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What Is Wrong with the World Power System and What Can Accounting Do About It?

I. Introduction

Jean-Philippe Robé's recent book *Property, Power and Politics* offers an insightful investigation into the roots of the corporate form in modern liberal democracies. His analysis of the legal realities of corporate organization and the potential use and abuse of different legal systems is especially relevant for any theoretical project in the field of Law and Political Economy.

As a legal scholar, Robé throughout the book seems committed to providing a descriptive account of these legal realities without passing ethical or political judgments on them. He never explicitly takes a position on what constitutes fairness or justice, and at several points makes an effort to distance himself from any kind of ethical theory that presupposes metaphysical rights: "Any talk of natural, fundamental, inalienable or inviolable rights has no theoretical value and is irrelevant" (Robé, 140). Nevertheless, at the end of the book Robé arrives at a normative conclusion, when he outlines "a clear pathway to a fairer and more sustainable power system."

For moral and political philosophers such as us, this raises a question about the normative criteria that guide Robé's analysis and whether they justify the solution. In this essay, we will propose a reconstruction of Robé's normative commitments and then inquire how they relate to his proposed solution—full-cost accounting. We aim to make two central points. First, we think three core normative commitments underlie Robé's book, but we would like to invite Robé to reflect on whether he sees this in the same way. Second, his solution is not built upon these commitments, nor does it alleviate the core concerns that the book's argument raises. By making these normative commitments explicit, several ways forward can be taken, of which Robé's preferred solution is only one. We would like to ask Robé to specify how he sees these connections.

Our reflections on the normative substructure of Robé's project have implications for studies within, and of, Law and Political Economy in general. Our analysis draws attention to the normative dimension of studies in this field, which often aspire to be value neutral. Often, however, evaluative commitments nonetheless can be detected. Our plea is that a more explicit exposition of the normative elements in LPE makes the analysis more robust, by clarifying the reasons we have for favoring some solutions over others.

II. What Is Wrong with the World Power System?

In the book, we find Robé endorsing two moral commitments regarding autonomy and

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accountability, and one socioeconomic premise regarding markets, if only implicitly.[1] First, Robé endorses "rights of individual autonomy" (100). Although, as we have cited above, Robé is highly skeptical of metaphysical rights, he calls Section 2.4 on the powers of individual property owners "The Small-Scale Despotisms." He characterizes the owner's discretion in determining the use of their property as "the definition of despotism" (103) and calls owners "despots." According to Robé, it is a requirement for liberal states to "curb the despotism of property used in production" (99) while highlighting that "property does not force owners to act as despots" (103). To us, this characterization very much sounds like Robé is skeptical of the discretion that owners have through their property rights; despotism is not a normatively neutral characterization. Later in the book, he continues to characterize some aspects of contract as laying "the foundation for unregulated *subordination*" when "the legal control over property actually became the control of other human beings by human beings" (204). Combined, we take these remarks to be an endorsement of some individual right to autonomy, the ability to govern one's own life via one's own choices, as opposed to heteronomy—the determination of one's life and actions by someone or something other than oneself. Robé does not explicitly address the content of autonomy, but he is critical of the power property owners can exert.

Robé's second moral-political commitment is to accountability: namely, holding people and institutions responsible for their actions. More precisely, it is a version of what political philosophers call the all-affected principle (Whelan 1983). "We must think about the ways in which it is possible to make [corporations] 'accountable', to. . .ensure *consideration of the interests directly affected* by the use of their prerogatives" (Robé, 305; our italics). This appears to us as an endorsement of the principle that those directly affected by a decision should be assigned moral weight in its making. Robé does not specifically defend this principle. He also does not state what kind of affectedness grounds what kinds of claims. There is a rich corpus of literature in democratic theory addressing why this is a prudent principle, why anybody should believe in it, and so on, but Robé does not engage with it (Miller 2020).

Besides his two claims regarding moral and political rights, Robé also endorses a version of market capitalism in which externalities and other market failures are fixed via state regulation to ensure the smooth and efficient operation of the market mechanism. In the Introduction, he writes:

> The acknowledged role of political institutions, in connection with the autonomous operation of property, is to correct the negative externalities and equalities which may ensue. Once this is understood, it becomes clear that market institutions are inseparable from political institutions in a position to correct the undesired outcomes of the autonomous operation of property rights and other liberties. Having democratic political institutions operative over the operations of "the market" is a requirement for making the price system work. (34)

Later in the book, Robé again asserts that "[t]he State's widely recognized role in connection with economic activity is to internalize negative externalities and to reduce inequality" (248). His proposed solution, a version of full-cost accounting, is also governed by a background endorsement of market economies. Robé says that the goal of his proposal is "that firms integrate the consequences of their activities to a larger extent than they do today" (294).

Building on these premises, Robé then also presents a distinction between real, productive value and mere financial value:

[1] For further discussion of Robé's work and the issue of autonomy, see Tully Rector's contribution in this volume.

> A key issue [with a globalized economy without effective global regulation] . . . is that the financials which guide the firms' operations and which are used as a basis of the incentive devices used within most firms (e.g. stock options or bonuses) do not reflect the full cost of the firm's operations and, therefore, its real value creation (or destruction). (337)

With this distinction, he extends the standard account of the state regulation of externalities, and offers a compelling additional reason why markets currently fail to allocate resources properly: they reward the creation of mere financial value, for example via regulatory arbitrage. Against this, Robé puts an understanding of "real value" that is supposed to account for all costs incurred by the firm, including the costs of negative externalities (316).

Now, in response to our reconstruction, one could argue that it is not Robé's aim to take any of these positions. Instead, his goal may be to reconstruct prevalent views without necessarily endorsing any of them. As a sociological or reconstructive endeavor, this could well be worthwhile. Or one could argue that our argument is merely two philosophers' propaganda for their own discipline. But our argument here is rather that, because Robé does not develop and defend his normative commitments more explicitly, this leads to questions concerning his suggestions for improvement. Such suggestions need to be focused on realizing the goals that are reconstructed. To evaluate proposals regarding their ability to strengthen autonomy, we need to know enough about what those advancing the proposal specifically define as autonomy. How can we design mechanisms for accountability if we do not have a theoretical account of who is owed consideration and why? Why should we strive for markets perfectly regulated by states if there is substantial debate about the advantages of the market generally (Hausman 1992, ch. 4; Herzog 2017, section 3; Kuch 2020; Sugden 2018)? How are we to take the idea of internalizing externalities, absent a set of views about whether it is possible to internalize all, or even just most, externalities? More details on these normative commitments, in our view, would help readers evaluate possible solutions.

As an example of such an analysis, we will continue our review by examining the extent to which Robé's proposed solutions improve things along the dimensions of autonomy and accountability that we have reconstructed.

III. What Can Accounting Do About It?

The solution Robé proposes, following Barker and Mayer (2017), is full-cost accounting, which would make corporations internalize the negative externalities of their actions, in consideration of the interests of all those affected by them. This would involve a twofold measure of profit: financial profit and sustainable profit. The latter would be a hypothetical profit of the firm if it had to pay for its consumption of natural resources. Both measures would form a single system of accounting, with two bottom lines, "which are distinct but also *very much connected to each other*" (Robé, 343; original emphasis). Instead of pricing the natural resources, sustainability accounting would consider the costs of preserving them, thereby representing the real value created by the firm.

If our reconstruction of Robé's normative commitments is correct, and his solution is successful, the change of accounting practices to full-cost accounting should lead to (1) limited despotism within corporations, (2) publicly accountable corporations, and (3) an efficient market economy. Can the change of accounting practices achieve these goals?

First, full-cost accounting does not affect despotism in the workplace. Accounting for negative externalities does not affect corporations' autonomy in decision-making. Even if sustainability accounting was formally integrated into the evaluation and pricing of corporate shares—or into

the mathematical measuring of shares' risk—and the information provided by such reporting thereby affected shareholders' decision-making, this would not necessarily lead to an egalitarian change in the corporate decision-making process. Shareholders can constrain director and management decisions through their market power—the ability to and threat of exit (Ruggie 2018)—but the change of how shares are evaluated or what their prices represent does not substantially affect that ability. It neither increases shareholders' power, which would limit corporate autonomy, nor does it substantially affect the distribution of decision-making rights in the corporation. We would like Robé to clarify how this proposal could empower workers vis-à-vis their superiors inside the organization. In terms of alleviating despotism, Robé's solution appears less favorable than reform proposals explicitly aiming at increasing workers' autonomy and participation rights, such as codetermination schemes or workplace democracy (Frega, Herzog, and Neuhäuser 2019). We believe Robé's position would be strengthened by an intervention into or engagement with that debate.

Second, it is not certain that a change of accounting practices improves corporate accountability, in the sense that corporations would be run in the interest of all those affected by corporate activity. The proposal does not change the fact that corporations are accountable only to their shareholders and all other affected parties—such as workers, suppliers, or consumers—have no or only limited formal power to formulate and defend their interests. Changing the accounting practice alone does not make corporations accountable *to* those affected. Moreover, Robé's account does not provide enough detail on who those affected parties are (and what interests they have). Without such information, designing the new accounting practice with the aforementioned goal would be very challenging. Admittedly, Robé focuses on the problem of climate change as the most pressing and least controversial issue connected with the World Power System, a concern that affects everyone across the globe. By providing data about the real value created by the firm to shareholders, under the condition that they will include it in their investment decisions, Robé's proposal might increase accountability of the firm to shareholders aiming at climate mitigation. Whether that accountability extends to other stakeholders depends on a variety of factors. For instance, on how this information is provided, what kind of information it is, and most importantly, whether and how those stakeholders can react to that information. We invite Robé to elaborate on how far he sees the reach of accounting as a mechanism for change towards other stakeholders.

Lastly, Robé's proposal would dramatically increase the efficiency of markets only under the assumption that what shareholders currently lack to make sustainable investments is knowledge about the operations of corporations and their negative consequences:

> With an enhanced accounting system, we can rely on the most formidable instrument invented to allocate resources among firms: the market. The financial market is not fulfilling its role today because its operators are not provided with adequate information." (325–26)

The idea is that if corporations reported on their operations in a way that presented the true costs of their activity, shareholders would make efficient and sustainable investment decisions. But it seems to us that shareholders make investment decisions based on a variety of factors, including formal evaluations of corporate shares provided by rating agencies or measured by models. For the sustainability report to have a real impact on shareholders' decisions, it would have to be integrated into these formal evaluations. Robé's argument would benefit from an exposition of how that could happen. It would also be strengthened by an argument for why and how the provision of a sustainability report would influence these evaluations, or why it does not have to influence them to achieve its goals.

Assuming that full-cost accounting affects shareholders' decisions, Robé's proposal could help prevent the depletion of natural resources by showing in which cases profits originate from the exploitation of these resources. However, simply not diminishing natural resources by itself does not necessarily lead to real value creation. Robé also recognizes that activities that do not deplete natural resources unduly can still be objectionable: he delivers an insightful discussion of the abuse of the corporate legal form by profit shifting to low-tax jurisdictions (257–259). This and other forms of so-called "creative accounting" are common examples of value extraction—that is, activities that increase the firm's wealth without contributing to productive activities, such as the production of goods, employment, or research and development (Lazonick, Mazzucato, and Tulum 2013; Mazzucato 2018). Full-cost accounting could in principle solve the problem of financial value extraction. Robé is mainly in this book concerned with the issue of sustainability and the destruction of natural resources. Under his proposal, firms could still extract value via creative accounting or by investing in financial instruments, instead of engaging in productive activities. They could do so independent of their impact on social and environmental capital, and thus continue with activities that arguably should not be rewarded in an efficient market economy. We think Robé's position would be stronger if he spelled out in more detail his understanding of real or productive value, and, in connection with this, what kind of negative externalities should be included in full-cost accounting.

On the basis of these observations, our view is that the proposal to change accounting practices does not achieve all of the goals set out by Robé. We also believe it could benefit from a more explicit foundation in normative argument, given what we take to be the issues at stake. Full-cost accounting does not alleviate autonomy concerns in the corporation; it does not lead to more corporate accountability to those affected by corporate activities; and it has limited effects on the efficiency of the corporation's economic actions. There seem to be other possible policy proposals or solutions that could respond to these concerns. For example, the problems regarding autonomy and accountability could motivate an endorsement of workplace democracy. One could also imagine creating independent boards that assess corporate behavior, along the lines of Facebook's Oversight Board,[2] or strengthening NGOs and encouraging class action lawsuits, following the example set by the climate change litigation against Shell.[3] Another solution would be to endorse the benefit corporation model[4] or bind the provision of corporate charters to social conditions, as proposed by Elizabeth Warren in her Accountable Capitalism Act.[5] Solutions targeting the corporate legal form and its licensing seem to be especially desirable given that Robé's diagnosis of the problems of the World Power System is grounded in the legal features of the corporation and its accumulation of property rights. Robé's insightful exposition of these problems should thus be seen as an important first step on which other scholars in the field of Law and Political Economy can build, especially when it comes to solutions to these problems.

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