility through the availability of travel, forced relocation to seek employment, destruction of local environments through product construction, relocation or ecological damage and the availability of access to technology almost anywhere in the world. The creeping advance of issues such as efficiency, new methods of production and wage labour into previously subsistence level agricultural economies,¹⁵ has had profound effects, such as the dispersal of people into urban environments and the arrival of different forms of non-local cultural milieu into previously closed forums.¹⁶ The private world of capital is more important than the public sphere of politics, as resources and services around the world move from public ownership and administration to private ownership.

B A Feminist Reading

The comments above are the conventional indicia of globalisation. They are usually recounted using a very masculine frame of reference.¹⁷ The script valorises norms of masculinity such as power, unemotionality, and lack of engagement with the particular (local in this case).¹⁸ As Gibson-Graham argues, the story of globalisation reads like a 'rape script'. Markets are penetrated and tapped, a

scripted narrative of power operates in both the discursive and social fields of gendered and economic violence. ... After the experience of penetration — by commodification, market incorporation, ... MNC [multinational corporation] invasion — something is lost, never to be regained.¹⁹

14 Zygmunt Bauman, *The Individualized Society* (2001) 37–8; Mark Poster, *Cultural History and Postmodernity* (1997) 38–41.

15 Nicos Mouzelis, 'Towards a Transcultural Value System: A New Perspective on Relativism' (2000) 10 *Responsive Community* 11.

16 Giddens provides the example of an anthropologist who arrived in a remote village in Africa to commence research and found the video of *Basic Instinct* playing there before its release in London: Anthony Giddens, *Runaway World* (1999) 6.

17 Charlotte Hooper, 'Masculinities in Transition: The Case of Globalization' in Marianne Marchand and Anne Runyan (eds), *Gender and Global Restructuring* (2000) 59.

18 Kimberly Chang and L H M Ling 'Globalization and its Intimate Other: Filipina Domestic Workers in Hong Kong' in Marianne Marchand and Anne Runyan (eds), *Gender and Global Restructuring* (2000) 27.

19 J K Gibson-Graham, *The End of Capitalism (As We Knew It)* (1996) 124–5. To the extent that rape is an oft used analogy in Marxist critiques of capitalism, see also Karl Marx 'Capital, Volume 1' in Lawrence Simon (ed), *Marx: Selected Writings* (1994) 245.

The consequences of globalisation, viewed through a feminist lens, are rather less glamorous than the indicia. Capital has become global, has conquered space and distance but the position of labour, particularly female labour, is rather different. Women are the recipients of low waged and often unregulated employment in both the service sector and light production sector such as the garment trade. There has been a large increase in homework and in the casualisation of female labour to keep the costs of production low and productivity high.²⁰ Studies of female migration point to the growing number of women involved in the sex slave trade.²¹ Even these brief examples demonstrate that the lived experience of globalisation for many women is deeply unhappy. Feminist critique has responded by highlighting a number of sites of interrogation for globalisation. The suggestion of Gibson-Graham is to replace 'the rational, abstract, and dominating masculine order with [an] emotional, connected, peace-loving, and egalitarian one'.²² In real terms this means continued engagement with civil society. The limits on the power of nation states under globalisation creates an opportunity for the creation and maintenance of non-government organisations ('NGOs') and grass roots social movements. Attention to the local and the building of networks from the bottom up are longstanding characteristic features of feminist politics.

III INSIDE THE CORPORATION

A standard description of the corporation is that it is a nexus of contracts. Not 'contracts' in the conventional legal sense of the word but 'contracts' used as descriptor of the relationships between investors, managers, workers and suppliers. These contracts reflect marketplace negotiations as apparently each party can simply end their contract if they find better terms elsewhere. In this structure the purpose of the corporation is to maximise the investment of the shareholders, who risk their capital in the corporation. Corporate governance mechanisms exist, in this context, to provide accurate information to shareholders so that they may determine whether to continue their contracts with management or not. Proponents of this law and economics approach engage in discussions with each other about the correct amount of regulation required to achieve this goal efficiently, that is, at the lowest transactional cost.²³

There is little subtlety involved in this view of corporate existence. Efficiency is a hard and fast concept. It cannot include any other goals such as partial redistribution of wealth or the attainment of social justice. The structure follows the traditional liberal economic notion of markets as places where rational and

20 Susan Bullock, *Women and Work* (1994).

21 V Spike Peterson and Anne Runyan, *Global Gender Issues* (2nd ed, 1999).

22 Suzanne Bergeron, 'Political Economy Discourses of Globalization and Feminist Politics' (2001) 26 *Signs* 983, 997.

23 The models and debates within law and economics are much more sophisticated than it is possible to convey here. For an overview of these issues see Michael Whincop, *An Economic and Jurisprudential Genealogy of Corporate Law* (2001), a book which is to be commended for its clarity.

autonomous agents with stable preferences construct exchanges. In this model, human capital such as the workforce is subject to the same valuation process as inanimate corporate assets. There is no primacy given to engagement with employees on the basis of cooperative social relations. There is no conception that corporations exist and corporate activity takes place in the domain of the collective known as society, which may have expectations of certain kinds of behaviour from its constituent members. In the world of essentialist gender characteristics this is a masculine model of behaviour. A feminine model would embrace, not necessarily in a formal way, those emotions and interests that I have highlighted here as excluded.

The obvious deficiencies of the shareholder wealth maximisation model of governance have resulted in suggestions to refine the model through greater transparency of accounting information and through greater disclosure of information to large shareholders. More 'radical' proposals involve widening the participants in governance to include workers/employees and suggestions have even been made that governance participants should adopt a wider conception of corporate responsibility to extend to those groups that, whilst affected by corporate activity, stand outside the nexus of immediate property interest.²⁴ These suggestions are commonly grouped together under the heading of 'stakeholding'. The concept of stakeholding is based on a notion of an individual's private rights. However, it is not sophisticated enough as a device to recognise those rights at anything other than group level; an employee, for example, has only that identity regardless of gender and whether their work is full-time or part-time. Stakeholding cannot offer a negotiation structure, even for achieving group rights. To confer rights in this way would be to undermine the very capitalist structures that the digression into stakeholding models is designed to maintain. Stakeholding centres instead on the management of relationships.²⁵ Thus stakeholding descends in design and delivery to notions and practices of social responsibility. Notions of social responsibility overcome the problem caused by the issue of rights within stakeholding, but more importantly, in my view, social responsibility excludes a needs based discussion. The disappointment of social responsibility is that it does not create the platform for improved and uniform standards of behaviour — whether legal or ethical — in the corporate sector.²⁶

Ideas of worker participation conjure up, at best, images of the imposition of governance responsibilities on employees in a private individualised sense. For example, employees being made directors without any attempt to ascertain whether the responsibilities that go with the participation rights are an acceptable

24 Dennis Young and Dwight Burlingame, 'Paradigm Lost: Research Toward a New Understanding of Corporate Philanthropy' in Dennis Young and Dwight Burlingame (eds), *Philanthropy at the Crossroads* (1996) 158.

25 Robert Gray et al, 'Struggling with the Praxis of Social Accounting' (1997) 10 *Accounting, Auditing and Accountability Journal* 325, 333 ff.

26 Don Votaw, 'Genius Becomes Rare' in Don Votaw and S Prakash Sethi (eds), *The Corporate Dilemma: Traditional Values Versus Contemporary Problems* (1973) 11, 11.

package to their recipients.²⁷ In the UK these responsibilities would include exposure to legal liability and ultimately personal financial liability in the event of insolvency through such actions as wrongful trading and fraudulent trading.²⁸ Governance responsibilities may result in a conflict of interest when the legal duty to the corporation owed by directors requires one decision, and perceived moral responsibility to the workforce requires another.²⁹ At worst, participation structures serve to weaken existing arrangements for employee solidarity, for example, through union membership. Such structures are subject to 'capture' in the sense that they used to provide a forum for discussing the means to achieve a predetermined outcome rather than the discussion of outcomes.³⁰ Additionally, both participation and stakeholding regimes assume particular characteristics for industrial structures: non-adversarial industrial relations and a role for banks and other financiers which exceeds that of mere lenders. In other words, they look to mirror the political economy of countries such as Germany and Japan without considering the path dependency of the UK upon a different political and cultural inheritance.³¹ Simple recognition of interests is insufficient to support a feminist model of corporate governance. Neither mechanism presents a picture of governance that would involve real and open dialogue between and across sectors and hierarchies. Both are likely to be either so formal and closed in design or so unstructured that neither produces genuine and individualised discussion. As structures, both of these mechanisms reflect the stereotypical masculine characteristics that were set out at the beginning of this article.

IV AN OPEN AND CONNECTED APPROACH TO GOVERNANCE

Dialogue in and around the corporation is much more likely to occur through internal organisational evolution. Corporations do not operate within a vacuum — like all organisations they align themselves with their environment: social, political and economic.³² The corporation stands in relation to those outside it as a social unit in and of itself. It is also a self-reproducing unit as it is assured of perpetual succession for as long as it wishes. Corporate employees are not

27 Stuart White, 'Social Liberalism, Stakeholder Socialism and Post-Industrial Social Democracy' (1999) 7 *Renewal* 29, 34.

28 *Insolvency Act 1986* (UK) ss 213–4.

29 An example of this difficulty can be seen from the facts of *Cowan v Scargill* (1984) 2 All ER 751.

30 The literature on participation in development initiatives provides a useful discussion of the difficulties of this type of involvement: see David Mosse, "'People's Knowledge'", Participation and Patronage: Operations and Representations in Rural Development' in Bill Cooke and Uma Kothari (eds), *Participation: The New Tyranny* (2001) 16; Harry Taylor, 'Insights into Participation from Critical Management and Labour Process Perspectives' in Bill Cooke and Uma Kothari (eds), *Participation: The New Tyranny* (2001) 122.

31 Lucian Bebchuk and Mark Roe, 'A Theory of Path Dependence in Corporate Ownership and Governance' (1999) 52 *Stanford Law Review* 127, 168; J Nicholas Ziegler, 'Corporate Governance and the Politics of Property Rights in Germany' (2000) 28 *Politics and Society* 195.

32 Bryan Husted, 'A Contingency Theory of Corporate Social Performance' (2000) 39 *Business & Society* 24, 29.

hermetically sealed within the corporation. They have identities outside the workplace. Employees both shape and are shaped themselves by the corporation.³³ They bring with them their own life narratives. These add to that of the corporation and in exchange the corporation augments these narratives. Equally it is a concept that the business ethicist William Frederick calls the 'X' factor; the unknown beliefs that each employee brings to the employment role that may or may not influence corporate activity.³⁴ Employees are not a homogenous group with identical interests and concerns. They may have different perspectives on a variety of issues borne out of differences of race, sexuality, religious persuasion and other major life issues. Additionally they are also likely to be divided by economic and care issues. Main earners and secondary earners, primary child carers or elderly relative carers and single wage earners all have different concerns and different expectations of their employers.³⁵ Employees also face the issue of competing loyalties: loyalty to trade union agendas, to their professional values or perhaps to environmental concerns.³⁶ These loyalties have an ongoing role in life narratives and may have some input into internal practices within the corporation. In addition, specific political policies, such as those around the work-life balance, designed to assist those in employment or those who wish to become employed, and more general policies around the regeneration of particular geographical areas will cut into the relationship of employee and employer.

Technological advances have driven forward large scale corporate restructuring. Internal workplace hierarchies have flattened out as layers of middle management have been phased out. Non-core functions have either been outsourced or sold off. Corporate strategy has become more tightly focused. In the context of activities falling under the heading of corporate social intervention these are likely to have been drawn closer to both remaining managers and employees. Employees under their internal identity are ambassadors for their corporate employer, in their external identity they are potential beneficiaries of corporate largesse. In this way employees see their personal and work lives converging. There are also other issues that add to this convergence such as the amount of flexibility around work time and re-skilling that is demanded of them. It is not then surprising that employees should expect, as part of the exchange relationship, their corporate employers to have knowledge of and to support the sort of issues that they support themselves.³⁷ The flattening of hierarchies has led to some devolvement of general decision making into the hands of those employees who interface directly with suppliers, customers and other client

33 Erica Schoenberger, *The Cultural Crisis of the Firm* (1997) 116.

34 William Frederick, *Values, Nature and Culture in the American Corporation* (1995) 23, 101–33.

35 It is this failure to recognise difference through dialogue strategies that has been the basis of previous criticisms that I have made of works councils, see Sally Wheeler 'Works Councils: Towards Stakeholding' (1997) 24 *Journal of Law and Society* 44, 57–8.

36 Whistleblowers now have their interests safeguarded by the *Public Interest Disclosure Act 1998* (UK).

37 Barbara Altman, 'Corporate Community Relations in the 1990s' (1998) 37 *Business and Society* 221, 224. Knowledge of employees' interests in some third sector activities can be gleaned through their participation in the 'pay-roll giving scheme'. If financial support to registered charities is given under the payroll donation scheme a further 10 per cent is added by government.

groups.³⁸ Decision making and the attendant responsibility that goes with it in this arena is likely to be traded off in demands by employees for increased participation in the formulation and delivery of corporate social intervention. While corporations see this type of involvement as a way of building corporate loyalty, it is also an ideal opportunity for a corporation to develop a holistic approach to corporate activity that includes corporate social intervention.

A An Illustrative Example

One of the consequences of globalisation and technological change has been the disruption to traditional work patterns, such as the shift system and the nine to five working day. Changes in family structure are tied to these changing forms of work as individuals try to juggle between the demands of work life and the demands of life outside work.³⁹ The net effect of these changes is that the relationship between employer and employee within the corporate setting is altered. The area of work-life balance is one in which there has been both government intervention and initiatives by various corporations. In the UK, government intervention has concentrated on enhancing the basket of statutory rights for particular groups of people. The agenda for this is the encouragement of work based economic contributions by those groups who might otherwise have been disadvantaged in the labour market by their tie to, for example, child caring responsibilities.⁴⁰ Those in need of assistance are considered to be dual income, two parent households with children requiring care. Single parents are afforded little in the way of express recognition of their needs. In some ways this intervention, despite its limited view of which groups require assistance,⁴¹ is still a step forward. At least it is recognised that those families with two adult members are likely to be juggling at least two jobs between them.⁴²

Corporate recognition of work-life balance issues appears on one level to be more enlightened. A grouping of large corporations calling themselves Employers for Work-Life Balance have begun to issue a number of position papers and best practice guidelines around not only the offering of different types of work form, such as working from home and short-fat working weeks,

38 For the reality of what constitutes much of this interface, see Vicki Belt, Randal Richardson and Juliet Webster, 'Women's Work in the Information Economy: The Case of Telephone Call Centres' (2000) 3 *Information, Communication and Society* 316.

39 Jeffery Edwards and Nancy Rothbard, 'Mechanisms Linking Work and Family: Clarifying the Relationship Between Work and Family Constructs' (2000) 25 *Academy of Management Review* 178, 182.

40 Highlights include the introduction of the national minimum wage, extension of maternity rights, new rights for part-time workers on pay, pension entitlements, training provision and holidays.

41 For some of the complex family arrangements that emerge around the care of elderly relatives, see Joanna Bornat, 'Generational Ties in the "New Family": Changing Contexts for Traditional Obligations' in Elizabeth Silva and Carol Smart (eds), *The New Family* (1999) 115. In an ageing population this type of care is likely to become a significant issue in the future.

42 Labour force surveys in 1998 and 1999 indicate that 62 per cent of couples with dependant children are in work, 66 per cent of mothers return to work after maternity leave, women represent 33 per cent of the full time work force and 81 per cent of the part time work force: see Joseph Rowntree Foundation, *Employers, Communities and Family-Friendly Employment Policies* (2002), <<http://www.jrf.org.uk/knowledge/findings/socialpolicy/972.asp>> at 29 September 2002.

but also dealing with employees' health and well-being. Their suggestions embrace those employees with and without caring responsibilities. The rationale for this is apparently that as employers they feel it is their responsibility to their employees to offer them the means to have fulfilled lives outside work. Mitigating against this positive attitude are a number of questions which, if answered by future research, will provide a much clearer picture of the value and extent of corporate policies on this issue. For example, it is not clear if all employees working at every level are included in these policies, nor is it clear that employees working in the few remaining heavy industries as opposed to 'clean hands' industries will have these policies offered to them. It is not at all unlikely that flexible working policies could be used to recruit and retain staff in key areas.⁴³ Corporations could compete against each other to offer the most attractive packages. However adoption of this stance could also be an indication that corporations are prepared to move beyond a governance model which treats employees as clones to one which recognises, at least on some level, individual needs.

V NORMATIVE STRUCTURES FOR CORPORATE SOCIAL INTERVENTION

In 1999–2000, Regional Development Agencies ('RDAs') were launched in nine English regions. This policy step was the result of the synthesis of a number of different determinants.⁴⁴ The idea of a 'Europe of the Regions' has been driven from the EU policy-making organs downwards for some time. This downwards drive is likely to continue as the European Union urges on not only economic development and regeneration of Europe's regions but also a new Social Agenda. The Commission of the European Communities' communication on the new Social Agenda called for action to be underpinned by

an improved form of governance. This means providing a clear and active role to all stakeholders and actors ... All actors, the European Union institutions, the Member States, the regional and local levels, the social partners, civil society and companies have an important role to play.⁴⁵

Regional structures in the UK had previously been informally created so that there could be participation in the distribution of European Structural Funds.⁴⁶ Partnerships at local level between public and private sector actors were also a

43 L McKee, N Mauthner and C Maclean, "Family Friendly" Policies and Practices in the Oil and Gas Industry: Employers' Perspectives' (2000) 14 *Work, Employment and Society* 557, 563–5.

44 Martin Jones and Gordon MacLeod, 'Towards a Regional Renaissance? Reconfiguring and Rescaling England's Economic Governance' (1999) 24 *Transactions of the Institute of British Geographers* 295.

45 Commission of the European Communities, *Social Policy Agenda*, COM (2000) 379 final, [3.2].

46 It is also possible to obtain European Social Fund grants for new approaches to corporate social responsibility including awareness raising, extension to include small and medium-sized enterprises and exchanges of best practice under Regulation (EC) No 1784/1999 of the European Parliament and of the Council of 12 July 1999 on the European Social Fund [1999] OJ L 213, art 6.

key feature of these EU policy initiatives.⁴⁷ At national level, successive conservative governments echoed this strategy of informal regional development and partnership structures, although the emphasis then was on specific areas of urban regeneration through the use of Urban Development Corporations and the City Challenge Project, set up in 1991.⁴⁸

Constitutional developments within the union state of the UK from the beginning of the 1997 Parliament onwards have created a rather different climate for regionalism. The current Labour administration has seen the passage of both the Scottish and Welsh devolution legislation. Scotland and Wales now have elected assemblies. At times English regionalism has been seen as a non-existent tradition or 'the dog that never barked'.⁴⁹ That was certainly true in a formal sense from 1979 onwards as the attacks on regional planning structures by the Thatcher Government demonstrate. Regions at the extremities of England — Cornwall and the North East, for example — have long argued that their physical distance from London has disadvantaged them. The final card in the regional development game has been the recognition that the weakening of the nation state in the face of globalisation makes a stronger, more reflexive regional policy the only way to promote economic restructuring.⁵⁰ As the then Secretary of State for Trade and Industry phrased it:

In the modern economy we can not build a strong economy, a strong nation, if we have a tail of under-performing regions. We need all of our regions firing on all cylinders ... In order to enjoy increasing prosperity in our country we need strong economic growth in all our regions.⁵¹

Notwithstanding the emphasis within EU policy, on the linkage between social exclusion and regional economic regeneration,⁵² rhetorically at least, the statutory *raison d'être* that was given to each of the nine RDAs was almost entirely economic; the furthering of economic development, the development of skills relevant to employment, the promotion of business competitiveness and efficiency, and the promotion of sustainable development and employment. Each RDA was tasked with 'provid[ing] a business-driven direction for its region's economy' on the basis that 'the overall aim of each RDA's Regional Strategy

47 See, eg, Commission of the European Communities, *Medium-Term Social Action Program, 1995–1997 Social Europe*, COM (1995) 134 final.

48 An overview of Conservative urban regeneration and development policy can be found in Alastair Adair et al, 'Evaluation of Investor Behaviour in Urban Regeneration' (1999) 36 *Urban Studies* 2031, 2031–4.

49 Christopher Harvie 'English Regionalism: The Dog that Never Barked' in Bernard Crick (ed), *National Identities: The Constitution of the UK* (1991). Cf Peter Lynch, 'New Labour and the English Regional Development Agencies: Devolution as Evolution' (1999) 33 *Regional Studies* 73.

50 Michael Storper, 'The Resurgence of Regional Economies, Ten Years Later: The Region as a Nexus of Untraded Dependencies' (1995) 2 *European Urban and Regional Studies* 191; Mike Raco, 'Competition, Collaboration and the New Industrial Districts: Examining the Institutional Turn in Local Economic Development' (1999) 36 *Urban Studies* 951.

51 Stephen Byers (Keynote speech delivered at the Local Government Association Economic Regeneration Conference, Liverpool, 21 November 2000).

52 European Foundation for the Improvement of Living and Working Conditions, *Regeneration from Within* (1997).

[would] be to improve the competitiveness of each region'.⁵³ RDAs will have considerable budgetary autonomy within their ring fenced funding and together will be responsible for the spending of more than £2 billion of public money. Social exclusion appears only as a secondary consideration — a mere passing acknowledgement of the fact that it may have something to do with varying economic performance between regions and that it may need to be addressed as a result. The apparent subordination of the social to the economic in this way is unfortunate in the sense that it may raise concerns about the control of labour and other players in civil society by business interests.

The Department of Environment, Transport and the Regions ('DETR'), the office of central government responsible for RDAs, places considerable emphasis on the establishment and facilitation of collaborative networks within regions. The composition of these networks is left to the individual agencies but the advice of the DETR is that local authorities and other regional players such as chambers of commerce, universities and the voluntary sector be included. If these networks function as inclusive mechanisms⁵⁴ then fears of business domination may be allayed. RDAs are to build upon existing work that identifies regional needs and potential regional policies rather than duplicate it. Each RDA has a regional chamber, not as a body to which it owes accountability, but as a body that reflects the collaborative networks referred to above. Echoing this there is no prescriptive mechanism for chamber composition across RDAs aside from the insistence upon a dominant local authority element and a role for 'regional economic stakeholders'.⁵⁵ This last term is not defined and it can support a number of different meanings in this context. One is that it refers to major employers in the area and groupings representing smaller business interests. Another is that it should involve all those who contribute to the accumulation process: trade unions and other representatives of labour. This helps to reveal a potential debate around the question of democratic deficit — regional chamber members are not elected and even if they were RDAs would not be accountable to them. It also further demonstrates the poverty of the word 'stakeholder' as an explanatory tool. My interest in the constitutional factor behind the creation of RDAs is in the use of quasi-constitutional mechanisms to further economic development. It is not my intention to address issues of civic participation other than as they arise in the context of corporate intervention.

Thus what emerges from the RDA framework is the importance of subsidiarity within the state's use of spatial selectivity as a mechanism for

53 Department of Environment, Transport and the Regions, *Supplementary Guidance to Regional Development Agencies* (1999) 1–3.

54 See, eg, Yorkshire Forward <<http://www.yorkshire-forward.com>> at 26 September 2002. The RDA for Yorkshire and the Humber (Yorkshire Forward) provides a useful example in this context. The nine universities in the region have formed an alliance with the RDA the purpose of which is to increase business start-ups and to attract inward regional investment by offering the research and technical strength of regional universities to potential investors.

55 For more detail on chamber composition across the regions, see Aidan White, 'Accountability and Regional Governance' (2000) 14 *Local Economy* 329; Alan Harding, Stuart Wilks-Heeg and M Hutchins, 'Regional Development Agencies and English Regionalisation: The Question of Accountability' (1999) 17 *Environment and Planning C: Government and Policy* 669.

regeneration. The relative freedom thereafter to create a new institutional space is also important.⁵⁶ RDAs and regional chambers are a new regional ordering of space that cut across existing levels of more local activity pursued by local actors — for example, local authorities and existing regeneration partnerships. This ensures that the space will be non-neutral, possibly contested space: local actors will not wish to see local priorities abandoned in favour of solely regional initiatives.⁵⁷ Nor will indigenous business interests wish to see inward investors being awarded advantages not available to them.⁵⁸ The task for the RDA is to arrive at balanced compromises. The task for the corporate sector is to ensure their involvement within this space preferably as members of the RDA itself.⁵⁹ The attraction for corporations in structuring social intervention through the RDAs is that it makes it easier to identify those corporations whose response to the crisis of legitimacy that corporations find themselves in is to indulge in free riding. It is easier to assess corporate participation across the nine RDAs than it is to engage in a company-by-company search at national level.⁶⁰ The absence of a clear agenda for social side intervention can, for the corporate sector, be fulfilled in part by the new Business and Society strategy issued by the Department of Trade and Industry in March 2001.⁶¹ This strategy document presents both good practice in corporate social intervention and the worst aspects of corporate community involvement or corporate social responsibility. The strategy is framed in terms of an informal exhortation to participation with a trade-off of a potential enhancement in corporate profits — an exhortation to indulge in competitive corporate social conscience. Case studies are supplied of what is considered to be successful corporate community involvement with no mention of values that might lie behind that involvement, the reasons for its selection, or its sustainability. Corporations are urged to look at materials produced on a commercial basis that offer 'insights' on the construction of a 'responsible' profile. The message that is delivered here is that what corporations should do is select an initiative and then project themselves outwards and use 'show and tell' mechanisms for publicity, rather than looking

56 Martin Jones, *New Institutional Spaces* (1999) 237–53.

57 Iain Deas and Kevin Ward, 'From the "New Localism" to the "New Regionalism"? The Implications of Regional Development Agencies for City-Regional Relations' (2000) 19 *Political Geography* 273, 275–82.

58 There is scope for any RDA to make its position on the desirability or otherwise of inward investment clear in its Regional Strategy. However the likelihood of any Regional Strategy not including the attraction of inward investment with the consequent employment opportunities as a priority is remote. See Danny MacKinnon and Nick Phelps, 'Regional Governance and Foreign Direct Investment: The Dynamics of Institutional Change in Wales and North East England' (2001) 32 *Geoforum* 255, 264.

59 This has already begun to happen. For example the North East RDA has three members with commercial sector interests and several others with backgrounds in business.

60 The US adopts a regulatory approach to the free rider issue through use of its tax levy policy in Business Improvement Districts. Interestingly the same misgivings around questions of democratic deficit and control of the public sphere by private corporations still arise. See Richard Briffault, 'A Government for Our Time? Business Improvement Districts and Urban Governance' (1999) 99 *Columbia Law Review* 365.

61 Department of Trade and Industry, *Developing Corporate Social Responsibility in the UK* (2001), <<http://www.societyandbusiness.gov.uk>> at 26 September 2002.

outside the corporation first and then devoting resources to what appears appropriate in terms of outside needs and sustainability. In this vein, a rather more appropriate test for corporations planning a social intervention would be that of a risk assessment calculation in a research and development project of a similar size.⁶² Research and development projects are likely to contain assessments of sustainability and viability — questions that are missing from the Business and Society strategy document.

The stress laid by the DETR on RDAs as a single actor created from different component parts is crucial to the consideration of long standing problems requiring sustained strategic intervention rather than the provision of quick-fix, short-term shore ups that are nevertheless high profile.⁶³ RDAs have the potential to collate information from different members and use it to develop new policy initiatives.⁶⁴ Geographic Information Systems ('GIS') will be useful in this collation and recalibration of information, from a variety of different sources, in order to identify regional priorities and methodologies for tackling them. In the US and South Africa, this type of approach has already played a role in generating 'community' level participation in urban regeneration and development projects.⁶⁵ Community and community participation are not neutral terms and I acknowledge them as sites of contention in the material that follows. The final evaluation report from the City Challenge Project demonstrates that it is possible for cross-sector partnerships to deliver what actors acting singularly cannot.⁶⁶

VI POSSIBILITIES FOR CORPORATE INVOLVEMENT WITHIN THE NORMATIVE AGENDA FOR REGIONAL DEVELOPMENT

Despite the relative disinterest of national government in social issues, an opportunity exists for corporations to address these in the context of regional development through the mechanisms of Needs Audits and Care Plans. The essence of the intervention that I am advocating is that it be a genuine advancement of corporate assistance to those outside the usual matrix of property distribution in the form of dividends or share options. There may, of course, be elements of double benefit receipt; employees, for example, may benefit through what is paid as dividends to institutional shareholders if those

62 Christine Letts, William Dyer and Allen Grossman, 'Virtuous Capital: What Foundations Can Learn from Venture Capitalists' (1997) 75(2) *Harvard Business Review* 70.

63 Sandra Waddock and Mary-Ellen Boyle, 'The Dynamics of Change in Corporate Community Relations' (1995) 37 *California Management Review* 125.

64 Cf B Knight, 'Community Politics' in David Campbell and N D Lewis (eds), *Promoting Participation: Law or Politics?* (1999) 175.

65 Eric Sheppard, 'GIS and Society: Towards a Research Agenda' (1995) 22 *Cartography and Geographic Information Systems* 5; Rina Ghose, 'Use of Information Technology for Community Empowerment: Transforming Geographic Information Systems into Community Information Systems' (2001) 5 *Transactions in GIS* 141.

66 DETR, *What Works — Learning the Lessons: Final Evaluation of City Challenge* (1998). This was an independent evaluation by KPMG.

shareholders themselves comprise part of their pension fund portfolio. They may also benefit from corporate social intervention in the locale surrounding their workplace, but that is merely a fortunate spin-off for those concerned. The point of the advancement of corporate assistance is not for corporations to indulge in altruistic behaviour or to ensure that the intervention is costless because of increased product sales. Rather, it is for corporations to secure an existence that allows them to retain or recover legitimacy against the background of the failure of shareholder wealth maximisation governance strategies.

An intervention needs to be structured so that it supplies the appropriate tools to achieve its purpose. In the past corporations have been content to donate money, match funding raised from other quarters or donate some of their own used infrastructure equipment, such as computers, without caring whether the end result was achieved or even achievable.⁶⁷ This approach to intervention often has serious negative affects on the infrastructure with which it engages. Corporations need to inform themselves of the landscape in which intervention will take place by ascertaining needs and matching those needs against the skills and resources that they have at their disposal. I see this taking place in the form of an audit of needs.⁶⁸ Audit is an ideologically charged term⁶⁹ and it is used deliberately in this context to emphasise not just the drawing together and collection of existing information but the centrality to corporate existence that intervention strategies should have. What I am advocating is a recasting of corporate social intervention; one that is undertaken as a result of an engagement process — not a simple unilateral decision or a selective consultation exercise — a genuine attempt at listening, rather than assuming what would be beneficial as is often currently the case. In some geographic areas there will be an abundance of information already accumulated that corporations can tap into, in others there will be very little. The execution of an audit-type exercise affords corporations opportunities to link with RDA members, other corporations, business representative bodies, third sector organisations and other voluntary groups. All these organisations are potential future partners in intervention projects; indeed, some may already be partners in existing corporate community involvement ('CCI') ventures. Activities under this heading and others such as cause-related marketing, for example, are still perfectly permissible. They represent part of the range of typologies of interests that corporations can have in their social, political and economic environment. However there has to be a recognition that

67 Rosabeth Moss Kanter, 'From Spare Change to Real Change' (1999) 77(3) *Harvard Business Review* 122.

68 See Deborah Vidaver-Cohen, 'Public-Private Partnership as a Strategy for Crime Control: Corporate Citizenship Makes the Difference' (1998) 100/101 *Business and Society Review* 21. Needs audits bear some similarities in terms of creation and ongoing maintenance to the model of Constructive Corporate Citizenship put forward by Vidaver-Cohen. The differences between our models lie in what we see as a desirable outcome. For Constructive Corporate Citizenship, it is the improvement of the competitive edge of participating corporations, whereas for needs audits it is the opportunity to adopt strategies that lead to meaningful social intervention.

69 See Michael Power, *The Audit Society* (1997) 1–9; Andrew Cooper, 'The State of Mind We're In' (2000) 15 *Soundings* 118.

many of these activities, without amendment, do not qualify as corporate social intervention.

This type of audit exercise involves the articulation and interpretation of needs rather than rights. The language of needs does not eliminate conflict. Nancy Fraser in her work on state welfare regimes makes a series of important observations about the nature of needs and the articulation of needs.⁷⁰ Some of these are germane to corporate audits of needs and to the interpretation of needs by RDAs and other bodies such as local authorities, despite the fact that in Fraser's work these observations are being used to isolate policy options at an altogether higher level. First, there have to be adequate and fair forums in which needs can be articulated and interpreted. Otherwise the more rehearsed and organised are at an advantage. Second, the identity of the needs interpreter is a politically charged question — this is something that is particularly pertinent to the formation and maintenance of partnerships and it is examined below. Diminishing hierarchies within corporations make the process of listening to needs accounts more egalitarian. It should be possible to build into the audit process an acknowledgement that needs will conflict with each other. This is something that corporate social responsibility and stakeholder models of the corporation never articulated; that by satisfying one need, others in need might be disadvantaged. Models promoting stakeholding would find it difficult to acknowledge conflicting or diverging interests without also accepting that these differences exist not just between the apparently clear and entirely separate categories of interest they promulgate, but also within those same interest groups.⁷¹

Fraser's answer to her own question about the nature of the forums in which needs are articulated is a Habermasian one — that there needs to be a 'dialogical, participatory process of need interpretation'.⁷² This certainly resonates with the debates around welfare provision with which she is engaging and is also an obvious place to employ Habermas' discourse model with its emphasis on the public sphere. Fraser's adoption of this model is not without its own critical engagement. This takes place around Habermas' construction of the public sphere, not least because of the failure to recognise both the traditional exclusion of women from liberal notions of the public sphere, and the presence of competing publics. This critique is well documented elsewhere.⁷³ Employing ideas of the public sphere corporate audits of needs is an attractive proposition as it emphasises the quasi-public nature of this activity. It prevents what Fraser calls the reprivatisation of needs.⁷⁴ One of her examples of this is particularly apposite in the corporate context: the claim that the closure of a factory is an

70 Nancy Fraser, *Unruly Practices: Power, Discourse and Gender in Contemporary Social Theory* (1989) 164.

71 See Monika Winn, 'Building Stakeholder Theory with a Decision Modelling Methodology' (2001) 40 *Business and Society* 133.

72 Fraser, above n 70, 157.

73 See generally Craig Calhoun (ed), *Habermas and the Public Sphere* (1992); Johanna Meehan, *Feminists Read Habermas* (1995).

74 Fraser, above n 70, 172.

issue only for those able to deal with it as a legitimate exercise of the privilege of property ownership. In another way this model of communication assumes a formality that may not in fact be present. In the Habermasian model of discourse, communicative activity in the private sphere feeds the lifeworld constructed through governmental and non-governmental institutions.⁷⁵ The private sphere consists of circles of friends, neighbours and work colleagues.⁷⁶ The presence of groups at this lower level of structural evolution needs to be acknowledged and a forum appropriate to them also adopted. Urban neighbourhoods, for example, are likely to be a loose affiliation of individuals and families with only one apparent shared interest, perhaps poor housing conditions⁷⁷ — the classic limited liability community.⁷⁸ For them to project this need into something like Habermas' lifeworld, a rather different strategy may have to be employed. A problem with drawing attention to this potential accounting deficit is that it can be taken to invest notions of community with idealistic qualities they perhaps do not have and have never had.⁷⁹

These difficulties aside, there would appear to be two potential ways forward from this point. Corporations, drawing upon the skill base that exists within them, can facilitate both. One is the setting up of a project that is entirely neutral for all participants, if such a thing can be conceived.⁸⁰ Through the execution of this project, barriers between individuals would be broken down and needs articulated. The other is to set up Freirian type neighbourhood culture circles. These circles would involve critically aware coordinators that would, while preserving the autonomy of individuals, enter into group dialogues. In Freire's methodology there are three stages involved: the naming stage which involves the positing of a particular problem, the reflection stage which examines why a particular issue is a problem, and the action stage which identifies what can be done to change the situation. I use the word 'type' here to signal some caution about wholesale adoption of Freirian pedagogy. Freire is more frequently associated with his work on adult literacy,⁸¹ however within that work his political project of empowerment at the level of the individual has a much wider application.⁸² It is grounded in a vision of social change and offers a model of communication that is dialogical, interactive and anti-authoritarian.⁸³ It centres

75 Jürgen Habermas, *Between Facts and Norms* (1997) 363.

76 *Ibid* 365.

77 Mohan makes the point that pockets of deprivation are concentrated at ever-smaller spatial levels: John Mohan, 'New Labour, New Localism?' (2000) 4 *Renewal* 56.

78 Albert Muniz and Thomas O'Guinn, 'Brand Community' (2001) 27 *Journal of Consumer Research* 412.

79 Simon Szreter, 'A New Political Economy for New Labour' (1999) 7 *Renewal* 30. Szreter makes the point that traditional communities (often those drawn on geographic lines) prevent, rather than encourage, the formation of social ties as they are often hierarchical and authoritarian.

80 Seana Lowe, 'Creating Community: Art for Community Development' (2000) 29 *Journal of Contemporary Ethnography* 357.

81 Paulo Freire, *Pedagogy of the Oppressed* (1970); Paulo Freire, 'The Adult Literacy Process as Cultural Action for Freedom' (1970) 40 *Harvard Educational Review* 205; Paulo Freire, 'Cultural Action and Conscientization' (1970) 40 *Harvard Educational Review* 452.

82 Paul Taylor, *The Texts of Paulo Freire* (1993).

83 Peter McLaren, 'Paulo Freire's Legacy of Hope and Struggle' (1997) 14 *Theory, Culture and Society* 147 150–1.

on participation from those who are often excluded from more formal consultations. However, throughout Freire's work on this type of pedagogy, there is no attempt to address the fact that the facilitator has a particular race, gender and class and that individuals may articulate needs and problems in different ways and even accord them different priorities. Freire's ongoing assumption that both facilitator and, in this case participants, share the same assumptions about social problems and their solutions is misplaced.⁸⁴ These are difficulties that have to be addressed if these circles are not to become tainted with the charge of representing only interest groups that are large, uniform and vocal.

A Care Plans

The next stage in formulating corporate social intervention is the construction of a care plan. The rationale for a care plan is to make clear a corporation's intervention strategy. The arbiters of the efficacy of this plan will be individuals within the society: those who actively contest corporate legitimacy, potential partners both inside the RDA and outside it, and those who receive care under the plan. Care plans would indicate which needs the corporation felt that it could best meet with its resources and skill base, how it intended to care for those needs, how care would take place on an operational level, and how those receiving care would provide feedback of their experiences.⁸⁵ Care plans would indicate the communication strategies that corporations would put in place to ensure that their interaction with those benefiting was a participatory dialogue. Care plans are less ambitious than stakeholder management when the latter is considered as an option in theoretical terms only. On the level of stakeholder implementation however, this position is reversed. Care, as a descriptive term, does not imply any universality of subject. It does not, without more, suggest who is within the ambit of care, nor does it suggest a hierarchy of relationships that should be singled out for care. Care is not meant to convey demeaning notions of inequality in terms of 'you can't, so we will', but rather it is a recognition that inequalities do exist and can be addressed through notions of meeting needs through care.⁸⁶ Stakeholding in its most sophisticated form divides its interest groups into primary and secondary stakeholders⁸⁷ or

84 Kathleen Weiler, 'Freire and a Feminist Pedagogy of Difference' (1991) 61 *Harvard Educational Review* 449.

85 This four-stage conceptualisation of the care process is taken from Berenice Fisher and Joan Tronto, 'Toward a Feminist Theory of Caring' in Emily Abel and Margaret Nelson (eds), *Circles of Care: Work and Identity in Women's Lives* (1990) 38.

86 Joan Tronto, *Moral Boundaries: A Political Argument for an Ethic of Care* (1993) 145.

87 Max Clarkson, 'A Stakeholder Framework for Analyzing and Evaluating Corporate Social Performance' (1995) 20 *Academy of Management Review* 92.

stakeholders necessary for the survival of the corporation and the rest.⁸⁸ Having done this, however, as a theory it then seems to draw no substantive distinction between the two groups. It does not stress the need for dialogue structures, still less advocate notions of partnership with other actors, stakeholders or not. Ventures organised under the canopy of stakeholder management may give no clue as to their sustainability. Stakeholding has no conflict resolution dimension to it. Care, on the other hand, is a concept that can resolve conflict. Corporations indicate their priorities for social intervention through their care plans.

B The Terminology of Care

The choice of the term 'care plans' is a deliberate one. Possible substitute terms for the activity described above suggest themselves such as action plans and intervention goals, but these substitutes do nothing to describe the nature of the corporate activity that is being undertaken. In particular they say nothing about the nature of the corporation's relationship to others. To this, care as a terminology emphasises the importance of the relation between the individual and the larger collective, rather than seeing these terms in opposition to each other.⁸⁹ Care as a descriptive term has a history that has seen it at times described as a feminist ethic and as a result of this, then, as an ethic that stands in opposition to the ethic of justice.⁹⁰ Much of this history is developed from the Gilligan-Kohlberg⁹¹ controversy first articulated around issues of moral development in children. It is a history that is well documented and one with which I do not intend to engage,⁹² save for the points that are relevant to this paper.⁹³ Gilligan herself disavows any gender connection for her work.⁹⁴ Indeed, a much broader frame for her work can be found in the work of those commentators who point not to a specifically gendered turn within her work, but

88 The idea of corporate dependency is known as the 'survival thesis'. Opposite ends of the spectrum of argument are represented by Sternberg and Freeman. For Sternberg the corporation depends for its survival upon shareholders, state and customers: Elaine Sternberg, 'Stakeholder Theory Exposed' (1996) 2 *Corporate Governance Quarterly* 4, 6. For Freeman the corporation depends upon a much wider range of groups for survival, including its employees: William Evan and R Edward Freeman, 'Stakeholder Theory of the Modern Corporation: Kantian Capitalism' in Tom Beauchamp and Norman Bowie (eds), *Ethical Theory and Business* (1988) 75, 100-2.

89 Selma Sevenhuijsen, 'Caring in the Third Way: The Relation Between Obligation, Responsibility and Care in Third Way Discourse' (2000) 20 *Critical Social Policy* 5, 9.

90 See Nell Noddings, *Caring: A Feminine Approach to Ethics* (1984) 40-3 for a worked example illustrating this approach.

91 Gilligan, *In a Different Voice*, above n 2; Lawrence Kohlberg, *Essays in Moral Development* (1981, 1984) vols 1, 2.

92 In addition to views which take one side of the debate or the other, there is also literature from both psychology and philosophy that denies even the efficacy of this type of research. See Owen Flanagan, *Varieties of Moral Personality: Ethics and Psychological Realism* (1991) 196-252; Mary Ellen Ross, 'Feminism and the Problem of Moral Character' (1989) 5 *Journal of Feminist Studies in Religion* (1989) 59.

93 For a fuller discussion, see Linda Nicholson, *The Play of Reason* (1999) 17-28.

94 Carol Gilligan, 'A Reply to My Critics' in Mary Larrabee (ed), *An Ethic of Care* (1993) 207, 209; Carol Gilligan, 'Moral Orientation and Moral Development' in Eva Kittay and Diana Meyers (eds), *Women and Moral Theory* (1987) 19, 20.

more generally to her disavowal of Kantian notions of rational individuals⁹⁵ bound together by loose notions of respect, equality and due process and the liberties — among other things, of free speech, association and assembly — but not necessarily with any notion of the interpersonal relationships required to make the exercise of these rights anything other than a very minimal foundation for the most basic of civil societies.⁹⁶ A more accurate description for the results of Gilligan's experiments in moral psychology is that she found the existence of an ethics that was anti-principalist in focus, one that recognised the importance of context, of narrative and of relationships to others.

Care, of itself, does not have to be a gendered concept. Indeed, if gendering it as feminine results in it being coupled with the analogy of familial roles, this is particularly unhelpful. As I explained above the use of care plans allows a corporation to identify those within the parameters of its care. The application of a mother-child paradigm,⁹⁷ for example, would not permit this, but would not necessarily result in the idea of corporate care spreading more widely. It would also suggest that conventional ideas of the family are still very much at play and that children will be primarily cared for by someone occupying the role of 'mothering person'.⁹⁸ For many families such roles no longer exist in this way.⁹⁹ This model gives the impression of a corporation prepared to indulge in self-sacrificing behaviour. This type of behaviour is unlikely to lead to a strategic corporate social intervention, as the existence of trading profit is essential for intervention. The corporation seen as a father figure again runs into the problem of family construction and moreover suggests a patriarchal monolith operating a hierarchical structure from which unstructured largesse is dispensed on a whim.¹⁰⁰ However as the ethic of care incorporates emotion¹⁰¹ and has as its dominant values reciprocity, equality, trust, respect for difference, and the promotion of self-respect,¹⁰² gendering is almost inescapable.

The counterposition of the ethic of care is an ethic of rights or justice. That the two are viewed as incompatible comes from Gilligan's initial work. The idea of justice is orientated towards a universality of general principles located in the

95 See Gertrud Nunner-Winkler, 'Two Moralities? A Critical Discussion of an Ethic of Care and Responsibility versus an Ethic of Rights and Justice' in William M Kurtines and Jacob L Gewirtz (eds), *Morality, Moral Behavior and Moral Development* (1984) 348. For a discussion of the Kantian voice within Kohlberg's work see Seyla Benhabib, *Situating the Self* (1994) 148–77.

96 Annette Baier, 'The Need for More Than Justice' (1987) 13 *Canadian Journal of Philosophy* 41.

97 See, eg, William Frederick, *Values Nature and Culture in the American Corporation* (1995); Robbin Derry, 'The Mother-Child Paradigm and its Relevance to the Workplace' (1999) 38 *Business and Society* 217.

98 Virginia Held attempts to gender-neutralise her concept by referring to the 'mothering person'; whether this succeeds or not is debatable but it still raises spectres of traditional family roles: Virginia Held, *Feminist Morality: Transforming Culture, Society and Politics* (1993) 195–8.

99 Melanie Howard and Michael Wilmott, 'The Networked Family' in Helen Wilkinson (ed), *Family Business* (2000) 45.

100 Howard Schwartz, 'The Sin of the Father: Reflections on the Roles of the Corporation Man, the Suburban Housewife, Their Son and Their Daughter in the Deconstruction of the Patriarch' (1996) 49 *Human Relations* 1013.

101 Barbara Koziak, *Retrieving Political Emotion* (2000) 164–78.

102 Ruth Lister, *Citizenship: Feminist Perspectives* (1997) 102.

public sphere. Care, on the other hand, is seen as confined to the private sphere, with an emphasis on the importance of context and of maintaining relationships.¹⁰³ These two perspectives have gradually been elided, not least by Gilligan herself.¹⁰⁴ Significantly, Onora O'Neill from her perspective of Kantian universalism decides not that care alone is insufficient but that justice cannot stand on its own.¹⁰⁵ Joan Tronto presents the most forceful case for resituating the ethic of care. Her reason for not only pushing the ethic of care beyond ideas of gender but also for it 'to be connected to a theory of justice' is primarily a political one. In her view, only if this occurs can the idea of care be pushed beyond the private sphere into a public democratic process. She points to the potential power imbalance that may otherwise result between caregiver and care receiver and the possibility of 'parochialism' creeping into the distribution of care giving.¹⁰⁶ This last point is perhaps better explained by Mendus: 'unsupported by considerations of justice and equality, care may simply not extend reliably beyond the immediacy of one's own family, or group, or clan, to the wider world of unknown others'.¹⁰⁷ The importance of Tronto's work in shaping an ethic of care so that it can also incorporate a justice perspective necessary for it to be a public theory of democracy does not end there. She returns us to the anti-Kantian stance first taken by Gilligan and asserts that the care perspective is a contextual moral theory in that it is situated in the behaviours of particular societies and addresses the broader moral capacities of actors.

C Partnership Issues

In many ways partnerships represent the very essence of my conception of corporate social intervention. The actors involved essentially negotiate a compromise which involves each in the suppression of some interests and the articulation of others. Actors from each sector come to the idea of partnership imbued with their experiences under the economic, social and political ideals of the past, essentially those of the New Right Governments of Margaret Thatcher and John Major, and, in some cases, wary also of the expectations placed upon them by the more social democratic regime of Tony Blair's Labour party. This was certainly the case for the voluntary sector. The third sector had not undergone the root and branch reforms that the public sector had with the introduction of Next Steps Agencies, Charters, Compulsory Competitive Tendering and such like. In fact it had been treated only to piecemeal reforms in

103 For a more detailed breakdown of the differences between these two perspectives see Elisabeth Porter, *Feminist Perspectives on Ethics* (1999) 12–16.

104 Jodi Dean, 'Discourse in a Different Voice' in Johanna Meehan (ed), *Feminists Read Habermas* (1995) 205, 208–11.

105 Onora O'Neill, *Towards Justice and Virtue* (1996). See also David Smith, 'How Far Should We Care? On the Spatial Scope of Beneficence' (1998) 22 *Progress in Human Geography* 15.

106 Tronto, above n 86, 171.

107 Susan Mendus, 'Different Voices, Still Lives: Problems in the Ethics of Care' (1993) 10 *Journal of Applied Philosophy* 17, 21.

its legal and taxation regime.¹⁰⁸ Nevertheless it found itself fragmenting in the effort to provide services across the burgeoning gaps that were created by the retrenchment of the welfare state.¹⁰⁹ Thus it was somewhat unprepared to be pushed into the spotlight and acclaimed as a key resource for active citizenship and crucial to civil society.¹¹⁰ The corporate sector for its part had seen periods of high growth and profits interspersed with periods of deep recession and now found itself existing within a market of global competitiveness.

D Partnership Structures

Partnerships between sectors were given a new impetus following the election of a Labour government in 1997. It appears that what this has done at the operational level is create a proliferation of new partnership arrangements on top of existing ones, thus exacerbating governance and structural problems that already existed.¹¹¹ What is becoming clear, despite the fact that it is too soon in a temporal sense to evaluate the effectiveness of delivery under individual partnerships, is that the maximum degree of flexibility in partnership structure is required.¹¹² In some instances the partnership members want to operate on the basis of network and loose alliance, in others they want a much tighter structure.¹¹³ This mirrors the statutory brief given to RDAs. However, for partnerships to be able to successfully negotiate issues of structure and the subsequent management of that structure, there need to be shared objectives and shared ways of reaching these objectives. The most obvious tension here is between the corporate sector, with its experience of competitive corporate community involvement, and the third sector, with objectives that are potentially very broad, as third sector involvement often means, in reality, a loose alliance of a number of small organisations.

The partnership members need to address issues of trust between themselves and, following on from this, the differences in their organisational structures, for example, the role of adversarial debate, consensus management and majority rule. Many of the problems partnerships encounter are based around dimensions

108 Jeremy Kendall, 'The Mainstreaming of the Third Sector into Public Policy in England in the Late 1990s: Why and Wherefor?' (2000) 28 *Policy and Politics* 541.

109 Christina Ashworth, 'Changing Cultures and Building Shared Ownership' (2000) 15 *Local Economy* 256.

110 Gordon Brown, 'Civic Society in Modern Britain' (Speech delivered at the 17th Arnold Goodman Charity Lecture, London, 20 July 2000). The third sector found itself the subject of a Treasury Tax Review in 1997, the lynchpin of the Active Community Unit based at the Home Office and involved in a compact with government that emphasised their separate but also complementary positions around service delivery: United Kingdom Home Office, *Getting it Right Together: Compact on Relations between Government and the Voluntary and Community Sector in England*, Cm 4100 (1998).

111 Ben Jupp, *Working Together* (2000) 25; Perri 6 et al, *Governing in the Round: Strategies for Holistic Government* (1999).

112 National Council of Voluntary Organisations (Press Release, 26 July 2000); Marilyn Taylor, 'Communities in the Lead: Power, Organisational Capacity and Social Capital' (2000) 37 *Urban Studies* 109.

113 See Ian Leigh, 'The Legal Framework for Community Involvement' in Alison Dunn (ed), *The Voluntary Sector, the State and the Law* (2000) 9, 15–20.

such as the regulation of power and the establishment of a common discourse,¹¹⁴ and dilemmas around questions of leadership, accountability and infrastructure capability. From this neutral starting point it then becomes easier for each member of the potential partnership to deal with key points of concern; for example, for the third sector this might be its independence as a service provider from local authority and central government concerns.¹¹⁵

E Community Participation in Partnerships

The whole issue of partnerships takes us to one of the key questions of life in the 21st century: can we identify community? How can community be included in these ventures as an active participant, or even recipient, if it cannot be identified? These questions arise specifically in this context because of the importance that has been placed by post-1997 political rhetoric specifically on community involvement in partnerships. This involvement is a new addition to previous incarnations of partnership ventures.¹¹⁶ Local people and community groups are to be the key to successful development and regeneration partnerships,¹¹⁷ and yet communities stand as deeply fragmented publics. They are fragmented not by selfish individualism, but by the rise of self-reflexivity leading to the recognition of individual desires, fears and ultimately identity. These are the same concerns that strategies of employee participation and governance through stakeholding fail to address. Third sector organisations can no longer be considered as analogous to, or representative of, community. This is a separate point from the issue of their independence. Rather, it concerns the pressure, in a competitive sense, that has been put upon the third sector to obtain its funding under contracts with central and local government for service delivery and the involvement with cause related marketing that has been on offer for larger organisations. Smaller third sector organisations either do not have the infrastructure to become part of this culture, or, in order to do so, are forced to abandon a narrow, often locality based, focus.¹¹⁸

114 There are, of course, more sceptical ways in which to view the whole idea of partnership. One is that it disempowers discourses of dissent by enveloping them within these structures which are then used to provide legitimacy for capitalist discourse: Marilyn Taylor, 'Partnerships: Insiders or Outsiders' in Colin Rochester and Margaret Harris (eds), *Voluntary Organisations and Social Policy: Perspectives on Change and Choice* (2000).

115 Debra Morris, 'The "Contract Culture" as Dependency Culture for Charities?' in Alison Dunn (ed), *The Voluntary Sector, the State and the Law* (2000) 123, 126-7; and Matthew Smerdon et al, 'William Beveridge and Social Advance: Modern Messages for Voluntary Action' in Barry Knight et al (eds), *Building Civil Society* (1998) 13, 20.

116 Paul Foley and Steve Martin, 'A New Deal for the Community? Public Participation in Regeneration and Local Service Delivery' (2000) 28 *Policy and Politics* 479, 482-5.

117 Marilyn Taylor, 'Maintaining Community Involvement in Regeneration: What are the Issues?' (2000) 15 *Local Economy* 251.

118 See generally Steven Smith and Michael Lipsky, *Non Profits for Hire: The Welfare State in the Age of Contracting* (1993) 22-40. For a discussion specific to the UK, see Debra Morris, 'Charities in the Contract Culture: Survival of the Largest?' (2000) 20 *Legal Studies* 409.

VII CONCLUSION

Individuals have certain shared pasts and presents in a local sense. Recent political interventions use a discourse that seeks to build on this through the establishment of community forums, focus groups, and citizens' juries. The model for these mechanisms is broadly one of participatory democracy. The nature of the fault lines in these fragmented publics demand that for these mechanisms to have legitimacy, they must thoroughly address questions of inclusiveness, accountability and accessibility, with their end point as engagement rather than consultation. The suggestions that have been offered to augment these mechanisms are social brokers, facilitators and even a narrow version of social entrepreneurship. These offices are similar to the role of coordinators in the Freirian type culture circles that I suggest that corporations should adopt. Just as needs auditors may use GIS technology to inspire the articulation of needs, so this technology may be of use in encouraging fragmented publics to take part ownership of partnership ventures. GIS implementation brings together technical, social and scientific perspectives. It highlights differences and shared conceptions.¹¹⁹ Depending on the nature of the planned venture it should be possible to at least secure valid community consensus around broad spectrums of spatial interest, leaving other issues to more detailed negotiations.¹²⁰ What results then is not reconstituted community but individuals recognising opportunities to pursue limited shared objectives. The role of corporations in regeneration and development programs as a listening and contributing partner is vital in securing progress, and central to a feminist vision of corporate governance.

119 Francis Harvey and Nicholas Chrisman, 'Boundary Objects and the Social Construction of GIS Technology' (1998) 30 *Environment and Planning A* 1683.

120 Daniel Howard, *Geographic Information Technologies and Community Planning: Spatial Empowerment and Public Participation*, <<http://www.ncgia.ucsb.edu/varenius/ppgis/papers/howard.html>> at 1 October 2002.