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Shareholder Activism and Alienation

by Marina Welker and David Wood

This article opens up the category of the shareholder, who conventionally sits as a stick figure at the heart of popular explanations for why corporations ruthlessly seek to maximize profits. Following the logic that a gift may be seen as an extension of the giver's self, we take up the possibility that investment portfolios might be viewed as reflections or extensions of shareholder personhood. We examine how three shareholder activist movements in the United States—socially responsible investment, shareholder value, and responsible investment—address the relationship between shareholder personhood, values, and investments. The divergent ways in which these shareholder movements have grappled with the contradictory entailments of share ownership illuminate the contestation at the heart of corporate ownership over the nature of the capitalist person.

> *As a financial advisor I work and live in two different worlds. The world I live in is populated with caring people who strive continuously to make the lives of their children, their communities, and often the world at large a little bit more livable. The world I work in is populated with people who ceaselessly work to achieve superior investment results for their clients. These two worlds are occupied by the same people. When at home, they care, and when at work, they care. But what they care about in each locale is at conflict with what they care about at the other. As a result, they work long days to achieve a goal that jeopardizes all that they hold dear when at home.* (Domini 2001:xv)

The moral crisis depicted by Amy Domini, one of the founders of the modern social investing community, is no less profound for being conventional. Her words illuminate the schizophrenic way in which capitalism is organized. While she depicts financial advisors inhabiting multiple worlds governed by distinct rules, alternatively, this dilemma could be framed as the compartmentalization of individual persons into multiple selves who must activate certain logics and suppress others according to their context. In this article, we consider how a similar predicament holds much wider currency today, marking the experience of the average passive, anonymous corporate shareholder. As persons, we all inhabit a range of subject positions that give rise to a host of environmental, social, moral, and religious values. As shareholders, however, we are conventionally seen as desiring above all to maximize return on investment through rising share prices and dividends, limiting or precluding consideration of competing values and beliefs. This article seeks to complement discussions of corporate personhood (e.g., Bashkow 2010; Mark 1987; Millon 1990; Sawyer 2006) with a consideration of how shareholder activists construe shareholder personhood and the consequences these understandings hold for the ethical expression and agency of shareholders in the context of capital markets.

We divide shareholder activism into three overlapping movements: socially responsible investment (SRI), shareholder value, and responsible investment. These movements resonate with various agendas ranging from more progressive to conservative ends of the political spectrum. The modern SRI movement emerged in the 1960s and 1970s from larger struggles for civil rights in the United States and the overthrow of apartheid in South Africa. SRI activists sought to create and rationalize a sphere of investment that accounts for social and environmental values. Shareholder value activism, which began gathering momentum in the 1970s, sought to discipline powerful corporate managers and restore control to the "real" owners of corporations, the profit-seeking shareholders. The responsible investment movement, which coalesced in the past decade, promised to synthesize the social values that have driven SRI with the profit orientation of the shareholder value movement. In this article, we stabilize these intersecting social movements in discrete, ideal-typical form for the purpose of distilling from them theories of personhood and value.

The intellectual provocation underpinning this article can be formulated as a question: might an investment or a portfolio be seen, like the gift in Mauss's (1990) classic contribution to exchange theory, as an extension of self? If so, what are the implications for how we see shareholders and for how we theorize persons? A rich anthropological literature has

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considered numerous ways to conceptualize personhood, much of it focusing on relational understandings in which persons do not act and cannot be understood as free and discrete agents independent of the social relations in which they are embedded. McKim Marriott (1976) coined the term "dividual" to suggest that Indian Hindus conceived of themselves as composite, made up of materials and social relations that originate outside of themselves. Ethnographers of Melanesia have extended this line of analysis in new directions, suggesting that in contrast to the "permeability" of Indian personhood to flows of substance, some Melanesians construe persons as "partible," or open to reconfiguring, as parts of their selves that are owed to others can be separated or extracted and replaced with other parts (Strathern 1988).

Such accounts of relational personhood often appear in stark opposition to a putative Western notion of the individual, a clearly bounded autonomous subject who has a unique indivisible core or self. Although the individual is often described as completely separable from the social relations in which he or she is embedded, scholars following Macpherson (1962) have argued that the "possessive individual" is in fact a product of capitalist social relations. The distinction between Western/non-Western and individual/dividual notions of personhood has given rise to a debate over whether this binary should be seen as a useful device for critiquing the unselfconscious presuppositions of Western social theorists or as a problematic reflection of the essentializing tendencies of scholars conducting cross-cultural research on selfhood (Battaglia 1995:8; Foster 1995). LiPuma (1998) suggests that all persons have dividual and individual facets and negotiate the tension between the two. Numerous scholars, moreover, have questioned the notion of the autonomous, coherent, self-directing Western self by showing how subjects are formed through sustained interaction with institutions (e.g., Althusser 1971; Foucault 1979; Goffman 1961), are internally divided and in conflict (Freud 1960), utilize multiple voices or registers in everyday speech (Bakhtin 1981), engage in the performance of identity in relation to shifting contexts (Butler 1990; Goffman 1967), and cultivate or cycle through different identities as Internet users (Boellstorff 2008; Turkle 1995). In this article we extend this analysis of multiple and contested personhood to the corporate shareholder, the quintessential possessive individual who is supposed to stand at the heart of contemporary capitalism. We do so by probing shareholder activists' implicit theories of personhood and value.

In the following passage, Graeber connects Strathern's concept of the partible or multiple person to value:

> People have all sorts of potential identities, which most of the time exist only as a set of hidden possibilities. What happens in any given social situation is that another person fixes on one of these and thus "makes it visible." One looks at a man, say, as a representative of his clan, or as one's sister's husband, or as the owner of a pig. Other possibilities, for the moment, remain invisible. It is at this point that a theory of value comes in: because Strathern uses the phrases "making visible" and "giving value" more or less interchangeably. (Graeber 2001:39–40)

To briefly preview our arguments about how shareholder activists invoke shareholders and the question of value, we suggest that early SRI activists drew on a relational model of personhood to posit shareholders as moral persons who see their portfolios as an extension of selfhood. Shareholder value activists, by contrast, made visible only one facet of persons as shareholders: a desire for profit. Responsible investment converts moral into economic reason such that responsible investing will conform to the shareholder value imperative. In doing so, proponents suggest that prudent investment can address whole or complete persons (Strathern 2004) in their moral values and profit desires, at least over time. However, we show that "responsible investors" wind up encasing values in economic rationality.

This article grows out of our respective research interests and experience. Serving as director of Harvard University's Initiative for Responsible Investment (housed in the Hauser Center for Nonprofit Organizations) and as a board member of the Social Investment Forum, David Wood is a member of the responsible investing expert and activist community. Marina Welker is an academic anthropologist who has carried out research on the corporate social responsibility industry in mining, focusing on Denver-based Newmont Mining and its Batu Hijau copper and gold mine in Sumbawa, Indonesia. Beyond our professional work, however, we also wrote this article as a means of wrestling with our own roles as typical shareholders, that is, as members of the largely passive and anonymous mass of investors whose future retirement and children's college education hinge on the performance of the corporations in our mutual fund portfolios. We work among academics who are far more likely to criticize corporations for existing to maximize shareholder profits than to acknowledge that we stand among those shareholders in whose name corporations are supposed to maximize profits. While this stance could be seen as hypocritical, we suggest that it also reflects a more general structural predicament of shareholders that we explicate in the next section.

The Alienated Shareholder

If consumers are alienated from the conditions of commodity production (Marx 1992), the majority of shareholders today are, analogously, alienated from the firms they invest in. This was not always the case. In the early nineteenth century, American shareholders had a more powerful sense of agency over and responsibility for the corporations in which they invested. As one survey documents, the plutocratic distribution of shareholder voting rights that prevails today, which accords one vote per share and thereby grants the greatest political power to the wealthiest shareholders, was in effect

for fewer than 40% of corporations for most of the nineteenth century (Dunlavy 2004). Most early corporate charters stipulated that shareholder voting rights be organized either in a democratic fashion, according one vote to each shareholder regardless of the number of shares held, or in a graduated fashion that would accord more votes to larger shareholders within limits. Shareholders' sense of responsibility for the actions of corporations they owned derived from their potential liability for corporate activities and debts. These legal determinations of shareholder agency and responsibility were embedded in a broader conceptualization of the individual shareholder as belonging to a body politic, a sense of membership that was directly modeled on citizenship in a state. In this era, corporate charters and rules for self-government were seen as akin to constitutions, and the public for the most part did not distinguish clearly between the public and private natures or the political and economic functions of corporations. Corporations were widely seen as an extension of government chartered for public purposes, such as building turnpikes, canals, and bridges (Maier 1993).

Many of the social and legal conditions for the alienated, passive, anonymous shareholder that we take for granted today arose by the early twentieth century. Plutocratic voting rights for shareholders came to be seen as "natural, fair, and right" and were the legal norm by the end of the nineteenth century (Dunlavy 2004:83). States instituted limited liability protections for shareholders that confined their financial risk to the capital they invested in a company; debtors could not hold a shareholder personally liable for a corporation's debts.[1] The corporate form was also profoundly transformed as corporations acquired new constitutional rights and as states introduced general incorporation laws and abandoned regulatory traditions in a race to the bottom kicked off by New Jersey in 1890 (and essentially won by Delaware in 1899). Whereas new corporations were once individually chartered by legislative acts and restricted in their life span, activities, and geographic regions, general incorporation laws turned the formation of new corporations into a bureaucratic process; conferred on them potential immortality; and eliminated constraints on their activities, mobility, and ability to hold shares in other companies (Nace 2005).

Supreme Court Justice Louis D. Brandeis voiced his concern in 1911 over how the broadening distribution of shares and the fact that shareholders could profit from corporations without assuming responsibility for their "doubtful practices" would yield "evil results." Alienation, in his view, did not exempt shareholders from responsibility. Brandeis insisted that "there is no such thing as an innocent purchaser of stocks" (quoted in Monks and Minow 2008:129). While only 1% of the American population held stocks in 1900, this number increased to 15% by 1970, and by 1998 half the population held shares (Paine 2003:92). More and more, shares were held indirectly. In 1986, pension and mutual funds owned a third of publicly traded stocks in the United States; by 2000, they held more than 60% (Monks 2008:121). The growth in indirect shareholding, which we suggest is linked to a growing sense of alienation on the part of shareholders, was due in large part to two crucial changes in federal law and the tax code. First, the U.S. Employee Retirement Income Security Act (ERISA) of 1974 provided tax incentives to employed individuals to save in individual retirement accounts (IRAs). Second, in the early 1980s, the private sector began replacing traditional defined-benefit pension plans, which paid retirees a set sum annually until their death, with 401(k) plans that compelled workers to manage their own retirement assets and make contributions. Public education and nonprofit institutions followed suit with 403(b) plans. Many employers replaced pensions with the new plans, which were initially intended only as a retirement supplement, because they cost a fraction of the traditional lifetime plan.

The architects of these new retirement policies and instruments marketed them as democratizing investment by empowering workers to exercise free choice and participate in the ownership society through the creation and management of their own portfolios. Defined-contribution plans were to liberate individuals as autonomous, rational, enterprising, self-governing agents who conduct their lives as a kind of enterprise: setting their own goals and priorities, taking prudent risks, and assuming responsibility if their savings proved insufficient for retirement (Frank 2000; Rose 1999). This portrait was drawn in contrast to supposedly paternalistic defined-benefit pension plans in which Big Brother stuffed workers' piggy banks. In effect, however, defined-contribution plans "transfer risk away from the corporation and onto employees" (Hacker 2006; Monks 2008:144–445). The new plans entail a tremendous degree of constraint (e.g., limits on the mutual fund companies employers work with), compulsion (e.g., individuals must choose whether to join; how much to contribute; how to allocate, alter, and adjust portfolio holdings; and how to stretch the lump sum, accessible on retirement, over the unknown span of the rest of their lives), and dependence on distant experts (e.g., mutual fund managers, credit-rating agencies, financial journalists, investment consultants, boards of directors).

When we invest in mutual funds, we delegate to others—that is, mutual fund managers—decision-making powers over what to invest in and how to vote on proxy issues. Until a new Securities and Exchange Commission (SEC) regulation in 2003, mutual funds did not even have to tell investors how they voted on proxy resolutions, although voting outcomes showed that they typically voted in solidarity with corporate management. In making decisions for us, the mutual fund manager is governed by a legal obligation, or fiduciary duty, to act in the interests of shareholders. This naturally creates

1. Bakan (2004:11) portrays this shift as a consequence of the rise of railways, as business leaders and politicians argued that middle-class stock investors—who were crucial for raising sufficient capital for rail projects—needed the protection of limited liability to attract them to the market.

a dilemma: how is the mutual fund manager to know the interests of a diverse aggregate of people? Conventional logic holds that the only thing that can be assumed for certain about a group of shareholders is that they hope for a financial return on their investment.

While shareholders have grown in sheer numbers and prominence in expert discourse, they have been disappearing as a differentiated set of actors who are embedded in social relations, who are motivated by a range of subject positions and social values, and who are knowledgeable about—as well as endowed with a sense of responsibility for—the actions of the companies that make up their portfolios. In expert discourse, shareholders are typically assumed to be alike in their desire for maximized risk-adjusted financial returns; their personal moral beliefs are held separate from their actions as shareholders. In the next section, we explore the rise of SRI and the promise this movement was thought to hold for relieving the moral alienation of investors.

SRI: Discovering the Morality in Share Owning

> *I . . . ask all of you to join me in one minute of silence in memory of the 10 victims who will die this week in Bhopal as you contemplate how you will vote on this resolution.* (Ward Morehouse, proxy for the Sisters of Charity)

> *I urge you to live up to your moral responsibility and vote "yes" to the proposal* [*for compensation and health care for Bhopal victims*]. *Only then can we, the stockholders of Carbide, live down the shame epitomized in the slogan that environmentalists are raising repeatedly these days, the slogan that "Exxon spills, Carbide kills."* (Dr. Clarence Dias, proxy for the Sisters of Charity)

> *The feeling among . . .* [*environmental, local civic, and public health*] *groups is that our company, Union Carbide, is an outlaw company, is a criminal company, is a company that poisons people for profit and does not pay the full consequences. Despite all the glossy public relations efforts of our company, this attitude damages us.* (Gary Cohen, proxy for the National Toxics Campaign)

The voices of these activists, captured in the proceedings of Union Carbide's 1989 annual shareholder meeting and reproduced in Kim Fortun's *Advocacy after Bhopal* (2001:105–110), express some of the key beliefs of SRIs. Their words are rooted in the notion that shareholders are social persons who hold moral values, or "conceptions of what is ultimately good, proper, or desirable in human life" (Graeber 2001:1). They also express the normative view that the financial portfolio should be seen as a reflection of the moral position of the individual or institutional shareowner. In considering this extension of self into the world, the investor not only looks through her or his own lens but also considers the regard of others.

With tactics like the call for a minute of silence to remember Bhopal's victims, the activists seek to obliterate the alienation and distance of shareholders and to instantiate instead a sense of responsibility and moral immediacy between corporation and shareholder. They refer to Union Carbide, strikingly, as "our" company, insisting that their own shareholding is not simply token and that other shareholders should share their normative perspective. Robert Monks (2008:114) points out that shareholders once saw their stocks as "property that they could work to improve" rather than "betting slips." Two corollaries of this view, from the SRI perspective, are that shareholders are actually responsible for improving the corporations they own and that they can be shamed, tainted, and damaged when their corporations wreak social and environmental harm.

In the United States, the development of these SRI perspectives began in the civil rights movements and various religious orders, which have long connected ownership to morality by proscribing certain enterprises and investments as sinful.[2] Debates over whether and how American businesses should operate in apartheid South Africa catalyzed the rationalization of SRI. In the 1960s, various American Protestant denominations began demanding church divestment from corporations doing business in South Africa, while university students, who had been protesting corporations such as Dow Chemical for supplying napalm and Agent Orange to the U.S. military in Vietnam, also began calling for university divestment from South Africa. For the growth and institutionalization of SRI, the year 1971 was a watershed. Protestant church representatives mobilized by the antiapartheid struggle established the Interfaith Center on Corporate Responsibility, and two money managers for the United Methodist Church founded Pax World Fund, the first easily accessible mutual fund for retail investors in the United States. At the General Motors (GM) annual shareholder meeting, an Episcopalian bishop presented the first shareholder resolution calling for the company's complete withdrawal from South Africa. With only 1.29% of the shareholder vote, the resolution failed. But it attracted favorable attention from Reverend Leon Sullivan, an African American Baptist minister whom GM had newly appointed to its board of directors after coming under pressure from Ralph Nader and his activist lawyers to diversify the board. Sullivan subsequently backed away from calling for total withdrawal from South Africa and began working on a code of conduct that would allow corporations to continue operating in the country while promoting apartheid reform (Seidman 2003).

The Sullivan Principles, released in 1977, called for deseg-

2. Muslims have for centuries avoided investments related to pork products and usury; Methodists were counseled in the eighteenth century by the church's founder, John Wesley, that one should not profit from industries that would harm one's neighbor by polluting rivers or encouraging intemperance; and the Society of Friends, consistent with Quaker principles of nonviolence and human equality, opposed slavery-related investments.

regation of meals, restrooms, and workstations; equal pay for equal work; and black employee training. However, they remained within the South African legal framework. Many corporations signed on to placate those institutional investors (pension funds, mutual funds, universities, municipalities, and state legislatures) that were questioning whether they should be supporting business in South Africa, and an accounting firm named Arthur D. Little gained a monopoly contract to monitor corporations for progress and compliance (Seidman 2003:394). Debates continue over whether Sullivan signatories actually constituted any real threat to apartheid and contributed to its eventual breakdown or instead perpetuated the apartheid regime by providing crucial financial support (Mangaliso 1997; Seidman 2003). For our story, the Sullivan Principles were significant to the rationalization of SRI.

This rationalization has continued as SRI evolved since the early 1970s. Large mainstream secular SRI funds have grown in number and sophistication (e.g., Parnassus, Domini, Calvert, TIAA-CREF, AHA, PaxWorld), and they have professionalized the SRI industry with new codes of conduct, performance indicators, social and environmental accounting firms, and specialized investment research firms, such as KLD Research and Analytics. They have continued to refine their ethical filters, using "negative screening" to exclude tobacco companies; military contractors; U.S. Treasury bonds that could be used for military purposes; and for-profit prisons, public schools, and health care facilities because the clients of these industries—prisoners, children, and the unwell—"are at a particular disadvantage as consumers of the services being offered" (Domini 2001:56, 60). Beyond negative screening, these mutual funds conduct "positive screening," selecting best-in-class companies for investment from particular industry sectors or based on performance criteria. The theory and practice of SRI have been extended into alternative asset classes, with social venture funds, cleantech funds, urban real estate funds, and so on.

SRI funds continue to use shareholder resolutions in an attempt to alter corporate practices, and many also include support for community development financial institutions under the broader umbrella of social investing. SRI funds such as Domini also altered the broader political context of mutual funds by lobbying for an SEC rule mandating disclosure of how they voted proxy shares on behalf of clients. In recent years, the Social Investment Forum has been increasingly active in public policy debates on issues such as financial market reform and executive compensation legislation. The SRI universe today encompasses numerous funds that cater to the diverse religious, moral, and political beliefs of investors and are guided by objectives that range from avoiding products associated with personal vice to promoting structural transformation.[3]

SRI offers the promise of integrating shareholder and social concerns both in the world and inside people: it sets standards for acceptable corporate practices and uses a threshold to determine a range of investable companies. But the fact that we can now choose to allocate some or all of our portfolios to an array of responsible investment products does not necessarily imply investor sovereignty; even as the menu grows longer, employees still have little choice but to order from it. In 2007, for example, Cornell faculty and staff could select two SRI funds: TIAA-CREF's Social Choice and Domini's Social Equity. To focus on the latter fund, 30% of its shares were in IBM, J. P. Morgan Chase, Citigroup, Verizon, Hewlett-Packard, Merck, Bank of America, Goldman Sachs, Johnson & Johnson, and Microsoft. Without disputing Domini's methodology for choosing such corporations or its efforts to influence them through shareholder resolutions (see Coumans 2011), we would simply point out that many investors, if they scrutinized even the SRI components of their portfolios, might reach the conclusion that these do not mirror their own beliefs about social responsibility. The advantages of joining with other investors through a shared vehicle such as a mutual fund, which brings with it at least the potential of increased leverage (through the increased number of shares) over corporate behavior, comes with the trade-off of outsourcing the decisions about standard setting to fund managers. SRI mutual fund investors are still alienated from their investments because of a structural lack of agency. This alienation may also arise from an active suppression of our connection with our portfolios, which bear so little resemblance to our idealized selves. Whereas SRI activists sought to activate shareholder values—pluralizing both the category of shareholders and their moral beliefs—the shareholder value movement we explore in the next section folded shareholders into a singular homogeneous category and endowed them with a singular purpose: profit.

Shareholder Value: Ownership and Profits

> *Today, management has no stake in the company. Altogether, these men sitting up here own less than three percent of the company. And where does [the CEO] put his million-dollar salary? Not in Teldar stock; he owns less than one*

3. For Muslim investors, Amana Funds complies with Sharia principles, avoiding interest (*riba*), alcohol, and pornography. For Catholic investors, Ave Maria Mutual Funds screens out companies involved in abortion or pornography and those with policies it deems to undermine the marriage sacrament. Another conservative Christian mutual fund, the Timothy Plan, avoids alcohol, tobacco, abortion, "antifamily" entertainment, and corporate recognition of gay marriage. The Women's Equity Fund invests in companies that advance women in the workplace, and the Meyers Pride Value Fund was created to invest in companies with progressive policies for the gay and lesbian community. Against the entire SRI concept, investors can select the Vice Fund, which invests predominantly in tobacco, alcohol, gambling, aerospace, and defense industries.

percent. You own the company. That's right, you, the stockholder. And you are all being royally screwed over by these, these bureaucrats, with their steak luncheons, their hunting and fishing trips, their corporate jets and golden parachutes. . . . Teldar Paper has 33 different vice presidents each earning over 200 thousand dollars a year. Now, I have spent the last two months analyzing what all these guys do, and I still can't figure it out. One thing I do know is that our paper company lost 110 million dollars last year, and I'll bet that half of that was spent in all the paperwork going back and forth between all these vice presidents. The new law of evolution in corporate America seems to be survival of the unfittest. Well, in my book you either do it right or you get eliminated. In the last seven deals that I've been involved with, there were 2.5 million stockholders who have made a pretax profit of 12 billion dollars. [*Applause*] *Thank you. I am not a destroyer of companies. I am a liberator of them! The point is, ladies and gentleman, that greed, for lack of a better word, is good. Greed is right, greed works. Greed clarifies, cuts through, and captures the essence of the evolutionary spirit. Greed, in all of its forms; greed for life, for money, for love, knowledge has marked the upward surge of mankind.* (Gordon Gekko addressing the Teldar annual stockholder meeting in the motion picture *Wall Street* [1987; Oliver Stone, director])

In Michael Douglas's famous speech as corporate raider Gordon Gekko, he encapsulates the dogma of shareholder value, which rests on the core assumption that corporations exist to maximize profits for shareholders. While shareholders might well be greedy for life, knowledge, and love, as shareholders they are seen as solely concerned with money. Legal backing for the perspective that corporations exist to maximize shareholder returns is often derived from *Dodge v. Ford* (1919), the Michigan Supreme Court case that forced Ford Motor Company to use profits to pay shareholder dividends rather than for Ford's proposed charitable purpose of creating more jobs and affordable cars. While the legal significance of this case is probably overstated,[4] shareholder value activists also find intellectual inspiration in Milton Friedman (1970), who was seen as something of a radical fringe thinker when he voiced the shareholder value credo: "the social responsibility of business is to increase its profits."

Particular historical and structural forces enabled shareholder value activism, which began to take root in the 1970s. This decade saw poor corporate performance alongside the perceived erosion of U.S. political and economic hegemony; the fraying of the social contract between capital, labor, and government; and the coining of the term "stagflation" to describe the puzzling combination of stagnant economic growth and inflation. Shareholder value activists blamed inefficient and complacent managers—such as the overpaid senior executives excoriated by Gekko—for sapping the strength and dynamism of American capitalism. They thus called into question eminent business historian Alfred Chandler's (1977) famous portrait of managers as the "visible hand" in the market and "managerial capitalism" as the telos of corporate capitalism or the inevitable, efficient, logical, and rational result of firm growth (see also Galbraith 2007 [1967]). While shareholder value activists promised to restore power to investors, the true owners who had elected to risk their own capital on a firm, this was hardly a widespread, popular uprising. Rather, the central protagonists of the shareholder revolt were wealthy individuals, speculators, and managers of high-volume institutional investments (e.g., foundations, private and public pension funds, mutual funds, banks, and insurance companies) who were themselves acting on behalf of the capital of millions of investors.

With the surge in institutional investment catalyzed in part by ERISA and 401(k) and 403(b) plans as described above, by the 1980s institutional investors controlled significant voting blocks in corporations. Because of the securities acts passed in 1933 and 1934 in the wake of the Wall Street crash, however, they enjoyed little political power or the ability to act as a collective (Davis and Thompson 1994; Useem 1993). Given their large size, it was unwieldy for institutional investors to simply sell shares or exit from corporations they considered problematic; instead they sought to exercise agency over corporations by expanding their vote, or to use Hirschman's (1970) term, "voice." Shareholder value activists had legitimate concerns about the near total control managers exercised over the composition of the board of directors, the selection of an accounting firm, the institution of changes in governance rules, the handling of shareholder resolutions, and the state in which corporations were incorporated.

The Reagan administration, which fostered a laissez-faire ideology in the executive branch and weak antitrust enforcement, nurtured the "insurgent consciousness" of shareholder value activists as they launched their "new social movement" (Davis and Thompson 1994; Stearns and Allan 1996). Armed with junk bonds, shareholder activists used hostile takeover bids to discipline corporations that did not appear to be maximizing returns on their assets. Many were vulnerable because through the 1970s their assets had grown in value as a result of inflation, while their profits were low as a result of stagnant growth. Twenty-nine percent of Fortune 500 companies were subject to hostile takeover attempts during the 1980s.

Layoffs of workers and managers often ensued in the wake of takeovers as corporate assets were liquidated or reconfigured with the ostensible goal of enhancing efficiency, and "existing social arrangements such as plant and headquarters locations; product lines and services offered; union contracts; pension and retirement benefits; and contracts with local suppliers, banks, and other community organizations [were] all called into question" (Hirsch 1986:801). Employees suffered relocations and the loss of jobs, status, benefits, and oppor-

4. Bakan (2004) perpetuates the view that *Dodge v. Ford* established clear precedent for the profit-maximization interpretation of corporate obligations, while Paine's (2003) work shows that the legal obligations of corporations have been construed in multiple ways.

tunities, suffering profound health and family problems as a result (Dudley 1994; Hirsch 1986:801; Luo 2010). Before the takeover mania, corporations were conventionally seen as long-term, stable, and reliable employers of workers and producers of goods and services, entities that were embedded in particular places and relations of mutual obligation with various stakeholders (workers, suppliers, contractors, the government, and surrounding communities), as well as shareholders. Conforming to a relational theory of personhood, corporations were seen as dependent on (rather than autonomous from) this network of actors.[5]

In buying, selling, breaking up, and recombining firms, shareholder activists extended a conceptual shift that had already begun in the 1960s, when managers adopted conglomeration as a growth strategy and acquired firms across numerous unrelated product lines. In the process, they created a creature over which antitrust laws—created to control familiar vertically or horizontally integrated monopolies—had little control. Neil Fligstein (1990) describes how managers began to conceptualize conglomerate firms in financial terms as "bundles of assets" or "diversified portfolios" open to investment strategies and experimentation. One of the consequences of the 1980s takeover mania, however, was to dismantle the conglomerates created during the 1960s and 1970s.[6] Corporate raiders and managers trying to preempt hostile takeovers sold off and liquidated unprofitable business units and product lines so that they no longer appeared on the balance sheets as idle or unproductive assets. Often they identified a limited set of strengths as the firm's core competencies and labeled the profitable unit left over after the sell-off as the firm's core business. Increasingly construed as bundles of assets that existed solely for the pocketbook of shareholders, corporations were less likely to portray themselves in relational terms or as embedded in particular places and social relations.

The financial perspective on the firm as a portfolio or bundle of assets and the growing emphasis on shareholders were also reflected in the new prestige and prominence accorded to the discipline of investor relations and to the chief financial officer (CFO). Where corporations had once treated financial managers as backroom bean counters preparing retrospective tax statements, over the 1970s and 1980s, they were promoted to the apex of strategic decision making and spin-doctoring (Zorn 2004). The CFO's role was to think about the company like a stock analyst and use this perspective to actively manage unruly shareholders. The CEO-CFO dynamic duo often ascended to the helm at the expense of presidents and chief operating officers, who were traditionally more concerned with production figures than share prices (Zorn 2004).

Shareholders became the central "mythical reference point" of expert discourse by managers and shareholder value activists (Power 1997:44). As layoffs of middle managers reduced bureaucratic oversight by headquarters' staff, corporations pushed authority down to lower levels and instituted performance measures that were supposed to reflect shareholder value (Useem 1993). Corporate executives, mutual fund managers, and investment bankers devised means to apply the cultural ideology of shareholder value to themselves (Ho 2009). With stock options and other ownership plans, executives increasingly made their compensation appear to be contingent on share price increases and dividend gains. They became increasingly engrossed in the "evaporated property" index of stock price (Schumpeter 2006 [1942]), checking their "personal report cards" 10 times a day and making mental calculations of their year-end incomes. One large corporation erected a prominent display of the share price at the entry to the executive office building (Useem 1993:117–118). To inculcate shareholder value ideology among employees, corporations hired communications specialists to create audio tapes and video program series on the topic and began inserting stock price and annual shareholder meeting information into newsletters and electronic communications to employees (Useem 1993:71–75). Corporate operations and the activities of employees were broken down such that each could be rewarded or held responsible for how they had contributed to or detracted from earnings per share.

The notion that managers must have incentives such as stock options in order to align their interests with those of shareholders rested on notions of personhood embedded in agency theory. In papers published between 1976 and 1997, University of Chicago–trained economists Michael Jensen, William Meckling, and Eugene Fama provided economic justification for the takeover movement on the grounds that it enhanced market efficiency. Further, they systematically "recast management as an agent of shareholders and shareholders as the principal authority to whom managers are responsible" (Khurana 2007:316). Agency theory treated managers as "inevitably self-interested 'utility maximizers'" and dismissed "the idea that executives should be held . . . to any standard stricter than sheer self-interest" (Khurana 2007:323). Disseminated through the financial press and MBA curricula, agency theory achieved hegemonic status in many business schools, with its deductive and generalizable approach displacing scholarship grounded in inductive observation (Khurana 2007:318). Agency theory naturalized and legitimated "opportunism as the dominant mode of managerial behavior" while driving out any possibility of managers' deriving any alternative meaning from their work or creating meaning for others (Khurana 2007:324, 382). It represented a radical revision of stereotypes of managers as loyal, conformist organization men—and, increasingly over time, women—who subordinated their own interests and identity to that of the firm (Mills 1951; Whyte 1956; Wilson 1955) and whose role

5. This corresponded with the view that corporations began, over the first half of the twentieth century, to actively promote themselves as socially embedded creatures endowed with souls (Marchand 1998).

6. Ho (2009) shows how the same investment banks reaped benefits from creating conglomerates and then, decades later, breaking them up.

was to act as industrial statesmen mediating between various stakeholders (Khurana 2007).

As the mythical reference point and unmarked category of shareholder value discourse, shareholders are also defined as socially disembedded actors with no interests vis-à-vis the corporations in their portfolios beyond profit maximization. Retirement instruments such as the 401(k) and the IRA both embodied and enabled investor capitalism and the merger frenzy. As workers had to shift between jobs and companies in the insecure environment of flexible capitalism, the new retirement instruments represented portable investment products that an individual could transfer between employers or access early in the absence of employment (Harvey 1989; Martin 1994). These instruments also cost companies around a third of traditional pension plans and thus fit into a cost-cutting era. Ironically, with their retirement savings, shareholders could contribute to their own disenfranchisement as workers. For example, a significant internal conflict of interest arises for a GM worker who, as a shareholder with retirement savings invested in GM, might support a plan to close U.S. factories and open new ones in free-trade zones abroad, while he or she would oppose this same plan as a worker (or stakeholder) whose job would be lost by such a move. The shareholder in such cases could be described as a victim of structural violence and as an unwitting perpetrator. Such contradictions underscore how deeply constrained shareholder agency is and how alienated shareholders are from their own investments.

The Business Case for Responsible Investment

> *Dear Investor, Cutting corners to cut costs may lead to short term gains, but . . . it all adds up* [*to*] *increased liabilities and compromised credibility. In the end, the true costs placed on the communities will be translated into real expenses for you, the investor. The best way to strengthen your investment is to hold Newmont accountable to the highest social and environmental standards.* (Project Underground 2003)

> *Companies today can see that there are issues of reputational risk. No company wants to be tagged as a violator of human rights. From a financial point of view, that can lead to exposure and liability. Long-term institutional investors understand that.* (Sister Patricia Wolf, Executive Director, Interfaith Center on Corporate Responsibility [Holstein 2006])

In the above epigraphs, a radical NGO critic of corporate mining and a progressive nun frame environmental and human rights abuses by corporations as potential liabilities for shareholders rather than as violations of the values of shareholders or corporations. In doing so, they use the business case that is the hallmark of the responsible investing movement. Proponents of the business case for responsible investment frame corporate issues such as human rights, labor conditions, corruption, and global warming in terms of the risks and opportunities they present for long-term shareholders, discursively marginalizing the purposes that once drew people to SRI. Amy Domini (2001:xvi, 13) suggested that SRI investors are motivated by a Hippocratic oath to "ask first that we do no harm" and "the desire to align investments with values and the desire to play a role in creating positive social change." The business case subordinates such concerns, giving priority to how environmental and social issues affect investments rather than to how investments affect the world.

The business case essentially routs broader ethical concerns through shareholder profits, thereby reinforcing the power and primacy of the shareholder value dogma, capitulating to a logic that leaves profit maximization as the inviolable goal of the corporation and affirming a tendency to measure and interpret environmental and social problems against their real or imagined impact on share price. Kurucz, Colbert, and Wheeler (2008:99) argue that a "false separation" between ethics and economics "is perpetuated when we attempt to justify positive social behaviour in economic terms, rather than as valuable in itself, and as integral to a healthy capitalist business system." For the purposes of our discussion of personhood, another important effect of the business case is that it places ethical concerns outside of the official scope of how shareholders will be understood. That is, shareholders are presumed to choose responsible investment because they prudently anticipate that others (e.g., regulators and activists) will act on social and environmental values rather than because these shareholders themselves seek to precipitate change and own stock portfolios that more accurately reflect their values. We turn now to how this movement arose and why the business case is so alluring that even radical NGOs and nuns would resort to it.

By the late 1990s, SRI experts were expressing frustration with the marginalized status of the discipline. If SRI wanted to create real change, internal critics argued, it would have to rebrand and start accessing real money from the broader investing world. In the words of PaxWorld CEO and former Social Investment Forum president Joe Keefe (2008), SRI would never achieve real growth because it was viewed as "a 'niche' marketing strategy, or an 'alternative' investment category, or an asset class, or a lifestyle choice." SRI had failed as a "unified investment theory. It was rather the marrying of various investment styles with various 'values,' often religious in origin" (Keefe 2008). "Values" here carries a faint hint of disdain or distaste. While protecting the planet, promoting diversity, and respecting workers' rights may be embedded in sustainable investment, as values they are not relevant to an investment discipline. Like index investing or "other investment disciplines, or theories, or schools of thought . . . [sustainable investing] has a particular viewpoint on what is the best way to achieve market performance or

outperformance over the long term" (Keefe 2008). While some rebranding advocates such as Keefe promoted "sustainable investing" for the new label and others used "responsible investment," they shared a goal of going mainstream and a single formula that would supposedly unify and confer legitimacy on the new discipline: environmental, social, and governance analysis, or ESG.

ESG is at the heart of the UN *Principles for Responsible Investment*, released in 2006 (UNEP FI 2004, 2006). The UN's Environment Programme Finance Initiative and the Global Compact together coordinated the process for establishing the principles, which were developed with the help of stakeholders, including some of the world's largest pension funds. In keeping with the business case, ESG is portrayed as financially material to portfolio performance (Keefe 2008; UNEP FI 2006). A report bluntly titled *Show Me the Money: Linking Environmental, Social, and Governance Issues to Company Value* (UNEP 2006) argues that ESG analysis is vital for (1) assessing management, because well-managed companies do not externalize their costs onto society; (2) anticipating global trends, including political risks and opportunities to create new products and services related to major social and environmental problems; (3) anticipating regulatory trends; and (4) identifying risks to corporate reputations. The report portrays ESG as a forward-looking discipline that offers a deeper window into corporate performance than traditional financial analysis alone would allow. The Social Investment Forum adopted ESG when it released a new mission statement in 2006 meant to redefine social investment as a professional activity rather than a particular set of moral goals: "critical to the responsible investment movement is the consideration of environmental, social, and governance criteria in addition to traditional financial analysis."[7]

As responsible investment professionals are crafting an identity for the industry, some have sought to distance the field from its roots. They frequently narrate the development of their discipline in teleological language, using metaphors of maturation and evolution. One prominent professional remarked to a conference gathering: "This is not your parent's SRI. We have more than negative screening, with best-in-class and positive screening, ESG analysis, new players such as the UN PRI, with over $10 trillion in assets under management, and groups like the Carbon Disclosure Project, with over $40 trillion in committed assets."[8] To assert that responsible investment has parity with orthodox financial disciplines, professionals emphasize its size, power, strength, rationality, professionalism, rigor, and robustness, as well as its amenability to quantification, taking issue with the notion that financial reporting is a "hard" discipline, while issues around stakeholder engagement are "soft." By framing social and environmental questions in the lingua franca of materiality and shareholder value, advocates can also create a seemingly unassailable case for taking such concerns seriously by asserting that whatever is being argued for is financially motivated and thereby free of parochial values, politics, and interest groups.

Responsible investment advocates have also crafted their identity around promoting the interests of the long-term shareholder. Whereas corporate performance over the next 5 or 50 years holds no necessary relevance for the unmarked profit-maximizing shareholder, responsible investors use a long-term temporal orientation to invoke a multitude of possible perils and opportunities. The long-term time horizon serves two functions for responsible investors. First, it is the means by which they make the link between investment returns and socially and environmentally beneficial outcomes and so entice money into investments that create social and environmental benefits rather than externalize social and environmental harm. Second, long-term time horizons become the fiduciary justification for incorporating ESG information into investment decision making. These two functions are mutually reinforcing: fiduciaries can take into account ESG issues only if they affect the returns on their investments, and the weight of capital markets can be brought to bear on important social and environmental issues only if those issues can be described as important to financial returns.

Responsible investment advocates seek to gauge and showcase the movement's growing strength in various terms. For example, the Social Investment Forum reported in 2007 that $2.7 trillion, or approximately 1 in every 9 dollars invested in public equities in the United States, included some sort of social or environmental criteria in its selection.[9] Sister Patricia Wolf of the Interfaith Center on Corporate Responsibility reported that whereas her organization was once happy with 3% of the shareholder vote, and even 3 years ago managed to get only 6%–8% of the vote on human rights resolutions, in 2006 human rights resolutions at the annual shareholder meetings of Boeing, Chevron, and Halliburton gained between 22% and 25% of the vote (Holstein 2006). Responsible investors also greeted with a chorus of approval investment bank reports on the risks and opportunities of global warming (e.g., Kerschner and Geraghty 2007; Llewellyn 2007; UBS 2007), construing the reports as mainstream validation of responsible investment.

For responsible investors, over the long-term, speculation will yield to quality, and externalities will be internalized, because otherwise the markets are not rational. If we look again at the reasons for mainstream investors to adopt responsible investment, we find that the agency of investors themselves is written out of the equation. As *Show Me the Money* explains, ESG can help identify the changing landscape of resource constraints, regulatory mandates, public investment, and consumer demand that will favor socially and environmentally beneficial outcomes. In each case, agency is

7. http://www.socialinvest.org/projects (accessed January 20, 2011).

8. "Endowments for Climate Solutions" event, held at the Boston Foundation, October 3, 2007.

9. "Socially Responsible Investing Trends in the United States," Social Investment Forum report, 2007.

externalized. Oil will be depleted, governments will regulate carbon emissions, nonprofits and governments will promote urban regeneration, and consumers will not buy products that are produced by oppressed or underage workers. The externalized costs will be internalized over time; smart investors will adjust their portfolios appropriately, because material information will lead them to do so.

In practice, the business case for corporate responsibility is very plastic and mutable. Almost any social or environmental problem can be rephrased as a business risk or opportunity. An extractive industry operation that hires security officials with past records of human rights abuses, for example, can be seen as risking its reputation capital. Mining geologists who trespass on the land of local residents while exploring for signs of mineral deposits can be seen as risking a mine's social license to operate. A meeting between a corporate executive and a Greenpeace representative is an opportunity to add value. The open quality of the business case means that it can be creatively deployed in potentially infinite ways to repackage social and environmental agendas as corporate profits won or risks averted. Yet such repackagings do more than discursively externalize ethical agency onto governments and society at large; they also shape how moral personhood is construed, how corporate priorities are set, and how corporate social and environmental interactions are formed and experienced.

This is evident in the making of climate change as the archetypal issue of responsible investment. Climate change is a better fit with the business case than are social issues such as human rights or living wages. First, it is seen as rooted in scientific fact rather than culturally relative moral beliefs. Second, in the race to find the truth of the business case through measurable outcomes, environmental issues generally have the upper hand, as they can be related to concrete "ecoefficiency" gains, whereas many social measures are negative (e.g., claims about avoiding reputation damage or liability). Responsible investment conferences frequently feature speakers such as Al Gore, Bill McKibben, and Van Jones and endorse benchmarks such as achieving an 80% reduction in greenhouse gases by 2050. The responsible investment community is often told, and tells others, that these moral and scientific goals will be hard or impossible to achieve without the active support of the investment community, which plays so important a role in how resources are allocated in capitalist society. Climate change is then framed in terms of risks to investment returns, as well as one of the greatest opportunities of the twenty-first century (Ceres 2006).

Conclusion

In 2006, the U.S. Congress, acknowledging that employees enrolled in defined-contribution plans were not exercising routine and judicious oversight of their retirement portfolios, ruled that companies could make target-date mutual funds rather than conservative money market funds the default investment choice for employees' 401(k)s. These funds are supposed to shift from aggressive to more conservative portfolio strategies as the investor's projected retirement age approaches and therefore require no thought or intervention on the part of the investor. In 2008, however, the stock holdings of 2010 target-date funds varied wildly from 21% to 79%, and some lost as much as 40% of their value the same year, calling into question the ability of investors to actually retire at their target date (Wayne 2009). This example of a supposedly prudent investment vehicle gone horribly awry contains some sobering lessons about the risks of staking individual and collective futures on market performance, the fallibility of investment experts, and the hand of the state in steering individuals toward market solutions. It also sheds light on the predicaments and powerlessness of typical investors and shows how hollow the rhetoric is that defined-contribution (as opposed to defined-benefit) plans would empower workers saving for retirement.

If shareholders are one of the centerpieces of corporate discourse today (Ho 2009), they also embody the contradictions at its core. Most shareholders are so thoroughly alienated from their investments that an awareness of these contradictions never arises, even when the companies invested in are behind the tar balls that wash up on our beaches, closures of local factories, slack federal regulations and enforcement, and media accounts of human rights abuses. Rather than unified and coherent possessive individuals with transparent desires, shareholders are fractured, multiple, and composite. The three shareholder activist movements that we analyzed in this article have each sought to resolve these contradictions, to spread and promote their particular understandings of who shareholders are and what they want. Shareholder activist movements thereby illuminate the contestation at the heart of corporate ownership over the nature of the capitalist person.

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Comment

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As the number of institutional investors increased, some prophets said that these investors, moved by their stakes

> *and informed by their expertise, would begin to play in earnest the supervisory role of the legendary stockholder.* (James Willard Hurst, *The Legitimacy of the Business Corporation in the Law of the United States, 1780–1970*)

The power of corporations in the political life of democratic nations is so invasive—"The large private corporation fits oddly into democratic theory and vision. Indeed, it does not fit" (Lindblom 1980:356)—that many question whether their coexistence is possible. In order to preserve the wealth-generating properties of corporations in some harmony with democracy, it has been necessary to conceive of and articulate a credible theoretical limitation on the power of corporations. One theory derives from Adam Smith's "invisible hand," that owners will act in their own interest. And yet in the most recent times, we experience Alan Greenspan confessing his "mistake" to believe that banks operating in their self-interest would be enough to protect their shareholders and themselves.

Much of the learning about the role of shareholders in corporations derives from the time that relatively few people actually owned and in many cases operated the businesses. A different range of questions arises in the context of publicly traded companies with shareholder rosters in the hundreds of thousands.

We need pause and consider exactly what the shareholder of 2010 is. Under the memorable rubric "Punters or Proprietors," the *Economist* (1990) published a typically insightful analysis of shareholders. The author concluded that the preponderance of owners did not consider themselves as such and held shares in the same manner as they would betting tickets in a horse race. Thirty percent of outstanding equities are invested in an index of one sort or another. Likewise, another 20% of the outstanding shares are invested pursuant to a variety of computer-driven algorithms, generally in the search for value anomalies among various industries, companies, and currency denomination. In both of these cases, choices are made by a mechanistic formula and do not reflect a human being's decision to buy or sell. Another 30% of investors know the stock market solely through their friendly broker. Although brokers are of all kinds, they are paid if their customers buy or sell, the more frequently the better. None of these groups has the long-term informed engagement with their holdings necessary to be informed owners.

So, quite quickly, we are left with 20% of the total who might be thought of as real proprietors or even potential activist investors. These are the owners who consider the long-term disposition of their funds; who follow the conduct of their portfolio companies; and who are prepared, if necessary, to take steps to assure that defects in the governance or strategy or execution by managements are addressed. McKinsey calls this 20% of investors "intrinsic investors," those who base their decisions on a deep understanding of a company's strategy, its current performance, and its potential to create long-term value. Even though they occasionally have holdings that are large in currency terms, they usually are a small percentage of the total, so the "collective action" problem whereby an activist takes all the risks and incurs all the costs with the prospect of only a pro rata share of gains, if any, is a daunting prospect.

With their massive analytic resources and huge numbers of shares under management, institutional investors have both the clout and the capabilities to emerge as the "legendary shareholder" that the theorists look to for legitimating private power. But far from picking up the mantle of engaged, informed ownership, private institutions have largely ignored their fiduciary responsibilities. Foundations and universities, committed to ethical missions, elaborately shirk responsibility with respect to the ownership of securities in their endowments. Nor have the great and the good—Warren Buffett, George Soros, Ned Johnson—found that the existing risk/reward balance for shareholder activism, stewardship, is attractive. The net of it is that the portion of the institutional investor community most interested in activism comes from the left side of the political spectrum (public pension funds) and with a lack of experience in management that makes them hardly credible proxies for the ownership class as a whole.

My experience suggests that most activism is nominal and of little effect. Letters, phone calls, and precatory shareholder resolutions (the only kind the SEC allows!) have ignorable impact. In making myself a candidate for the board of Sears Roebuck, I represented the prospect of real change. The company spent some $20 million to keep me off the board but promptly changed in the directions I had suggested. In the settlement of shareholder litigation against even the largest companies, such as BP and Shell, I have been able to compel change in governance. What I do is economically not rational, so real shareholder involvement in corporate governance is not today feasible.

We are in a place of dysfunctionality. The carrot is not sufficiently attractive and the stick not adequately menacing. If there is public interest in having responsible shareholder activism, some external force—such as government—will have to take action. One possible road would be to enforce the fiduciary laws requiring trustees to act solely in the interest of beneficiaries. Presently quiescent trustees would be confronted with the reality of liability if they were found to be derelict in their duties. On the other side of the coin, if there is general agreement that shareholder activism is desirable, why should not the corporation itself bear the reasonable costs of the effort?

We are no closer to the world of the legendary shareholder than when Hurst wrote 40 years ago, but the current crisis may have created awareness and energy sufficient for enabling changes. On the slender myth of the shareholder rests the legitimacy of the vast powers of corporations in our public life.

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