

MALDEN MILLS: WHEN BEING A GOOD COMPANY ISN'T GOOD ENOUGH

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Abstract

The postulates of Corporate Social Responsibility (CSR) express in secular form the economic implications and conclusions of Catholic Social Thought (CST). Viewed from the perspectives of CSR and CST, it is hard to find a more exemplary firm than Malden Mills. Until recently under the leadership of Aaron Feuerstein, Malden Mills is taken by many CSR proponents to be the archetype of the socially responsible firm. However, the very virtues for which Malden Mills is lauded among CSR proponents are recognized also to be significant causes of Malden Mills' recent bankruptcy and Feuerstein's fall from leadership. Consequently, there is a strong argument to be made that *passing* the CSR test meant, for Malden Mills, *failing* the market test. Our discussion explores the implications of the principle *ought implies can* for CSR. If the Feuerstein-led Malden Mills is the archetype of a socially responsible firm, Malden Mills' subsequent bankruptcy suggests some cherished notions of CSR must be re-examined in light of their failure to satisfy *ought implies can*. A CSR worth paying attention to ought to be mindful not just of the intentions that inform socially responsible action, but also the effects of that action.

I

In American business literature, the concept of "corporate social responsibility" (CSR) was enunciated, if not completely defined, during the height of our Industrial Revolution by no less major a player than United States Steel founder Andrew Carnegie. Believing that "to whom much had been given, much is expected," Carnegie was convinced that successful businesses were duty bound to be charitable to those in need, and to be diligent stewards and guardians of

the wealth and property entrusted to them. Since this initial parochial and paternalistic description, the exact nature of CSR continues to be debated and redefined as the issues in business become increasingly complex and sophisticated.ⁱ

There is, of course, a core of theorists and practitioners who claim that while business ought to try to behave ethically, the primary business of business is to maximize owner value. As one pundit put it:

The modern firm solves one (but only one) of the major problems of humankind—the creation of wealth. That wealth then allows individuals in their various roles the opportunity to protect values they care about.ⁱⁱ

However, as Rotman School of Management Dean Roger Martin has suggested, a “tipping-point” in our social conscience has occurred regarding the role and responsibilities of business: Corporations aren’t just in the business of making money; they don’t operate in a universe composed solely of shareholders. They exist within smaller and larger political and social entities, and are subject to pressures from members of those networks. Moreover, in the wake of recent corporate scandals, corporate leaders are now painfully aware that they need to think more rigorously about responsible corporate conduct—whether they want to or not. Failure to do so, warns Martin, may mean that the option to act will be taken out of their hands.ⁱⁱⁱ

According to Richard De George, since the 1950s the growing size, impact, import, and power of corporations have not gone unnoticed.^{iv} In 2000, the Institute for Policy Studies reported that of the largest 100 economies in the world, 51 are companies/corporations, not countries.^v Today the approximately 4.8 million U.S corporations generate collectively annual revenues of 17.3 trillion dollars. On the other side of the ledger, there are approximately 23.5 million small and family businesses nationwide that provide 63% of all employment in the United States.^{vi} Because of these numbers, an increasing segment of the general public both expects and demands that corporations and businesses in general recognize and accept the fact the “power and size begets *self monitored* obligations.” In a 2005 poll conducted by Mark Clements Research Inc., 89% of the respondents believed that businesses and corporations have a social responsibility to behave fairly and honestly with their employees and the community at large.^{vii}

Although the original formulation of CSR was based on the notion of noblesse oblige, the main focus of the contemporary version of CSR revolves around the allied principles of “stakeholder responsibility” and “corporate citizenship.” All accounts of contemporary CSR are predicated on the fundamental proposition that all businesses/corporations are players in the context of a larger social drama. Businesses/corporations are part of the web-work and geography of life, and, as such, share obligations and rights with other players in the scenario. At a minimum, according to the *Wall Street Journal*, responsible corporate citizenship includes:

- 1) Strong, sustainable economic performance.
- 2) Rigorous compliance with financial and legal rules.
- 3) Ethical actions beyond formal requirements which reflect a corporation’s sense of integrity and appropriate concern for issues beyond self and the needs of self.^{viii}

II

Issues of social, political, and economic justice have long been part of the magisterium of the church. In the late nineteenth century and early twentieth century “Catholic social thought” (CST) joined the ongoing debate among Marxism, Socialism and Capitalism by focusing on an important question: *What are the rights and obligations of property (capital) versus labor, and which of them has priority over the other?* Or, more contemporaneously: *What expectations and rights do workers carry with them into the workplace, and beyond the rights and needs of the place of business to earn a profit, what other obligations does the business/employer have to the worker?*

In 1891, Pope Leo XII published the encyclical *Rerum novarum* (On the Condition of Labor) which, according to commentator Thomas A. Shannon, set the agenda and established a baseline for future CST analysis and commentary. *Rerum novarum* addressed four critical socio-economic issues of the day:

- 1) A defense of the right of private property.
- 2) The right/obligation to earn a profit.
- 3) The right to earn a living wage.
- 4) The right of labor to organize and when necessary, strike.^{ix}

Subsequent social writings and encyclicals of Leo XIII’s successors went on to develop and expand CST on how “good work,” “good business,” and a “good company” can and should be defined.

In a very real sense, Leo XIII’s initial message on the “nature of work” and the “rights of the worker” waited ninety years to find its completion in Pope John Paul II’s publication of *Laborem exercens* (On Human Work) in 1981. Mirroring the words of Pius XI, “[We] are born to labor, as a bird to fly,”^x John Paul II argues that while toil may be a part of our collective “curse,” work is also a part of our destiny and character. Work is not just a burden to be tolerated and endured. Work is the mechanism by which we fulfill and establish ourselves in the world.^{xi} Work, said John Paul II, is the agency by which we complete ourselves and transform the world. It is in work that we come to know and define ourselves. It is in work that we come to recognize our rights and obligations in regard to others.

Work is a good thing for man—a good thing for humanity because through work man not only transforms nature, adopting to its own needs, but he also achieves fulfillment as a human being and indeed, in a sense becomes more a human being.^{xii}

In his 1991 encyclical *Centesimus annus* (On the One Hundredth Anniversary of *Rerum novarum*), John Paul II argues that if work is a necessary condition for human existence, then it can also be argued that people have a “right to work.”

The obligation to earn one’s bread by the sweat of one’s brow also presumes the right to do so. A society in which the right is systematically denied, in which

economic policies do not allow workers to reach satisfactory levels of employment, cannot be justified from an ethical point of view, nor can the society attain social peace.^{xiii}

For John Paul II the “right to work” is a fundamental human right, because it is a necessary condition for personhood at the most primary physical, moral, and psychological levels.^{xiv} In *Economic Justice for All* American Catholic Bishops took John Paul II’s position one step further. If “people have a right to work/employment,” then “the community has an obligation to fulfill these basic needs unless an absolute scarcity of resources makes this strictly impossible.”^{xv} Thus, “businesses in particular and societies in general are to be judged morally based on their ability to generate jobs.”^{xvi} The bishops call full employment “the foundation of a just economy.”

The bottom line here is, we think, obvious. Within the CST tradition the “right to work” is a fundamental human right necessary for personal and social well-being; and the “priority of labor” must be seen as the first postulate in the establishment of a just and secure “social morality.” Hence, the primary ethical duty of the state, the Church, and all employers is “to promote the dignity of work” and to subordinate all work to man, “the proper subject of work,” and not simply to “economic advantage(s).”

In tandem, the traditions of CSR and CST constitute a collective model or template for responsible and responsive moral business conduct. In ethical terms, these positions both advocate the continuous attempt to work out the rights and obligations we have and share with others in our public lives, on the job, and in our businesses.

III

Until recently under the leadership of Aaron Feuerstein, Malden Mills is taken by many CSR proponents to be the archetype of the socially responsible firm. Viewed from the joint perspective of CSR and CST, it is hard to find a more exemplary firm than Malden Mills.

On December 11, 1995 three of eight factory buildings in Lawrence, Massachusetts burned to the ground, displacing thousands of workers and seriously endangering the future of the family business founded in 1906. Feuerstein, the then-majority shareholder, president, and CEO of closely held Malden Mills, had a number of options available to him. He could have pocketed the insurance money, closed the business, and walked away. He could have used the insurance proceeds to move operations to some other state or country with lower labor costs. Or, he could use the money to hang on to his workforce, rebuild the factories, and keep Malden Mills where it was.

For Feuerstein, the decision was a clear one. An observant Jew motivated by his religious convictions, a strong sense of personal and family responsibility, and confidence in his own ability to handle adversity, Feuerstein couldn’t and wouldn’t walk away from this problem. Corporate responsibility, he said, *does mean* you have to take care of your stockholders. But, he went on, *it also means* you have responsibility to your workers and to your community. Closing down—giving up—was unthinkable. It meant putting 3000 people out of work and delivering a deathblow to the city of Lawrence.^{xvii}

In choosing to do “the right thing for the right reason,” Aaron Feuerstein passed the CSR/CST test with flying colors.

Feuerstein was pronounced a corporate hero when he promised his workers that he would continue to pay their salaries out of his own pocket while he rebuilt the factories, even though his workers wouldn't be producing.

As a result, Feuerstein was invited to speak at colleges and universities all across the U.S. He was given honorary degrees, and was the subject of a flattering profile on the television program *60 Minutes*.^{xviii}

But, unfortunately, as things turned out, Feuerstein's actions failed the test of the marketplace. The very virtues for which Malden Mills is lauded among CSR proponents are recognized also to be significant causes of Malden Mills' recent bankruptcy (which found former creditor GE Capital its largest shareholder) and of Feuerstein's fall from leadership (in favor of new President and CEO Michael Spillane).

Feuerstein's pledge to continue paying his workers eventually cost them their jobs, and cost Feuerstein his company. Feuerstein ran out of money, and Malden Mills was forced to declare bankruptcy. ... After its bankruptcy, Malden Mills was dangerously close to going out of business completely. Only the last minute heroics of a group of corporate lenders saved the company from going under.^{xix}

In short, *passing* the CSR test meant, for Malden Mills, *failing* the test of the marketplace.

IV

Ought implies can means that if one *ought* to perform an action *A*, then it must be the case that one *can* perform *A*. Its negative corollary is that if one *cannot* perform *A*, then it is *not* the case that one ought to perform *A*.^{xx}

Capitalism won the debate amongst Marxism, Socialism, and Capitalism *theoretically* because it won *practically*. Only Capitalism satisfies the *can* in *ought implies can* because only Capitalism is capable of supporting a sustainable, flourishing economic community. Capitalism provides for sustainable, flourishing economic community because (i) only those firms whose operations cover their costs survive market competition, and (ii) the bankruptcy system facilitates the efficient redeployment to other uses of assets held by firms whose operations don't cover their costs. If only Capitalism satisfies the *can* in *ought implies can*, and if it does this through the discipline imposed by market competition and the bankruptcy system, then it follows that compatibility with *passing the market test* must be implicit in any candidate principle of CSR capable of being action-guiding for capitalist firms.

Ought implies can is relevant to the evaluation of Feuerstein-led Malden Mills' insolvency because, to the extent that Feuerstein's actions on behalf of Malden Mills in the wake of the 1995 fire are responsible for the firm's subsequent insolvency, it suggests that one *cannot* sustainably

manage Malden Mills (or other firms similarly-situated to Malden Mills) in the manner that Feuerstein and, by extension, Feuerstein-impressed CSR advocates claim one ought. If ought implies can and one cannot, then it is not the case that one ought. Those claiming that one ought to do so anyway advance a claim in contravention of *ought implies can*.

Consequently, Feuerstein-led Malden Mills' insolvency calls for a re-examination of CSR in light of capitalist reality. Trivially, CSR is either relevant to capitalist firms doing business in a competitive market economy or it is not. If it is, then CSR advocates seem forced to acknowledge that their enthusiasm for Feuerstein's leadership of Malden Mills in the wake of the 1995 fire is misplaced. However admirable Feuerstein's *intentions*, his *actions* were ultimately destructive of Malden Mills as an engine of sustainable and flourishing economic community. Those who today work at Malden Mills owe their good fortune not to the leadership of Aaron Feuerstein, but to the financial might of GE Capital. GE Capital's existence and financial might issue from the leadership of Jack Welch. Welch is rarely (if ever) identified among the CSR-impressed as an exemplary corporate leader. To the contrary, his leadership style and his notorious, fire-the-bottom-ten-percent method of personnel evaluation are more often identified among the CSR-impressed as products of the *absence* of a social conscience. His book *Winning*^{xxi} is characterized as a how-to manual for the most distasteful form of corporate psychopathy. A CSR relevant to capitalist firms seems forced to place greater value on Welch's leadership than on Feuerstein's.

There remains, of course, the opposite tack. Perhaps CSR is *not* relevant to capitalist firms doing business in a competitive market economy. For some, Feuerstein's actions just feel so *right*—and if those actions are incompatible with Feuerstein-led Malden Mills' survival in a competitive market economy, then so much the worse for the competitive market economy. The clear implication is that we ought to *change our economic institutions* to make them more hospitable to firms like the Feuerstein-led Malden Mills (and perhaps less hospitable to firms like the flourishing Welch-led GE entities).

This opposite tack is, of course, available—and many pursue it: antiglobalization protesters being the most prominent, recent example. But if that is what CSR is to become, it thereby abandons its historic mission. It becomes instead—as Kenneth Goodpaster once said of stakeholder theory—a more radical critique of capitalism and of the corporate form than its proponents intend.^{xxii} In other words, it abandons the *C* in CSR, embracing instead the economic nonsense (and often, nihilism) that informs the more vocal critics of capitalism.^{xxiii}

V

Economic activity is as much the proper subject of moral reflection as any other form of human action—and perhaps moreso, given its intimate connection to sustaining human life. Capitalist economic institutions and capitalist firms are not without moral fault. We do well, morally and prudently, as children of God, to seek their improvement.

Those who would do the difficult work of offering moral guidance for economic activity are duty-bound first to *understand* economic activity, and to understand particularly its most successful and fecund form—capitalist economic activity. Admiration for Aaron Feuerstein's

leadership of Malden Mills, regardless of its actual effects, is symptomatic of a partial blindness that afflicts so many of the CSR-impressed. It is a blindness to economic theory, to economic practice, and to the relationship between the two.

If the measure of an economic system's moral worth is in the economic opportunity it provides and in the jobs it creates,^{xxiv} then there really is no moral contest: supposedly ruthless Anglo-American capitalist economic institutions and their equally ruthless firms win, going away. A CSR worth paying attention to ought to acknowledge as much—looking a bit more kindly on the likes of Jack Welch, and a bit more critically at the likes of Aaron Feuerstein.

Notes

- ⁱ R. Edward Freeman and Patricia H. Werhane, “Corporate Responsibility,” in *A Companion to Applied Ethics*, ed. by R.G. Frey, C.H. Wellman (New York: Blackwell Publishing, 2003) 552, 553.
- ⁱⁱ “Corporate Social Responsibility: Good Citizenship or Investor Rip-off?,” *The Wall Street Journal*, January 9, 2006, R6.
- ⁱⁱⁱ Roger Martin, “The Virtue Matrix,” *Rotman Management*, Spring/Summer 2003, 7, 8.
- ^{iv} R.T. DeGeorge, “The Status of Business Ethics,” Research Workshop, Stanford University, August 1985, 14-17.
- ^v Sandra Waddock, “Corporate Citizenship” in *The Blackwell Encyclopedia of Management: Business Ethics*, Second Edition, ed. by P.H. Werhane, R.E. Freeman (New York: Blackwell Publishing, 2005), 114.
- ^{vi} Matt Bai, “New World Economy”, *New York Times Magazine*, December 18, 2005, 15,16.
- ^{vii} David Wallechinsky, “Is the American Dream Still Possible?,” *Parade Magazine*, April 23, 2006, 5.
- ^{viii} “Corporate Social Responsibility: Good Citizenship or Investor Rip-off?,” *The Wall Street Journal*, January 9, 2006, R6.
- ^{ix} Thomas A. Shannon, “Commentary on *Rerum novarum*” in *Modern Catholic Social Teaching* ed. by Kenneth R. Hines, O.F.M. (Washington D.C.: Georgetown University Press, 2004), 127-129.
- ^x Pope Pius XI, *Quadragesimo anno (On Reconstructing the Social Order)*, May 15, 1931 in *Justice in the Workplace* ed. by David M. Byers (Washington D.C.: United States Catholic Conference, 1985), 63.
- ^{xi} John Paul II, *Laborem exercens (On Human Work)*, 18.
- ^{xii} John Paul II, *Laborem exercens (On Human Work)*, 9.
- ^{xiii} John Paul II, *Centesimus annus (On the One Hundredth Anniversary of Rerum Novarum)* (Boston: St. Paul Books, n.d.), 62.
- ^{xiv} R.T. DeGeorge, “The Right to Work: Law and Ideology,” *Valparaiso University Law Review* 19 (Fall 1984), 15,16.
- ^{xv} National Conference of Catholic Bishops, *Economic Justice for All*, 136.
- ^{xvi} “Jobless Recoveries, Displaced Workers, and the Responsibility to Create Jobs,” an unpublished article submitted to *Business Ethics Quarterly*, Spring 2006.
- ^{xvii} “Competing Vision at Malden Mills” in John R. Boatright, *Ethics and the Conduct of Business*, 5th Edition (Upper Saddle River, New Jersey: Prentice Hall, 2007), 364-366.
- ^{xviii} Radley Balko, “Altruism? Bah, Humbug,” *Apple Daily*, December 24, 2004. [Accessed via World Wide Web at <http://www.cato.org/dailys/12-24-04.html> on September 15, 2006]
- ^{xix} Balko, “Altruism? Bah, Humbug,” *op.cit.*
- ^{xx} This negative corollary is just an application of modus tollens. Let Oa = ought to perform a and let Ca = can perform a . Adopt as conventional logical operators ‘ \rightarrow ’ for ‘implies’ and ‘ \sim ’ for ‘not’. ‘Ought to perform a implies can perform a ’ is expressed as: $Oa \rightarrow Ca$. ‘Cannot perform a ’ is expressed as: $\sim Ca$. From $Oa \rightarrow Ca$ and $\sim Ca$, it follows by modus tollens that $\sim Oa$.
- ^{xxi} Jack Welch with Suzy Welch, *Winning* (New York: HarperCollins, 2005).
- ^{xxii} Kenneth E. Goodpaster, “Business Ethics and Stakeholder Analysis,” *Business Ethics Quarterly* 1(1) (1991): 53-73.

^{xxiii} See, e.g., Franklin Foer, “Meet the New New Left: Bold, Fun and Stupid,” *The New Republic*, May 1, 2000 (arguing that “anarchy is socialism without the state” is the closest thing to an idea informing antiglobalization protesters’ activities—and it’s not very close). [Accessed via World Wide Web at http://web.nps.navy.mil/~relooney/3040_1432.htm on September 15, 2006]

^{xxiv} See note 16, above.