O'MEARA, FERGUSON, WHELAN, AND CONWAY

TERTIUM QUID

May 24, 2010
Vol. 1, Issue 3

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Man's Darkened Reason

Financial reform and individual responsibility

By Patrick O'Meara

With the Financial Reform bill passing the senate it seems appropriate to frame the debate with a diagnosis of causal relationships for the financial crisis that go beyond the merely technical. Major banks and financial services companies on Wall Street must understand their relationship to the broader community. Their decisions strategically and tactically, or quarterly and even transaction by transaction must be rationalized from a perspective of a broader goal of what is in the best interest of their employees and society as a whole, not just their individual shareholders.

The important and appropriate move in corporate America to emphasize the duty of management and the corporate board to the shareholder has led to several unintended consequences. This movement in the corporate sphere extended beyond an emphasis of a duty to the shareholder to an exclusive mantra fails to include the appropriate duties of the corporation to their workers and to society as a whole. The lexicon of corporate America almost completely eliminated the discussion of duty to anyone other than the shareholder. This is a gross generalization, but in large corporations this clearly seems to have been the case, particularly on Wall Street where there was no discussion of responsibility to the society in which the Wall Street firms operated and employees were merely viewed as consumable items.

Corporate boards and management have an immediate and direct duty towards their shareholder. Their duty to society is participatory and in general is not determinative of society's welfare by their corporation's individual actions or collectively by their industry. Benedict XVI in Caritas in Veritate refers to man's darkened reason that clouded the ability of the individual to see their responsibility to their coworkers and to the broader society or the common good of the polis. Their reason was darkened by their own selfishness and greed. The reasonable man would understand that they have a clear obligation to the society in which they live as well as to their coworker when they are given positions of responsibility. The canard of "the sole duty to the shareholder" serves as a helpful excuse as to why they can look to their own self-interest and greed yet still fulfill a duty to a higher purpose than themselves. Other estimable duties are discussed such as to the environment, to which every major corporation at the very least pays lip service. Yet in the hierarchy of goods the polis in which they exist and operate must be at the top of those goods to which they owe a duty.

The duty to shareholder may be coincidental to a duty to the polis and to the employee, but they are in fact distinct. It can clearly be argued that duty to the shareholder in the long run should include a duty to employee and polis. The fact that this is the case cannot eliminate their distinct natures. They are contrary and may in fact at times become contradictory. Only in understanding these duties as distinct can we understand that they must at the same time constrain each other.

It is incumbent upon us to strengthen the intellectual rigor with which these topics are discussed in the discourse of the marketplace. The well-formed individual actor must acknowledge that economic downturns create human misery and as such their economic choices must contextualize the duty to the shareholder with other duties that at times may be competing and must be constraining of that duty. The chief among those duties is to employees and coworkers as well as a broader duty to the society in which they operate. When competing interests are in play an informed conscience can begin to look at the principle of double effect and weigh that the goods achieved and the unintended evils do not outweigh the good sought (needless to say, the evil cannot be the intended consequence in a morally licit economic decision).

The fact that many companies have turned

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their employees into shareholders is not a fulfillment of their duty to their employees; rather it is a partial fulfillment of their obligation to their employees. The additional a priori duty is to the polis with in which they operate. Any reasonable man can and should see this obligation. The sole pursuit of power, money, and control breeds an unhealthy individualism that yields a fruit of loneliness, isolation, and entitlement. Man's reason becomes darkened.

Once again the duty to a faceless metonymy, the shareholder, has been used to baptize these pursuits outside of a context in which they are measured and healthy. To the degree that the moral compass of the marketplace fails, we are reminded by Mr. Smith that government regulation will replace the failing compass resulting in the loss of freedom of the individual and the frictional imposition of regulation making the market less efficient.

It is clear that the moral compass failed in many corporations in America and increased financial regulation is on the way. This does not relieve us of our duties to bolster the moral underpinning of corporate America with a more informed, precise, and articulate discussion of corporate responsibilities based on sound Catholic moral teaching. The discussion of financial reform ought to begin with the enlightening of man's reason with two concepts:

1) The corporation's duty, and hence the management's and board's duty, is to a broader constituency than the shareholder to the exclusion of all else, and
2) the regulation that eventually is enacted must ensure that the individual is the primary actor in the change needed both in themselves, the marketplace and the polis. Otherwise the dignity of each person begins to be eroded by a regulation by the outside that robs us of our rights and obligations and vests it in an organization that begins to become more valued or valuable than the individual.

We must insert into the discussion the contextual ideals of the communal and the individual rights and responsibility. Both must exist and both must constrain the other with a clear understanding that the communal obligations must exist and be reaffirmed, while doing so in a fashion that protects the individual rights of the corporation and the individual to compete in a marketplace not dominated by the giant corporations who alone have the ability to bear the burden of excessive government regulation.

It is easy to see the "solution" may be enacted that benefits those that brought about this crisis to the detriment of the small corporations that seek to compete in the financial marketplace. Financial reform ought not to dampen innovation and entrepreneurial activity. Professor Mark Roe of Harvard law school wrote an insightful critique of the hyper-regulated single marketplace concept for financial derivatives.

Regulation exists to protect the individual from being crushed between the marketplace and corporations, but the regulation must also protect small and medium enterprises, those enterprises with 10 – 250 employees. The Brookings Institute tells us that these types of entities are 90 % of corporations in the US, 50% of GDP, and 66% of employment. The financial regulation must extol the appropriate relationships and duties of each individual as an actor themselves and as they act within and on behalf of corporations. Let us return to the lexicon of corporate America the duty of the corporation to their employee and to the polis. Then we can intelligently delineate markets and who regulates each of them so that the barriers to entry are no so great that they stifle growth, innovation, and the individual's ability act within the marketplace. This must include government-sponsored entities or GSE's, which created so much of this crisis. Let us join into this discussion as Catholics with our rich social teaching and let us pray for our elected representatives.