Democratic Business Ethics:
Volkswagen's Emissions Scandal and The Disruption of Corporate Sovereignty

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Abstract

There is an established body of politically informed scholarly work that offers a sustained critique of how corporate business ethics is a form of organizing that acts as a subterfuge to facilitate the expansion of corporate sovereignty. This paper contributes to that work by using its critique as the basis for theorising an alternative form of ethics for corporations. Using the case of the 2015 Volkswagen emissions scandal as an illustrative example the paper theorises an ethics that locates corporations in the democratic sphere so as to defy their professed ability to organize ethics in a self-sufficient and autonomous manner. The Volkswagen scandal shows how established organizational practices of corporate business ethics are no barrier to, and can even serve to enable, the rampant pursuit of business self-interest through a well-orchestrated and large scale conspiracies involving lying, cheating, fraud, and lawlessness. The case also shows how society, represented by individuals and institutions, is able to effectively resist such corporate malfeasance. The 'democratic business ethics' that this epitomises is one where civil society holds corporations to account for their actions, and in so doing disrupts corporate sovereignty. This ethics finds practical purchase in forms of dissent that redirect power away from centres of organized wealth and capital, returning it to its democratically rightful place with the people, with society.

Keywords: Business Ethics; Corporate Social Responsibility; Democracy; Ethics; Levinas; Organizational Ethics; Radical Democracy; Sovereignty.

Introduction

Everything was going so well for The Volkswagen Group. In mid-2015 it overtook the Toyota Motor Corporation as the biggest auto manufacturer in the world. This marked the early achievement of an ambitious ten year goal that had been set in 2007 (Trudell and Horie, 2015). The targets established by former Volkswagen CEO Martin Winkerton, and which critics at the time had ridiculed as delusional, were that by 2018 they would be ‘the world’s most profitable, fascinating and sustainable automobile manufacturer’. There was no ambiguity. Volkswagen would sell ten million vehicles per year, have pre-tax profit margin of at least 8%, and would have the most satisfied employees and customers in the whole industry. Winkerton was steadfastly committed to making Volkswagen ‘number one with justification’ (Muller, 2013: n.p.). As well as phenomenal growth in sales, Volkswagen was widely lauded for its ethical and sustainable approach to business. At the end of 2012 the World Forum for Ethics in Business named Volkswagen as an ‘outstanding corporation’ and granted it an ‘Ethics in Business Award’. The reason? Because of Volkswagen’s admirable efforts in ‘in the fields of environmental management and corporate social responsibility’. Volkswagen was a veritable poster-boy for corporate business ethics in the areas of environmentalism, sustainability and corporate social responsibility. It was a company touted as setting ‘an example of universal values such as integrity, responsibility and respect for people and the environment’ (CSR Europe, 2013: n.p.).

All of this came crashing down in the events following 18 September 2015. On that date the United States Environmental Protection Agency issued Volkswagen with a notice of violation of The Clean Air Act. The auto manufacturer had been caught having installed ‘defeat devices’ in 482,000 of its diesel vehicles in the US, a number that was later revealed to be 11 million worldwide. The devices detected when a car was being driven under emissions test conditions and only at that point turned on emission controls. They switched off during normal driving, meaning that performance improved while up to 40 times more nitrous oxide was released (EPA, 2015). A global scandal ensued. The company which once proclaimed the importance of resource conservation, climate protection and emissions reduction (Volkswagen, 2014) was publically vilified for lacking the very values that it prided itself in. Caught red-handed, the future of Volkswagen was cast in a dark shadow of doubt. At best its reputation was in tatters, at worst its continued existence was in question. Almost a third of the company’s market value was wiped out in less than a week. Trust in the entire German manufacturing sector was questioned. Within days author of the 2018 strategy, Martin Winterkorn, resigned under threat of a criminal investigation (Boston, 2015).

The story of Volkswagen in the lead up to, and aftermath of, the 2015 emissions scandal is as a telling example of the relationship between corporations and the ethics they espouse and organize. Concurrent with increased global dominance of corporations under neoliberalism has been the ascendancy of corporate business ethics and responsibility as explicit organizational practices to which corporations are beholden (Matten and Moon, 2008; Hanlon and Fleming, 2009). These practices include, for example, the development of ethical codes, the implementation of corporate social responsibility programs, the use of ethical audits, generous acts of philanthropy, and advocacy for good corporate governance. Corporate business ethics is positioned as being concerned with how corporations themselves might internally organize so as to improve their ethical practice, credentials, and/or public image (Hancock, 2008; Phillips and Margolis, 1999). This is an ethics that has a ‘pro-business stance’ (Parker, 2004: 198) and that is organized through corporate control and compliance systems, and instruments of managerial coordination (Stansbury and Barry, 2007; Laufer and Robertson, 1997).

While positioned as voluntary (Marens, 2012, 2013) the practices of corporate business ethics have been institutionalised as an expectation of the contemporary corporation (Brammer et al, 2012). Today’s corporations are enjoined to design and implement an ‘organization of ethics’ which claims to regulate ethical behaviour and enact social responsibility while also ‘yielding significant returns’ in terms of profit maximization (Metzger, Dalton and Hill, 1993: 35) and strengthening the role of the market relations (Kinderman 2012). This is an explicit strategy that corporate managers exude pride about. Volkswagen is a paradigm case. As Winkerton wrote in his essay in Volkswagen’s 2014 Sustainability Report: ‘sustainability, environmental protection, and social responsibility can be powerful value drivers’ (in Volkswagen, 2014). What is reflected here is the dominant corporate view that ‘social values and capitalism can be combined in a seamless and complementary manner’ (Cederström and Michael Marinetto, 2013: 417).

There is an established body of politically informed scholarly work that offers a sustained critique of the approach to corporate business ethics that Winkerton exuded. This work highlights the fundamental incompatibility of responsibility and ethics with corporate strategy and self-interest (e.g. Banerjee, 2008; Shamir, 2008; Marens, 2012; Fleming and Jones, 2013), as well as calling for the politicization business ethics (Parker, 2004; Pullen and Rhodes, 2013). Drawing on the Volkswagen emissions scandal as an illustrative example, this paper builds on this existing critique as the basis for theorising an alternative form of ethics for corporations; one based not on corporate moral agency and self-regulation but on the democratic process through which a society can hold corporations to account for their actions. The paper uses the Volkswagen scandal to exemplify the argument that corporate business ethics are no barrier to the rampant pursuit of business self-interest through a well-orchestrated and large scale conspiracies involving lying, cheating, fraud, and lawlessness. It also shows that society, represented by individuals and institutions, is able to effectively resist these forms of malfeasance.

In presenting what is dubbed 'democratic business ethics' the paper argues that considering the ethics of corporations as being a matter that can and should be organized and controlled internally fails to account for the possibility of an ethics for business that does not place the corporation itself as the putative moral agent who can manage its own ethics as if it was an 'isolated, ethically self-sufficient individual' (Lozano, 2000: 2) that is beholden unto itself to ensure its righteousness. Democratic business ethics places corporations subservient to the democratic sphere so as to defy their assumed ethical self-sufficiency and invulnerability. It manifests in political acts that render corporations vulnerable through a politics that contests both their putative morality and the deleterious effects of the exercise of their increasingly sovereign power. This ethics finds practical purchase as a form of radical democratic dissent and resistance that redirects power away from centres of organized wealth and capital, returning it to its democratically rightful place with the people, with society.

The paper begins by exploring the social, economic and political dominance of the corporation under neoliberalism, and its relation to corporate business ethics. This is a relationship where corporations engage in nominally ethical practices to legitimate their operation by mounting an image of a solid, unassailable, independent and morally righteous corporate self (Hanlon, 2007). It is argued that this process of legitimation uses ethics to serve the primary purpose of building 'corporate sovereignty' (Barkan, 2013). Second, Levinas' (1996, 1998, 2003) ethical philosophy is deployed to show how the very meaning of ethics originates as a challenge to sovereignty. This leads to the idea of an ethics enacted by the disruption of corporate sovereignty and its attendant corporate business ethics. Third, drawing on theories of radical democracy (Mouffe, 1996; Robbins, 2011, Ziarek, 2001) the contestation between ethics and sovereignty is developed into the idea of 'democratic business ethics'. This is an ethics that contests corporate sovereignty through forms of dissent and resistance originating in civil society. The paper concludes by asserting the need to rescue business ethics from corporate sovereignty, and to reimagine it on democratic terms.

Corporate Sovereignty and Corporate Business Ethics

Ours is an age where unprecedented levels of political power have been ceded to corporations (Barley, 2007) and where 'global capitalism is now internal to all communities on the planet' (Robinson, 2014: 223). Escalating since the 1980s, globalized neoliberalism has heralded changes to the political and economic landscape that have seen corporations grow in size, reach and sheer might. Present here is a shift in the 'cultural logic of capitalism' where the role of the state is increasingly one of supporting corporations' freedom and legitimacy (Hanlon and Fleming, 2009: 942). In practical terms, the share of the economy taken by large inter-connected networks of corporations has burgeoned (Carroll, 2010) resulting in then being powerful political actors (Scherer and Palazzo, 2007) subject to diminishing levels of state control (Hassan, 2013; Veldman, 2013). Corporations are the prime movers of global commerce whose unabashed purpose is to pursue private rather than public good through their own increasing economic and political dominance; a situation where a major role of the state has become to serve the market (Hanlon and Fleming, 2009; Veldman, 2013). This 'service' is informed by the neoliberal ideology that maintains that 'society's resources are best allocated by self-regulating markets' (Pacewitz, 2013: 434) and where public intervention into business affairs is 'legitimated when it tries to restore the conditions of fair competition' (Amable, 2011: 5).

With neoliberalism the state is beholden to implement policies and laws that facilitate rather than restrict the expansion of corporate activity through the marketization of more and more dimensions of social and economic life. This is not laissez-faire liberalism, but rather a political doctrine where the state has a very specifically redefined role: to construct the conditions for the expansion of markets (Mirowski, 2013). By 'decentralizing, deregulating and liberalizing' on a global level, nation states have used their power to provide 'more attractive economic environments for financial capital' (Lipchultz and Fogel, 2002: 118). The central and powerful position of corporations in the neoliberal global economy has thus been achieved with state support across the world as governments have collectively taken on the role of maintaining market rule through a largely corporate economy (Peck, 2010).

A significant effect of neoliberalism has been that the power of corporations has expanded to such an extent that it has become comparable with that of the state (Shamir, 2004); the traditional locus of power whose laws first granted the corporation legal status and rights (Veldman, 2013). Volkswagen is a prime example of a globally powerful corporation. It was the world's 14th largest corporation at the end of 2014, employing almost 600,000 people and turning over a revenue of US$269 billion (Forbes, 2015). If Volkswagen was a nation state it would have a bigger GDP that Finland, Chile, Pakistan or Ireland (Statistics Times, 2015). This is part of a trend that culminated in 2000 when of the 100 biggest economies globally, more than half were corporations (Anderson and Cavanagh, 2000).

The growing political and economic scope of corporations to dimensions hitherto largely reserved for states has been referred to as 'corporate sovereignty' (ICHRP, 2002; Rondinelli, 2003; Kapferer, 2004; Sawyer, 2006; Stern, 2011; Barkan, 2013). Such sovereignty has been achieved with the blessing and assistance of state governments, instigated as it was from a 'transnational corporate agenda for deregulation and unhindered business operation across national borders' (Hossein-Zadeh, 1997: 244; Hassan, 2013) where individual corporations are beholden to state enabled markets rather than to any single sovereign law (Barber, 1995; Rondinelli, 2003). The corporate sovereign thus edges closer and closer to a position whereby it is 'monitored neither by international law nor by the legal norms of any particular state' (Sawyer, 2006: 40; Kapferer, 2004). It is in this way that neoliberalism has 'shifted sovereignty to the domain of the global corporation and the world markets they control' (Barber, 1995: 296). The situation, as described by the International Council on Human Rights Policy, is one where 'the concept of the sovereignty of states' is in danger of being 'replaced by a new corporate sovereignty, which is unrestricted or unaccountable' (ICHRP, 2003: 10).

It is in the context the expansion of corporate sovereignty that corporate business ethics has come to the fore as a mode of self-regulation and self-organization which has 'allowed management to define their own responsibilities' (Marens, 2012: 78). Practices associated with corporate social responsibility and corporate citizenship in particular have vastly expanded alongside the globalization and liberalization of the world's economies over the past thirty years (Sadler and Lloyd, 2009; Fleming and Jones, 2013). It is through such practices that corporations seek to make explicit their ethical status (Matten and Moon, 2008). The concurrent take up of ethics by corporations and their expanding sovereignty are intimately related. Corporate business ethics has served to fend off demands for external regulatory control on corporations by inculcating a system whereby corporations assert that they can regulate themselves (cf. Barkan, 2013; Marens, 2013). In this way the corporate organization of ethics is centrally connected to corporate sovereignty; it is 'a predatory form of extending corporate power under late capitalism' (Hanlon and Fleming, 2004: 937).

We are in a position today where not only are corporations expected to 'engage in some form of responsible behaviour' (Brammer et al., 2012: 10) but also where 'companies are proclaiming the virtues of their ethicality on a scale never before seen' (Fleming, Roberts and Garsten, 2013: 339). Again Volkswagen is a case in point. Until September 2015 it was widely heralded – by itself and others – to be a company of exceptional and growing ethical credentials. All of the hallmarks were present: the glossy publications, the explicit strategies, the corporate programs, the awards and accolades, and the public acclaim. For example, in 2004 four of Volkswagen's brands where announced by *The Guardian* newspaper to be amongst the 'Top 10 ethical car brands' (Guardian, 2004). In 2011 Volkswagen was singled out as a car manufacturer with outstanding environmental, social and governance (ESG) practices by the Calvert Sustainability Research Department (Urken, 2011). Volkswagen was also adamant that these were matters that it could manage and organize internally and voluntarily. In 2014 it declared that 'a company can only be successful if it acts with integrity, complies with statutory provisions worldwide and stands by its voluntary undertakings and ethical principles' (Volkswagen, 2014: 46).

From the assumedly axiomatic neoliberal position that all human action can and should be brought into the 'domain the market' (Harvey, 2005: 3) it has been argued that matters of ethics and responsibility are reduced to a 'moral imperative' for competition (Amable, 2011) and subservient to the agenda of corporate capitalism. Moreover, an advocacy of corporate business ethics presupposes 'the fundamental legitimacy of capitalism – private property, for example, and free enterprise' (Goodpaster, 1983: 3) – such that it 'represents a further embedding of capitalist social relations' (Hanlon, 2007: 157). This legitimacy is evidenced in the neoliberal 'market morality' that asserts that business decisions should be based on pursuit of corporate self-interest within the law, that the impact on other people does not need to be accounted for in deciding actions, and that other people are to be treated either competitively with the aim of beating them or instrumentally to advance one's own ends (Hendry, 2004; cf. Amable, 2011). This is a morality where maximizing shareholder value is the principle that guides the governance of corporations (Lazonick and O'Sullivan, 2000); including how they organize their own ethics. Echoed here is the neoliberal form of reasoning that 'configures all aspects of existence in economic terms' (Brown, 2015: 17).

With corporate self-interest primary, championing corporate business ethics and corporate social responsibility is just 'an excuse for 'business as usual' and 'unregulated corporate activity' (Fleming, Roberts and Garsten, 2013: 340) such that in practice corporations have largely 'failed to responsibly use whatever autonomy and discretion they possessed to produce fair and generous outcomes for their various stakeholder groups' (Marens, 2010: 761). In Volkswagen's case this is evident in its goal of becoming the largest car manufacturer in the world. This was enunciated as: 'Our Strategy 2018 focuses on positioning the Volkswagen Group as a global economic and environmental leader among automobile manufacturers'. This would be achieved by focussing on 'environmentally friendly orientation and profitability of our vehicle projects so that the Volkswagen Group has the right products for success even in more challenging economic conditions'. This statement reveals how Volkswagen's environmentally driven ethics was really just an input, with the measurable goals being unit sales, return on sales before tax, and customer and employee satisfaction (Volkswagen, 2015).

Central to Volkswagen's corporate business ethics was its environmental strategy touted as a matter of 'transparent and responsible management' based on 'voluntary undertakings and principles' such as internally developed codes of conduct and values, and alignment with non-mandatory requirements of the United Nations Global Compact and the declarations of the International Labour Organization (Volkswagen, 2014: 20). Volkswagen's ethical voluntarism is a dominant and illustrative feature of corporate business ethics. This voluntarism is such that organizations assert that they will choose to behave ethically without the need for external integerence, while in practice 'if ethical conduct is to be judged by its consequences, then the prime beneficiary of [business ethics] is the corporation itself' (Roberts, 2003: 257). At its most sanguine and unapologetic it is simply the case that ethics is just a matter of standard corporate strategy such that it should 'be included in strategy formulation and that the level of resources devoted to CSR be determined through cost/benefit analysis' (McWilliams, Siegel and Wright, 2006: 15). Notably neoliberal states have abetted this by embracing the market and retreating from 'socio-moral duties' (Shamir, 2008:3; see also Van Cranenburgh, Liket and Roome, 2012). The relationship between corporate business ethics and corporate sovereignty can thus be conceived in terms of the way that ethics supports corporations by warding off unwanted regulatory intrusions (Vogel, 2008) while they profit from state enabled markets (Peck, 2010).

What we have seen in the co-evolution of neoliberalism and corporate business ethics (Kinderman, 2008) is the suffusion of ethics with corporate sovereignty, resulting in a corporate business ethics comprising of a set of organized practices that are defined in a terminology of ethics and responsibility but whose principle purpose and achievement is to support the expansion of corporate sovereignty. Corporate business ethics is beholden to upholding the legitimacy, authority and licence of a corporation (Banerjee, 2008; see also Fleming and Jones, 2013). This is an ethics that sures up corporate self-righteousness in the liberalized quest for markets and profits. Moreover, corporate business ethics is the means through which 'corporations and corporate executives constantly mobilize a host of agents to maintain their ideological and practical supremacy' (Shamir, 2004: 670). It is in this sense that corporate appeals to moral sensibility have served to 'unleash' capitalism by helping to legitimate corporate conduct 'vis-à-vis society in a way that purely instrumental rationality cannot' (Kinderman, 2012: 30-31). Nevertheless, in the 'market for virtue' the voluntary take up of ethics and responsibility is undertaken 'only to the extent that it makes business sense to do so' (Vogel, 2005: 4). In this regard, at its core, corporate business ethics is just 'business as usual' (Parker, 2004: 198)

Ethics and the Disruption of Sovereignty

The practice of corporate business ethics is, to put it most simply, extraordinary self-ish; indeed it is beholden to the corporate 'self' and its power to act and to prevail. What dominates is the drive to protect the putative corporate person as a site of self-sufficiency, security and righteousness. This form of the corporation, as it has evolved through neoliberalism, is constructed as a 'supra-individual' that is attributed with agency and granted rights. The corporation is thus a 'reified singular representation with the status of a 'legal subject' or a 'citizen'' (Veldman, 2013: S24). So reified, corporations are seen to act as if they have the capacity for moral agency and ethical self-sufficiency. The modern corporation is conceived of as ‘a special kind of moral personality for which the law has made extensive accommodation’ so as to allow it to acquire ‘a power of sovereignty over the public’ (O’Mellin, 2006:201 and 203). The assumption of corporate business ethics is that this sovereignty grants the corporation the right to its own ethical self-regulation without state intrusion. This assumption, as the bedrock of corporate business ethics, is deeply questionable.

If we reflect on this in relation to the Volkswagen case, the questioning of the corporation’s ethics did not originate from any nation state in which it operated. Instead it came in the form of dissent and disruption initially involving clean air activists and scientists. Although the scandal broke when Volkswagen was found to have deliberately violated the United States Clean Air Act, the state and its laws were only a latter part of the events that surrounded it. The presence of the defeat devices in Volkswagen’s cars was discovered through the actions of the independent not-for-profit organization The International Council on Clean Technology (ICCT). Their impetus to test the US vehicles was not to undermine Volkswagen, but rather to prove to Europeans that diesel cars could be more environmentally friendly given that they had passed the more stringent US anti-emissions laws.

Working with the Center for Alternative Fuels, Engines and Emissions at West Virginia University, the ICCT discovered that the diesel cars were emitting nitrous oxide at levels that far exceeded the regulated amounts. In May 2014 the ICCT passed their results to US The Environmental Protection Agency, and to Volkswagen (Neate, 2015). Volkswagen responded by trying to undermine the veracity of the findings claiming that the conditions under which the ICCT tests were done were inadequate, and that its own tests had revealed that the anomalous results were due to ‘various technical issues and unexpected in-use conditions’. After continued exchanges between Volkswagen, The EPA and the California Air Resources Board, Volkswagen could not hold to its story any longer, and on 3 September 2015 they admitted to installing software in their cars to cheat emissions tests (Gardner, Linert and Morgan, 2015). On 18 September 2015 The Environmental Protection Agency issued the press release announcing the fraud.

The story of how Volkswagen came to be caught for its highly organized and conspiratorial efforts to defy the law is a telling example of how corporate business ethics works. This is an organization which had gone to great lengths to both extol its own ethical virtues, and to deliberately hide its own criminal activity. Beneath all of its ethical grandeur what was revealed was a scheme that served to increase the corporation's growth and to bolster its own sovereignty by acting as it was above the law. Volkswagen was held to account for its legal and environmental transgressions not as a result of its own volition, and certainly not because of its stance on corporate business ethics. Instead, Volkswagen's presumed sovereignty was brought into question and disrupted from the outside. As we will now explore, this disruption of sovereignty on ethical grounds can enable us to conceive of alternative ways to imagine an ethics for corporations; ways that retain the value of ethics while undermining the assumption that corporations can, will or should be the custodians of their own ethicality and responsibility.

The alterative business ethics that will be explored here is centrally informed by the work of Emmanuel Levinas (1996; 2003; 1998). This work is especially valuable given that Levinas' theorization of ethics directly questions the self-obsession and presumed immunity of an ethics rested in sovereignty. When Levinas speaks of ethics he is not referring to some system of rational and organized procedures, practices, policies or dispositions that can ensure a sense of 'goodness' or moral righteousness on the part of one who adheres to them. Bolstering one's own sense of power and invulnerability is not part of this ethics either. Before any program, model or code of ethics is arrived at Levinas insists that ethics arises from one's responsibility to other people. Ethics is not about oneself, personal, corporate or otherwise, but is about service to others. Levinas' is a relational ethics that manifests in generosity and humility; always about care and devotion to others before myself (Levinas, 1985).

Levinas shows how ethics is thrust upon us as we encounter a world of other people whose needs interrupt self-interest and the egoistic following of one's own desires. This ethics is very much different to the assumption of sovereign moral agency and self-sufficiency assumed in organized corporate business ethics; these being understood, from a Levinasian perspective as a self-obsessed 'ethics of narcissus' (Roberts, 2001). On an individual level Levinas argues that ethics is 'prior to the Ego, prior to its freedom and non-freedom' (Levinas, 2003: 51) and does not rest on any 'authoritative structure' (Caygill, 2002: 149). With ethics the ego is stripped of 'its self-conceit and its dominating imperialism' (Levinas, 1996: 88); stripped of its fantasy of sovereignty. Ethics is that with which 'the ego can be put into question by Others' (Levinas, 2003: 51). In place of the egoism central to sovereignty we have ‘pity, compassion, pardon and proximity in the world’ (Levinas, 1996: 91). It is in this sense that Levinas suggests that ethics requires a relationship based on the self’s ‘deposition of sovereignty’ (Levinas, 1985: 52).

Levinas is explicit: ethics ‘cannot be sovereign’ (Levinas, 1998: 194). This is so because ethical subjectivity is an ‘affective excess to the ego that opens it up to the dimension of ethics’ (Diamantides, 2007: 12). This opening occurs through the disturbance of the ego’s self-assumed completeness; the assumption of its own sovereignty. Levinas’ ethics radically questions the very idea of personal sovereignty that, as we saw previously, corporate business ethics has asserted can be assumed by the legal and fictive person of the corporation. The point is that rather than ethics being able to be used to bolster sovereignty, it is sovereignty itself that is brought into question by ethics. Further, instead of relying on the establishment of a solid notion of self or identity, ethics manifests as a disruption of the power and completeness of the very idea of the self (Levinas, 1998). Levinas’ notion of ethics disturbs and decentres authority on the grounds of responsibility to the other, to sociality (Abenour, 2002) and to the other’s freedom.

The ethically informed disturbance of sovereignty reflects an ‘ethico-political-economic imperative to alleviate human suffering’ and ‘the overcoming of economic inequality and exploitation by means of political struggle’ (Ryder, 2012: 124). This anti-sovereign ethics does not support any singular and self-contained position of power, rather, it ‘involves the opening up of existing political identities, practices, institutions and discourses to an Other which is beyond their terms’ (Newman, 2010: 7). The practice of this ethics, that is to say its politics, is not a necessary, specific or ideologically defined set of norms, beliefs or practices. Instead, it is a mode of disturbance that would question, undermine and disrupt the pretentious authority of any such position; it is a ‘politics of the trace, a politics of disturbance’ (Caygill, 2002: 138, see also Abenour, 2002). Analogously this is what happened to Volkswagen during the emission scandal: its falsely assumed position of sovereignty and ethical self-sufficiency was brought into question and disturbed, leading eventually to the corporation being held to public account for the actions taken in its name.

It is in its radical questioning of sovereignty that Levinas opens difficult questions for corporate business ethics. Indeed, by considering corporate business ethics in this way any conceptions of the ethical legitimacy of corporations, the moral justification of organizational behaviour, and the publicity of corporate righteousness are eschewed as just instances of self-centred preoccupation (Roberts, 2001). Levinas leads us to an ethics rested on the disruption of sovereignty; in our case the disruption of corporate sovereignty and hence also of the corporate business ethics that supports it. This ethics is practiced through ‘questioning and problematizing the morality vested in organizational practices’ (Weiskopf and Willmott, 2013: 470) so as to contest the corporation by not accepting it on its own powerful terms, and neither accepting its political, economic or ethical dogma; it is about critique and resistance (Fleming and Spicer, 2007).

In disturbing corporate sovereignty ethics is woven into political action. The arrogance of the very idea that ethics can be organised and put to use in the service of corporate self-interest is placed under ethical scrutiny, a scrutiny that politically enacts ‘the continual questioning from below of any attempt to establish order from above’ (Critchley, 2007: 123). Ethics thus ‘affects politics’ (Abensour, 2002) by insisting that resisting power, domination and oppression in the form of corporate sovereignty is necessitated by ethics. What begins as ethics turns to ‘ideological dissent’ (Dunphy, 2004) that informs the challenge to corporate sovereignty. In relation to corporations, the ethical practice we arrive at through Levinas is not one that is located within the corporation and its management, but rather it is found in the spaces of political dissent and resistance to the corporation. Situating ethics in this domain does not idly dream of a state sponsored market based utopia where corporations choose voluntarily to act in the interests of the community, and in the interests of those who are and have been exploited. Quite the contrary it lends itself to a ‘project of ethico-political resistance and critique that works against forms of coercion, inequity, and discrimination that organizations so frequently and easily reproduce’ (Pullen and Rhodes, 2013: 12) in the blinkered pursuit of sovereignty.

Democratic Business Ethics

The ethics to which Levinas awakens us is not one that would seek the consent of corporations to adopt it; to do so would be tantamount to looking for ethics in all the wrong places. The chief implication is that business ethics can be conceived in a manner that no longer assumes that ethics is and should be organized and controlled by corporations by and for themselves. For Levinas (in Wright, Hughes and Ainley, 1988) the liberal state, to the extent it is guided by the pursuit of justice, is the political institution that aligns with a non-sovereign ethics. While this would be the case as regards care and freedom for citizens, it would extend also to ensuring that commercial activity is governed in the interests the people through justice. With neoliberalism, however, ethics and justice are increasingly lost as the informing principles of liberal democracy, especially as it relates to business. In its present configuration 'democratic state commitments to equality, liberty, inclusions and constitutionalism are […] subordinate to the project of economic growth, competitive positioning, and capital enhancement' (Brown, 2015: 26). In such a condition democracy needs rescuing from this neoliberal state project such that the enactment of a desire for justice is reinstated; in our case justice as it relates to the activities of the state supported corporate sector.

As the Volkswagen case has shown, a better place to locate business ethics is in practical modes of dissent and disturbance to corporate sovereignty arising within civil society. This was especially notable in the aftermath of the Volkswagen scandal. Not only did the scandal lead to a financial disaster in terms of billions of dollars in possible fines, a falling share price, the costs of vehicle recalls, and the company's posting of its first quarter loss in October 2015 (Hotten, 2015), it was also a disaster in confidence. The news of the scandal received broad global coverage in the press and social media, and was the matter of political and civic discussion. In the month following the EPA's press release Volkswagen was held responsible for a weakening the entire German economy (Stewart, 2015), a loss of public trust in corporations generally (Corner, 2015), and for the possible overturning of the entire motor industry (The Economist 2015). The implications of this for the corporation's economic future were both significant and complex, and as late as February 2016 the already postponed publication of its 2015 financial results had not been released due to difficulties in establishing how much the cost of the scandal would be (Cremer, 2016) even though it had been established that US regulatory fines alone could amount to US$46 billion (Boston, 2016) and that as of January 2016 the company's market share in Europe had fallen for the fifth consecutive month since the scandal broke (Shankar, 2016) In sum, the scandal amounted to a highly effective contestation of corporate sovereignty and its assumed ability to operate by its own rules and outside of the law.

The scandal at Volkswagen would not have happened if it was not for the involvement of NGOs, scientists, law makers, government agencies, the media, and the general public. While this might be regarded as a failure of the corporate world, it is an achievement of civil society that a major corporation was brought to justice. The scandal can be regarded as a democratic interruption to Volkswagen's corporate sovereignty that was enacted in the name of ethics. This is not corporate business ethics by a long stretch. Instead it represents what can be called 'democratic business ethics'. Volkswagen being held to ethical account was a process of democratization achieved by a political process instigated and fuelled by the members and institutions of civil society. The ethics that was enacted aligns more with the idea of radical democracy than that of liberal democracy. That is, it was an example of a political practice enshrined in non-violent confrontation of different interests where resistance to power is central (Mouffe, 1996; 2000; Robbins, 2011; Ziarek, 2001). Volkswagen was the subject of this resistance that, in the words of the class action suit filed against them in the United States, has been described as "one of the most brazen corporate crimes in history, a cautionary tale about winning at any cost […that…] spared no victim along the way" (Boston, 2016: n.p). This is a far cry from the sanguine rhetoric that Volkswagen not so long before used to describe its corporate business ethics.

Radical democracy differs from liberal democratic government in that it retains the root meaning of democracy as being that the power to rule must be retained with the social body; with the people rather than with a political class or the institutions of the state. Moreover, in a neoliberal era where the dividing line between the state and the corporation is being blurred to the point of approaching invisibility (Brown, 2015) radical democracy re-asserts that both should be subservient to society. This marks a refusal 'to allow the politics of democracy to be usurped by the economics of free market capitalism' (Robbins, 2011:5). Moreover, no matter how much a contest between the body politic and the nexus of state and corporate interests appears to be like a battle between David and Goliath, the ethos of democracy demands that institutionalized power be confronted in the name of the people.

The confrontation of power is central to radical democracy's anti-sovereign political principals of dissensus and the non-violent confrontation of political differences. This serves especially to combat a false consensus rendered to support the interests of wealth and power (Mouffe 1996; 2000). It is this focus on the value of dissensus over consensus that is central to radical democracy. This evokes a scepticism of the assumed value of rational discourse as being the high road to democratic outcomes (for example in the manner associated with Habermas' (1996) notion of deliberative democracy). In radical democracy, following Mouffe, the public sphere is understood a contested space where agonistic differences should come into productive conflict without recourse to any hope of ideal consensus (Thomassen, 2010). Indeed, with radical democracy the appearance of consensus, for example between states and corporations, is always at risk of burying difference by privileging the powerful. Dissensus is not negative, however, it is a productive means through which democracy can be pursued by disturbing 'the order by which government wishes to depoliticize society' (Critchley, 2004: 183).

Radical democracy 'represents a disturbance of the anti-political order of sovereignty itself' (Springer, 2011: 533). Moreover, even if theories of radical democracy have 'said relatively little about capitalism and the economic sphere' (Thomassen, 2010: 185) it is questioning corporate activity within this sphere that is central to the very possibility of democracy in the age of neoliberalism. This includes, most especially, questioning and disturbing corporate sovereignty. This disturbance serves to rattle a system that 'stacks the cards in favor of an un-democratic corporate politics' so as to render a 'democratization of business and society' (Zyglidopoulos and Fleming, 2011: 703) by mounting an ethically disciplined 'challenge to the dominant apparatus of power' (Munro, 2014: 1129). Radical democratization opposes any authoritarian assertions of the right to power based on wealth and capital, instead claiming 'political agency on behalf of and for the people' (Robbins, 2011: 62). Moreover, in a period that has seen state and corporate sovereignty amalgamate, the idea that government would mount a democratic challenge to corporations is becoming anachronistic (Wolin, 2008). Instead we have a situation where politics is shaped by collaboration between elected politicians and representatives of business interests (Crouch, 2004)

Radical democracy is principally aligned with the ethics and politics of corporate disturbance already articulated. Further, drawing out the connexion between radical democracy with Levinasian ethics facilitates the conceptualization of democratic business ethics. To begin with, democratic business ethics will not be found in the types of ethical programs and practice organized by corporations. Indeed, it can be asserted that the conditions of neoliberalism are ones that have sought to replace democracy with an ethics that seeks to 'limit popular sovereignty' (Amable, 2011: 18). In direct contrast, democratic business ethics is enacted through individual and collective action in a civil society that disturbs corporate sovereignty on the grounds of ethics, just as happened to Volkswagen. It is important to acknowledge that sovereignty is incompatible with democracy if we accept that democracy is not about the preservation or enhancement of oneself, but begins with a primary respect for the rights of all of the others; of everyone, each unto themselves (Derrida, 2005). This is maximally escalated when that enhancement is to a corporate self whose desire for sovereignty appears to know no bounds.

While democracy can be understood as being based on the rights of the other, it also has its basis in freedom understood as 'the faculty to do as one pleases, to decide, to choose, to determine one-self, to have self-determination, to be master, and first of all master of one-self' (Derrida, 2005: 13). The issue for contemporary societies, however, is about the distribution of freedoms when the freedom to participate in any form of dissent is so often curtailed by the freedom enjoyed by the neoliberal corporation. The internal operations of Volkswagen are a clear indication of this. On the one hand, Volkswagen has been characterised as a performance oriented and hierarchically centralised organizations where employees are expected to do what it takes to achieve corporate goals. Volkswagen has been described as an autocratic organization where employees at all levels 'keep quiet' about issues that do not support centrally directed imperatives for fear of being excluded from the company's generous bonus system. This is an organization where arguing with a 'superior' is seen as impermissible and where 'the company's work environment is well known for eschewing debate and dissent' (Goodman, 2015, n.p.).

Even subsequent to their admission of cheating on the admissions tests Volkswagen continued to try to downplay the extent of the corruption. When Der Spiegel reported that 'at least 30 people' were implicated in the scam, Volkswagen responded by saying that this assertion was 'completely without basis' (Agency, 2015, n.p.). Let us not forget too that when the Environmental Protection Agency first confronted Volkswagen about the emission tests a year before the scandal broke, the company insisted that the anomalous results were due to 'technical glitches' that could be easily remedied (Sage, 2015: n.p.). It was only after the evidence against them proved irrefutable that Volkswagen finally admitted to deliberate test cheating. As the scandal continued to unfold in February 2016, leaked internal memorandums indicated that Volkswagen executives knowingly and willingly 'pursued a strategy of delay and obfuscation with United States regulators' (Ewing, 2016: n.p. Self-protection appears to have been at the heart of the corporation's response to the scandal.

We are at historical juncture where the power of corporations to act freely and of their own will in the context of the free market is jeopardising democracy (Barley, 2007). By implication it is only through a radical reassertion of democracy as a contestation of the political dominance of corporations that a democratic ethics for business can be realised. As exemplified by Volkswagen it is only under extreme pressure that corporations will themselves admit to and begin to address their own self-interested wrong doing, and even then they will try to limit the degree of such admissions. The role of the state is also questionable. In Volkswagen's case serious doubt was raised about the German government's willingness 'take on' one of the country's largest and most economically important companies (Ewing, 2015). As seen with Volkswagen, democratic business ethics is that which would disturb corporate sovereignty in the name of ethics and in the context of political action originating outside of the nexus of the state and the corporation. This is an ethics through which corporations are held responsible not to themselves, but to society. Despite everything that happened the fact that Volkswagen was finally brought to justice is a sign of hope; hope that powerful corporations cannot define their own morality as they unabashedly pursue their own economic interests at the expense of others.

Conclusions

One might well wonder what is left of democracy in a world where 'giant corporations are acquiring a political and social capacity beyond the reach of governments' (Crouch, 2011: 137). It is tempting to respond with feelings of pessimism, despair and helplessness in the face of powers that appear so great that they defy even the possibility of resistance. Such feeling of weakness exacerbate as democracy has been reduced to a code word for the perpetuation of vast inequalities in power and wealth wielded by western governments and multinational corporations (Dean, 2009). As these very same corporations proclaim their moral legitimacy and assert that their self-determined and self-organized ethics is aligned unproblematicaly with the excessive economic demands of capital, one might also wonder whether an ethics founded in care for others is nothing more than a quaint fancy.

Acknowledging the veracity of this pessimism, what has been articulated in this paper is that that the subsumption of democracy and ethics within the agenda of the neoliberal corporation is less of a reason to despair and more of a reason to resurrect business ethics on non-corporate terms. This resurrection gives rise to what has been called here democratic business ethics. This is contrasted directly with the corporate business ethics that has ascended concurrently with the expansion of corporate sovereignty under neoliberalism. The premise of the argument has been that this corporate business ethics serves as a means to bolster corporate sovereignty by rendering corporations immune to external threat and interference. Corporate business ethics supports the sovereign corporate person in the global free markets that have been facilitated by state governments. Moreover, the ethical position and practices that support this sovereignty provide a moral justification for corporate freedom and in turn a moralization of corporations themselves.

In questioning corporate business ethics, the philosophy of Emmanuel Levinas has provided the basis for a different and non-sovereign understanding of business ethics. Levinas' ethics, understand in terms of responsibility for others prior to oneself, is indeed very much a contestation of sovereignty. This is so because ethics relies on an openness and vulnerability to others rather than the assertion of a powerful and righteous self. Such ethics is not based on knowledge or self-awareness of any principles that defines righteousness, but rather comes from vulnerability to difference without assuming that such difference can be known. This approach to ethics leads to the possibility of democratic business ethics as it relates to political contestation of corporate sovereignty in the names of ethics. Democratic business ethics is thus conceived as being based on respect for and the mutual existence of difference, and hence the disruption of singular sovereignty.

A central implication of the position put forth in this paper is that vehicles for ethics in business lie not with corporations, but instead in spheres of civil society that brings people into contact with power and facilitate dissent. The institutions central to democratic business ethics are those that can effectively question corporations, most traditionally the free press, trade unions, political pressure groups, social movement organizations and universities. The case of the Volkswagen emissions scandal that has been used to illustrate the argument is still very much a case in point. While ultimately the scandal arose out of Volkswagen having flagrantly and deliberately broken the law on a huge scale, it was not the government of any particular nation that brought them to justice but rather a network of individuals and institutions. Initially this was instigated by the NGO the International Council on Clean Transportation (ICCT) and the researchers from the University of West Virginia who discovered the test anomalies. This was followed by widespread reporting in both traditional and social media, consumer groups, concerned citizens, and public intellectuals. The rule of law, as a still standing pillar of liberal democracy, was used by these groups to bring Volkswagen to justice. Exposed were the limits of corporate sovereignty when a corporation that acted as if it could operate above the law found out the hard way that it could not. This holding of Volkswagen to account by society and in the name of justice demonstrates that democratic business ethics is a real and practical possibility, even in an era of seemingly insurmountable corporate sovereignty.

The civil society institutions that that hold the possibility of bringing democratic business ethics to life are also under pressure from neoliberalism to be incorporated into the corporate sphere. The force of democratic business ethics is a force of resistance to this, and one might hope also that new possibilities can emerge for example through ‘dissent enabling public spheres’ (Whelan, 2013), ‘public arenas for citizenship’ through social media (Whelan, Moon and Grant, 2013), as well as through the practice of political activists and social movements that can direct public attention to global inequality (Cox, 2013; Munro, 2014). It is only through the existence of such institutions that democracy might not be lost between the cracks of state and corporate sovereignty.

A radical democratic approach attests that democratic business ethics is about corporations being at the service of citizenship and democratic freedom, not the other way around. While this amounts to an ethically based argument, in practice the intensity and power of neoliberalism and the sovereignty it bestows upon corporations may make such a statement appear naïve and unrealistic. What is not unrealistic however is the idea that working to undermine the assumed righteousness and inevitability of the extremities of corporate capitalism is a political act spawned by ethics. More precisely it is with such acts that democratic business ethics can be located. In the face of ostensibly overwhelming corporate sovereignty such acts could be cynically construed as meaningless and futile, but only so if ethics itself is also taken as meaningless and futile. What democratic business ethics proffers is that in the name of the other and in the name of humanity the assumed immunity of any single sovereign corporation must be questioned and contested.

Despite enormously strong forces that might have it so, it remains the case that neoliberal capitalism is not the only imaginable future or the only possible source of political and economic legitimacy. And as a corollary we can add that corporate business ethics is not the only possible ethics, if indeed it were ever an ethics in the first place. To the contrary the labour of this paper has been to arrive at the idea of democratic business ethics as a business ethics that materializes in a politics that disturbs corporate sovereignty. Moreover, this is an ethics that arises from the other and manifests in democratic politics rested on difference and dissensus. Such is a radical democracy that disturbs that power which would seek to exceed that of the democratic sphere; in the case of corporations the very sphere that breathed life into them to begin with. Ultimately it is in this democratic sphere, the place of the rule of the people, where business ethics is to be found.

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