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Employee Rights

Kristian Høyer Toft

Introduction

Edward Freeman defended stakeholder theory as juxtaposed to the shareholder theory of corporate governance. In particular, he argued that ethics could and should not be separated from economics (the ‘separation-thesis’), so that the interests of stakeholders were inseparable from the interest of the ‘corporation’. Thus, stakeholder theory argues that taking the interests of stakeholders into consideration is also viable business. However, considering the basic interests of employees, and the current resurgence of debates on workplace democracy and meaningful work, there is reason to explore whether stakeholder theory (*pace* Freeman) will be able to accommodate employees’, as stakeholders’, interests. Indeed, whether employees can, and should, be conceptualized as stakeholders at all.

In this entry the status of employees in stakeholder theory, and in particular workers’ status, is reviewed and critically evaluated against the backdrop of current theory of workplace democracy and meaningful work.

Stakeholder theory appears to be accommodating employees interests and in favor of granting a democratic say in the decision-making process. Stakeholder theory is resembling workplace democracy as it democratizes the corporation by letting relevant stakeholders count in the governance of the corporation. However, stakeholder theory is not envisioning a stakeholder democracy of the corporation, rather it settles with stakeholder capitalism.

The employee as stakeholder – a critical review

In Edward Freemans seminal and foundational work in stakeholder theory *Strategic management – A stakeholder approach* (1984) the notion of ‘corporate democracy’ briefly addressed.

Corporate democracy implies at least four meanings (Freeman 1984, 179). It could mean either an increased role of government, involvement of the public or of the shareholders. The fourth meaning, however, refers to ‘employee participation’, either ‘through employee ownership or through employee participation such as “Mitbestimmung” [...] where management and employees each elect directors through worker council...’.

Freeman asserts that ‘The stakeholder approach has implications for each of these levels of democratization of the corporation and the role of the board in “managing the affairs of the corporation”’. (ibid.).

The implication for corporate democracy is that the board of directors must take each stakeholder into consideration with regard to ‘timing and degree of participation’, based on the ‘impacts of their decisions on key stakeholder groups’. (ibid.).

The key reason for allowing stakeholders to participate in the corporate decision-making is due to the increased power stakeholders wield and the politization of the market (ibid. 180).

Freeman further asserts that ‘If this task of stakeholder management is done properly, much of the air is let out of the critics who argue that the corporation must be democratized...’ (ibid.).

Thus, stakeholder theory though overlapping with a democratization of the corporation, remains committed to the prerogative of management, ownership and control of the corporate sphere. Employees, or workers (to use the term preferred by critical scholars, cf. Ferraras 2017), are merely one stakeholder among other stakeholders of the corporation (Freeman 1984, 1994, 2015; Greenwood & Freeman 2011). Employees however have been argued to differ from other stakeholders since they are constitutive of the organization, and employees have rights and their personal lives at stake being at work (Greenwood & Anderson 2009). Employees are among the vulnerable stakeholders since they ‘may not have information on warning signs of corporate failures, nor can they protect their interests as fully as other stakeholder groups. Where a company has failed, claims of secured creditors are met before unsecured creditors, including employees (albeit employees have priority among these groups)’ (ibid. 191).

And the interest of the corporation figuratively speaking – embodied as either owners or management – is not necessarily compatible with employees’ interest, though employees favor to have stable workplaces and retain their jobs.

Thus, in critical management studies, this antagonism of interests is perceived to make stakeholder theory incompatible with ‘workers interests’ (Stoney and Winstanley 2001; Fleming and Jones 2013; Ferguson 2018). As Greenwood and Anderson (2009, 189) suggest, it might be helpful to use Kaler’s (2002) distinction between two definitions of stakeholders: the ‘influencer’ and the ‘claimant’ definition. This distinction makes it clear that employees are not only ‘influencers’ but also ‘claimants’ who have stakes in the organization to be acknowledged.

The key vision held by stakeholder theorists that the corporation is as sphere of common ‘value-creation’ where each stakeholder is ‘affected or can influence the organization’ (Freeman 1984, 46) and even though the inherent pluralist aspirations allow internal conflict between stakeholders, it is still too neutral about power asymmetries (Greenwood and Anderson 2009, 191); stakeholder theory can be blamed, by critical scholars (e.g. Stoney and Winstanley 2001), for being an ideology that speaks about workers as stakeholders being heard by being given a voice, while simultaneously, they are conflated with other stakeholders such as customers, suppliers and local communities and subsequently, workers interests cannot have any special status.

Since Freeman himself has proposed a libertarian defense of stakeholder theory (Freeman & Phillips 2002) based on freedom to contract and ‘employment at will’ there is no surprise in the fact that stakeholder theory is not committed to giving employees a special status among stakeholders.

Freemans more philosophical pragmatist (anti-foundational) understanding of stakeholder theory also leaves out any particular salience of workers (Freeman 1994, 419) emphasizing instead the moral community of stakeholders, and the need to ‘tell many more, and more interesting, stories about business (ibid. 410).

Furthermore, and adding to contestation, stakeholder theory can be conceived as either descriptive, instrumental, normative or managerial, and it can conceive of stakeholders in a narrow or broad fashion depending on the level of relationship they have to the corporation (Donaldson and Preston, 1995, p. 72). According to Donaldson and Preston, there is a ‘slide’ between the descriptive and the normative in understandings of stakeholder theory, resulting in confusion about the method and its purpose. Taking the status and interests of workers into account means that in stakeholder theory there is no clear distinctions made between considering labor as commodity on the labor market (as in human resource management; cf. Greenwood & Freeman 2011) and labor as an example of genuine human activity carrying significant ethical and political features (Arendt 1958), or an *Entausserung* of the human-species nature (Marx 1844). There is no distinction made between the

price and dignity of human labor to paraphrase Immanuel Kant's saying (*Werte* vs. *Würde*, cf Kant ..). Still, 'Employees have a property right to their labor', which is acknowledged by Freeman and Philips (2002, 338). In the same vein, stakeholders, employees included, '[...] may bring an action against the directors for failure to perform the required duty of care' (Freeman 1994, 417), and considerations of fairness, for instance a Rawlsian notion of justice, should guide decision-making with stakeholders (ibid. 416).

Stakeholder theory is in fact committed to normativity and ethics, according to Freeman, since the discourses of business and ethics cannot be separated (Freeman 1994, 412). Stakeholder theory rejects the 'separation-thesis' according to which a decision in business is of a different category than one in ethics. In that regard, stakeholder theory is starkly opposed to the economic conception of the corporation held by Friedman (1970; Jensen 2002) and the principal-agent theory of the corporate governance. So, why should stakeholder theory not allow employees a particular standing separating them from other stakeholders?

Stakeholder theory, workplace democracy and meaningful work

In principle, there is nothing that bars stakeholder theory from acknowledging employees having a special status as human beings with dignity. The conflation of all groups into the stakeholder category (which is a group status) does tend to neutralize claims to having a special status. But, following the rationale of stakeholder theory, special status can be granted to stakeholders in accord with their influence on the corporation and the extent to which they are impacted. Ethical concerns are part of the weighing of stakeholders' different kinds of interests, and if employees stand out as special, then that is to be acknowledged. Conceding the difficulty in clarifying the status of employees in the broader framework of stakeholder theory, a comparison with workplace democracy and meaningful work can provide some guidance for a clarification of employees' status in stakeholder theory. Following the rationale that if stakeholder theory accommodates workplace democracy and meaningful work (in the minimal sense understood or in the most commonly shared understandings) it is also granting employees the proper status they deserve as constituents of the organization, and as real human beings with their lives at stake on the job.

Thus, looking to current debates on workplace democracy and meaningful work, employees are argued to deserve a special kind of consideration; they are seen as entitled to have rights to influence the decision-making process, have some level of control, have ownership rights and be able to create meaningful working lives.

Workplace democracy

The debate on workplace democracy goes back as far as John Stuart Mill who in his *Principles of Political Economy* argued that workers should have influence in the decision-making process but also have ownership of the capital and the means of production (Mill 2008). In the 20th Century debate, Robert Dahl, defended the ownership of workers (employees) in his vision for an 'economic democracy' (1985), leading to the claim that workers need both control and ownership in order to have workplace democracy. Even John Rawls in his later writings on 'property-owning democracy' supported Mill's proposal for cooperatives (Rawls 2001) and an important institutional underpinning for a realization of principles of justice in society. Thus, the social liberal tradition in political philosophy is to a large extent a friendly, though cautiously, supporter of workplace democracy. Stakeholder theory, assumingly committed to a marked liberal political philosophy (Freeman and Philips 2002), therefore does not share the social liberal outlook on the prospects for workplace democracy. However, such opposition might be contingent on political-institutional and historical facts and rely less on conceptual constraints.

For instance, according to Strand and Freeman (2015) the very concept of the *stakeholder* has historical origins in Scandinavia where Rhenman, a Swedish economist, first proposed it to describe the particular features of *industrial democracy* found in the corporate culture in those countries. Strand and Freeman argue that Scandinavian ‘cooperative advantage’ relying on ‘jointness of interests, cooperative strategic posture, and rejection of a narrowly economic view of the firm’ (ibid. 65) marks a clear difference to the standard notion of ‘competitive advantage’. Employees obtain a status of equals in the corporate sphere:

Many arguments [for industrial democracy] revolve around the dream of higher productivity and greater efficiency. We can discern two trains of thought. First, it is expected that democratic measures will arouse employee’s interest and cooperation. Secondly, it is hoped that if employees have a greater part in running the business, it will be easier to tap their resources of experience, knowledge and ideas. In the long run this should provide the employees themselves with greater opportunities for personal development and education. (Rhenman 1968, p. 5). (Quotation from Strand and Freeman 2015, 73).

It is the second ‘train of thought’ that is significant for the argument for workplace democracy. Rhenman (and proponents of stakeholder theory) believe that corporate goals of efficiency are compatible with the moral goals of ‘personal development and education’. This is called the ‘argument from democratic education and stability’ (Frega, Herzog & Neuhäuser 2019, 5). However, counter-arguments, especially those claiming that workplace democracy is curtailing corporate efficiency and competitive edge (ibid. 6), seem to be ignored or dismissed by Rhenman in the reliance on ‘cooperative advantage’. It is difficult to decide how deep the dismissal of incompatibility between stakeholder theory and efficiency goals is in general, and the understanding of cooperative advantage purported from the Scandinavian case seem to rule out such conflicts.

Besides the argument from democratic education, the argument from analogy between the state and the corporation, and the argument from relational equality are proposed in theory of workplace democracy. Comparing the analogy argument with stakeholder theory, it seems clear that stakeholder theory is not built on the assumption that the corporation is analogical to the state (Landemore & Ferraras 2016). Even though the stakeholder theory views the corporation as a moral community (Freeman 1994) and does concede some level of ‘corporate democracy’ (Freeman 1984), it is also certain that owners and the board of directors remain in control. So, there are definite limits to the level of participation employees as stakeholders can have in stakeholder theory. The thorny issue here is to determine the exact levels of participation allowed. But nonetheless, the argument from analogy can be dismissed based on the fact that stakeholder theory does not allow a full democratization of the corporate sphere, and workplace democracy is only permitted to the extent that employees have a voice and could participate in decision-making within ownership and managerial constraints.

Another argument in favor of workplace democracy and of relevance to stakeholder theory is the republican relational equality argument (Frega, Herzog & Neuhäuser 2019, 4-5). The argument claims that the political democratic value of an equal standing among citizens in the republic should be acknowledged in the corporation as well. Both Philip Pettit’s neo-republican notion of freedom as non-domination and protection from ‘arbitrary interference’, as well as Elizabeth Anderson’s relational egalitarian theory consider ‘hierarchical workplaces as problematic’ (ibid. 4; Anderson 2017). The general anti-hierarchical approach to business ethics, labelled the ‘relational turn’ by Néron (2015; cf. Singer 2017), could be seen as in tune with stakeholder theory since the ‘relational’ aspect is key here. However, it is still uncertain whether stakeholder theory (as conceived broadly) is compatible with the anti-hierarchical relational understanding of the corporation. Though the ideal of equality could be one aspect of Freeman’s understanding of ‘fairness’ (1994), for instance the concession to Rawlsian justice giving priority to the worst off, stakeholder theory does retain some

level of hierarchy prioritizing owners and boards of directors (management). Again, the level of priority, is not entirely clear as it is possible that priority could be given to employees without compromising the prerogative of management.

The final argument for workplace democracy with relevance to stakeholder theory is the claim that meaningful work is a necessary condition for workplace democracy. Meaningful work can be seen as activity in the workplace that enhances or realizes personal ‘autonomy’ of the employee (Frega, Herzog & Neuhäuser 2019, 3; Schwartz 1982). Arendt’s republican conception of work distinguishing between labor, work and activity carries deeper Aristotelian ideas of expressivism, that explain why meaningful work is connected with democracy (Arendt 1958). Though the debate on meaningful work is at the periphery of stakeholder theory, it is evident that employees’ interest in having a meaningful job is a priority for management to consider. However, it is also difficult to decide if stakeholder theory basically need to accommodate employees’ vital interests in meaningful work. Since it is possible that that such interests, though vital, will be overridden by other stakeholders’ interests or management priorities.

Conclusion

The employee is granted no special status in the realm of stakeholder theory – workers and employees are merely one stakeholder among others. This is the general understanding proliferating stakeholder theory. However, Freeman (1984) entertains the idea of ‘corporate democracy’ and there are obvious parallels between democracy and stakeholder democracy. Stakeholder theory is a democratization of the corporate sphere, though with limits set by the management’s prerogative to lead. To clarify the status of employees in stakeholder theory, and to what extent they might benefit from a democratization of the corporation, this entry explored workplace democracy and meaningful work. On all accounts of workplace democracy – the argument from democratic education, analogy with the state, relational egalitarianism and meaningful work – it was shown how stakeholder theory allows that workers participate in decision-making processes and that workers’ rights are a key concern for management to consider. Limits were also found, since stakeholder theory is not fully compatible with versions of workplace democracy that opposes hierarchy and dismantles the prerogative of management to lead the corporation.

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