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Embedding Society in the Firm — The Role of Social and Cooperative Enterprise in Shaping Capitalism

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Embedding Society in the Firm

The role of social and cooperative enterprise in shaping capitalism

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This article considers social and cooperative enterprises whose governance differs categorically from the shareholder corporation, and asks what scope there is for these alternative formats of the firm to transform what has become a "market society" into a more social market economy, in which society and its interests and ordering are embedded into the way markets function. In this way, the article asks whether we can embed society within the firm itself by structuring firms in ways that are more open to societal interests beyond those that are mediated through market incentives. These possibilities also force us to reconsider whether certain forms of social and cooperative enterprises that have traditionally been celebrated as achieving wider political concerns, do in fact enable this embedding of society in the firm.

Introduction

After a decade of economic turbulence following the 2008 global financial crisis, some commentators have begun seriously to question whether international capitalism and the post-war liberal consensus might have reached their sell-by date, when for so many people worldwide they are failing to deliver on their key promises - to generate wealth and prosperity - but meanwhile are creating risks for the survival of our planet and for all of us (Mason, 2015). Questions of how we might develop alternatives to liberal capitalism or even a 'post-capitalist' order are being raised, not only in academia but also more widely within social movements around the world. These questions have also begun to surface in political movements where citizens have turned against established political institutions and market actors, even if it means breaking with traditional voting patterns, as for example in the UK's recent popular vote in favour of 'Brexit' (but also the subsequent political backlash against Prime Minister Theresa May's handling of it) and in the election of Donald Trump, a businessman and former reality TV star with no previous political experience, as US President.

Within these wider debates, much criticism is directed at the corporation and its governance. The financial crisis has, among other things, highlighted the dominance of international corporate power and the shortcomings of existing corporate governance structures to adequately hold such power to account. Worldwide controls and regulations have been introduced in response to the crisis to address some of the most damaging shortcomings, in particular to stop corporations from prioritising short-term financial gain for shareholders and their managers over wider financial or social risks. But few, if any, of these controls mandate systemic changes to corporate structure and organisation that have proven especially effective or fundamental. Instead, what we have seen are mostly the "same old, same old" market-led responses to recurring problems of corporate failure, focusing on increased shareholder rights, attempts to achieve more independent non-executive directors and auditors, more transparency and disclosure requirements and a reduction of red tape. Key discussions on corporate reform feature plenty of talk about the role of sustainability in corporate culture, about corporate social responsibility (CSR), stakeholders, the role of employees and long-term performance. But as long as corporate governance, generally speaking, prioritises the role of shareholders over other stakeholders, it is still unclear how these objectives can be effectively achieved within the traditional corporation. Even in regimes, like the UK, where managers are not strictly obliged in law to prioritise the interest of shareholders alone in their running of the company,[1] the practice and the ideology of shareholder primacy are widespread.[2]

Alternative formats of the firm, whose governance differs categorically from the shareholder corporation, are receiving growing attention in these debates. In recent years, more such formats are emerging, incorporating principles drawn from cooperative and social enterprise models that precede the boom-and-bust years of highly financialised 1980s and 90s capitalism into new organisational forms, concepts and technologies. These firms are set up with a social intention - to do good in the wider community and, in the case of cooperative businesses, to support and empower their members – but cognisant too of the fact that money and an enterprising vision play a large part in enabling this to happen. Commerce is central to their activities (distinguishing them from charitable organisations), but so too is their commitment to a social or environmental mission and/or accountability to their stakeholders and not just to shareholders. What makes these businesses different from shareholder corporations, even those with comprehensive CSR policies, is the fact that these commitments are not just fixed in voluntary CSR codes but are procedurally and structurally embedded into the firm's constitution.

This article considers these alternative formats of the firm and asks to what extent they might help to address some of the shortcomings of the corporation and, more widely, what role they might play in resolving the current crisis of capitalism. Even where firms are set up in an alternative format, they must find ways of adapting to the dominant organisational mode of markets as they are, often emulating the character of traditional market actors to fit in and to survive. This article therefore asks what scope there is for these alternative formats to change some of the existing paradigms of the market mode, and to transform what has become a market society – a society so impregnated by market logic that human relations themselves have absorbed their competitive, commodified thinking and a neoliberal re-ordering of human relations – into a more social market economy, in which society and its interests and ordering are embedded into the way markets function. In this way, the article asks whether we can embed society within the firm itself by structuring firms in ways that are more open to societal interests beyond those that are mediated through market incentives. Social counter-movements that check markets are so internalised by the firm, not now channelled through political processes but through procedural mechanisms incorporated into the firm that oblige it to consider all those who it impacts upon, internally and externally. These possibilities force us to rethink what types of firms might enable this embedding of society in the firm, and to reconsider whether certain forms of social and cooperative enterprises that have traditionally been celebrated as achieving wider political concerns, do in fact embed specifically *social* counter-movements where *society* – and not the manager-owner of a social enterprise, nor the shareholder-member of a cooperative firm - is ultimately in control of socially embedding the market.

Explaining the crisis of capitalism

One way to understand the current crisis of capitalism is through the writings of Karl Polanyi who considered the relationship between markets and society as a dialectic in which society checks the worst excesses of the market (Polanyi, 2002 (1944)). For Polanyi, capitalism is sustainable only so long as the markets that enable it are socially embedded. Their social embeddedness relies on a

[1] The principle of 'enlightened shareholder value' enshrined in section 172 of the UK Companies Act 2006. For discussion, see Tsagas, 2017.

[2] See Sjåfjell's distinction between shareholder primacy as a social norm and shareholder value as a legal obligation in Sjåfjell, 2017.

'double-movement' between those who seek to liberate markets from regulation and those who wish to protect society from the harmful effects of unregulated markets. Importantly, it is the counter-movement – the call for regulation – that in Polanyi's view ensures a market economy remains sustainable because without it, unregulated markets, and especially the destructive social effects of labour commodification, would harm and eventually destroy society and the environment (Polanyi, 2002 (1944), p. 80; Block and Somers, 2014).

The double-movement dialectic creates an antagonistic relationship between markets (capitalism) and society; a battle for who dictates the terms. The more economic power those with access to capital accumulate, the more pressure this generates on others in society – especially workers and those without access to the means of production - to push back by formulating responses that preserve their wider needs and interests. Market regulation becomes a tug-of-war between society (politics) and the market (business), where the general interest of the wider community and of the environment are pitched against the specific interest of individual market actors (businesses, consumers etc.), and restrictions are imposed on the latter to limit harm inflicted on the former.

Polanyi understood markets as subject to an external check, the countervailing power of society operating through social counter-movements, which are traditionally channelled through and shaped in and by political processes. Confrontations are thus mediated non-violently, and regulations formulated to enable society to dictate the limitations it considers necessary to impose on capitalism. The trouble is that when certain channels of mediation break down (e.g. corporate power dominates the political process or transnational regulation necessary to control internationally mobile capital and corporations is politically impossible), counter-movements that reflect the interests of those who are most disadvantaged by the effects of capitalism are stymied through traditional political processes, even if the pressure for them does not go away. Counter-movements then become more severe and do not follow the normal political rules. This leads to political lurches as society seeks to reassert control, dysfunctional jolts and crises of capitalism that produce outcomes that are, in the worst case, in no-one's interest.

Polanyi suggests that society usually manages to reassert itself over markets, to protect existential human needs and social relations (between citizens, workers, business partners, friends, relations etc.). The question is whether we can ensure that markets are regulated (socially embedded) without the most severe backlashes; whether we can produce a capitalism that is able, more effectively, to check itself on a continual basis.

Those questions currently define our politics and economies. As many critical commentators would point out (Leys, 2003; Streeck, 2011), the shortcomings of our political systems to respond effectively to '*non-social* forces strengthened by globalisation' (Touraine, 2007, p. 209) affect the lives of millions who rely on the democratic process to protect their social, economic and environmental welfare and security. Yet these processes have become a difficult place to challenge the logic of markets, as arguments in their defence usually rely on some claim that our societies' wealth and well-being depend fundamentally on economic competitiveness and growth. In the words of Fred Block, 'the social groups that amass behind the banner of laissez-faire have been able to claim that their nation would become an isolated backwater if it failed to expand the scope of markets' (Block, 2008, pp. 3-4). In addition, the shareholder corporation itself has grown its power to shape political debates, both formulating and spreading these arguments. Enough evidence now exists to expose linkages between corporate and political power, where the economic role of the shareholder corporation also finds its way deep into political decision-making (Bakan, 2005; Wilks, 2013; Jones, 2015). Beside their ability to lobby and influence specific government policies (e.g. using a threat of withdrawing investment or employment opportunities etc.), corporations have built, according to Ruggie, a discursive form of power in politics whereby they manage ‘to frame and define public interest issues in their favour – that is, to shape ideas that then come to be taken for granted as the way things should be done, even for non-business entities like governments’ (Ruggie, 2017, p. 5). In other words, corporate power is endemic enough to influence how our societies frame their knowledge (how we see the world) and, consequently, how we build our institutions.

But as the power of shareholder corporations builds up in our political democracies, their privileges are being taken for granted while arguments that question the salience of these privileges are discouraged, even (or especially) by those in government whose role it is to generate regulation that contains the adverse effects of markets and the pursuit of corporate interests where it is socially and environmentally destructive (Corporate Reform Collective, 2014). This political privileging of certain market interests affects the capacity of political processes to articulate and channel effective societal contestation of markets and of their key actor, the corporation, to produce genuinely different modes of economic organising. At the very least, in order to re-establish such contestation, society is driven to more extreme and polarised forms of politics, be they a vote for political outsiders (see the recent elections of President Donald Trump in the US and of Emmanuel Macron as French President) or against established political frameworks (see only the recent UK referendum on ‘Brexit’ in 2016, and the challenge of austerity politics in the 2017 UK general election).

Embedding society in the firm

Given the problems of channelling social counter-movements through political processes, we might consider embedding them directly in the firm itself, so that instead of being mediated through those processes, they are internalised into its structure. This would to enable firms and markets to check themselves more effectively and smoothly, thereby demanding less (ineffective and “jolty”) external checking through political processes. The counter-movements remain specifically *social* because the embedding would be about giving voice to, and obliging consideration of, societal interests in the decision-making of the firm; more than just responding to market signals and at the whim of its board. But instead of channelling these social counter-movements through political (representative) processes, to embed the market in society through regulation etc., societal interests are embedded directly in the firm, in how it is structured and through various procedural mechanisms. This follows a more direct democratic model for checking the market, socialising the market continuously at a micro (firm) level, rather than a representative democratic model that socialises the market through the macro (political) level. The suggestion realises the ‘embedded firm’ (Williams and Zumbansen, 2011) – that external (political, social, regulatory etc.) pressures on firms shape their governance practices – by obliging it to internalise those pressures through procedural mechanisms and its very structure. Effectively, the idea that markets are embedded in society, through its regulatory, tax, company, competition etc. law, is turned on its head: society is embedded directly into markets through their primary instrument, the firm.

Corporations run to optimise shareholder value are structurally unsuited to enabling this micro-checking (the embedding of societal controls in the firm) to happen because they prioritise one type of value (financial value) for the benefit of one social group (the shareholders), if necessary at the expense of other social groups (the wider stakeholders’ interests) (Boeger and Villiers, 2017). To effectively embed wider societal interests, firms are required to set themselves up as categorically different from shareholder corporations (even those with comprehensive CSR policies), in that their commitments to generating value for society or for a wider set of stakeholders, rather than financial value to shareholders (return on shareholder investment), are procedurally embedded in the structure and constitution of the firm and are therefore given, at least some, binding force.

This involves extending their commitment to generating value to a wider group of stakeholders than purely their shareholders, which is measured not as (short- or long-term) return on investment, but rather as taking full account of the impact of the business, positively and negatively, on its stakeholders. Some stakeholders are internal to the business (management and employees) and some external, both those directly affected (consumers, suppliers, local communities) and those indirectly implicated (citizens in the welfare state, tax payers, the environment). Good performance generates value by maximising the positive impact on internal and external stakeholders while limiting negative impacts, with trade-offs to be carefully balanced against each other. Some activities may impact negatively on certain internal stakeholders (e.g. cuts to wages or employment conditions imposed on employees). Others impact positively on internal stakeholders, though not necessarily the same group (e.g. the distribution of profit-shares or bonuses to management and/or all or some employees). Some impact positively on certain external stakeholders, e.g. where the enterprise produces better or cheaper goods and services for the immediate beneficiaries of the business (connected to the businesses' social mission); while others produce negative impacts on external stakeholders (e.g. communities, tax-payers, the environment).

The firm balances the interests of different internal and external stakeholders in these situations by weighing impacts against another internally (e.g. how to effect cost-savings by cutting salaries or working conditions for workers and/or remuneration packages or bonuses for management, or indeed how each ought to share in the success of the business); external versus internal impacts (the same pay cut may allow the business to reduce prices, benefitting consumers); or one external stakeholder group versus another (e.g. these consumer benefits may in turn have to be traded off against local communities that are adversely affected by a resulting growth in unemployment). What matters is that by embedding the commitment procedurally and structurally into the business, the firm makes it binding to account for the impact of its activities on its wider stakeholders, internal and external, as well as assess trade-offs between them. Procedural measures are built into the business to ensure this happens, for example, by adjusting constitutional objects clauses to integrate stakeholder interests; limiting the distribution of returns to shareholders; re-investing surpluses for the benefit of the wider stakeholders; or reflecting stakeholder interests in board membership and/or business ownership.

Corporations with strong CSR policies would often argue they are committed to a wider social purpose than other firms because their voluntary CSR codes enshrine socially and environmentally responsible corporate policies and often refer to responsibilities towards stakeholders who they promise to take into account. But their commitment is only substantive – a management undertaking – without being structurally or procedurally incorporated into the firm to ensure compliance and ongoing accountability. Many commentators contend that these voluntary commitments do not fundamentally change the character of the corporation, but are usually linked to a business case for marketing the company as a responsible corporate citizen (Blowfield, 2005; Banerjee, 2008; Corkin, 2008), which can then be leveraged to generate more profit by selling a business image or brand (e.g. 'greenwashing' its activities) or, indeed, for avoiding risks that might potentially destroy shareholder value. More fundamentally therefore, CSR has been criticised as a 'specific development of neo-liberal ideology that is more of a step backwards from progressive socio-political change rather than a way forward' (Fleming and Jones, 2013, p. xii). For traditional shareholder corporations with CSR policies, shareholders' return on investment, long or short-term, remains the measure against which the business is assessed, even when socially responsible policies are incorporated into its strategy. The only accountability for CSR is through the market and hence the business case is central for CSR policies to succeed. Socially responsible management must increase profits or avoid structural risks that might damage shareholder value in the longer term.

Even where stakeholders are consulted on certain issues, decision-making rests with a management whose primary commitment is to deliver shareholder value.

On the other hand, firms whose procedural commitments to their stakeholders go beyond CSR do not structurally prioritise shareholder value. Whereas the overriding incentive for traditional corporations, their managers and investors, is to maximise financial returns to shareholders over time, alternative formats of the firm sometimes pursue return on capital but they also give priority to other concerns of their various stakeholders, which may include improved consumer satisfaction and the quality of their products innovation, working conditions, or wider social or environmental objectives that benefit the community or society at large. These priorities will be embedded in the structure of the business: its governance rules, ownership model, the objectives it formally commits to in its constitutional documents etc.

The embedding firm and legal form

There is no single format for firms that embed societal interests in this way, but rather a continuum of different governance options and legal (and constitutional) forms, including limited companies societies, associations or partnerships. Some will operate locally, others nationally or internationally, and some will accept more commercial restrictions than others. Rather than their legal form, it is often a more loosely defined format or type of enterprise that distinguishes the identity of these alternative formats of the firm: most identify in one way or another as social and/or cooperative enterprise. According to the European Commission (2015), social and cooperative enterprises, taken together, contribute a significant proportion (up to 10 per cent) to European GDP. In the UK, the number of social enterprise start-ups has been reported as higher compared than for general small and medium-size firms, and while most social enterprises are small or micro businesses, some consistently trade at scale (Social Enterprise UK, 2015). Meanwhile, it is also reported that over 5,000 co-operative enterprises currently operate in the British economy, owned and controlled by around 15 million members (an increase of 16 per cent since 2010), and especially cooperatives in energy, agricultural, and health and social care sectors are performing well (Cooperatives UK, 2015).

These are promising figures that suggest a movement is happening, and social and cooperative enterprises are successful in challenging certain shortcomings of the shareholder cooperation. But to operate and survive on the market, these alternative formats of the firm must often emulate corporate market actors in ways that ensure their business grows and remains competitive. Balancing financial sustainability and growth (often tied to questions around access to suitable investment markets) on the one hand, and a commitment to the wider concerns of their stakeholders on the other hand, is complex and requires robust business governance including the appropriate measures of accounting and means of conflict resolution. It particularly relies on corporate (or cooperative) legal forms to be sufficiently sophisticated and flexible to accommodate the complexity of what Brakman Reiser (2011, p. 105) refers to as 'blended enterprise':

> 'Blended enterprises at times will pursue more profits over more social good, and at times will pursue more social good over more profit. A single blended enterprise may do both in different situations. Of course, if the pursuit of profits and social good always aligned and more profits always followed social good and vice versa, the single mission charity or business forms would suffice to house blended enterprises. This perfect alignment, though, is far from realistic. Thus, achieving and governing truly blended enterprise means consistently serving two masters which is notoriously difficult.'

Not all alternative formats of the firm will formulate their 'dual mission dilemma' (Brakman Reiser, 2011) in such binary terms. For many, especially cooperatives, the commitment to operate in the interests of their stakeholder-members is integral to both their political ('social good') and profit-driven activity. However, in practice, sustainably coordinating the commercial interests of their business while honouring their wider commitments to their stakeholders challenges the governance and legal form of all these firms because the one-dimensional objective to pursue shareholder value, which applies to corporations, is replaced with a more complex set of objectives that reflect their commitments to their stakeholders.

More diverse legal forms have become available to accommodate these alternative types of firms in recent years (Boeger and Villiers, 2017), including community interest companies in the UK which are discussed further below. Considering the possibility of embedding society in the firm however forces us also to rethink which of these forms (and more generally, which aspects of social and cooperative enterprise formats) do in fact embed specifically *social* counter-movements where *society* – and not the manager-owner of a social enterprise, nor the shareholder-member of a cooperative firm - is ultimately in control of socially embedding the market. To constitute a specifically social counter-movement, tempering the market through the assertion of societal interests, only those alternative formats that procedurally/structurally embed those interests and thereby enable society to check markets through the governance of the firm, qualify.

Social enterprise

Although it has become commonplace to refer to certain types of firms as 'social enterprises', the term does not reflect a formal legal basis or particular legal form. In fact, the meaning of social enterprise itself remains contested. According to Teasdale (2010, p. 2),

> 'beyond the notion of trading for a social purpose, there is little consensus as to what a social enterprise is or does. Existing academic literature provides a bewildering array of definitions and explanations for their emergence. This is because the label social enterprise means different things to different people across different contexts and at different points in time. This conceptual confusion is mirrored among practitioners.'

Nevertheless, in the UK, a degree of consensus has emerged on a basic definition that understands social enterprises broadly as firms that earn most of their income through trading, but also enshrine a social (or environmental) purpose and principally reinvest their profits for that mission. As Gregory (2017) describes, various UK government departments, social enterprise membership networks and European institutions adopt similar, though often subtly different, definitions although despite some consistency, disagreements around terminology continue to persist. Social enterprise remains a spectrum of options (Ridley-Duff and Bull, 2015) in terms of its governance, legal form, the intensity of its community engagement, the scale of its financial investment, firm size and extent of its commercial activities and what proportion of income is re-invested into the social venture (Nicholls, 2006).

Practice therefore often illustrates better than theory what social enterprises are and what they do (Social Enterprise UK, 2015; Gregory, 2017). The Grameen foundation for example, starting up as a network of local microfinance groups in the 1970s to combat poverty in Bangladesh, is one of the most well-known examples of social enterprise in the above sense, described as a 'non-loss' business where any surplus derived from its trading activities is re-invested into the company (Ridley-Duff and Bull, 2015). Writing in 2010, its founder Muhammad Yunus still bemoaned the absence of tailored regulatory frameworks but conceded that some flexible legal forms were available for 'social businesses’ of the type he has been pursuing (Yunus, 2011, pp. 117-132). One such form is the UK’s community interest company (CIC), considered further below, which has been available since 2005 specifically as a vehicle for setting up firms as social enterprises. By now, over 12,500 UK firms have chosen to set up as CICs, ranging from small organisations such as local cafes and bike shops to large public health providers with a multi-million-pound budget (Boeger et. al., 2017).

In terms of the conceptual frame set out in this article, being a social enterprise alone (following the prevailing UK definition above) does not tell us whether these firms genuinely embed specifically social counter-movements in their structure and/or through procedural mechanisms. While they may not concentrate on generating surplus value to return to shareholders in the form of capital, they do seek to generate surplus value that is then distributed in pursuit of the designated purpose of the enterprise. Absent the necessary procedural/structural embedding of stakeholder “voices”, this happens according to the discretion of the owner and/or management board. Social enterprises are often set up by motivated and passionate entrepreneurs with vision and a sense of purpose who prefer to take a hands-on role in their running and to retain control over their mission, who often therefore also prefer smaller boards and/or for those boards to make the decisions that are immediate to the interest and purpose of the firm. But this type of social enterprise is managerial rather than socially open. Any reflexivity that the firm includes towards stakeholders, internal and external, is determined by – at the discretion of – the owner or management board, rather than any structural/procedural mechanism that opens the firm up to societal impulses. These firms might be highly effective and innovative in developing entrepreneurial response to certain social concerns. They might be widespread as a style of social enterprise, for example in the US (Kerlin, 2006; Mac Cormac and Haney, 2012; Esposito, 2013), that operates not unlike corporate philanthropy. But in terms of the framework suggested here, some of these will not qualify as embedding a specifically social counter-movement because rather than procedurally opening their governance to views *within society*, they leave it exclusively at the behest of their management to determine what might be good *for* society (and for the firm). These managerial models are distinct from what Ridley-Duff (2007) terms ‘communitarian’ approaches to social enterprise that integrate a designated social mission *and* collective/collaborative stakeholder participation, reflecting social and democratic values, in the firm.

These distinctions are well-illustrated in debates around the governance of CICs in the UK. CICs are constituted as traditional companies (limited by guarantee or, less common, by shares), but they are formally committed, as per their constitutions, to trading for a designated community interest. The CIC format, which is set out by a statutory regime that companies adopt voluntarily (but which, once adopted, they may not rescind),[3] imposes an asset lock on the firm, a constitutional device that prevents the distribution of residual assets to its members and ensures that the community benefit of any retained surplus or residual value cannot be appropriated for the private benefit of the members (Office of the Regulator of Community Interest Companies, 2017). In addition, where CICs are set up as companies limited by shares they are subject to a regulated dividend cap that is calculated as an aggregate limit on the total dividend declared and on the business’ ability to carry forward unused dividend capacity. The purpose of these restrictions is to ensure that a balance is achieved between attracting investment on the one hand and making sure that profits are principally invested for the community benefit to which the firm is committed (Lloyd, 2011; Boeger et al., 2017). Once registered, the CIC is under a statutory obligation to file an annual CIC report

[3] Companies (Audit, Investigations and Community Enterprise) Act 2004 and Community Interest Company Regulations 2005 (SI 2005/1788); as amended by Community Interest Company (Amendment) Regulations 2009 (SI 2009/1942) and Community Interest Companies (Amendment) Regulations 2014 (SI 2014/2483).

(alongside the annual return and accounts) with a designated Regulator of Community Interest Companies every year, to show that the company continues to satisfy a community interest test, and that it engages adequately with its stakeholders in carrying out the activities that benefit the community. CIC reports are placed on the public register and made available to the public. They usually summarise the CIC's activities over the last year and their benefit to the community, including also information on stakeholder involvement, directors' remuneration, dividend payments and the transfer of assets. Some of these requirements are regulatory and must be embedded in the firm's constitution, rendering them categorically different from corporate CSR policies that reflect voluntary managerial undertakings. In addition, the Regulator has powers to investigate (at the company's own expense) any CIC whose behaviour raises formal concern, and this may involve removing existing and/or appointing new directors. These investigatory powers are less wide-ranging than those applicable to charities (performed by the Charities Commission), but they still clearly set the CIC apart from other corporate forms, as a regulated business structure. They are intended to ensure the business probity of CICs as well as protect the integrity of the CIC brand and the concomitant competitive advantage that registering as a CIC might therefore offer these social enterprises.

The CIC format's focus on transparency and stakeholder accountability raises important questions, particularly around the effectiveness of these features. The regime leaves room for individual companies to decide how they consult their stakeholders, on the basis that such flexibility allows these social enterprises to develop innovative ways of stakeholder involvement in their business governance (for example, they may designate one director as user representative, or might set up a separate body to advise the board) (Bates Wells Braithwaite, 2015, p. 17). The CIC annual report, which is placed on public record, is a means of assuring stakeholders that the CIC engages in activities that benefit the community, but it is also meant to provide public information on how CICs have developed stakeholder engagement strategies. On the other hand, there is a view that that more standardised stakeholder engagement processes should be introduced, and the CIC model should be more prescriptive in formally committing companies to these processes. The main reason for these arguments is to ensure the social mission (community purpose) of CICs is upheld through democratic and open governance and that CICs are not purely managerially led.

Although the Regulator has wide powers to hold CICs to account publicly, it has been light touch in using them and rarely makes any complaints about individual CICs public (unlike the approach taken by the Charity Commission, where complaints about individual charities are usually followed up by a public inquiry).[4] The Regulator is clearly sensitive to the fact that the CIC is a voluntary format and over-intrusive regulation might stifle the format's popularity as a commercially attractive but socially committed legal choice for social entrepreneurs. The Regulator publishes detailed guidelines on, amongst other things, stakeholder engagement, but its monitoring powers tend to focus on issues relating to the conduct of directors, delivery of community benefit, financial mismanagement etc. (Office of the Regulator of Community Interest Companies, 2016, pp. 9, 16). It has been less often (at least openly) concerned with assessments that relate to the effectiveness of their democratic governance. Many CICs are small organisations heavily reliant on one or a small number of (often very committed) directors as key decision-makers, but some are larger organisations, especially those set up as service 'spin-outs' from the public sector, which exist particularly in health and social care. For all CICs, effective corporate governance is key to attracting funding and investment,

[4] This is partly a consequence of the fact that there is no requirement for a social enterprise to be a CIC, and the Regulator in seeking to maintain the flexibility of this model, which firms adopt voluntarily, tries to keep it attractive to as many social enterprises as possible.

maintaining the probity of their brand and ultimately, to staying in business. In these circumstances, the current framework appears to leave CICs a wide choice of whether to respond in ways that broadly reflect mainstream corporate governance, leaving key decisions to management (even one or a handful of directors), or whether to adopt a governance model that aligns more fully with the conceptual framework proposed above, and the suggestion that to embed genuine social counter-movements within the firm, these organisations should be structurally open to incorporating the interests ("voices") of both their internal and external stakeholders in their decision-making processes and business structure. To be effectively implemented, these counter-movements require procedural adjustments that can take many forms (from social accounting, diverse board membership to consumer councils etc.) but they should go beyond a formal managerial commitment to a community interest statement.

Cooperative enterprise

The tradition of cooperative enterprise comprises firms that are co-owned by those who participate in the business and feature significant elements of democratic governance (Ellermann 1990; Restakis 2010; Wolff, 2012). Cooperatives range from local to larger scale, and reach across a variety of sectors. In the UK, for example, cooperatives have established themselves across the economy from banking and energy to food, health and housing (Mayo, 2015). The UK offers a tailored legal form for cooperatives (the cooperative society), but cooperative firms tend to choose whatever format suits their needs, incorporating variably as societies, partnerships and companies, including also CICs. Their member-owners may be consumers or users, tenants, enterprises or community-members etc., but it is especially employee co-ownership and co-governance that defines a growing cooperative movement worldwide (Zamagni and Zamagni, 2010).

Many cooperative firms are set up to address the economic inequality between labour and capital (Erdal, 2011; Kruse et al., 2010; Cheney et al., 2014) and tap into the role of labour as a form of productivity and of human capability (Nussbaum, 2011) rather than as a pure commodity. David Erdal (Erdal, 2011, 2017) for example writes that his decision in the 1980s to turn his family-business from a mainstream corporation into a worker-owned and democratically governed firm was driven chiefly by his 'concern about the powerlessness of the employees'; not by a 'parternalistic affection' but rather by a mixture of business sense and ethical considerations of fairness. In other words, he considered their lack of investment in the company bad for business – 'Why should the employees bother to do anything other than the absolute minimum to keep their jobs?' – but also rejected the accepted logic that employees should be content as long as they have a job, when 'in reality, the only truthful message I could give to the young people on the shop floor was that they were working to *make my family rich*' (Erdal, 2011, pp. 8-10).

Individual case studies like this one resonate with a growing body of wider research data suggesting that employees and their businesses do (and feel) better if they co-own and have a greater say in the firm, and that cooperation can boost innovation, business entrepreneurship, economic development as well as wider democratic engagement (Cheney et al., 2014; Mayo, 2015; Pérotin, 2016; Flecha and Ngai, 2014; Erdal, 2017). Certain studies point to successful examples such as the Mondragon Cooperative Group (a large employee cooperative enterprise in the Basque country) to argue that pressure to compete on global markets can be reconciled with cooperative governance as long as expansion strategies are adapted to the specific needs of the cooperative enterprise (Flecha and Ngai, 2014). Others however point out that global markets do pressurise especially larger cooperative enterprises into emulating standard corporate practices on pricing, wages and governance (Tomlinson, 2013).

Similarly, the conceptual framework of viewing the potential of cooperative enterprises as a social counter-movement – assessing their capacity to offer an alternative format of the firm capable of embedding (and therefore mediating) societal interests within the firm – forces us to reconsider the quality of their democratic governance and ownership; and what, in the context of this framework, this would mean. How can we ensure that cooperative enterprise remains open to *society*, rather than become narrowed to the (exclusive) voices of its primary beneficiaries, the member-owners? And, more fundamentally still, when is shared ownership and governance genuinely open to the firm's stakeholders?

Employee share-ownership features in many mainstream corporations, including major FTSE 100 businesses (Kruse et al., 2010). Employee-management is also not uncommon in mainstream firms, and sometimes it is legally enforced (for instance by co-decision legislation, as is currently still the case in Germany). But not all of these employee-owned or -managed corporate models involve genuinely democratic and inclusive governance structures; some turn out to be "false alternatives", largely managerial variations of shareholder capitalism. It has been argued for that employee-ownership often transfers no real influence and can be easily reversed (Erdal, 2011, p. 20). Enron, WorldCom and Lehman Bros were all firms with extensive employee-shareholdings, with disastrous consequences for at least some of the employee-shareholders following these companies' embroilment in corporate scandals that eventually lead to their collapse (Blasi et al., 2014, pp. 102-105). Even in successful corporations, studies of US employee stock option plans have exposed risks that these are unevenly distributed within firms and lacking in fairness, and that they are subject to wide managerial discretion unless effective government enforcement directs otherwise (Blasi et al, 2014, pp. 195-223). Others have pointed out shortcomings in numerous employee-managed corporate models (Ellermann (2015 (1990)); Wolff, 2012) where employee-managers tend to operate with only limited discretion and within the broad parameters of the shareholder value corporate governance model, executing decisions handed down from company directors. These therefore turn out to be not alternatives to mainstream corporate capitalism, but simply a variation on its management, unless further-reaching changes ensure that corporate governance is more fundamentally democratised and profits more fairly distributed to both employees and capital investors.

Although cooperatives have historically been more strongly orientated towards community values than investor-owned companies (Ridley-Duff, 2015), their members traditionally are their primary beneficiaries.[5] But this exclusiveness – the prioritisation of one 'type' of member, be it the consumer in consumer-coops, the worker in worker-coops, the farmer in agricultural coops, etc. – is beginning to shift, in a movement that has been referred to as 'new cooperativism' (Ridley-Duff, 2015; Vieta, 2011) that imparts 'more emphasis on shared return and solidarity between stakeholders, and places less emphasis on meeting the needs of a single stakeholder' (Ridley-Duff, 2015, pp. 17-19). This movement has, amongst other things, seen cooperative models emerge that are close in approach to the communitarian form of social enterprise. Boundaries between the two labels have, some would argue, become increasingly blurred as newer 'social cooperatives' commit their enterprise explicitly to a social venture, prioritising either a group of external beneficiaries or opening up their membership the wider community (or a wider group of specified beneficiaries, including community members). Italy for example has designated a legal form to social cooperatives, largely as a vehicle for providing community care services (Defourny and Nyssens, 2013). In fact, early social enterprises like the Grameen Foundation were, as Rory Ridley-Duff (2015) argues,

[5] The international cooperative principles, formulated by the International Cooperative Alliance in 1995 include a commitment to contribute to the sustainable development of the whole community.

themselves rooted in cooperative principles as projects that combined member ownership with sustainable development goals.

Vieta (2010) describes new cooperativism as a movement whereby businesses are run by workers and communities that include a wealth-distribution mechanism to achieve sustainable development goals; establish more horizontal labour relations and more egalitarian distribution of surplus; feature a stronger community orientation and (as with traditional social enterprises) social and/or environmental objectives. As Ridley-Duff (2015) points out, whereas 'old cooperativism' confined discussion of a common bond (solidarity) to the social characteristics of a single stakeholder group (workers, consumers, producers etc.), new cooperativism assumes that, provided appropriate institutional arrangements are in place, solidarity can be forged between all these stakeholders (see also Lund, 2012). The movement therefore tends to refer to various forms of 'solidarity enterprises' that integrate private, mutual and public interests by drawing on the democratic traditions of the co-operative movement (Mayo, 2015), but updating them to advance a more open form of cooperativism (Laville, 2014; Ridley-Duff, 2017).

Ridley-Duff himself is one of the British pioneers in advancing this solidarity economy. The "FairShares" model devised by Ridely-Duff and others offers firms wishing to set up as a limited company, association or society a constitutional template for creating a multi-stakeholder cooperative enterprise, including a commitment to cooperative principles and a social or community purpose but also an opportunity to issue different *types* of shares to founders, investors, users and workers in the business, with democratically allocated voting rights (one person one vote). FairShares values different forms of investments to the firm, going beyond capital investment. The model therefore includes, in addition to investor shares, also labour shares, founder shares and user shares to reflect these different types of capital (Ridley-Duff, 2015, p. 30). It is early days yet, but this and other similar initiatives for 'open coops' (Davies-Coates, 2014) suggest that cooperative and social enterprise are beginning to interact in radically new ways, designed to achieve a more effective embedding of wider stakeholder interests, internal and external, into the firm.

Some of these new ventures include features that encourage the sharing or pooling of resources and property (in particular, intellectual property). The FairShares model, for example, includes the blueprint for a commons-oriented approach committing that member-shareholders to sharing any IP they generate through their joint enterprise and to distribute the return on these rights fairly, so that 'just as a financial investor gets back both their original capital plus a dividend, so an intellectual (labour) investor gets back both their original capital plus any dividend to which they are entitled' (Ridley-Duff, 2015, pp. 37-38).

Such models have also attracted the attention of theorists who, like Bauwens and Kostakis (2015), seek to develop commons-oriented approaches to 'peer-production' and the establishment of production networks in fields such as free software, open design and open hardware, the aim of which is to 'create common pools of knowledge for the whole of humanity' (Bauwens and Kostakis, 2014, p. 356). Formats for solidarity enterprises like FairShares might, these theorists argue, address certain weaknesses in network-based production that arise where commercial start-ups or established mainstream corporations manage to exploit and capitalise (free-ride) on the common source which the networks make freely available. Where, on the other hand, these sources are tied into a commons-oriented cooperative enterprise, members of the enterprise will share the returns while cooperative membership remains inclusive and open. The approach also features in discussions around 'platform cooperativism' that centre on the proposition that those who provide and use services and/or experiences mediated by internet platforms should also own and control the platforms themselves (Orsi, 2012; Morgan, 2016). The implications of this attempt at ‘democratisation’ of the internet become particularly evident when we compare it to the governance and ownership structure of existing, popular mainstream online platforms that, like Uber and Airbnb, describe themselves as part of a ‘sharing’ economy (on the basis that they facilitate resource ‘sharing’ or ‘pooling’) but are investor-owned and run as traditional shareholder corporations. While, as Schor argues, their technologies ‘are potentially powerful tools for building a social movement [centred] on genuine practices of sharing and cooperation in the production and consumption of goods and services’, she also points out that ‘achieving that potential will require democratizing the ownership and governance of the platforms’ (Schor, 2014, p. 1).

Conclusion

As with the mainstream corporation (in its private or public form), there is not just one format for firms to set up alternative governance and ownership formats, including social and cooperative enterprises, or alternatives that, increasingly, integrate aspects of both. Rather, there is a continuum of legal and governance options. New forms emerge in response to specific social, economic or environmental concerns, often but not always with a local dimension, and in different socio-economic conditions; a variety of initiatives, ranging from small-scale worker cooperatives in rural Greece (Gidarakou, 2015), to employee-owned UK public health spin-outs that often set up as ‘community interest companies’ (Hall et al., 2015), to multi-national ‘B Corps’ like the ice cream maker ‘Ben & Jerry’s’, that are certified for their social impact (Hunter, 2017). But, such diversity notwithstanding, these formats share a common role in tempering the potentially destructive social and environmental effects of markets, and the shortcomings of mainstream corporations, by instrumentalising the firm itself – and its ‘transactional’ (Morgan and Kuch, 2015) freedom to participate in markets and operate in the economy – as a means of enabling society to re-assert control over capitalistically ordered markets. The starting point is Polanyi’s thinking which insists on the necessity to embed economic activity within human concerns, but these alternative formats turn the idea that markets are embedded in society (through regulation, law, tax etc.) on its head: they embed society directly into markets through their primary instrument, the firm. In this way, these formats challenge the ideology of shareholder primacy at a time when our political democracies are dominated by corporate power, reducing their political capacity to formulate genuinely different, and diverse, modes of economic organising. Where the political decision-making process meets barriers (more particularly, corporate power), the development of alternative formats builds opportunities for new organising in the form of social and cooperative firms that, rather than prioritising financial return on investment for shareholders (in the short or longer term), pursue a more complex set of objectives, and in doing so underline Polanyi’s argument that markets remain at the behest of society and not vice-versa. In this way, the development of these alternatives to the corporation enables society to formulate a response not only to corporate failing but also to the shortcomings (the crisis) of capitalism more widely.

These are promising possibilities but they depend on these alternative formats maintaining their openness towards *society’s* interests to ensure that the embedding of these interests within these firms enables genuinely *social* counter-movements, and for the voices of their internal and external stakeholders to be genuinely balanced with a view to maximising value for all. The introduction of tailored (regulated) legal forms like the CIC, which enable for this balancing to happen, has been one way in which governments have supported the development of transparency and stakeholder accountability, though the CIC’s history also underlines there is a fine balance to be tread between maintaining these formats as commercially attractive and viable business options, and ensuring (if necessary, by regulatory intervention) that their governance remains sufficiently non-hierarchical and open to societal interests. The development especially of new and more open cooperatives in recent years, furthermore, suggests that legal forms, as long as they are sufficiently flexible, are only the starting point for the development of these alternative formats. Successfully embedding societal interests in the firm depends in large measure on the commitment of individual entrepreneurs and business stakeholders to actively model and implement new and sometimes experimental forms of social and cooperative enterprise, such as the FairShares solidarity model's attempt at creating a multi-stakeholder format. But these initiatives in turn depend heavily on the ability of the political process, and the commitment by government(s), to support a wider regulatory environment that encourages creativity in the design of alternative formats and that nurtures them to grow towards economic sustainability. This environment includes a broad range of relevant issues, from tax incentives for social investment, planning and property laws to ensure adequate access to land, to public procurement regulation as a means of enabling collaboration between the state and alternative formats in the area of public services (Boeger, 2017) etc. Developing the conceptual framework for alternative formats as a commitment towards embedding society within the firm is therefore only a first step in understanding what these formats can contribute to resolving the shortcomings of corporate organisation and, more widely, crisis of capitalism. A next step will be an assessment of how the wider (relevant) regulatory environment and affects their sustainability, and their ability to be effective.

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