The PUBLIC EYE AWARDS 2013

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The Role of Science and Law in Initiatives like Public Eye

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1. Debunking the business case for ethics

The discussion on Corporate Social Responsibility, in academia as well as in business, is still dominated by the belief in the so called business case for ethics. Acting responsibly, it is said, is profitable business in the long run. Maximizing profits, truly, not myopically, thus can never be ethically wrong.

Equipped with this ideology, businesses are allowed to go on in maximizing profits, reaping the highest profits possible for investors, including hit-and-run investors and *their* long-term balance sheets. These investors, for whom there is no such thing as excessive profits, have been enthroned as the "principals" of business, with management being to act on their behalf as their "agents", treating the rest, that is, all other stakeholders, as "resources" for yielding highest profits.

The Public Eye Awards, year by year, debunk this economistic ideology of a business case for ethics not only on theoretical, but in real terms. The 7 nominees for this year's hall of shame of corporate misconduct and ruthless practice all are highly profitable companies. Their combined profits sum up to a staggering USD 43 billion. At least in part, possibly to large extends, they are profitable *because* they have acted irresponsibly. Profit maximization, as opposed to profit making, by definition, leaves no room for moral integrity and ethical considerations. Profit maximization is the paramount cause for irresponsible corporate conduct.

2. Radical profit maximization at work

Radical profit maximization might include, for example, bribing and consciously calculating the risk of being caught and the resulting fines, what seems to be the case with Alstom. As long as the fines are lower than the profits reaped from privileged access to public tenders, this strategy will pay out.

The more coarse ways of corporate greed can be found in the extracting industries, where, despite of high profits, cost cutting at the expense of workers, communities and the environment is the rule rather than the exception. Sometimes companies even do not shy away from some form of complicity in first-order human rights violations, which interfere with the integrity of the human body, including refraining from precautionary and de-escalation measures, though the causes for the unrest were at least partly in-house and, thus, known. (I am referring to LonMin.).

On the side of white collar crimes, the impertinence of Goldman Sachs' clandestine practices of deceiving everybody else except the current confidant – like Greece in hiding the size of its debts in order to being admitted to the Eurozone – is breathtaking. Of course the people at Goldman Sachs know for sure that their stellar profits and bonuses in the end are to be paid by the dumb taxpayer.

Goldman Sachs not only is one of the major players on the forefront in undermining democracy by propagating the "too-big-to-fail" or "to-interconnected-to-fail" tale, taking the system of payment transactions, which is needed for the normal operation of the economy, as hostage. Democracy is also undermined by transforming the private losses, these banks actually should bear, into public debts, letting the taxpayer bail for the financial bubble they created. Even more, with the infamous revolving door system, the bank in manifold ways delivers the political personnel, the so called technocrats (like Mario Draghi, Mario Monti, or Hank Paulson), ensuring that the "right" decisions in favour of investors ("the markets") are declared as imperative (in German: as "alternativlos"), and that the corresponding neoliberal austerity measures, which are simply called "reforms", are implemented effectively and swiftly.

3. The responsibility of academia

Where do these people learn to act like this? They learn it at business schools which are ranked top the more money their graduates, as managers, make. These people are talented in extracting money. They learn not just how to do business and making money with that, they learn how to maximize profits.

Studying economics, Gregory Mankiw writes in his bestselling textbook "Principles of Economics", "will make you a more astute participant in the economy." The students are equipped with the tools, and with the mindset (the "value mindset" some call it), of how to become rich. As "agents" they become rich by making investors rich, via "incentives" and profit related bonuses. No wonder that they, when in charge, disregard the needs and rights of vulnerable stakeholders.

Business administration today is taught as a matter of course at universities worldwide. In the early years of its establishment, it was widely accepted that business education has a proper role to play at a university only "if its purpose is to train 'heads' or future leaders in business", as an assistant dean at Harvard Business School put it in 1926.[1] "If its purpose is to train 'hands', or technicians, or merely successful

[1] Rakesh Khurana: From Higher Aims to Hired Hands, Princeton and Oxford 2007, p. 5.

money-makers," in the judgment of this dean, "the course has no place in a graduate department of a university."

But just that happened. Mainstream neoclassical economics gave the neoliberal legitimation, and management theory, without any critical reflection, gave the tools for just *how* to maximize profits in an ever more radical fashion. That profits are to be maximized is the tacit assumption of studying business. Graduated managers let themselves hire by greedy investors as "mercenaries", as MBA-critic Henry Mintzberg puts it. "We are in it for the money", this is the rule of their conduct, even when they are responsible for the well-being of thousands of workers, customers and other people affected by a corporations' operations.

Studying economics is a kind of brainwashing. Many critics agree, as, among others, former German Telekom head of human resource management, Thomas Sattelberger. This must come to an end. At least some paradigmatic pluralism is desperately needed in the economics departments. It is not just about some MBA-oath, graduates commit themselves to after graduation, without any change in the messages and the tools given in studying economics. Rather, ethical reflection, true integrity and the awareness, that it is not just shareholders who have legitimate rights, must become an integral part of the economics curricula. The profit principle needs to be dethroned. Only then there is room for ethical considerations and true corporate responsibility.

Academia has a tremendous responsibility. Paul Samuelson, in a way the not-so-radical predecessor of Gregory Mankiw in writing economic textbook bestsellers, did "not care who writes a nation's laws, or crafts its treatises, if he can write its economics textbooks". The power of economics, business administration included, is gigantic, as economists educate, or misguide, everybody who will become a professional in business administration or in shaping, and commenting on, the economy at large, like the "sherpas" of government departments, or as business journalists. Pluralism in views and paradigms is a minimum requirement for any academic discipline. And one can well argue that the economistic ideology, which still is widely taught, and instilled into the minds of students, contradicts the spirit and the idea of the university, where it should be the better, the reasoned argument, not the better deal, to count in the end.

4. The need for global regulation

Why the dire corporate practices, like the ones to be found with the nominees, are not remedied by appropriate regulation? The major reason is that economic globalization not only puts companies and people, but even states and national politics under competitive pressures. Instead of societies being "designed to advance the good of its members and [being] effectively regulated by a public conception of justice", as

John Rawls defined a “well-ordered society”, nations are effectively regulated by another force, viz by their ability to attract globally circulating capital, and incomes. The paramount and pre-determined objective of nearly all national politics is the global competitiveness of the nation vis à vis other nations. The result is that democracy becomes hollow, and loses its meaning.

For example, global competition most probably contributes to the Indian government not putting an end to the devastating operations of Coal India. The low-cost operations of the state-owned company on the backs of workers, communities, and the environment supplies the Indian economy with cheap energy.

In 2004, after decades of efforts within the United Nations to regulate TNC on a global scale, the so called “Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights” failed after fierce attacks from the business world. These were the heydays of neoliberalism and the ideology of laissez-faire and anti-regulation, which had afflicted nearly all political parties. These norms would have been the blueprint for the first global regulatory framework of corporations in human history. Their establishment would have put an end to playing off nations against nations at the cost of ethical standards.

Ruthless competition on the backs of human rights and environmental standards via non-regulation and the race to the bottom in standards of good corporate conduct must come to an end. So called voluntary standards of corporate responsibility are a good start. Provided that these standards are not mere tools of washing corporate conduct green or blue, and that these standards are not just designed to defeat the establishment of more serious rules for doing business, they are way too weak to tame the harmful competition between nations for the lowest standards. That is why more than 50 civil society organizations in Switzerland initiated the campaign “Corporate Justice – Rules for Business. Rights for People”, demanding Swiss government to establish legally binding rules of corporate responsibility.

This would be quite an easy task for Switzerland as a very rich country which permitted many TNC to setting up their headquarters in Switzerland, allowing them to reject the due moral responsibility for the operations of its subsidiaries especially in much poorer developing countries. If adopted by Switzerland, this initiative might become a model for other nations, re-inspiring the spirit of the regulation of businesses on a global scale.

Truly responsible corporations would applaud this step, as it would free them from the dirty competition of corporate wrongdoers. Corporations however, which thwart and lobby against efforts like these, which refer to basic human rights issues, only reveal that their CSR-declarations are mere mock ethics.