Commentary

Title:

"Is Profit Maximization or Social Responsibility the Morally Correct Goal of Business?"

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In 1970, Milton Friedman (who would later receive the Nobel Memorial Prize in Economics) kicked off a firestorm of debate when he claimed in a New York Times editorial that the social responsibility of business is to increase its profits.[1] This was in direct conflict with many who called for businesses to add "social responsibilities" to their duties, where they clearly meant something other than maximizing private profits. In his essay he derided those who insisted that business had a social responsibility to "…promote(ing) desirable 'social' ends; that business has a 'social conscience' and takes seriously its responsibilities for providing employment, eliminating discrimination, avoiding pollution and whatever else may be the catchwords of the contemporary crop of reformers." He went on to further argue that insisting upon a social responsibility of business people was "…preaching unadulterated socialism. Businessmen who talk this way are unwitting puppets of the intellectual forces that have been undermining the basis of a free society these past decades." That was a bold claim then and still generates heated debate today.

On what grounds could a person reject the concept of "social responsibility"? Shouldn't all good people be socially responsible? As currently used, the concept of social responsibility means that one should pursue socially beneficial ends even if those ends constrain or reduce one's own ends. In the context of a private corporation this means that corporate executives have a duty (or social responsibility) to pursue a multiplicity of social goals even if they reduce the profits of the firms that employ them. The social goals that Friedman highlights in his essay include fighting inflation, controlling pollution, training the hard-core unemployed, providing amenities to the communities where firms have located factories, and other social causes favored by anti-business activists. While Friedman primarily rejected the call to social responsibility on the grounds that corporate executives were agents of their firms and therefore owed a higher duty to their stockholders, the present article will make a different, though complementary argument.

Consider the profession of attorney at law, and imagine someone calling for lawyers to practice "social responsibility" as they ask of business people. Under current ethical guidelines of various bar associations, a lawyer has a duty to zealously and exclusively represent his or her client. This is analogous to a corporate executive zealously pursuing the interests of his or her stockholders by maximizing profits. If we ask lawyers to pursue a "social responsibility" we must be asking them to do something other than zealously defending their client.

Consider the following examples. A lawyer has a drug dealer as a client that is probably guilty, but the police have equivocal evidence. If the lawyer works hard and gives a good defense he or she may get the drug dealer off. Should the lawyer "sandbag" the case to make sure his guilty client gets convicted? Doesn't the defense attorney have a "social obligation" to make sure drug dealers are off the streets? A lawyer has a female client that is claiming sexual harassment at work but has possession of a document exonerating the male defendant. Should the lawyer submit the document to the opposing attorney during discovery as required by law, or should the lawyer advance the "social obligation" of protecting exploited women in general by hiding the document? A lawyer has a wealthy business client who has deposited a significant amount of money in the attorney's trust account. Should the lawyer pursue her "social obligation" by taking some of that money to help feed the homeless?

If an attorney did any of the things mentioned above they would not be embraced for their superior social consciences, but rather be subject to disbarment and prosecution. Presumably, the

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[1]Milton Friedman, The Social Responsibility of Business Is to Increase Its Profits, New York Times, September 13, 1970, Section SM, Page 17, *https://www.nytimes.com/1970/09/13/archives/a-friedman-doctrine-the-social-responsibility-of-business-is-to.html*.

same people calling for corporate executives to practice "social responsibility" would be appalled at lawyers who attempted to do the same thing.

Why don't we want attorneys to be "socially responsible"? Attorneys practice their craft in an institutional setting where opposing lawyers represent both sides of a dispute, and a judge oversees the fairness of the proceedings. When the system is working properly, attorneys are practicing social responsibility when they defend their clients vigorously, but within rules established by centuries of legal procedure. The trial mechanism of opposing counsel generates justice without the individual attorneys directly pursuing it. Justice as a social good is a byproduct of the self-interested actions of the attorneys as they vigorously pursue their client's interest. Individual lawyers are not supposed to take the law into their own hands by violating their fiduciary duty to their client. The "social responsibility" of lawyers is therefore to pursue self-interest aggressively within the bounds of the law. Justice as a social good would actually go down if attorneys pursued "social responsibility" rather than pursuing the private interest of their clients.

Likewise, corporate managers are also generating the social good, or discharging their "social responsibilities," when they pursue profit as their goal. However, the balancing mechanism that is explicit and visible in the courtroom is implicit and invisible in a market setting, but it is no less effective because of this difference. Adam Smith used the metaphor of the "Invisible Hand" to describe this implicit system which transmutes the self-interest of market participants into the public good. From Smith we read,

> "It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our necessities but of their advantages."[2]

And then,

> "…he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention. Nor is it always the worse for the society that it was no part of it. By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it."[3]

The rules of engagement in trials (such as the rules of evidence, rules against hearsay, the exclusionary rule) prevent attorneys from using underhanded methods to win at trial. These rules let attorneys pursue their client's private interest with zeal, while ultimately leading to a socially beneficial outcome. The market system also has rules on the pursuit of profit which accomplish the same end. The following will explain those rules and how they lead to a socially beneficial outcome.

The rules governing profit seeking are based on property rights, contract, and tort (or lawsuits for damages). Property rights determine who the rightful owner of any particular good is, whether that good is a consumer good such as a house, TV, or car, or whether it is a capital good such as a factory, truck or office building. Following John Locke, the market system assumes

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[2] Adam Smith, *An Inquiry Into the Nature and Causes of the Wealth of Nations*, Edwin Cannan edition, 1776, Book I, Chapter II, pg. 14, Modern Library Edition, 1937.

[3] Adam Smith, *An Inquiry Into the Nature and Causes of the Wealth of Nations*, Edwin Cannan edition, 1776, Book IV, Chapter II, pg. 423, Modern Library Edition, 1937.

every individual owns themselves, and therefore their own labor.[4] From this self-ownership, Locke argued that anything that a person appropriates from unowned nature also belongs to him. In the next logical step, he claims that if you voluntarily trade with someone else (i.e., make a contract) that other person become the legitimate owner of the traded item. Lastly, if you damage the person or property of another you owe them compensation. From these simple assumptions and logical arguments, Locke lays out the underlying principles of the free-market system. Similarly to the trial rules discussed earlier, these same concepts also determine the limits on market participants' actions. No one may take the property of another without permission, and no one may use force or fraud in their interactions with others. The free-market does not mean that you are free to do whatever you want. You may only do as you want as long as you stay within the rules, just as lawyers do.

Once property rights have been established people can trade. I need help running my restaurant and you want money to cover your living costs. We enter into a contract of employment, and I trade my money for your labor. You need a car and trade the money you have earned for a used car. The seller of the used car trades the money she received and pays for a vacation. In every one of these transactions we have a voluntary transfer of property rights.

From the insights of modern economic theory we know that when large numbers of people regularly transact business in a particular market, a market price emerges spontaneously. Buyers naturally want that price to be as low as possible, and many consumers are very good at searching out a "good deal." The consumer is pursuing her own self-interest in this and, following Smith, never enquires into the needs of the seller. The sellers, on the other hand, want the price to be as high as possible so that they can make the largest profit possible. Since no individual buyer or seller can force the other into a transaction, and since everyone has multiple alternative partners to do business with, the final market price is a compromise between these competing desires.

Modern economic theory also tells us that, under competitive conditions, the market outcome realized by the self-interested actions of buyers and sellers is efficient. When a market is efficient it pairs up every buyer and seller such that the buyer's values for the good is more than the seller's cost of producing the good. Consequently, total social surplus from production and consumption is maximized.

Conclusion.

Following the lead of Milton Friedman, and Adam Smith before him, we see that under the conditions of competition with well enforced property rights, contracts, and restitution for damages, the vigorous private pursuit of self-interest – or profit – leads to the social good of maximizing surplus. Problems due to environmental degradation or poverty or other social ills need to be addressed, not through haranguing individual business executives to take on "social responsibilities," but rather through the political process. Similarly, we would not try to solve a systemic problem of injustice in the courts by asking individual lawyers to violate their duty to their clients, but rather by reforming the criminal justice system court through the political process.

[4] John Locke, Second Treatise on Government, Chapter V, Sect. 27, Cambridge, 1690 (Taken from the edition by C.B. McPherson, Hackett Publishing, 1980).