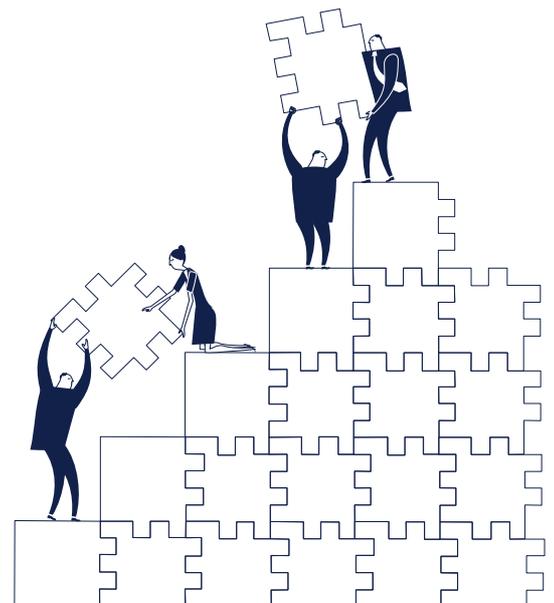

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Notes on Business Ethics

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Notes on Business Ethics

This paper formed the basis for five seminars taught as part of the International Business Ethics module, MSc Programme, Birkbeck, University of London, in 2010 and 2011.

The overall aim of the seminars was to develop a series of arguments that can provide a route into an ethical analysis of the activities of business. Each of the arguments continues to be under development, and these notes can be read and critiqued in this light. There are of course other ways to address business ethics. The seminars considered how an ethical analysis of business activity *might* work.

The paper has five parts:

- Part 1: Responsibilities of firms
- Part 2: Global responsibilities of firms
- Part 3: Employment and authority
- Part 4: Business disciplines and rationality
- Part 5: Firms and the environment

Part 1: Responsibilities of firms

Introduction

I will start with some ideas about ethical analysis. I am particularly interested in working out the nature and extent of the responsibility of firms. As part of this research I am trying to work out what ethical analysis involves. Part 1 includes some questions for further discussion.

One approach may be suggested by Ronald Dworkin in *Life's Dominion*. Dworkin argues that he 'engages theoretical issues but begins with, and remains disciplined by, a moral subject of practical political importance'.¹ He describes this approach as 'philosophy from the inside out'.

'Theory can connect with practice in two different ways or directions. It can connect from the outside in: we can construct general theories of justice or personal ethics or constitutional interpretation from general principles about human nature or the structure of language or thought, or from first principles of some other character. Or we can proceed in the opposite direction, from the inside out, which is what I aim to do. We can begin with practical problems.....and then ask which general philosophical or theoretical issues we must confront in order to resolve those practical problems.'²

In our case, the 'moral subject of practical political importance' is international business ethics. I think this approach may well apply.

¹ Ronald Dworkin, *Life's Dominion*, Harper Collins, 1993, p. 28

² *Ibid.*, pp. 28-29

Reasons for acting and ethical significance

We can start an ethical analysis of business activity with some general ideas.

Firms, and the individuals within firms, have reasons for acting. We can describe actions as right or wrong, and the outcomes of these actions as good or bad, including for the agent. This may reflect the distinction between deontological, consequentialist and virtue views of ethics.

This suggests that actions and outcomes have ethical significance. Providing a reason suggests some responsibility of the agent for the action itself and for the outcomes of the action.

These general ideas suggest that we can get an ethical analysis of business going by analysing a firm's reasons for acting.

The Introduction to Derek Parfit's *Reasons and Persons* suggests something like this approach.

‘Like my cat, I often simply do what I want to do. I am then not using an ability that only persons have. We know that there are reasons for acting, and that some reasons are better or stronger than others....’

My central concepts are few. We have *reasons for acting*. We *ought* to act in certain ways, and some ways of acting are *morally wrong*. Some outcomes are *good* and *bad*, in a sense that has moral relevance....³

It may be argued that this places too much emphasis on *ethical* significance. It may be argued that an analysis of a firm's reasons for acting is primarily an analysis of *rational* rather than *ethical* reasons.

Working definitions of *rationality* and of *ethical significance* may be useful here.

Rationality may be described as the capacity of an agent to determine which *actions* are required to achieve an *outcome*. In some cases this includes the capacity to determine the most efficient and effective actions. Rationality may also refer to the nature of outcomes, but may suggest that these are not *ethical* outcomes but based, for example, on the *rational interests* of the agent.

Ethical significance may be described as the harm or benefit caused by actions and outcomes including interests. The ideas of ‘harm’ and ‘benefit’ are informed by moral intuitions, moral values or moral principles.

These working definitions, in common with most definitions in philosophy, and in ethics in particular, are only partially adequate and potentially controversial.

³ Derek Parfit, *Reasons and Persons*, Oxford, 1984, p. ix

In the Concluding Chapter of *Reasons and Persons* Parfit presents an interesting argument for the existence of reasons for acting in general, and for *ethical* reasons in particular.

‘Moral Sceptics deny that a moral theory could be true. More broadly, they deny that any theory could be *objectively* the best theory.....

Many people are Moral Sceptics, but are not sceptics about rationality. The question of objectivity can be best pursued if we consider, not just moral reasons, but all kinds of reasons for acting. There are some claims which all of us accept.

Suppose that, unless I move, I shall be killed by a falling rock, and that what I most want to do is to survive. Do I have a reason to move? It is undeniable that I do. This claim would have been accepted in all civilisations, at all times. This claim is *true*.

Since there are some true claims about reasons for acting, we can deny what some sceptics claim. It is sometimes claimed that, unlike rocks or stars, there cannot *be* objective moral values. Such entities cannot exist. They are too queer to be part of ‘the fabric of the Universe’. But, in the case just described, I do have a reason to move. This may not be a moral reason. But, since there is this reason, there can *be* reasons. Reasons for acting can, in the only relevant sense, ‘exist’. Since there are some reasons for acting, it is an open question whether some of these are moral reasons’.⁴

We may describe all actions and outcomes as having *some* ethical significance. This suggests that reasons for acting are to this extent ethical reasons, as well as rational reasons.

This may also be part of what Sabina Lovibond means in *Ethical Formation*. As part of a wider argument she talks about, ‘...that feeling for ethical ‘significance’ which enables us to detect, or invent, ethical uses for bits of language not marked as ethical by any special vocabulary’.⁵ Lovibond also talks about finding our way around the ‘space of reasons’.⁶

The general idea of reasons for acting is also part of the approach developed by Michael Sandel in *Justice: What’s The Right Thing Do?*. Sandel is concerned with how we can make sense of moral and political questions. In the first chapter of *Justice* he discusses a number of real moral and political issues as well as the theoretical Runaway Trolley example. In trying to sum up an approach to these issues he says the following.

‘How, then, can we reason our way through the contested terrain of justice and injustice, equality and inequality, individual rights and the common good?....

⁴ Ibid., p. 452

⁵ Sabina Lovibond, *Ethical Formation*, Harvard, 2002, pp. 46-47

⁶ Ibid., p. 21

We start with an opinion, or a conviction, about the right thing to do...Then we reflect on the reason for our conviction, and seek out the principle on which it is based...Then, confronted with a situation that confounds the principle, we are pitched into confusion...Feeling the force of this confusion, and the pressure to sort it out, is the impulse to philosophy.⁷

Sandel goes on to discuss what happens ‘when moral reflection turns political’.

‘When moral reflection turns political, when it asks what laws should govern our collective life, it needs engagement with the tumult of the city, with the arguments and incidents that roil the public mind...They prompt us to articulate and justify our moral and political convictions, not only among family and friends but also in the demanding company of our fellow citizens.

More demanding still is the company of political philosophers, ancient and modern, who thought through, in sometimes radical and surprising ways, the ideas that animate civic life - justice and rights, obligation and consent, honour and virtue, morality and law.⁸

Sandel’s ideas also refer back to the earlier discussion of ethical analysis. Sandel considers how we might ‘reason our way through the contested terrain of justice and injustice....’ but also talks about how this ‘needs some engagement with the tumult of the city’.

I think Stuart Hampshire picks up this latter idea in *Innocence and Experience*. He states the problem as follows.

‘The great civilisations of the past have not been created and sustained principally by quietly virtuous people with a delicate sense of justice. On the contrary they have generally been the products, or the by-products, of overweening ambition and of a large appetite for power and glory.’⁹

This is close to what Hampshire describes as ‘Machiavelli’s problem’. At the end of this book, Hampshire provides the following account of how this might work out.

‘We should look in society not for consensus, but for ineliminable and acceptable conflicts, and for rationally controlled hostilities, as the normal condition of mankind; not only normal, but also the best condition of mankind from the moral point of view, both between states and within states. This was Heraclitus’s vision: that life, and liveliness, within the soul and within society, consists in perpetual conflicts between rival impulses and ideals, and that justice presides over the

⁷ Michael Sandel, *Justice*, Allen Lane, 2009, p. 28

⁸ *Ibid.*, p. 29

⁹ Stuart Hampshire, *Innocence and Experience*, Penguin, 1989, p. 161

hostilities and finds sufficient compromises to prevent madness of the soul, and civil war or war between people'.¹⁰

Although there is much to discuss in this argument, and much to dispute, I think it does suggest something important about the nature of ethics in business.

With this discussion in mind, if we start an analysis of business activity with an idea that firms have reasons for acting, we will need to identify the *sources* of these reasons.

One source is the public information provided by the firm. This may include Annual Reports, public websites and public statements made by individuals in positions of authority within the firm. We will discuss later the idea that these are *public* reasons for acting.

Public information may not provide a complete analysis of the firm's reasons for acting. This will require analysis of at least some of the following: the private reasons for acting of agents within the firm, in particular where these are not fully explained by, or differ from, public reasons; the views of citizens outside of the firm; analysis by civil society organisations and the media; the legislative and public policy context for the firm's actions and outcomes; independent and academic research about the actions and outcomes of the firm.

Discussion:

- Does this analysis of reasons for acting form a useful starting point for an analysis of business ethics?
- Is the idea of ethical significance suggested here too expansive or too inclusive?
- To test these ideas we can discuss examples of reasons for acting in real cases or situations. What is ethically significant about these examples of reasons for acting?

Bounded social activities

The discussion of reasons for acting begins to suggest that an ethical analysis of business activity is an analysis of *all* the actions and outcomes of the firm.

We can develop this idea with a further general claim: the firm is a bounded social activity. The firm is a *social activity* in the sense that it involves a more or less coordinated set of actions by a group of people. It is *bounded* in the sense that only certain actions and outcomes may count as the actions and outcomes of the *firm*.

The firm may also be described as just one kind of social activity. Other social activities may be described by various organisational arrangements. Bounded social activities can be further grouped into at least two further categories: communities and jurisdictions.

¹⁰ Ibid., p. 189

The idea *communities* is useful because it can refer to a wide range of informal groupings at national, sub-national and supra-national levels. The idea of *jurisdictions* is useful because it includes the legal arrangements that form part of the boundary of social activities. The people who make up these various groupings can, in general, be described as the *citizens* of jurisdictions and *members* of one or more community or other social activity.

The firm's reasons for acting will suggest responsibility for actions and outcomes within a *boundary*. We can describe this boundary as reflecting a view of the firm as a particular *social activity* within a given *community* and *jurisdiction*.

The analysis of the reasons for acting of the firm may be an analysis of the reasons for acting of one bounded social activity amongst others.

The nature of these social activities and the relationship between these activities and citizens may reflect further distinctions in ethics and political philosophy between social contract, rights based, libertarian, communitarian and other views about social and political life.

Discussion:

- Does the idea of a bounded social activity help to place an ethical analysis of business activity in a wider context?
- Should firms be analysed as a specific type of social arrangement, rather than as a bounded social activity as suggested here?

Value creation and four dimensions of value

In general, the purpose of any bounded social activity can be described as the creation and promotion of certain goods. One way of describing the goods created by firms is through the idea of value creation. This idea has been developed by Michael Porter amongst others.

On this view, the firm may be described as a centre of value creation. The actions of firms produce a range of outcomes. One group of outcomes is the products of the firm. The value created by the firm can be measured by the value created by these products. The actions of the firm are, in general, organised by the attempt to create value through products as one group of outcomes.

We can describe the firm as a complex *social activity* that produces outcomes that are wider than its products. The *full* value created by the firm may be the value created by all the firm's actions and outcomes. One aspect of the firm as a *bounded* social activity is to limit the definition of value creation to the *products* of the firm.

In general each firm will claim responsibility for the outcomes that fall within the boundary of the firm. Differences in views about the boundary of the firm, and changes to these boundaries, will suggest differences in claims about responsibility for the actions

and outcomes of the firm. The reasons for acting provided by firms will be informed by a view about the boundary of the firm. Each firm will appeal to multiple reasons for acting. However, these reasons will be based on at least two principles.

The first principle is *legality*. Legal rules will provide a formal basis for setting the boundary of the firm and defining prohibited, permitted and required actions and outcomes. Legal rules will also define both the boundary of the firm itself and the firm's relationship to other firms, other social activities and individual citizens.

The second principle is making a *financial return*. In general a *minimum* financial return will enable the firm to meet its financial obligations, for example to shareholders, creditors and employees. This will enable the firm to *survive*.

We can describe a *market* as a situation in which the relationships between firms create the possibility for competition to make a financial return. This will create competition both for making a minimum financial return and also opportunities for *maximising* a financial return. This will enable the firm to *flourish*. A competitive relationship between firms may further support and define the boundaries between firms as social activities.

A range of possible boundaries and dimensions of value creation are suggested in Figure 1 (at the end of the paper).¹¹

The boundary of the firm as a social activity and the dimensions of value creation will suggest a range of claims about the responsibility for the actions and outcomes of the firm. We can describe these as a spectrum from 'minimal' to 'maximal' claims about corporate responsibility. This is described in Figure 2 (at the end of the paper).

Discussion:

- Further discussion of the 'four dimensions' model, including changes to the boundaries and the boundaries of a public sector organisation
- Does this model provide a useful way of representing the idea of the firm as a bounded social activity?
- Discussion of examples of the location of specific firms within the various boundaries and along the 'minimal-maximal' spectrum of corporate responsibility

Boundaries, principles and ethical analysis

We can describe legality as *principle L* and making a financial return as *principle F*. We can use these principles as one basis for an ethical analysis of business activity. The following discussion suggests some aspects of this analysis.

¹¹ The notes *What are firms responsible for?: corporate social responsibility, value creation and public scrutiny* for a seminar for the Oxford-Achilles Working Group on CSR includes a more detailed, and earlier, version of the 'four dimensions of value' model.

<http://www.sbs.ox.ac.uk/research/people/Pages/LaurenceCranmer.aspx>

A spectrum of reasons within Boundary A

The firm's multiple reasons for acting may refer to L and F. In general, Boundary A suggests that the social activity of the firm is bounded by an appeal to L and F. It may be possible to identify a spectrum of appeals to F within Boundary A. We have discussed the ideas of *survival* and *flourishing*. It may also be possible to identify a spectrum of appeals to L. For example, a range of appeals from minimal to full adherence to legality. However, this is more problematic because of the relative *formality* of L as a principle. The non-legal principle of the rule of law may not allow for the *interpretation* of L within the social activity of the firm.

Prioritising L and F

We may wish to prioritise L and F. L may be the dominant principle. L provides the overall basis for all reasons for acting. F then provides the basis for reasons for acting within the requirements of L. The relative *informality* of F allows for a wider range of reasons for acting, for example along the spectrum of survival to flourishing.

Ethical significance and rationality

Agents who appeal to reasons for acting based on L and F may hold a range of views about the *ethical significance* of L and F. For example, it may be argued that the appeal to L and F is based on a *rational* concern for sanctions in the case of L, and financial success and failure in the case of F. In both cases it may be argued that rational concerns do not involve claims about ethical significance. This may describe the pragmatic or instrumental view that agents take in practical life.

Analysis of multiple reasons

L and F may provide a basis for the ethical analysis of multiple reasons for acting where these reasons do not appear to be based on L or F. For example, a firm may appeal to a reason based on the non-financial benefits of an outcome. This reason may itself be based on F through an appeal to a particular customer preference for this outcome. The reason for acting to produce the outcome is then explained by F rather than by a reason *in addition* to F.

Extended responsibility

There may be cases where a firm's reasons for acting are not exhausted by an appeal to L and F. Since L and F refer, in part, to the firm's responsibilities, we can identify a further principle that we can call *extended responsibility* or *ER*. ER may be a bundle of further principles including human rights, working conditions, environmental protection, poverty reduction or the creation or promotion of a range of specific goods. These principles may form the basis for a *range* of social activities, including the firm as a social activity.

ER may provide one explanation for the *intentions* of the agents who originally established a particular firm. If we describe the firm as a social activity it is possible to see the intended purpose of the firm as based on a variety of goods. This intention may become subordinate to L and F once the firm is launched into the legal and financial context of the market. The firm then becomes a *bounded* social activity, with L and F the principles that determine the boundary.

There may be cases where a firm appeals to ER as a basis for its *current* activities within L and F. One example of a principle within ER may be an appeal to a minimum level of human rights (HR) for employees and possibly communities within which the firm operates. In some cases HR may be a significant principle but remain *subordinate* to L and F.

Where HR is not subordinate to L and F, it may be necessary to prioritise the three principles. In the case of HR, one option is to consider HR as *analogous* to L. HR involves a series of reasons for acting in a form that is similar to legal reasons for acting. This may not be the case for other dimensions of ER.

One example of the relationship between L, F and HR is as follows:

1. Establish ER as a principle in addition to L and F
2. Establish HR as a principle within the bundle of ER principles
3. Appeal to institutional or authoritative sources of HR claims
4. Establish HR claims that are relevant to the firm
5. Establish prioritisation and balancing criteria for L, F and HR. This could be analogous to L. For example, the firm may appeal to L, then to HR, then to F.

The L, HR, F sequence suggests that HR is appealed to *prior* to F. In this example, HR is a *dominant* principle with regard to F. So, in establishing reasons for acting: L is the primary principle; followed by HR; followed by F.

The firm is likely to have access to established sources for the content of L and F. In the case of ER principles such as HR, the firm may appeal to formal and informal institutions for advice on the content of these principles. For example, the United Nations may provide a global governance or institutional basis for HR. Informal civil society institutions may provide a non-governmental and independent institutional basis for HR, although such institutions may be controversial.

The L, HR, F sequence may be applied to other ER principles. In these cases, this may reflect relative the *formality* of L compared to F. This suggests that there may be a degree of choice about the appeal to, and application of, F.

We will return to the issue of the prioritisation of principles in Part 2.

Internal and external reasons

In the analysis of L, F and ER we may also make a distinction between *internal* and *external* reasons for acting. For example, L and F may form the *internal* basis for the firm's reasons for acting. We may make a distinction between an *internal justification* for the firm's activities and an *external* view of the firm's activities. The internal reasons for acting may not provide a *sufficient* justification for agents outside of the firm.

One group of agents outside of the boundary of the firm may be described as *stakeholders*. Stakeholders may be variously defined. In general a stakeholder is an agent with an interest in the actions and outcomes of the firm. Stakeholders may be reflected in Boundary B or C in the four dimensions diagram.

A wider definition of agents outside of the boundary of the firm may include *citizens* of jurisdictions within which the firm operates, or citizens across all jurisdictions. This may be reflected in Boundary C or D.

In some cases the external view of a firm's activities reflects similar principles to those contained in ER, for example HR. We have discussed the possibility that ER may provide the basis for further *internal* reasons for acting. This discussion suggests that in some cases there may be a difference between the *internal* and *external* view of the firm's reasons for acting. This may inform the debate about corporate responsibility.

One view of the firm suggests that L and F provide *internal* reasons for acting that are sufficient to provide a full justification for the actions and outcomes of the firm. This may be based on the ethical significance of these actions and outcomes informed by an empirical account of the how L and F affect these actions and outcomes. This suggests Boundary A as the boundary of the firm as a social activity.

On this view, *external* reasons that appeal to ER may *inform* L or F, for example through the debate about public policy in the case of L, or customer and investor preferences in the case of F. These reasons may change the *position* of Boundary A, but not the view that Boundary A forms the boundary of the firm as a social activity.

We can discuss the implications of these various arguments for the nature of the firm and the idea of markets both within a single jurisdiction and globally across multiple jurisdictions.

Discussion:

- Discuss the application of these and other examples of the analysis of reasons, principles and boundaries to real cases
- Do the arguments so far begin to form a basis for an ethical analysis of business?

Part 2: Global responsibilities of firms

Introduction

Part 2 uses a range of the arguments developed in Part 1, in some cases as assumptions. This does not imply that these arguments are correct.

The notes for Part 2 are divided into three sections. The first considers the idea of *public reason* as a possible way to address at least some of a firm's reasons for acting. The second discusses *legality (L)* as this applies across global jurisdictions. The third discusses *financial return (F)*, and in particular the ethical and empirical analysis of the effectiveness of F within one jurisdiction and across global jurisdictions.

These notes provide a series of arguments that can be worked through and critiqued using examples of actual firms and current issues in international business ethics.

Reflection on principles

It may be useful to outline an approach to the consideration of the principles discussed in these notes. This approach draws on the idea of 'reflective equilibrium' developed by John Rawls in *A Theory of Justice*¹² and later in *Political Liberalism*¹³.

As a starting point we can consider the principles that inform a current collection of views or convictions in the area addressed, in this case international business ethics. These convictions are likely to be present in the public debate and in the reasons for acting of, in this case, firms. The idea that firms operate within the law and seek to make a financial return suggests two such principles. We may then seek to state these principles clearly, for example as *legality (L)* and *financial return (F)*.

Once stated, the principles can be subject to analysis and reflection, including *ethical reflection*. The process of analysis and reflection may amend, change or confirm the original views and convictions.

One outcome of this process may be a new 'equilibrium' about our views and convictions, informed by 'reflection'. Of course this equilibrium, if achieved, is subject to further reflection and amendment. This process can apply to reflection on both theoretical and practical issues. One view of a *democratic* public debate involves the interplay of both kinds of reflection over time amongst citizens.

Public and private reason

The discussion of internal and external reasons suggests a distinction between *public* and *private* reason.

¹² John Rawls, *A Theory of Justice*, Oxford, 1973, pp. 48-50

¹³ John Rawls, *Political Liberalism*, Columbia, 1996 (Paperback edition), p. 8

One view of the firm's reasons for acting is that these are *private* reasons. This suggests a further characteristic of the boundary of the firm, as shown in Figure 1. Boundary A then marks a distinction between a *private* social activity and the *public* social activities that surround it.

In general, the area outside of Boundary A may be described as a *public space*. Boundaries B, C and D may then mark various dimensions of this public space. The appeal to internal reasons based on *legality (L)* and making a *financial return (F)* may then be described as an appeal *within* private reason.

It may be useful to consider an idea of public reason as distinct from private reason. One influential idea of public reason is developed by John Rawls, in particular in *Political Liberalism*.

‘A political society, and indeed every reasonable and rational agent, whether it be an individual, or a family or an association, or even a confederation of political societies, has a way of formulating its plans, of putting its ends in an order of priority and of making its decisions accordingly. The way a political society does this is its reason; its ability to do things is also its reason, though in a different sense: it is an intellectual and moral power, rooted in the capacity of its human members.

Not all reasons are public reasons, as these are the nonpublic reasons of churches and universities and many other associations in civil society...Public reason, then, is public in three ways: as the reason of citizens as such, it is the reason of the public; its subject is the good of the public and matters of fundamental justice; and its nature and content is public, being given by ideals and principles expressed by society's conception of political justice, and conducted open to view on that basis'.¹⁴

An idea of public reason is also central to Amartya Sen's analysis in *The Idea of Justice*. Sen notes some differences in conceptions of public reasoning, for example in the work of John Rawls and Jürgen Habermas¹⁵. In the context of these various views about public reasoning Sen notes the ‘general recognition that the central issues in a broader understanding of democracy are political participation, dialogue and public interaction’¹⁶. Sen talks about ‘The crucial role of public reasoning in the practice of democracy’¹⁷ and that ‘If the demands of justice can be assessed only with the help of public reasoning, and if public reasoning is constitutively related to the idea of democracy, then there is an intimate connection between justice and democracy, with shared discursive features’¹⁸. Although Sen is interested in a wider analysis of justice, these views about public reasoning may be useful for our analysis.

¹⁴ Ibid., pp. 212-213

¹⁵ Amartya Sen, *The Idea of Justice*, Allen Lane, 2009, pp. 324-326

¹⁶ Ibid., p. 326

¹⁷ Ibid., p. 326

¹⁸ Ibid., p. 326

One view of a firm's reasons for acting could be that these are *private* reasons made as justifications of actions and outcomes within the public space, but not themselves *subject to* public reasoning.

L and F are established within the public space but, once established, form the boundary of the firm. The firm's reasons for acting appeal to L and F.

L and F are themselves subject to public reason. *External* reasons are then part of public reasoning about L and F. On this view *extended responsibility (ER)*, and the bundle of principles it may include, is not a principle that informs the internal private reasons of the firm.

A different view of a firm's reasons for acting is that these are reasons within the public space *and* are subject to public reason. On this view, the boundary of the firm is open to external reasons. ER may then become part of a firm's reasons for acting, and subject to discussion of the prioritisation of principles.

The former view may suggest that an ethical analysis of business comprises an analysis of aspects of L and F within the firm, and of ER outside of the firm. The analysis of ER is part of public reasoning about the content of L and F. This suggests a minimal view of corporate responsibility, as shown in Figure 2.

The latter view suggests that an ethical analysis of business may involve aspects of ER as internal reasons for the firm. This suggests a maximal view of corporate responsibility.

If we accept *some* definition of public reason then it is likely that the actions and outcomes of firms will form part of public reasoning. L establishes the formal aspects of the boundary of the firm, and F establishes the more informal aspects of this boundary including both the survival and flourishing of the firm.

The more *limited* and structured definition of public reason in Rawls may support the view that while L and F as principles may be subject to public reasoning, the firm itself is a private social activity and subject to private reason. The more *expansive* view in Sen may suggest that the firm's internal reasons for acting are also subject to public reasoning as part of the practice of democracy. The application of these ideas by these authors may of course be disputed.

Global firms and global public reason: legality (L)

The idea of public reason may be applied both to a single jurisdiction and to the global community of jurisdictions; we could call this global public reason. Both Rawls and Sen develop something like this idea in *The Law of Peoples*¹⁹ and *The Idea of Justice* respectively.

¹⁹ John Rawls, *The Law of Peoples*, Harvard, 1999

This may help in the analysis of the following: the content of L and F may be different across different jurisdictions.

If we consider L: one idea of a jurisdiction suggests a society of people bound by the rule of law. This provides the widest justification for all reasons within L, and for L itself as a principle.

The boundary of the firm may initially be established by L within the jurisdiction from which the firm *originates*. The boundary may be established in different positions across the *multiple* global jurisdictions in which the firm *operates*. The idea of the firm's *operations* may be too restrictive: we may need to consider the position of the boundary across all jurisdictions that are *affected* by the actions and outcomes of the firm.

We can describe L for the jurisdiction from which the firm originates as *local legality (LL)*. We can describe L for all of the *multiple* jurisdictions within which the firm may operate as *multiple legality (ML)*. ML will refer to a group of jurisdictions each with an associated LL.

Where the firm appeals to LL it may exceed or fall short of the requirements of ML in some cases, depending in the content of ML for each jurisdiction. Falling short of ML may be more critical, although exceeding ML may have significant implications for F. If we define L as meeting *minimal* legal requirements, then both exceeding and falling short of ML involves the firm failing to L as the basis for the firm's reasons for acting.

The idea of public reason may be useful here. A *limited* view of public reason suggests that the firm is subject to private reasoning *within* LL. From the point of view of ML, the firm's reasons for acting may be subject to *global* public reason. The idea of global public reason combines the public reason exercised within a given jurisdiction or, more informally, a given community.

In general firms may be *subject* to aspects of global public reason when the firm's actions and outcomes affect multiple jurisdictions. The content of global public reason may include aspects of ER.

The global firm may then be described as in the following situation: the firm appeals to L within the jurisdiction from which it operates. Within this jurisdiction it may be argued that the firm's reasons for acting are *private* reasons and not *subject to* public reason. However, we may now describe L more precisely as LL. The firm's reasons for acting may now appeal to ML rather than LL, if it is to continue to appeal to L in general. The requirement to appeal to ML is not a formal requirement within LL, nor is it directly a requirement within any aspect of ML. We could argue that this requirement is an aspect of global public reason. On this view, the firm is now *subject* to global public reason.

The appeal to ML within global public reason is then *analogous* to the appeal to LL, or simply L from the point of view of a single jurisdiction. The firm's reasons for acting will now be more complex.

The requirement to appeal to ML as a *principle* is also analogous to the argument based on the rule of law that establishes the requirement to appeal to L. It may be argued that this requirement is itself based in global public reason.

This may be reflected in the following statement from a recent UN Report on business and human rights, ‘Companies know they must comply with all applicable laws to obtain and sustain their legal licence to operate...’²⁰

This argument may appeal to a pragmatic view of ‘applicable laws’ or it may appeal to ML as a *principle* within global public reason. In either case the firm may consider LL for the jurisdictions in which it operates and appeal to at least a *minimal* ML for all jurisdictions.

The content of global public reason may also include ER. As a bundle of principles, aspects of ER may be included within L for some but not all jurisdictions. However, there may be aspects of ER that are *not* included in ML. This is similar to the situation of ER within a particular jurisdiction.

An idea of *global* ER may be reflected in the continuation of the statement quoted above from the UN Report. The Report discusses human rights in particular, or HR. We can use this as one example of ER.

‘46. Companies know they must comply with all applicable laws to obtain and sustain their legal licence to operate. However, over time companies have found that legal compliance alone may not ensure their social licence to operate, particularly where the law is weak. The social licence to operate is based in prevailing social norms that can be as important to the success of a business as legal norms. Of course, social norms may vary by region and industry. But one of them has acquired near-universal recognition by all stakeholders, namely the corporate responsibility to respect human rights, or, put simply, to not infringe on the rights of others.

47. By near-universal is meant two things. First, the corporate responsibility to respect is acknowledged by virtually every company and industry CSR initiative, endorsed by the world’s largest business associations, affirmed in the Global Compact and its worldwide national networks, and enshrined in such soft law instruments as the ILO Tripartite Declaration and the OECD Guidelines. Second, violations of this social norm are routinely brought to public attention globally through mobilized local communities, networks of civil society, the media including blogs, complaints procedures such as the OECD NCPs, and if they involve alleged violations of the law, then possibly through the courts. This transnational normative regime reaches not only Western multinationals, which

²⁰ Office of the United Nations High Commissioner for Human Rights, *Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises*, John Ruggie, 22 April 2009, p. 13

have long experienced its effects, but also emerging economy companies operating abroad, and even large national firms.

48. As a well established and institutionalized social norm, the corporate responsibility to respect exists independently of State duties and variations in national law. There may be situations in which companies have additional responsibilities. But the responsibility to respect is the baseline norm for all companies in all situations'.²¹

Paragraph 47 suggests how global public reason might operate through a combination of global agreements and the arguments and activities of citizens and civil society institutions. This exercise of global public reason may inform a firm's reasons for acting.

The argument that a view of human rights (HR) may form part of a 'transnational normative regime' suggests the idea of an ethical analysis of business activity. The idea of 'a well established and institutionalized social norm' and that 'the corporate responsibility to respect exists independently of State duties and variations in national law', suggests that firm's appeal to ER (or HR in this case) as an aspect of global public reason.

This argument may move beyond the idea of different legislation within different jurisdictions, that is the move from L to LL and ML. This may be an attempt to define HR, as one aspect of ER, across all jurisdictions. This is outside of L and is part of global public reason.

In the analysis of the prioritization of L, F and ER, we used HR as an example. We also suggested that HR may have a similar form to L. The idea of HR across jurisdictions is informed by an idea of *universal* human rights. This suggests that the ethical significance of HR supports HR as a principle that informs all reasons for acting, including the firm's reasons for acting.

This view of HR is part of an argument about the ethical significance of the outcomes of global public reasoning. A significant implication of this argument may be the establishment of a global rule of law supported by institutions of investigation, adjudication and enforcement. This may operate in parallel with or, in some cases, supersede L, LL and ML. The boundary of the firm may then be defined, in part, by a combination of L (or LL) within a jurisdiction, ML across all jurisdictions within global public reason, and by a principle of *universal legality (UL)*.

UL may be preceded by transitional agreements between jurisdictions and across regions, as well as claims within global public reason that anticipate UL. Some of these agreements and claims may already be in place.

The argument about UL is subject to significant empirical and ethical debate and disagreement. It is important to note here that I am not an expert in the legal arguments

²¹ Ibid., pp. 13-14

involved; this is an attempt to consider these issues as part of an ethical analysis of business.

If a firm's reasons for acting are *currently* informed by aspects of HR, this may be an example of a firm both responding to global public reason in this area of ER and anticipating potential changes to LL, ML and UL.

At this stage, we can consider one further aspect of global public reason.

HR is an example of a principle within ER that may be applied to all jurisdictions. Many views of HR are *universal* in nature and so must apply globally across all jurisdictions; on these views all people have a set of human rights that must be respected. HR is universal because people may live within a single jurisdiction, but hold human rights that *transcend* these jurisdictions.

Other principles within ER may apply globally but based on different argument, for example that some actions and outcomes of the firm's activities may have a wide effect on the natural environment. This may include carbon emission, pollution, and the maintenance of natural habitats and biodiversity.

These affects may not be limited to any single jurisdiction, or even combination of jurisdictions. This is in part because some aspects of the natural environment may not be directly subject to property rights within any jurisdiction, such as the atmosphere and much of the oceans.

These affects may also transcend jurisdictions in another sense. We can take the example of the loss of a species. This loss may take place wholly or primarily within a single jurisdiction. However the ethical significance of the loss may appeal to arguments that do not refer to local or global jurisdictions.

These aspects of ER require further analysis. However, they may suggest aspects of global public reason that require global agreement and, potentially UL, if the effects are to be fully reflected in the reasons for acting of agents including firms.

We have focused on L rather than F in this discussion; we will discuss F in the next section.

Global firms and global public reason: financial return (F)

The analysis of L is the analysis of a relatively formal principle. F is a relatively informal principle.

In the prioritisation of L and F it may be argued that L is the dominant principle, and F is the subordinate principle. The firm appeals to L as the basis for all reasons for acting. Within the boundary established by L, the firm then appeals to F. L and F taken together establish the final boundary of the firm. This is Boundary A in Figure 1.

This becomes more complex when we consider the prioritisation of LL, ML and F. This may be resolved in part by arguing that all firms, ‘...must comply with all applicable laws to obtain and sustain their legal licence to operate...’²². This raises the issues discussed in the previous section.

In general, it may be argued that the prioritisation remains as follows: the firm appeals to LL, ML, or possibly some version of UL; the firm then appeals to F within the boundary or boundaries set by these versions of L.

The prioritisation of L and F is based, in part, on the relative formality of L. The relative formality may be based on the ethical significance of the two principles: the firm acting within the rule of law (that underpins L) is based on a *stronger* evaluation of ethical significance than the firm either surviving or flourishing (that underpins F).

This clear prioritisation is also based on the relative *independence* of L and F. The prioritization becomes more complex if we consider how each principle is informed by and affects the other.

In general, we may argue that the content of L is shaped, in part, by claims based on the ethical and empirical analysis of the effectiveness of F. This suggests that F *should* become a principle that sets the boundary of the firm as a social activity. L is then informed by an analysis of F, and creates the conditions within which F may apply. The combination of L and F sets the boundary of the firm. L is then formal at a given point in time: the content of L may have been informed by F in the past, and may be changed as F changes in the future.

It may be argued that some *other* principle could be adopted to set the boundary of the firm: for example, to promote the greatest environmental benefit (EN). Work through such a principle in detail is likely to be complex, in part because of the institutional arrangements and social activities that support F. It may be sufficient here to suggest that it is *possible* to identify another principle. The bundle of ER principles could be a source of these further principles.

It may be argued that the ethical and empirical analysis of F suggests that F supports the greatest balance of benefit over harm. This is in part an analysis of the *outcomes* of a firm's activities, but it may also take into account the *actions* of firms and the effect of these actions on *agents* within the firm. One version of this analysis may appeal to claims about human nature and human communities: in particular that F is consistent with empirical claims about self-interest and the balance of cooperation and competition within both human nature and human communities.

On this basis, the argument for some other principle (such as EN) would have to demonstrate a greater balance of benefit over harm. The comparison of F and EN involves both the empirical and ethical analysis of both principles. The *empirical* analysis

²² Ibid., p. 13

is complex. However the *ethical* analysis may be even *more* complex if F and EN involve views about ethical significance that are not comparable.

We can apply this analysis to a given jurisdiction. However, *within* a jurisdiction two further arguments may apply.

A firm that originates in a jurisdiction is likely to *understand* the content of L and F for that jurisdiction. The firm may also *understand* at least part of the empirical and ethical analysis of F, the way in which this has informed L, and the relationship between L and F.

The jurisdiction will have *some* process in place for determining L. Whichever process is in place, the firm will at least be familiar with how this works. This may contribute to understanding. However, if the process allows for a balance of interests to be represented, the firm may also *assent* to L and F. Other agents within the jurisdiction may also broadly *assent* to L and F. One example of a process for achieving assent is democracy.

We can describe the combination of *understanding* and *assent* as aspects of public reason within a jurisdiction.

Understanding and assent may work out differently across jurisdictions, because views about F and L may be different across jurisdictions. In the case of L this is reflected in the distinction between LL and ML.

In the case of F, although it may be reasonable for F to inform L within a single jurisdiction, this may not be reasonable for other jurisdictions. Indeed, *within* a jurisdiction there may be disagreement about the way in which F informs L; *across* jurisdictions this disagreement may be greater.

The ideas of *understanding* and *assent* may be useful here. There may be differences in the understanding of, or assent to, the empirical and ethical analysis of F across jurisdictions. Indeed, it is possible that a further principle (such as EN, discussed above) may have a higher priority than F in some jurisdictions, *even if* this possibility is unlikely or uncommon.

However, it may be argued that the empirical and ethical analysis of F will *in fact* inform L for all jurisdictions. On this view, F is appealed to within all jurisdictions and across all jurisdictions globally. It may also be argued that F *should* inform L for all jurisdictions, even in cases where this is not the case or not fully the case. Some arguments for a global market may include these views. This suggests that F may be a universal principle, analogous to UL discussed above.

The argument for a single understanding of F to be a universal principle may be based on an empirical and ethical analysis of the balance of harm and benefit. Where this applies across jurisdictions it may involve at least two further views about harm and benefit.

The first view suggests that this balance is broadly *similar* for all jurisdictions. The empirical and ethical analysis of the effectiveness of F will produce a similar result within *each* jurisdiction, and will therefore apply *across* jurisdictions.

The second view suggests that the balance may be significantly *different* for each jurisdiction, if each jurisdiction is analysed *independently*. However, if all jurisdictions accept F, the balance *for all* jurisdictions is greater than if some do not accept F. For example, those jurisdictions where the harm is significantly greater than others may still receive a *greater* balance of benefit *overall* if they participate in the *global* acceptance of F. It is likely that assent to these arguments within these jurisdictions will be more difficult to achieve on this basis, but it may still be possible. This may form part of an empirical analysis of the benefits of F establishing the boundary of the firm as part of a global system of firms across jurisdictions.

Both views may be described as part of the public reason *within* each jurisdiction, and part of global public reason *across* jurisdictions.

Both views are based on an ethical and empirical analysis of the effectiveness of F.

As discussed, the empirical analysis of F may suggest a different balance of harm and benefit across jurisdictions. In some cases this may be described as *inequality* across jurisdictions or regions. The analysis is complex and will include issues such as the causal role of F in supporting inequality.

However, an empirical analysis of inequality may inform an ethical analysis. In particular, the degree of inequality may not be considered acceptable. It may be argued that *poverty* is a type of inequality. In general, poverty may be described as the point at which inequality creates substantial harm to an individual. Whatever definitions of inequality or poverty are used it may be argued that at *some point* the latter in particular may be considered unacceptable.

In this case, the empirical and ethical analysis of F may not result in assent from the all jurisdictions, including those that are subject to inequality or poverty in this analysis. This suggests that F may not be a universal principle.

We may describe this in an analogous way to the analysis of L. In the case of L we distinguished between LL and ML, and the possibility of UL.

We may now need to distinguish between the following principles: *financial return* (F); *local financial return* (LF); financial return across multiple jurisdictions, *multiple financial return* (MF); and the possibility of financial return across all jurisdictions combined, *universal financial return* (UF). If F is not accepted, or is accepted in different forms across jurisdictions, this suggests that a further principle is appealed to.

This analysis suggests the possibility that a *further* principle may set the boundary of the firm, to complement or replace F. We briefly discussed EN above. A further option could

be a principle that reflects the ethical significance of inequality and poverty. We can call this principle *capability* (C), as this may be part of a general capabilities approach.

Most definitions of C will include a bundle of principles. This is similar to ER. We can discuss C in general at this stage, but recognising that each principle within C may require further analysis.

C may inform a firm's reasons for acting in a similar way to L and F: the firm's reasons for acting now appeal to a view of human capabilities. It is important to note here that C *replaces* or *complements* F as a principle for firms.

Another option would be for the various claims under C to be incorporated into L, in particular a form of UL. This may be analogous to a single jurisdiction that includes capabilities as part of redistributive and welfare arrangements. These elements of L form part of the boundary of the firm through legislation covering areas such as taxation, employment and health & safety.

For C to replace or complement F this involves an *additional* principle that sets the boundary of the firm as a social activity. On this view, the firm has a direct responsibility to act on the basis of C. This will require a prioritization of L, F and C using a similar approach to that discussed in Part 1.

One result of prioritization may suggest the following ordering: L, C, F. There are of course other priority orderings.

In this case, the global firm may then be described as in the following situation: the firm appeals to a version of L (including LL, ML and UL); it then appeals to C, for example with a direct responsibility to reduce poverty; it then appeals to F.

This prioritization is based on the argument that the ethical and empirical analysis of F does not support the greatest balance of benefit. This prioritization suggests *changes* to the boundary of the firm and to the arrangements within the firm that may be designed to operate within L and to support and promote F. The social activity of the firm would then have a boundary that is similar in some respects to that of other social activities, such as development NGOs with boundaries set by L and C. This may be considered a fundamental change to the nature of the social activity of the firm.

This view assumes a simple L, C, F prioritization. However, other more complex arrangements are possible. For example, the principle of a financial return for *survival* may be retained as a dominant principle. The firm may then prioritise as follows: L, F(survival), C, F(flourish). This suggests that the firm supports elements of C before it seeks to *flourish* through maximising a financial return.

As another option, the firm may appeal to C in those jurisdictions where this principle is not addressed by other social activities. So, for a jurisdiction with low levels of poverty the prioritization may be: L, F, C, or may not include C. For a jurisdiction with high

levels of poverty the prioritization may be as above: L, F(survival), C, F(fLOURISH). This would have an impact on the firm's maximisation of F overall, but may also accommodate C.

This approach to C may be similar to Martha Nussbaum's argument in the article *Beyond the Social Contract: Capabilities and Global Justice*²³. Nussbaum suggests that one of 'Ten Principles for a Global Structure' includes the following: 'Multinational corporations have responsibilities for promoting human capabilities in the regions in which they operate'²⁴. We can discuss this Principle in terms of the analysis of L, F, C and public reason developed so far.

'(4) *Multinational corporations have responsibilities for promoting human capabilities in the regions in which they operate.* The understanding of what a corporation is for, up to now, has been dominated by the profit motive. This understanding has not prevented corporations from devoting quite a lot of money to charity domestically, but there is no generally accepted standard of moral responsibility. The new global order must have a clear public understanding that part of doing business decently in a region is to devote a substantial amount of one's profits to promoting education and good environmental conditions. There are good efficiency arguments for this: corporations do better with a stable well-educated work-force. Education also promotes political engagement, crucial to the health of a democracy; and corporations do well under conditions of political stability. None the less, those arguments should be subsidiary to a general public understanding that such support is what decency requires. At the same time, corporations should undertake to promote good labour conditions, going beyond what local laws require.'²⁵

It is interesting that Nussbaum also says in relation to capabilities that, 'Notice, as well, that the allocation [of responsibilities] is an ethical allocation: there is no coercive structure over the whole to enforce on any given part a definite set of tasks'²⁶. This may also be reflected in Rawls' argument that the idea that public reason is, '....understood and honored by citizens is not, of course, matter of law'²⁷.

The debate about whether C should be a principle that sets the boundary of the firm, and the debate about the prioritisation of L, F and C, can be described as a debate in public reason. This debate is based, in part, on the ethical and empirical analysis of the effectiveness of F. This is likely to inform both the idea of C as a principle, and the content of L (including LL, LG and possibly UL). C may also have an effect on firms *prior to* any incorporation into L. In this case, we may argue that firms are *subject to* this element of global public reason.

²³ Martha C. Nussbaum, *Beyond the Social Contract: Capabilities and Global Justice*, in Oxford Development Studies, Vol. 32, No 1, March 2004

²⁴ *Ibid.*, p.16

²⁵ *Ibid.*, p. 16

²⁶ *Ibid.*, p. 15

²⁷ John Rawls, *Political Liberalism*, Columbia, 1996 (Paperback edition), p. 213

Part 3: Employment and authority

Introduction

Parts 3, 4 and 5 address some specific issues in international business ethics. This will continue the consideration of how an ethical analysis of business activity *might* work.

Employment and authority

The idea of employment raises a series of important and complex issues for an ethical analysis of business.

Employment can be seen as one means of bringing together, binding and coordinating the *social activity* of the firm. The principle of *legality* (L) establishes much of the formal basis for employment. The principle of *financial return* (F) establishes the basis for much of the informal content of employment, within the formal structure of L. A central dimension of the *bounded* nature of the social activity of the firm is set by the formal and informal nature of employment. Employment has great ethical significance for individuals seen as members of firms, other social activities and communities and as citizens of jurisdictions.

In these notes I will discuss one aspect of employment: the idea that employment involves the exercise of authority. When individuals enter into employment within firms, and other organisations, they are typically *subject to* the authority of others. In many cases individuals also exercise authority *over* others. An analysis of the exercise authority may be central to understanding the nature and ethical significance of employment.

Authority and reasons for acting

We can start with a working definition of authority.

In general, authority can be described as a quality attributed to an individual or institution that provides for an agreed capacity to make laws, policies, regulations, standards, rules and decisions that the individual or institution can expect others to accept. In this sense, an individual or institution with authority has the capacity to bind others.

We can develop this definition in the following way: if you have authority, then you may give me reasons for thinking and acting in a manner that I otherwise would not have thought or acted. If I accept your authority in a given situation, I will think and act in accordance with the reasons that you provide. This may apply in all situations, including where I only partially understand your reasons, or disagree with them, or have reasons for acting in some other way.²⁸

²⁸ This is adapted from the definition developed by John Finnis in *Natural Law and Natural Rights*, Oxford, 1980, pp. 233-244

The idea of thinking and acting on the basis of *another's* reasons cuts across the idea that individuals act on the basis of their *own* reasons. However, taking into account another's reasons, and the arguments that underpin these reasons, is part of formulating our *own* reasons. We may accept the authority of others, understood in its widest sense, when we accept *any* reasons in this way.

The exercise of authority may require a particular *process* for giving and accepting reasons that would allow for individuals both to accept the authority of others and to formulate their own reasons. As a result of this process I *accept* your reasons, and act on the basis of these reasons as an *agent*. I may then be *responsible* for the actions and outcomes that result from these reasons.

This suggests a useful distinction between the exercise of authority and the use of *power*. Power involves the use of coercion or force as a process for accepting reasons. To develop this distinction: in some cases I may appeal to the idea of power as grounds for the argument that I am not *responsible* for an action that I am forced to carry out by you. I may have been *physically* forced to act, in which case I may argue that I did not form any *reason* for acting. In many cases I may argue that although I formed a reason to act, this was a response to coercion and so at the limit of the idea of a reason. In these cases I may argue that I was carrying out *your* reasons for acting. This may be one application of the idea that you are using me as a means rather than treating me as an end.

The process of giving and accepting reasons may also involve an appeal to ideas of *freedom*. When I accept your authority, I may have in mind a particular process for giving and accepting reasons that retains my capacity to act as an *autonomous* agent. I may argue for retaining the possibility of accepting reasons *other than yours*, and for the possibility of disagreeing with your reasons even if I have otherwise accepted your authority. At the same time, when I accept your authority I may *suspend* some aspects of my freedom, in particular to act directly on the basis of my own reasons.

The relationship between authority, power and freedom requires further analysis.

The need for authority

The discussion so far suggests that the exercise of authority is both ethically significant and ethically complex. In particular, it may overlap with, or collapse into, the exercise of power, and it may cut across the idea of freedom. We may ask whether the exercise of authority is ever justified or is ever required.

We have already suggested that authority in its widest sense may form part of the process of formulating reasons for thinking and acting. On this view, if I accept *any* reason that you propose then I have, to this extent at least, accepted your authority.

A wider argument for the exercise of authority is based on the need for some *ordering* of social activities. This is itself in part an *ethical* argument, based on the ethical significance of the actions and outcomes of these social activities, and in part an

empirical argument, based on the idea that authority is the most effective means of ordering these social activities.

Social activities in general require collective action to achieve outcomes, and these actions may require some *coordination*. Authority may enable coordination through combining reasons for acting that support a collective outcome.

Some of the actions and outcomes pursued by social activities may be in *conflict* or may be *incompatible*. This may require the exercise of authority to adjudicate between the reasons that result in these actions and outcomes.

The actions and outcomes of social activities cut across a range of *principles* that are ethically significant such as freedom, discussed above, rights and justice. Authority may *require* and *constrain* reasons for acting both within and between social activities in order to maintain these principles.

Even if we accept that social activities require some ordering, we may ask whether there are *alternatives* to authority.

The ordering of reasons for acting may resolve itself *spontaneously* over time. On this view, the process of giving and accepting reasons leads to voluntary agreements between people that provide for sufficient ordering. One view of free markets appeals in part to this argument.

A more active approach may suggest one of a range of decision making *processes* for ordering reasons without involving the exercise of authority. The procedures of democratic decision making and consensual decision making in general may seek to achieve this, or at least to substantially reduce the need for authority. These procedures combine the need for coordination with ordering principles that are themselves freely accepted by individuals.

Both *spontaneous* agreement and decision making *processes* for agreement would need to produce *unanimous* decisions if the requirement for authority is to be removed completely.

A further view may be to argue for the exercise of *power* rather than authority. This may be ruled out by the objections mentioned above, and so may not provide an alternative to authority. However, the exercise of power may well be a compelling and *apparently* effective way of achieving ordering. This may be particularly attractive to those who benefit from the outcomes of social activities including, in the short term at least, those who are subject to the exercise of power. One implication may be that power becomes a threat to the exercise of authority rather than an alternative it.

If each of these and other alternatives to authority are found to be ineffective, incomplete or unattractive as a means of ordering social activities, this suggests that some exercise of authority may be required and justified.

The exercise of authority

The problem of ordering social activities and the balance between authority and freedom, is perhaps what Isaiah Berlin has in mind when he says, ‘The dilemma is logically insoluble: we cannot sacrifice either freedom or the organisation needed for its defence, or a minimum standard of welfare.’²⁹

If we accept some ethical and empirical justification for authority, we can ask how authority should be exercised. This involves asking on what *basis* I should accept your authority to give me reasons for thinking and acting in a manner that I otherwise would not have thought or acted.

I may first ask whether the reasons you give me are themselves *reasonable*. This will involve both the *factual* claims and the claims about *ethical significance* that these reasons appeal to.

One test of reasonableness is to ask whether I would have arrived at the same reasons had I fully reflected on the same factual and ethical claims. This is problematic in at least two ways. For relatively straightforward reasons, the costs of investigating the claims may outweigh the significance of the reasons themselves. For complex reasons, the costs of investigating the claims may be prohibitively high, for example because of the technical mastery of the issues required.

The idea of public reasoning may involve the idea that reasonableness in this context involves *at least* the requirements that you state your reasons as clearly as possible, that you are able to explain the factual and ethical claims that these reasons appeal to, and that you open to at least some questioning and debate about the claims involved, however complex these claims might be.

The limits to the degree to which I can fully investigate your reasons, even if I accept these as minimally reasonable, suggest that I may have to accept your reasons based on your claim to authority itself. I may then ask whether your claim to authority is *legitimate*.

Legitimacy here may concern the process by which you have come to claim authority and how you maintain this claim as you exercise authority. Two examples of sources of legitimacy may be specialist knowledge and institutional position. The claim to specialist knowledge suggests that you are in a better position than others to understand the reasons for acting in a given situation. The positional claim will appeal to formal and informal procedures for achieving a position of authority within a social activity. These procedures may themselves appeal to ethically significant ideas such as fairness.

The *reasonableness* and *legitimacy* of authority may be open ended. Factual, ethical and procedural claims may be more or less disputed and, in some cases, based on incompatible claims about ethical significance. I may then consider a further dimension

²⁹ Isaiah Berlin, *Political Ideas in the Twentieth Century*, in *Four Essays on Liberty*, Oxford, 1969, pp. 39-40

to your claim to authority. I may accept your claim to authority because I trust your *judgement* on these issues. In particular, I may trust that you have understood and reflected on the factual, ethical and procedural issues at stake and that the reasons for acting you propose are reasonable and legitimate. Trusting your judgement may in turn appeal to ideas of integrity or, in general, ideas of *virtue*.

This sketch of the basis for claims to authority suggests that I may accept your authority if I consider this claim to be reasonable and legitimate, and if I trust your judgement. Each of these arguments needs to be worked out in detail, and other dimensions may be involved. These arguments may suggest a minimum basis for me to accept your reasons for acting in a given situation.

This sketch suggests limits to the idea that authority involves *persuading* me of your reasons for acting. This may include ideas of *charisma*, where I am *persuaded* by your rhetoric or by aspects of the attractiveness of your personality.

This sketch may also help to clarify the boundary between authority and power. The exercise of power may remove all or most of the appeal to reasonableness, legitimacy and judgement. I may accept your reasons for acting, but on the basis of force or coercion rather than your authority.

The exercise of authority and employment: some suggestions

Claims to authority are made within social activities of all kinds, including within firms as bounded social activities. The discussion so far suggests that the need to order social activities, including firms, provides some justification for these claims, and that it is possible to establish a minimal basis for claiming authority in given situations.

Employment within firms typically involves both making claims to authority and being subject to the authority of others. The process of giving and accepting reasons for acting can be seen in the day-to-day activities of firms. For much of this activity the various claims to authority may not be contested. Reasonableness, legitimacy and judgement may have been established as a background context for these activities. In these cases I may be inclined to accept your claim to authority and to accept your reasons for acting, at least in the short term.

At the same time, people within firms may make day-to-day assessments such as, ‘he doesn’t know what he is talking about’, ‘it’s not fair’ or ‘I don’t trust him’. These assessments can be seen as comments on, and concerns about, the exercise of authority, even if these assessments turn out to be unreasonable in particular cases.

Day-to-day assessments become more critical when we move from matters of lesser to greater ethical significance. For example, I may be asked to accept reasons that result in my own redundancy or reasons that would require me to act in a manner that I would otherwise reject. In these cases the claim to authority that sustains these reasons, in addition to the reasons themselves, may be contested.

Many firms are based on complex and extensive employment relationships. The day-to-day and one-to-one exercise of authority may be the most immediate expression of these relationships. We can describe these relationships as part of a complex pattern of authority, typically in the form of a structured hierarchy. Positions of authority within this hierarchy may be described using overlapping descriptions such as manager (including junior, middle and senior managers), director, owner, board member and, more generally, leader.

One dimension of the experience of employment may be described as the more or less continuous and practical working out of claims to authority at all of these levels across hierarchies.

The analysis from Parts 1 and 2 suggests some of the overarching principles that firms may appeal to as the basis for reasons for acting: the two primary principles may be L and F. These principles form the overarching basis for claims to authority within firms. L provides the basis for multiple *formal* reasons for acting, including specific legal aspects of employment. F provides the basis for shaping the social activity of the firm, including the organisation of work and the hierarchical arrangements, and the basis of multiple *informal* reasons for acting. Principles L and F may not be appealed to on a day-to-day basis, but they may establish the boundary within which multiple formal and informal reasons are appealed to.

From the analysis in Parts 1 and 2, we can discuss the further dimensions of L and F in a global context, for example the distinction between *local legality* (LL), *multiple legality* (ML) and *universal legality* (UL), as the principles that establish the boundary of the firm. In these notes we can use L and F.

Arguments about the principles themselves and the claims to authority that appeal to these principles are related. For example, if the reasonableness of F is contested this may affect claims to authority within firms that are based in part on an appeal to F.

If employment involves authority, we can ask to what extent *dissent* from authority is acceptable within employment. We have suggested that a claim to authority, for example in contrast to the exercise of power, involves giving and accepting reasons with explanation and questioning. On this basis *some* dissent is built into the idea of authority. However, the idea of authority also suggests a limit to dissent if I am to accept your claim to authority.

If we start from L and F, there may be a range of reasons that may be open to the possibility of further dissent. Some formal reasons within L may be relatively clear, based on the rule of law, and may be considered reasonable and legitimate. However, informal reasons, particularly those within F, may be more open to questioning. Indeed, based on the analysis in Parts 1 and 2, there may be further principles within *extended responsibility* (ER) that do not fall within L and F. One example of ER is a principle of *human rights* (HR), particularly in a global context. We can discuss the implications of this and other principles.

One way to analyse this situation is to see the individual as both employed within the firm as a bounded social activity and as a member of other social activities, including as a *citizen* within a jurisdiction. The idea of citizenship itself includes ideas of authority, freedom and dissent. The outer limit of dissent may be set by the idea of citizenship, and this may be very wide in the case of democratic citizenship. Indeed it may appear to have no limit in areas such as freedom of thought and conscience.

If I accept your claim to authority within the firm, I may also accept some limit to the idea of dissent. This appears to suggest a tighter limit to dissent than is set by citizenship. However, some aspects of citizenship, including those aspects included within L, may limit or constrain claims to authority within firms.

For example, it may be reasonable and legitimate for a manager to set the responsibilities and activities that are expected of an employee. However, this must operate within specific aspects of L, such as employment law and health & safety law, and within wider aspects of L and the idea of citizenship, including ideas such as freedom of thought and conscience. The latter argument in particular may create limits to ideas of persuasion within firms, including some aspects of a firm's training of employees.

In some cases it may be argued that dissent can *directly* challenge the exercise of authority within firms. In particular, an idea of whistle blowing may suggest that an individual is permitted to expose an aspect of a firm's actions or outcomes in a manner that breaks an otherwise reasonable and legitimate constraint on this reason for acting, such as confidentiality. These are problematic cases and need to be explored in more detail. One possible approach may be to consider ideas of civil disobedience that seek to provide some basis for citizens to challenge the authority of aspects of L within a jurisdiction. We can discuss the idea of public reasoning from the analysis in Parts 1 and 2 as one route into these issues.

This discussion has sketched out some ideas about how the idea of employment involves the exercise of authority. This has included ideas about authority itself and some initial suggestions for how these ideas may throw light on the nature of employment within firms.

Part 4: Business disciplines and rationality

Introduction

Part 4 considers an ethical analysis of areas of business knowledge and activity such as finance, accounting, marketing and advertising. I will refer to these as business disciplines, as discussed below.

I suggest that this involves discussing the relationship between the rationality of these disciplines and an ethical analysis of business. These notes will concentrate on some of the conceptual issues involved. The application of these ideas to practical examples from

each of the four disciplines, and from other areas of business knowledge and activity, can be discussed further.

Business disciplines

We can start by sketching out how the four areas of business knowledge and activity may develop into disciplines.

One picture of this development is as follows. Ideas and practice within each area build over time into bodies of theory. The various elements of theory inform, more or less directly, a firm's reasons for acting. The actions and outcomes that follow from these reasons form a body of practice that is held as tacit knowledge by practitioners. Some elements of this tacit knowledge may be articulated and, to some extent, analysed through the commentary and writing of practitioners. The actions and outcomes of practitioners may also be analysed through systematic empirical research. Tacit knowledge, practitioner commentary and empirical research may provide the basis for further systematic theoretical research.

The combination of theory, tacit knowledge, practitioner commentary and empirical research forms a body of knowledge for each discipline. This body of knowledge is one way to describe the dimensions of each discipline. There are likely to be overlaps between each of the four disciplines identified and with other disciplines, but each body of knowledge is sufficiently distinct for the idea of a discipline to be useful.

This various elements within the body of knowledge for each discipline may work out differently in each case. For example: ideas in finance and accounting theory and practice may be more *formal* than ideas in marketing and advertising; finance and accounting may make greater use of mathematics than other disciplines; the legal boundaries to finance and accounting may be more significant for practice in these disciplines than in other disciplines; accounting practice may be *more* informed by legal boundaries and *less* informed by complex mathematical models than finance; marketing and advertising practice are also bound by legality, but this may have less *direct* influence on theories within this boundary.

An ethical analysis of these disciplines will form part of the wider ethical analysis of business. Drawing on ideas discussed in Parts 1 and 2, the principles of *legality* (L) and *financial return* (F) will provide the overall basis for reasons for acting in each discipline. In general, L will define the relatively formal constraints and requirements in each discipline and F will define the relatively informal opportunities that each discipline considers.

A more detailed ethical analysis of each discipline will encounter a substantial body of knowledge comprising theory, tacit knowledge, practitioner commentary and empirical research. Understanding these bodies of knowledge will require substantial expertise.

From a methodological point of view, this suggests the need for collaboration between individuals engaged in an ethical analysis and individuals with the relevant expertise in each discipline.

This methodological issue reflects an analysis of how each discipline may inform a firm's reasons for acting.

Rationality

Practitioners, commentators and researchers in each discipline may interpret the relevant body of knowledge as primarily concerned with *rationality*. On this view, the body of knowledge in each discipline provides a complex account of rationality. These accounts inform a firm's *rational* reasons for acting.

It may be useful here to refer to the working definitions of *rationality* and of *ethical significance* suggested in *Part 1: The Responsibilities of Firms*. These working definitions, in common with most definitions in ethics, are only partially adequate and potentially controversial.

Rationality may be described as the capacity of an agent to determine which *actions* are required to achieve given *outcomes*. In some cases this includes the capacity to determine the most efficient and effective actions. Rationality may also refer to the nature of outcomes, but may suggest that these are not *ethical* outcomes but based, for example, on the *rational interests* of the agent.

Ethical significance may be described as the *harm* or *benefit* caused by actions and outcomes including interests. The ideas of harm and benefit are informed by moral intuitions, moral values or moral principles.

When used in this discussion, these definitions do not suggest that the four disciplines make *no* reference to ethical significance. In fact, these disciplines may make more or less explicit reference to ethical significance of various kinds. For example: practitioners may discuss ethical issues in accounts of day-to-day business practice, including ethical issues encountered as a result of pursuing particular outcomes; commentators may discuss the ethical implications of specific practices; all disciplines may form part of the development of professional ethics and codes of conduct in the respective areas; researchers may engage directly in an ethical analysis of various practical and theoretical issues. However, it does appear that each of the disciplines is *primarily* concerned with detailed accounts of rationality.

Reasons for acting

The discussion so far suggests the following picture of a firm's reasons for acting. The firm appeals to a complex range of reasons for acting. Some of these reasons will appeal to ideas drawn from the four disciplines. The disciplines will provide the rational basis for many of the actions and outcomes of the firm. This will include identifying the

possible *outcomes* of the firm, including intermediate outcomes such as a successful product launch, and overarching outcomes such as increasing shareholder value. This will also include identifying the *actions* required to achieve these outcomes. In some cases, the disciplines will suggest choices between actions and, to some extent, choices between outcomes.

We can describe this identification of actions and outcomes as part of the *rationality* of the firm, and of the individual agents who make up the firm. This view of the firm's rationality is likely to be highly developed and highly complex, particularly in disciplines such as finance and accounting.

We have suggested that the reasons drawn from the four disciplines may include some references to ethical significance, and that this may form part of the rationality of the firm. This does not suggest that these references can simply be *translated* into aspects of rationality; however it does suggest that the ethical analysis that has *resulted* in these references may have taken place outside of the four disciplines.

On this view, references to ethical significance form part of the theoretical and practical analysis within the four disciplines as *ethical facts* and, in this sense, form part of the rationality of the firm. So, given a particular ethical fact, the discipline may suggest how the firm might respond to this fact through its actions and outcomes.

This discussion does not assume that the subject areas of the four disciplines, the distinction between these and other disciplines, and the distinction between the disciplines and an ethical analysis, are theoretically or practically fixed. This suggests that a direct analysis of ethical significance *within* each of the four disciplines is not ruled out.

If we assume that the four disciplines have *relatively* distinct subject areas we can consider the relationship between the disciplines and an ethical analysis.

We can describe the firm as a bounded social activity. The four disciplines provide the basis for rational reasons for acting *within* the boundary of the firm. The boundary of the firm is set in part by L and F. We can describe the disciplines as setting out the rationality of the firm operating on the basis of L and F.

Much of the content of the four disciplines will provide the detailed basis for rational reasons for acting. We can begin to describe the relationship between the disciplines and an ethical analysis using L and F. We can discuss each in turn.

L sets part of the boundary of the firm, and provides *legal facts* for the firm, at least in the short term. The four disciplines will assume much of L. L is based on the non-legal principle of the rule of law. The content of, and changes to, L may appeal *directly* to ethical significance. On this view, the content of the law is based on an ethical analysis, and law comprises legal *facts* once enacted.

We have previously suggested that F is based on the ethical and empirical arguments for making a financial return. The four disciplines may assume F as the basis for business activity, at least in the short term, and may also make a significant contribution to the detailed arguments for F. For example, the ideas and models within corporate finance may be used to show that particular actions within firms and financial markets will maximise the value of the firm as a bounded social activity. This may be further developed when corporate finance is combined with the related discipline of economics. These arguments may in turn contribute to changes to L.

Rational and ethical reasons

We have made a distinction between rationality and ethical significance.

The *rationality* of the firm describes the firm's reasons for acting within the boundary of the firm. The four disciplines inform these reasons for acting. This can be described as looking at reasons from *within* the firm. This may correspond to the idea of internal reasons. These are reasons as they appear to agents within the firm.

Rational reasons assume that agents have roles within the firm and act to achieve the outcomes of the firm by appealing to L and F. An ethical analysis may describe the firm as a bounded social activity, and includes an ethical analysis of L and F as principles that in part set the boundary of the firm.

The analysis of the responsibilities of firms may provide an example of these ideas. We can start with a distinction between two descriptions of the attempt to analyse the responsibilities of firms: 'Corporate Social Responsibility' (CSR) as this may be seen within the firm as a business issue; and, 'corporate responsibility' (CR) as this may be seen outside of the firm as an ethical analysis of the firm's activities.

CSR describes, in part, a business activity within the boundary of the firm. Elements of CSR may inform the firm's reasons for acting. These reasons appeal to arguments based on, for example, customer and investor preferences. The firm's reasons for acting based on an appeal to these arguments are part of the rationality of the firm.

In some cases these rational reasons for acting may use ethical language. This language suggests interesting dimensions of, and changes to, for example, the preferences of customers and investors. These may be described as ethical facts for the firm and may inform the firm's reasons for acting within F. The four disciplines may provide significant rational approaches to support these reasons for acting.

CR on the other hand describes part of an ethical analysis. This is an analysis of the actions and outcomes that the firm may be responsible for within and beyond the boundary of the firm. This analysis may also inform the firm's reasons for acting as *ethical* reasons.

The use of ethical language in both cases suggests that these analyses intersect. This may create some confusion about the meaning of the language used.

We can see principles L and F as the boundary at which rational and ethical reasons intersect. Inside the boundary of the firm, set by L and F, the four disciplines and other disciplines inform rational reasons for acting. In this sense, L and F are rational reasons as they confront the firm. Outside of the boundary of the firm we can see that rational reasons intersect with and may give way to ethical reasons. The four disciplines may not inform *these* reasons for acting.

It is important to note that the ideas of ‘inside’ and ‘outside’ the boundary of the firm are in part a result of the *diagrammatic* representation of the boundaries of the firm. This may not be the best way to describe the firm’s reasons for acting. Another way to describe this may be the idea of a *space of reasons* through which agents navigate and exercise agency. This idea requires further analysis.

We now have a picture of firms forming reasons for acting that are informed by the four disciplines as the basis for actions within the firm. These reasons will appeal to L and F overall. We can describe these as rational reasons. At the same time the firm may form reasons based on an appeal to ethical significance. This *may* include appeals to the ethical significance of L and F, and appeals to ethical significance within the boundary of the firm informed by the four disciplines.

The intersection of rational and ethical reasons

We have suggested that ethical language can describe ethical facts as they confront the agent. These ethical facts may inform rational reasons for acting. At the same time, we may discern ethical significance in reasons for acting that are not described using ethical language. The reasons may be rational reasons, but may also appeal to ethical significance.

These observations suggest that the idea of a space of reasons may be a complex and intersecting mix of rational and ethical reasons. To discuss this further we can return to the example of the analysis of CSR and CR.

We have suggested that CSR may form part of the firm’s rational reasons for acting. CSR may also *suggest* reasons that are not part of a firm’s rationality. The appeal to ethical significance as part of CR may also inform reasons for acting for the firm. This could result from a firm taking on a responsibility outside of the boundary of the firm. It could also result from a responsibility becoming part of F, for example through changes in customer or investor preferences. In these cases it appears that an *ethical* reason has become a *rational* reason for the firm.

This discussion suggests a distinction between rational and ethical reasons for acting.

On one view of this distinction there are two *types* of reasons for acting: rational and ethical. This makes sense of one aspect of our use of reasons: in many cases we seem to appeal either to ethical significance or to rational considerations. This view may reflect a distinction that is often made between fact and value.

Another view suggests that reasons for acting are a complex *mix* of appeals to ethical significance and rationality, with limiting cases at each end of a spectrum of reasons. At one end of the spectrum these reasons make a direct appeal to ethical significance with a minimal appeal to rationality. At the other end of the spectrum these reasons make a direct appeal to rationality with ethical significance embedded in this idea of rationality.

Further analysis will be required to consider whether these views suggest one or two types of reasons.

Both views provide possible accounts of the point at which ethical and rational reasons intersect. The former suggests a *boundary* between one type of reason and another. The latter suggests movement along a *spectrum* of reasons. We have suggested that for firms the appeal to L and F may mark the point at which ethical and rational reasons intersect. L and F form the boundary of the rationality of the firm, and at the same time L and F as principles involve appeals to ethical significance.

Another way of looking at this may be as follows: the firm's rational reasons for acting can be sustained as long as appeals to ethical significance are relatively settled. The four disciplines provide part of the basis for these rational reasons within the boundary of the firm.

However, the appeal to rational reasons may become unsatisfactory if the ethical significance of the actions and outcome that result from these reasons is questioned. Actions that have previously been considered rational may now raise questions about whether these actions are right or wrong. Outcomes that resulted from these actions may now raise questions about whether they are good or bad outcomes.

The *instability* of reasons for acting may result from the changing, incompatible and open ended nature of at least some aspects of ethical significance, even where other aspects of ethical significance have been agreed. It may also result from the difficulty of taking into account all the intended and unintended outcomes of actions over time. This instability may not be fully incorporated into the firm's rationality, including as this is informed by the four disciplines.

The *stability* of reasons for acting may result from the working out over time of some aspects of ethical significance and working out the rational actions required to meet ethically agreed outcomes. For the firm, this will include L and F, and the substantial contribution of the four disciplines to the rationality of the firm within the boundary set by L and F.

The issue of corporate responsibility may provide a useful example of these ideas. The firm's understanding of its responsibilities may be relatively *stable* over time. However, changes in views about the ethical significance of some of the firm's actions and outcomes may raise questions about these responsibilities. In some cases these questions may be raised within the four disciplines, for example: marketing may discover changes in customer preferences; or, accounting practices may be used to audit outcomes that are currently outside of the boundary of the firm as set by L and F.

These questions are raised as part of CR, as discussed above. Firms may respond to these questions through an analysis of the scope and limits of responsibility. CSR may be seen as one response to this analysis. CSR becomes part of the firm's rational reasons for acting. The four disciplines may provide some of the content for these rational reasons.

These rational reasons may not fully reflect all the concerns about the ethical significance of the firm's actions and outcomes, or may not fully capture changes in views about ethical significance. These concerns may suggest further analysis of the responsibilities of the firm as part of CR.

Part 5: Firms and the environment

Introduction

Part 5 considers how an ethical analysis of business activity and the environment might work. These notes concentrate on some of the conceptual issues involved.

Responsibilities and the environment

One way to start an analysis of business activity and the environment is to draw on and apply some of the ideas developed in previous Parts 1 and 2.

We have suggested that the firm is a bounded social activity. The boundary of the firm is set in part by appeal to the principles of *legality* (L) and *financial return* (F). L and F are overarching principles that form the basis for the firm's reasons for acting. We have also noted the global dimensions of these principles, but we can use L and F for the discussion in Part 5. We have suggested that L and F may describe the extent of the firm's responsibilities for its actions and outcomes.

On this view, questions about the environmental effect of a firm's action and outcomes may be described as questions about the *content* of L and F. The public debate about the environment may lead to changes in regulation and legislation and result in changes to L. The public debate may also change customer and investor preferences on questions about the environment, for example: customers may select products on the basis of their overall environment impact in addition to price; investors may make similar decisions, and may also respond to changes in *customer* preferences. These are changes to F. Changes to L and F will change the position of the boundary of the firm.

If the effect of these changes is to *extend* the responsibilities of firms for the outcomes of their actions, this will move the boundary of the firm *outwards*. Outcomes that have not previously been considered the firm's responsibility may now be considered part of the firm's responsibilities. Some changes may of course *contract* the responsibilities of firms, and so move the boundary of the firm *inwards*.

These changes may concern both the *actions* and the *outcomes* of the firm. Many environmental questions for firms will concern *outcomes*, for example pollution and carbon emissions. However, some questions will be more concerned with *actions*. For example, in the case of animal testing one view may be that some or all testing is wrong in *principle* independent of the outcomes of this testing for human welfare.

This suggests that environmental questions may be fully described using the idea of the firm as a social activity with boundaries set in part by L and F. On this view the public debate about the environment takes place *outside* of the firm and affects the firm through changes in L and F. The firm may be active in seeking to understand, respond to and in some cases anticipate changes to L and F. However, the principles that set the boundaries of the firm remain the same, even as the *content* of these principles changes.

This is consistent with the distinction between internal and external reasons for acting. The internal reasons of the firm continue to appeal to L and F. This is also consistent with the idea that the firm may operate *within* an idea of public reasoning, but is not *subject to* public reasoning in the sense that it is bound by reasons for acting beyond L and F.

In Parts 1 and 2 we have suggested that the boundary of the firm may be set by other principles in addition to L and F. These may be described in general as *extended responsibilities* (ER). A more detailed analysis of ER suggests a range of more specific responsibilities, some of which may be concerned with aspects of the environment. Environmental principles may be described in general as *environmental responsibilities* (EN) or as particular responsibilities for aspects of the environment such as *carbon emissions* (CE), *habitat maintenance* (HM), *biodiversity* (BD), *deforestation* (DF), *animal testing* (AT). Each of these responsibilities may involve a range of specific requirements for firms.

For this discussion we can describe these responsibilities as EN in general. If EN becomes a principle that informs a firm's reasons for acting, we will need to work through the prioritisation of L, F and EN. One outcome may be for EN to become a *subordinate* principle that is appealed to after L and F have been satisfied. Another outcome may suggest that EN is appealed to *prior to* F, or prior to a version of F such as F (maximise). This is similar to the discussion of Capabilities as a principle in *Part 2: Global Responsibilities of Firms*.

The argument that EN becomes a *dominant* principle with regard to L, F, or versions of F, will need to work through the implications of this argument for L and F. We can briefly L and F in turn.

L appeals to the non-legal principle of the rule of law. The content of L may be determined through the process of reasonable and legitimate democratic public debate, public policy formation and legislation. On this view, firms should be able to act freely within L. In addition, firms may have limited information and limited legitimacy to act beyond L.

F appeals to the wider ethical and empirical arguments for the effectiveness of making a financial return. F provides much of the basis for the organisation of the firm, interactions across supply chains, and the relationship with other firms and social activities, all within L. The argument for EN to become a dominant principle with regard to F would need to show a greater balance of good outcomes overall given the ethical and empirical arguments for F.

Rationality and the environment

In *Part 4: Business Disciplines and Rationality* we suggested that the firm's reasons for acting may be described as forming part of the *rationality* of the firm. The stability or instability of these reasons for acting may depend on the extent to which questions of ethical significance are settled or disputed.

The public debate about EN provides a good example of the potential instability of reasons for acting. Ideas about the ethical significance of aspects of the environment and the empirical basis for understanding the environment may change over time. This may create instability in previously accepted rational reasons for acting, as well as informing further reflection on ethical significance.

One example of these changes over time is the issue of *carbon emissions* (CE), as one principle within EN. There is an extensive and sustained public debate on this issue involving both empirical and ethical issues. The former concerns the effect of carbon emissions on the climate, and the practical and technological response to these affects. The latter concerns the impact of carbon emissions on human welfare and other aspects of the environment, and on the responsibilities that follow from these impacts. We will discuss the example of CE in more detail below.

At this stage, we can argue that the empirical and ethical issues generated by CE may affect the firm's reasons for acting. These changes, and in particular changes in ethical significance, may not be incorporated into the firm's rationality, at least in the short term.

However, CE may change the content of L. This will change the boundary of the firm and will change the firm's reasons for acting within L. CE may also change customer and investor preferences, ranging from creating a market of low carbon products to the reputational dimensions of a firm's response to CE as a global issue. These changes will change F and so change the boundary of the firm. Ideas such as carbon trading may result from changes to L that change the opportunities for firms operating within F.

Changes to L and F may also be *anticipated* by firms. In these cases, the firm may appeal to the long term impact on L and F prior to these changes occurring. This will also change the boundary of the firm.

One way that firms may respond to current and future changes to L and F resulting from CE is through acting on the basis of policies on Corporate Social Responsibility (CSR). This may also be called Sustainability, particularly when it involves a response to CE. Where CSR is seen by the firm as a business issue it may be described as an aspect of F. Some aspects of CSR, as the firm's response changes to F, may result from changes in, for example, customer and investor preferences. On this view, changes in ethical significance that inform CSR are then changes in *ethical facts* for the firm.

These responses to current and future changes in L and F, may describe how these changes are incorporated into the *rationality* of the firm. This may involve changes to the *position* of the boundary of the firm, but may not change the idea of the firm as a social activity with boundaries set primarily by L and F.

We have suggested that CE may become a *principle* that firms appeal to in addition to L and F. Some CSR policies may appeal directly to this idea. As we have discussed, CE may be a *subordinate* principle that is appealed to after the appeal to L and F has been satisfied. In some cases CE may in fact become part of the appeal to F. Where CE becomes a subordinate principle to L and F, but has relative priority over *other* subordinate principles, this may suggest important changes within the firm. However, these changes do not affect the overall priority of L and F as the principles that set the boundary of the firm.

Another possibility is that CE becomes a *dominant* principle and can be analysed in a similar manner to the idea of Capabilities as a principle discussed in *Notes on Business Ethics Part 2*. CE may not become a dominant principle over L, based on the ethical significance of the rule of law. However, it may become dominant principle over some aspects of F. This may result in a prioritisation such as: L, F(survival), CE, F(maximise). On this basis, the firm will act to make a financial return to *survive* but will not act to *maximise* a financial return until after some version of CE has been satisfied.

This prioritisation may also become part of the rationality of the firm. The firm now acts on the basis of *rational* reasons given the acceptance of some combination of principles L, F and CE.

The incorporation of CE into a firm's reasons for acting is an example of how views about ethical significance from outside of the firm may inform reasons for acting within the firm. This incorporation may result either through changes to L and F or through a further principle in addition to L and F.

We have suggested that L and F can be seen as the point of intersection between rational and ethical reasons. In the case of CE, arguments about the ethical significance of the

environment are part of the public debate outside of the boundary of the firm. This debate may affect the firm through CE as a principle.

CE may be seen as the basis for *ethical* reasons for acting from a point of view outside of the boundary of the firm, and as the basis for *rational* reasons for acting from a point of view within the firm. In both cases ethical language may be used. In the former this refers to views about ethical significance, in the latter this refers to ethical facts. This may create some confusion, but also suggests a point of intersection between rational and ethical reasons.

It is interesting to note here that the same *individual* may use ethical language in both senses, and may also appeal to both ethical and rational reasons for acting. We can develop this idea using the example of the Chief Executive of a global oil company. This individual may make public statements that move between the views of a citizen and the views of a Chief Executive. Given the *role* of a Chief Executive these views may suggest the intersection between ethical reasons for acting for the citizen and rational reasons for acting for the firm.

This individual may come to a view about CE as a citizen, and these views may inform *personal* reasons for acting for example through decisions about flying or car purchase. These views may also begin to affect the individual's *intentions* in their role within the firm. These intentions alone may not form the basis for reasonable and legitimate reasons for acting as a Chief Executive. The intentions may however prompt the individual to consider whether these arguments *may* be relevant to the firm. The *particular* nature of the arguments about CE may already suggest implications for the actions and outcomes of the firm: CE concerns global environmental impacts of the kind that a global oil company may already have an interest in. This may not apply in the same manner to other principles within EN, or more widely within ER.

Where CE *does* have implications for the firm this may inform the firm's reasons for acting through L, F and possibly CE as discussed above. These may be described as rational reasons for acting for the firm.

The personal reasons and the intentions of the Chief Executive do not, of course, provide a full analysis of any changes to the firm's reasons for acting. However, this sketch may suggest one aspect of the intersection of between ethical and rational reasons for acting.

Carbon Emissions: an example of an environmental issue

The discussion so far has suggested some of the dimensions of *environmental responsibilities* (EN), within the wider group of *extended responsibilities* (ER). The discussion of responsibilities and rationality has used *carbon emissions* (CE) as an example.

This section will extend the discussion of CE as an example of an environmental issue. It appears that CE shares some characteristics with other environmental issues, while at the

same time involving a series of arguments that make CE an issue of wide public debate and, on some views, an issue of particular importance.

The discussion so far has considered some ways in which CE (and other aspects of EN) may affect a firm's reasons for acting. This section will sketch out some implications of CE as an issue *beyond* the range of views about how CE may affect firms in particular. It is important to note here that this discussion makes no comment on the *status* of the scientific evidence for or against the effect of carbon emissions. The discussion seeks to consider the ethical implications of CE if some initial arguments are assumed.

A first step is to identify and state clearly the arguments involved in CE. These arguments may be as follows.

- (1) The Earth's climate is warming. This is primarily the result of human activity which has produced greenhouse gases, of which carbon emissions (CE) form a part. Further climate change is inevitable unless action is taken to reduce greenhouse gas emissions including CE.
- (2) Most socio-economic sectors, ecological systems and human welfare will be adversely affected by climate change, with developing countries being most vulnerable to these effects.
- (3) Technologies and policies are available to reduce CE and other greenhouse gas emissions, but action must be taken to realise the potential of these technologies and policies.

Argument (1) is based on scientific evidence. Understanding this evidence requires considerable technical expertise. This may not be readily available to citizens, policymakers or firms. Acceptance of (1) may then be based on the *authority* of scientists with this expert knowledge. One way to analyse claims to authority was suggested in *Part 3: Employment and Authority*. On this view, the claim to authority of an institution such as the Intergovernmental Panel on Climate Change (IPCC) is based on the *reasonableness, legitimacy* and trust in the *judgement* of the scientists involved.

Scientific authority in general is likely to require a commitment to accuracy, balance and clarity in the presentation of evidence. Scientific research is likely to require a commitment to objectivity and independence from prior ethical positions, including obligations to particular organisations that may compromise this objectivity.

Where there appears to be any disagreement about (1) amongst individual scientists with a claim to authority, the authority of an institution such as the IPCC becomes particularly important. Citizens, policymakers and firms may not be in a position *either* to fully understand the evidence involved *or* to adjudicate between scientists who themselves disagree about the evidence.

This suggests that acceptance of (1) involves *both* questions about the evidence itself and a series of ethical questions about how we may come to accept this evidence, including questions about claims to authority.

Acceptance of (1) may have implications for our calculation of the outcomes of our actions. (1) draws attention to outcomes that we may not have previously considered, or considered to be unimportant. If we also accept (2) this may have implications for our reasons for acting. In particular, (2) suggests that the outcomes of our actions include bad outcomes that we had previously not taken into account.

In general, an ethical analysis of the outcomes of our actions involves both empirical questions and questions about ethical significance. (1) suggests a change to the empirical calculation of the outcomes of our actions, and (2) suggest an unexpected ethical significance to these outcomes.

If we accept (3) this suggests that there is the possibility of acting to reduce the effect of (1) and therefore to avoid some or all of the bad outcomes identified in (2).

Acceptance of (1), (2) and (3) may provide the basis for reasons for acting. (1) provides an empirical basis for calculating the outcome of our actions; (2) suggests the ethical significance of these outcomes; and, (3) suggest the basis for avoiding or mitigating these outcomes. This raises a series of further issues.

I may accept (1) and (2) but argue that my *individual* contribution to (1) is so small that the ethical significance of the contribution suggested by (2) reduces to almost nothing. If I *only* consider my individual contributions to (1) and (2), I may not change my reasons for acting. However, the *basis* for these reasons for acting may change. I have now made a new calculation of good and bad outcomes. (1) and (2) may form part of this calculation, but this has not changed the *overall* calculation or changed it very slightly.

This may be an example of a wider issue for the calculation of good and bad outcomes. In many cases it will be very difficult to calculate and take into account *all* of the outcomes of my actions. This becomes more difficult if I include even small outcomes where these outcomes have at least some ethical significance.

This may also be an example of the process of overall calculation of outcomes. In most cases this will involve *both* good and bad outcomes. In some cases there may be an overwhelmingly good or bad outcome that determines the result of this calculation. In other cases the balance of outcomes may be more problematic, particularly where the contribution of some outcomes is relatively small.

A further issue involves the calculation of *intended* and *unintended* outcomes. I may argue that prior to accepting (1) I could exclude the ethical significance of (2) through lack of knowledge of (1). Once I accept (1) I can no longer make this argument. However, I may argue that I do not *intend* my actions to result in (2) when I act.

Although I accept the ethical significance of (2), I may argue that I do not need to take this into account because I did not *intend* these outcomes.

It may be argued that although the idea of intention is ethically significant, it may not make me ethically exempt from the unintended outcomes described in (1). Acceptance of (1) suggests that that I may be able to *predict* and possibly to *calculate* the *unintended* outcomes of my actions. On this basis I should take (2) into account. On this view, I may need to consider *both* intended and unintended outcomes that I can reasonably predict and calculate.

My reasons for acting are based on a balance of good and bad outcomes. I may argue that although I need to take (2) into account based on (1) as discussed, my contribution to (1) remains very small. This raises the issue of collective outcomes. I may need to consider the *aggregated* effect of my actions taken together with others, and the *cumulative* effect of these outcomes over time. If the aggregated and cumulative effect of these outcomes is very large, this may begin to weigh more heavily in my calculation of outcomes. The statement in (2) suggests an inequality in the effect of (1) on developing countries. Taking into account aggregated and, in particular, cumulative effects may extend this inequality to *future generations*.

These arguments may directly affect my reasons for acting, even if my contribution to (1) is very small. I may now include (1) in the calculation of the outcomes of my actions. These arguments may affect my reasons for supporting collective responses to (2) and to (3). In many cases (3) will require a collective response either because of the requirement for decision making processes, including democratic processes, to formulate policies and because many actions will require social activities to develop appropriate technologies

I may also consider two further aspects of the effect of my actions: on my own character and disposition; and, on others who know about my actions. Both of these dimensions may be considered further outcomes of my actions, in addition to those outcomes identified in (1). In the former case, I may argue that in addition to the potentially small contribution to (1), I express an ethically significant disposition towards (2) through my reasons for acting. In the latter case, I may argue that I extend the effect of my small contribution to (1) if I consider the effect of my actions on the reasons of others.

The arguments sketched out may apply to the reasons for acting of any agent, although the examples so far have suggested an *individual person* as the agent. We can briefly discuss the application of these ideas to a range of agents including firms.

One consideration for firms is the *scale* of the firm as a bounded social activity. For very small firms the scale of the contribution and response to (1), (2) and (3) may be *similar* to that of an individual. However, for many firms, including large multinational corporations, the scale will be significantly greater. The firm's contribution to (1) may be large compared to other single agents, even if the contribution of *any* agent may be small compared to the overall effect of (1). This may suggest that the ethical significance of (2)

may then be greater in the balancing of good and bad outcomes. The firm may also have a greater expertise and capacity to contribute to (3) than any individual person.

These arguments about carbon emission, and in particular the application to firms, may contribute to the analysis of CE as one principle within EN, and of EN as one principle within ER, in the context of L and F.

The environment and ethical significance

The discussion of CE assumes that aspects of the natural environment have an ethical significance. In the case of CE this is primarily based on the *direct* effect of the environment on human welfare. This is reflected in (2) above.

This is one example of a wider analysis of the ethical significance of the environment. This involves complex relationships between the environment and human welfare. In some cases it may be argued that the idea that the environment has an ethical significance that is wholly or partially *independent* of human welfare.

In this discussion we are considering the *natural* environment. This raises a series of questions about the idea of the *natural*. These questions involve complex conceptual, scientific and ethical issues. One way to describe an ethical analysis of these questions is as a *spectrum* of views about the ethical significance of human persons relative to aspects of the natural environment.

At one end of this spectrum, human persons and human activity are *clearly* more ethically significant than the natural environment. This may support the view that humans may *use* the resources of the environment to meet their ethically significant ends, and that the resources themselves are not ethically significant, or have very little ethical significance. However, humans may have a duty to use these resources *responsibly* in order to promote and sustain human welfare.

As one example, this view may support the idea that the ethical significance of animals concerns ideas about the *welfare* of animals as living beings that are ethically distinct from humans. The welfare of animals may permit the killing of animals for food, but may proscribe cruelty towards animals for pleasure and promote certain standards for keeping domestic and farm animals.

Moving along the spectrum may support ideas about the *intrinsic* ethical significance of aspects of the environment including particular living beings, ecosystems and species or the biosphere as a whole. On some views, the ethical significance of these aspects of the environment may be *subordinate* to the ethical significance of humans, but is not *derived from* the ethical significance of human welfare. On other views, aspects of the environment may be close to or equal to the ethical significance of humans.

In the case of animals this may support *some* ideas about vegetarianism and veganism that proscribe the farming and killing of animals for food. Some views may include a

version of *rights* for animals in general or for certain species such as the Great Apes. These views may also appeal to empirical claims such as the cognitive abilities of these species and the biological continuity between humans and animals.

Views about the intrinsic ethical significance of ecosystems or the biosphere as a whole may be more complex. For example, these views may suggest that these systems are directly included in the calculation of good and bad outcomes based on the ethical significance of the biodiversity and complexity of the system itself.

In other cases, the view of ethical significance may include human welfare. For example arguments about pollution or habitat maintenance may be based on the preservation of the biosphere as a system able to support human life. These views may appeal to the connections between humans and the environmental systems they inhabit.

This discussion has very briefly suggested some ideas about the wider analysis of the ethical significance of the environment. These arguments may already appear to be at some distance from the concerns of firms. However, these arguments may form part of public debate and inform public policy and legislation on these matters. This may change L. In some cases, as with CE, these arguments may also contribute to the analysis EN as one principle within ER, in the context of L and F.

Figure 1: Boundaries and four dimensions of value

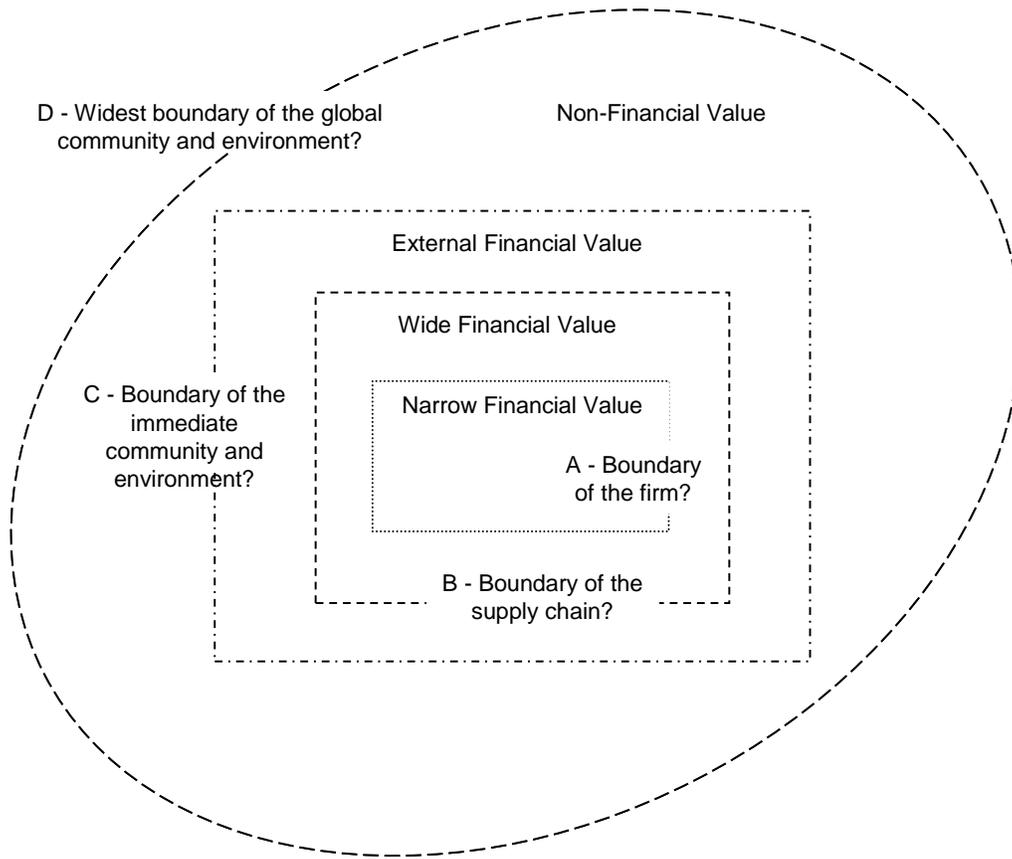


Figure 2: Boundaries and a minimal-maximal spectrum of corporate responsibility

