Economisch burgerschap in de onderneming. Een oefening in concreet utopisme

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Summary

Who has, or should have, a say over corporate decision making? The shareholder, the manager, the worker, the labour union, the government, the community, environmental movements or other actors? In the current debate on ‘corporate governance’ the contestants at least seem to share the viewpoint that it is the ‘owner’ who should have the ultimate say over corporate decisions, and further, that it is the shareholder who can be designated thus. The debate mainly concerns the question ‘to what extent and in what way’? Most participants thus seem to subscribe to the premises of what could be called ‘liberal political economy’, as against those of ‘radical political economy’ or ‘Marxist political economy’. These premises state that the criterion of ownership is the only valid criterion for the identification of the ‘principal’; that ownership is identical to ‘consolidated private property rights’; and that the most important problem systems of corporate governance are supposed to solve is the problem of diverging interests between ‘owners’ and ‘managers’.

In this study I try to counter the one-sided view on ownership, property rights, managerial prerogatives and the corporation, as developed within the political economy of classical liberalism. I do this by emphasizing the plurality of criteria which can be used to identify ‘principals’. I demonstrate that the criterion of ownership isolates other ‘principals’ and ‘agents’ than, say, the social-democratic criterion of contribution or the Calvinist criterion of responsibility before God or, for that matter, the democratic criterion of individual autonomy. Starting with the twin democratic principles of political equality and popular control as the most elaborated version of the basic value of individual autonomy in a context of social interdependence, I argue for co-determination rights, as extensive and for as large a number of participants as possible. I try to show that the criterion of individual autonomy - giving each and everyone a stake in those collective decisions which impinge in a substantial way on their interests - is most suited to translate political equality and popular control in an inclusive system of corporate governance, without preempting the moral validity of claims based on other criteria, in casu the criteria of contribution and ownership. The underlying idea is that our normative universe is complex and pluralistic, implying that morally relevant positions should be sufficiently open to incorporate competing moral perspectives. The ‘economy of moral disagreement’ that is practiced here presupposes normative pluralism.

To state the obvious - this is not to fall into the trap of radical democracy. Not everyone should have a say in everything all of the time. Naïve conceptions of democracy that are sa-
satisfied only if the full and complete participation of everyone is assured, make themselves vulnerable to simple counter-attacks concerning the overburdening of the decision-making process itself as well as the individual motivation to participate. I use a disaggregating strategy to diminish the tension between the moral imperative of inclusive decision-making on the one hand and the well-known restrictions of limited motivation, time restraints and unequal expertise on the other. The process of decision making can be split up in different moments and different phases, as well as in different domains. The first distinction entails control ex ante, ex post and in actu; the second the phases of preparation, negotiation, actual decision-making, implementation, evaluation and revision; while the third ranges from routine decision making to strategic decision making. The same is true for the institutional setting of actual corporate decision making. Within every system of corporate governance this setting is more or less complex and multi-layered. The Dutch and German systems, for example, consist of an executive board, a supervisory board, a work council and an annual shareholders meeting. These boards and meetings possess specific rights and responsibilities over specific domains of decision making and do overlook specific moments of control. My claim is that a complex political structure like this makes it possible to enlarge the democratic transparency and accountability of corporate decision making without overburdening it and without disregarding restrictions of time, motivation and expertise. In other words, the more complex the system of corporate governance, the better it is suited to weigh moral claims (inclusiveness) against prudential (effectiveness) and realist (feasibility) ones. This too is an elaboration of the theme of ‘normative pluralism’ that an ‘economy of moral disagreement’ presupposes.

The second main objective of this study is the desire to correct the negligence of the economic roles of citizens within fashionable neorepublican theories of citizenship. Due to their pre-renaissancistic intellectual roots neorepublican theories of citizenship privilege the political dimension. In my opinion its attractiveness among ‘radicals’ can only be understood against the background of the former fascination for hard core political economy of the Marxist type. In reaction to a supposed economism and class-determinism of this type of social theory, radicals have exchanged the Marxist heritage for a less deterministic perspective that enabled them to ‘counter’ the neoliberal onslaught against statist welfarism with the combined terms of individual responsibility and empowerment which converge in the powerful (but vague) concept of citizenship. The costs of this conversion have been high. As it stands, the concept of citizenship is perfectionist, statist as well as monistic. Here too a disaggregating strategy is needed to trade in neorepublican, social-democratic and communitarian conceptions of citizenship for a concept that is both gender and race-sensitive, that is more-dimensional in terms of rights and obligations and that is plural in the sense of encompassing civil, political, social as well as economic rights that can be guaranteed by public, semi-public and private agencies. To free citizenship from its perfectionist, statist and exclusive connotations and turn it into a powerful radical ideal the focus of progressive theories of citizenship needs to be shifted from the political toward the economic. Economic citizenship within the corporation is meant to do just that. Corporate governance is too important to be left to managers, accountants, economists and lawyers.

In the Introduction the theoretical framework that undergirds this study is presented. My claim is that political philosophy needs to be wedded to comparative institutional research to become politically relevant. Combining both approaches and using both moral reasoning and prudential and realist reasoning, is what I call doing ‘political theory’. Its usefulness depends
on whether it succeeds in generating rules of thumbs that can guide the design of democratic institutions. Underlying this attempt is a set of ontological, epistemological and normative assumptions which are vague enough to be not too controversial and substantial enough to exclude fashionable post-modern, relativistic positions. These assumptions have to do with a multi-layered conceptualization of social reality, with normative pluralism, a pluralist view on the institutional level, and a non-hierarchical ordering of different sources and different types of knowledge.

In chapter one the concept of economic citizenship is introduced. This is done by way of a critique of neorepublican, social-democratic and liberal conceptions of citizenship. Each is rejected for being too perfectionist, statist and politicist. Using a disaggregating approach I try to show that citizenship can be liberated from these assumptions. I end this chapter with a brief exposition of the main weaknesses of competing conceptions, of ‘economic democracy’, ‘industrial democracy’ or ‘participatory democracy’. All three focus on only one of the three relevant levels of participation: economic democracy on the level of financial participation or market rights; industrial democracy on the level of indirect participation or co-determination rights; and participatory democracy on the level of direct participation or the workfloor. A viable democratic perspective on economic organizations ideally combines these perspectives and aims at the democratization of these levels simultaneously. That is precisely what economic citizenship tries to do.

I start with the lowest level, the workfloor. Independently from each other, from the early eighties onwards, different teams of sociologists have presented empirical proofs of a paradigm shift within industrial production processes, as a reaction to the increasing disfunctionalities of the taylorist organization of production in the context of fragmented, liberalized and flexibilized markets. In part one, after a brief exposition of these disfunctionalities, I sketch the main characteristics of the ‘new production concepts’ that are increasingly replacing taylorism. These are labelled ‘Flexible specialization’, ‘Diversified quality production’, ‘Neue Produktions Konzepte’ and ‘Socio-technical systems design’ or ‘Human resource mobilization’. Notwithstanding huge differences, all four approaches share an emphasis on requalification, reintegration of tasks and responsibilities, teamwork and decentralization within the corporation. I conclude that these new production concepts are superior in both moral and prudential terms, compared with taylorism. Nevertheless, their diffusion has been only partial.

How come? The main bottleneck appears to be existing systems of corporate governance that give a conservative layer of managers almost absolute prerogatives over issues of organizational and workplace design. How to open these systems for input from labour unions, employee representatives and other viewpoints? This question is taken up in part three.

Before being able to do so, however, the topic of corporate governance in general needs to be addressed. This is what I do in part two. Starting with an overview of the main arguments pro and contra so-called ‘bank oriented’ and ‘market oriented’ systems of corporate governance, I conclude that this dichotomous heuristic is unable to deal with the issue of institutional convergence as well as continuing national institutional diversity. The dichotomy of ‘bank oriented systems’ versus ‘market oriented systems’ (or, for that matter, the ‘Anglosaxon model’ versus the ‘Rhineland model’) should be replaced by a continuum on which four idealtypes of corporate governance can be arranged. These are an Anglo-American system, a German system, a Latin-European system and a Japanese system. Thus the continuing relevance of national institutional characteristics can be paid its due. As for convergence, all four systems are characterized by a so-called ‘depersonalization of ownership’; personal ownership is no lon-
ger the dominant mode of ownership and control, just like Berle & Means predicted in their classic *The modern corporation and private ownership*. However, this is not identical with the anonymous mass ownership Berle & Means foresaw; ‘depersonalization’ should not be confused with ‘deconcentration’. In fact, in all four systems institutional investors (banks, pension funds, insurance companies, investment funds) have turned into the main players in the field of corporate governance, using mostly informal channels of control to serve their interests.

Even this correction has a liberal bias, though. Although control is not taken to be synonymous with private ownership, ultimately it still depends on property rights. This implies that interests based on contribution, dependence, responsibility before God or individual autonomy are still unaccounted for. The third part of this chapter therefore deals critically with the liberal conception of property rights as consolidated private property rights, and tries to replace a restrictive and monistic model of corporate governance based on ownership by an inclusive, pluralistic one based on Christian responsibilities, social-democratic contributions, neorepublican stakeholders and democratic individual autonomy respectively. The chapter ends with a disaggregated model of co-decision making along the lines sketched earlier. This elaborate model of democracy enables the identification of at least two distinct trajectories of co-decision making. The first is by means of co-determination rights or indirect participation, and the second by means of market rights or financial participation. The opportunities offered for co-decision making by these two models, are analyzed in part three and four respectively.

Co-determination can take many forms, depending on the national system of industrial relations. It can be more or less institutionalized; it can be paternalistic, consultative or representative; it can be limited to information rights (‘ear’), consultation rights (‘voice’) or can extend to full-blown co-determination rights (‘muscle’); it can be cooperative or antagonistic; it can be initiated by labour unions, employers or by the state, etcetera. Nevertheless, it can be argued that German co-determination legislation represents the most elaborated version of indirect participation available. In chapter four I first give a brief outline of the German system. Next I refer to some evaluative studies of German co-determination practices in order to demonstrate that co-determination in general can have positive moral and prudential effects, without implying an immobilizing ‘parliamentarization’ of the governance system of the corporation *in toto*. This is because of a division of democratic labour according to which different rights and jurisdictional prerogatives over different domains of decision making can be distributed over different fora and agents in order to balance moral imperatives of democratic transparency and inclusiveness against prudential imperatives of effectiveness and realist imperatives of feasibility.

Notwithstanding its relative success, even German work councils have had to adapt to changing environments and have had to answer pressing moral questions. Four critical issues must be addressed if the German work council is to keep its central position within the political system of the German corporation: How to enhance the introduction and implementation of new production concepts? How to diminish the co-determination gap that is being created by the increasing multinationalization of corporations? How to counter exclusionary tendencies and to improve representativeness? How to make production ecologically more sustainable?

The second route toward co-decision making - financial participation or market-rights - is the subject of part four. It consists of four chapters which are dedicated to four different types of market rights. Chapter five deals with John Roemer’s variant of market socialism. The core of his proposal boils down to a ‘blocked exchange’. Under Roemer’s proposal citizens
are prohibited to cash in on socialized property titles, while still being able to buy and sell on
the stock exchange; albeit in ‘coupons’, not in ‘guilders’, ‘dollars’ or ‘pounds’. The diversi-
ifying and signaling functions of the stock exchange are thus left intact, whereas its allocating
function is being relegated to a network of keiretsu-like (or, more precisely, kogyoshudan-like)
Banks. Roberto Unger’s temporary market rights are discussed in chapter six. The essence of
Unger’s proposal is the construction of a dual economy, each with its own type of activity,
regulation and system of capital allocation. The innovative element lies in the temporary char-
acter of the market rights citizens can claim. Unger’s main objective thus seems to be the
creation of a hyperflexible economy. Unger, however, is insensitive to the costs involved, and,
moreover, proves to be too jacobinite in his preferred strategy of institutional change. In addi-
tion, both authors fail to address the important issue of capital accumulation. By focussing
exclusively on capital allocation, they suggest that the problem of accumulation is irrelevant or
already solved. Both suggestions are highly unrealistic.

Chapter seven addresses the opportunities pension funds offer to turn pension savings into
market rights. Despite their low, technocratic profile, pension funds have recently caught the
attention of political radicals. This is mainly due to the exorbitant speculative profits of the
last few years. In countries like the Netherlands the total amount of capital accumulated by
pension funds has increased to nearly twice its gross national product. However, I try to argue
that there are at least five intrinsic reasons which preclude any simple transformation of pen-
sion savings into market rights. These are: the insurance function of these savings; the need of
cash-monies to cover current transfers; the lack of both information and expertise; the lack of a
network of distribution; and, finally, adverse interests such as investment banks, contributors,
corporations, and the funds themselves. Chapter eight, finally, deals with employee sharehol-
der plans (ESOP’s). Though the (moral as well as prudential and realist) arguments in favour
of ESOP’s are numerous and convincing, the actual experiences in countries like the UK and,
especially, the US are rather sobering. They teach that ESOP’s only do what they promise in
corporations that have already implemented trajectories for direct and indirect participation.
Financial participation, in other words, seems to be merely a proprietary consolidation of the
broader participatory climate within the organization, not its conditio sine qua non as its pro-
ponents have it.

The concluding chapter tries to tie this all together. I mainly try to follow up on my own
claim, that political theory can avoid the weaknesses of political philosophy, and hence is
more able to formulate concrete policy proposals, in this case policy proposals aimed at more
transparent governance within Dutch corporations. These proposals address all three dimen-
sions of the economic organization, direct participation, indirect participation and financial
participation. Direct participation can be enhanced if consultants and advisors use a more re-
flexive strategy of intervention. They should be more aware of the fact that they are interve-
ning in a politically highly charged environment in which the temptation of a unilateral, top-
down approach is omnipresent. However, the chances for good results are highest if change is
democratically initiated and controlled.

We also saw that co-determining bodies such as work councils, the supervisory board or la-
bour unions are instrumental for a further dispersion of new production concepts. The com-
parison of German and Dutch legislation in this regard teaches that Dutch co-determination
legislation falls short on at least three accounts. It offers insufficient opportunities for a divi-
sion of democratic labour between the labour director in the executive board, the worker repre-
sentatives in the supervisory board and the work council itself. The current discussion of cor-
porate governance - mainly addressing issues of shareholder-values - should be extended to cover the right of work councils (and shareholders) to appoint members of the supervisory board directly. Ideally this is combined with a simultaneous extension of the rights and prerogatives of the general shareholders meeting, turning it into a veritable ‘corporate parliament’.

In both cases, legislation is unavoidable. The second shortcoming follows from the fact that Dutch legislation gives work councils only advisory rights over the domain of organizational and workplace design. Here new legislation should be avoided. That central bargaining between capital and labour has come under increasing pressure, has created opportunities for a new division of labour between union and council, enabling workers’ representatives to enforce a new series of tradeoffs that can help to gain control over the design of the workplace.

The third shortfall has to do with the coverage of Dutch co-determination legislation. Despite constant political pressure from labour unions for full blown co-determination rights for work councils of small and medium sized firms too, the new co-determination law of 1998 has robbed all firms of less than 50 employees of the watered down co-determination rights they possessed under the old legislation. In exchange, the obligation to install a mature work council was extended from firms with more than 100 employees to all firms with 50 or more employees. Due to this ‘unhappy’ compromise the need to find cooperative solutions for the costs of co-determination for small and medium sized firms has disappeared. As cooperative forms of co-determination could have functioned as carriers for trust building, the new legislation is thus not so much a solution as an opportunity foregone. A fourth lesson to be learned from the comparison of Dutch and German co-determination is the weak political profile of Dutch work councils. A simple solution would be the synchronization of council elections, like in Germany. Harder to change is the general intellectual climate which seems to have pushed issues of ‘economic democracy’, ‘industrial democracy’ and ‘participatory democracy’ to the margins of political feasibility. The hope is that the ideal of ‘economic citizenship’ as elaborated in this study - based as it is on a sophisticated balance between moral, prudential and realist arguments - will pierce the reigning political silence. The current debate on ‘corporate governance’ at least indicates that there is some room for institutional renewal.

With regard to financial participation the following proposals should be considered. Notwithstanding the sobering experiences in the US and the UK, financial participation can be enhanced by means of ESOP’s. Work councils could play a role here too. First by putting share ownership on the agenda, and second by aiming for a collective organization of their voice rights. The moral benefits of pension funds, finally, are the hardest to harvest. Nevertheless, this does not mean that everything must remain as it is. It merely implies that these savings can be put to use only indirectly. In the Appendix I give an outline of a National fund for economic restructuring that could be financed out of a small percentage of the yearly speculative profits of pension funds. This proposal is crafted in such a way as to circumvent the five obstacles identified earlier.