

JUSTICE IN A CAPITALIST SOCIETY

By HUGH KAY

A SURVEY conducted some years ago in Cambridge University showed that most of the undergraduates questioned did not want business careers. As they saw it, business (that is to say, commerce and industry) was a race for material rewards without social purpose, and the rewards were unfairly distributed. These findings were not untypical. The disenchantment of the younger generation with the business life their fathers took for granted has prompted well-established businessmen to ask themselves some unfamiliar questions. After all, if the young really were to opt out of business, the wheels of trade would finally grind to a halt. Cause and effect are not easy to trace, but over the past years an increasing number of business owners and managers, especially those with a christian commitment, have been grouping together to reappraise the morality of the way they earn their living. Examples in Britain include the group of leading industrial heads who meet at St. George's House, Windsor Castle, the work of the Industrial Christian Fellowship, the lunchtime City church services for business managers, and the revived Christian Association of Business Executives (CABE). There are many others.

The position of the average christian manager in the western world today is roughly that of the social encyclicals and may be summarized thus. We live, not in a strictly capitalist society, but in a mixed economy. The system is based, partly on private ownership and the free forces of the open market, partly on publicly-owned industries, and partly on legislation designed to ensure that the business freedoms are justly exercised. As life becomes more complex, it has to become more organized, and this will include the development of state intervention. The action of the state should be limited to the subsidiarity formula: that is, it should not arrogate to itself the functions which can properly be performed by subordinate groups and individuals unless the common good requires it. The primary function of law is to encourage, stimulate, check and co-

ordinate, not to take over. A certain measure of state control and ownership is plainly justified, however, and in *Populorum Progressio* Pope Paul VI proposes some kind of world authority to protect the poorer countries on which the world depends for raw materials and primary products. The whims of the market must not be allowed to deny them the basic just prices which alone defend them from abject poverty; the free market can stand, but it needs to be controlled.

The socialist alternative to the mixed economy has been tried and, it is argued, found wanting. State monopoly is no less tyrannical than private monopoly, and the latter is more readily controlled by law, at least in a democracy. Private property is the individual's defence against a predatory state and the best guarantee of his family's security. The guarantee that his property rights will be exercised in a way that serves the community at large can be found in an amalgam of law and commercial ethics, the customs and regulations enforced by trade associations. Most of the socialist countries are already departing from strict socialist practice, and the reason is that socialism is effective only as an ambulance measure: it can relieve penury but cannot create abundance and growth. The mixed economy has its weaknesses, but no one has yet devised an alternative means of creating wealth. The verdict must be, not to abolish private property, but to see that everyone has some.

The rejoinder to this argument is that, in the first place, the mixed economy sometimes seems to escape the control of the law. Governments explain that they cannot too drastically tax inflated profits because this would be a disincentive to investment, and without investment growth is impossible. Must, then, injustice have its head? Can a system which has such effects be right? Secondly, it may be true that men rise to their best in the competitive context. But can it be right to risk the life and health of whole peoples by committing their basic human needs to the mercy of ruthless competitive forces? The average christian manager would answer that both objections can be met if the economic system is reformed, as distinct from being abolished, and that reform implies achieving *the right balance* between business, its own codes of ethics, and the state's operation through the law. It is up to business itself to teach its constituents to adjust their motives so that they can, for example, be content to make profits without always aiming at maximization of profits.

It will be said that it is sheer naivete to expect such attitudes of the world of business, yet the chairman of C.A.B.E., a british association, could write last year:

A growing number of businessmen of all creeds and none, at home and abroad, are searching for higher motives in their working lives. They recognize that profit is a legitimate stimulus, a measure of efficiency and a prerequisite for the growth of the business enterprise. Yet they have come to feel that profit is not an end in itself, or at least not the primary end of business endeavour. They want to see business as a service, a vehicle for social change, a means for the fulfilment of human personality and community. Its objective, in this context, becomes the good, not of one social sector as distinct from another, but of all who are affected, directly or indirectly, by business activity.¹

Without profit the means of further investment and economic growth would not be forthcoming, but business should be viewed as an essentially human activity characterized by its human objectives, and profit, while a measure of worthwhileness, should not be an end in itself.² Moreover, the rewards of business should be more equitably distributed as between shareholders, employees, customers (through prices), and the wider community. These attitudes had characterized the resolutions at a World Congress in Buenos Aires (1972) of UNIAPAC, the International Federation of Associations of Christian Business Executives. Some 32 countries were represented. It may be added that the CABB Consultative Document, from which the above quotation is taken, has since been circulated to the chairmen of the 200 top companies in Britain; a third of them replied, an abnormally high response, and all but three wholeheartedly endorsed the principles it aimed to promulgate. Words are one thing, performance another, but many observers have accepted that the ethical standards the Document calls for correspond to existing 'best practice' in British business.

The trouble is that 'best practice' is not everyone's practice, and, while British business is not unjustly proud of its traditions, there is evidence that the tradition is slipping, and the slip could develop into a definitive trend. The purpose of this article is not to pass conclusive judgment on the capitalist or mixed economy, but to see what, in the absence of a clear alternative, some businessmen believe can be done to reform it and render it just. The subject covers four main areas: ethical behaviour, investors' responsibility, workers' participation, and law reform.

¹ Jerome O'Hea in *'Towards a Code of Business Ethics'* (CABB Consultative Document, London, 1972).

² Sir Peter Runge: *The Role of Profit* (Industrial Educational and Research Foundation, London, 1967).

In Britain and the United States a number of surveys have been conducted to ascertain businessmen's attitudes to ethical standards and social responsibilities.³ In many cases, evidence was secured of high standards of ethical practice, but most of the directors and executives questioned thought that there were practices in their firms which, though generally accepted, were in their view unethical. The areas of behaviour giving rise to the greatest concern were as follows:

- (a) the use of confidential information for personal gain;
- (b) the use of bribery or graft to obtain preferential treatment (e.g. from Ministers of developing countries empowered to grant licences to potential foreign investors);
- (c) misleading promotional material;
- (d) the treatment of employees, especially older ones;
- (e) falsification of expenses and kindred matters;
- (f) pressure from superiors leading inferiors into practices which might compromise personal integrity;
- (g) collusion on pricing and market sharing;
- (h) exploitation of human weakness for profit;
- (i) discrimination because of race, religion or politics.

A growing awareness of business responsibility and the need to restore the highest ethical standards led, in Britain, to the foundation of St. George's House (already mentioned) under the patronage of the Duke of Edinburgh, and of the body now known as the Foundation for Business Responsibilities. Both institutions are financed by voluntary contributions from industry. A distinguished management consultant, John Humble, has won national attention by the publication of his *Social Audit*, a method of testing a company's operations step by step in terms of its social obligations. The Confederation of British Industry has published proposals for the reform of Company Law. In two important surveys conducted by the industrial sociologist, Simon Webley,⁴ 71.2 per cent of directors and 76.5 per cent of managers said they would favour the drawing up of a professional code of ethics for the business executive. Many trades and business

³ Howard R. Bowen: *Social Responsibilities of the Businessman* (New York, 1953); Raymond Baumhart, S.J.: *Ethics in Business* (New York, 1961); cf also footnote 4, *infra*.

⁴ Simon Webley: *British Businessman's Behaviour* (Industrial Educational and Research Foundation, London, 1971); and *Management Attitudes and Business* (published by C.A.B.E., 1971).

sectors have their own 'local' ethical codes (for instance, the Institute of Advertising Practitioners); but the Webley enquiry was concerned with the idea of an additional code to cover the whole of the business world.

Webley takes the view that law can only supply the basic minimum standards of conduct, and that it needs to be supplemented by the voluntary regulations of the various business and professional associations. In addition, he envisages an institution for the whole of business which would give to the companies it approved the status of a 'chartered company'. Membership would certify the company's respectability. Expulsion for breaches of a code of ethics would damage the company's reputation and hence its trading and profits. Law already plays its minimal part and would continue to do so. In the CAGE Consultative Document already referred to,⁵ Dr Anthony J. Boyle of London University prescribes a series of company law reforms which would make the British company director much more accountable to the public than he is at present. As English law stands, a director is *personally* liable for negligence only if he acts in a way that is inconsistent with his *actual* knowledge and experience; and he is not liable for what his fellow directors do in his absence. This actually puts a premium on ignorance, incompetence and laziness, and amounts to a grave injustice.

The third section of the CAGE Consultative Document proposes a draft code for directors and managers of all kinds and in all business sectors. Its basic concepts begin with a statement that the most important resources of an enterprise are its personnel, who, through their contribution to the business, must grow in stature as human persons. Later, the document touches on the need for a 'creative and participative element at all levels and to each task', but it does not as yet develop the concept of workers' participation in management to any great extent. We shall examine this topic later in this article. One of the most important contributions of the draft code, however, is an insistence that British company law is defective in that it makes the directors answerable only to the shareholders, whereas all business decisions should be taken in the light of the directors' obligations, not only to shareholders or even the employees, but also the customers and all members of the public affected by the activity of the enterprise. This raises questions like the meaning for the community of plant closures (in, say, an area of high unemployment), of

⁵ CAGE Consultative Document, *op. cit.*

mergers and takeovers, of pollutant activities, and of investment in developing countries.

In the latter connection, a paper by Denzil Clarke, former Chairman of British American Tobacco,⁶ and a leading member of CABB, gives one of the clearest examples of how a social purpose can be injected into business. His own company's policy was to build subsidiary companies in a wide range of countries, to train the indigenous peoples for the highest managerial functions, and to encourage them to participate in the subsidiary's equity. The parent company had a responsibility to extract a reasonable profit from these operations for the sake of the parent shareholders, but it did not seek to maximize this profit. In other words, while seeking a reasonable reward for its investment, the parent company left a substantial share of profit in the country of operation, and was willing to accept, not only local private investment, but also a measure of ownership and control by the government of the country in question. The general idea was to identify the company as far as possible with the aspirations and needs of the local people, a policy which paid off by avoiding the more demanding forms of nationalization, whereby some greedy companies have been punished. It is not wholly ignoble to argue that good morals are also good business.

The draft code, which will now be re-developed and expanded in the light of the comments received from business firms and the government, covers a wide range of obligations which call for clarification. Employees are to be taken into the company's confidence as far as is consistent with the reasonable degree of secrecy required to protect the business in a competitive market. They should be fully informed of the expected effects on company plans and their own futures of mergers and takeovers. Wages, salaries, redundancy arrangements and fringe benefits should not be confined to what the law demands or what the trade unions secure in the course of collective bargaining, but should truly reflect the degree of success achieved by the enterprise. Such benefits may well include profit-sharing schemes, and pension rights should be well protected against the erosion likely to come from inflation.

Other clauses relate to the rights of customers, suppliers, shareholders and governments, and two items may be selected for special mention. One of them prescribes that companies shall 'pay proper

⁶ Denzil Clarke, in *'Company Law and Morality'* (CABB Conference Report, Autumn 1971).

regard to the environmental and social consequences of their business activity and should in no circumstances sacrifice the safety or efficiency of goods and services in the interests of short-term profitability'. The other provides that companies 'shall abide by the spirit of the appropriate legislation and, for instance, avoid informal price-fixing, market-sharing arrangements, and all agreements tending to falsify the process of tendering'. The consultative document then takes in a detailed analysis of the findings of the Webley surveys into businessmen's attitudes, and, for the sake of those who regard the proposed code as an infringement of freedom, it includes a defence of the code principle by a moral philosopher.⁷

CABE is now embarking on a series of surveys and conferences geared to the vital question of workers' participation in ownership and control. Many firms already run schemes under which the employee is either a shareholder or derives a share of the company's profits in addition to his wages. Curiously enough, some of the keenest opposition to this principle comes from the trade unions, who believe that justice is best ensured by preserving the dialectical tensions of traditional collective bargaining. Profit-sharing is often suspected to be a means of avoiding the payment of fair wages, and, however irrational this may seem to be, employers have only themselves or their predecessors to blame for a past record which bred this type of suspicion. Some trade-union leaders are coming to feel, however, that profit-sharing might be more acceptable if the proceeds were not directly paid to the employee, but rather into a general fund, like a unit trust, managed by the union itself for its members' benefit. Some forms of profit-sharing, in any case, are certain to increase in popularity and the trend is probably on the way to becoming irreversible.

Much more important, in the minds of thoughtful workers, is the question of the control of the enterprise. The principle here is that the shareholder has a stake in the equity of the business, but that the worker has a property right in his job: a concept enshrined in one of the more fortunate parts of the much abused Industrial Relations Act, passed by the British parliament in 1971. But to exercise that right to the full it is not enough for him to be entitled to compensation when unjustly dismissed. He ought to play his part in managerial decisions which affect his social as well as his working life. The general view on both sides of industry in Britain is that the best

⁷ Gerard J. Hughes, S.J., in CABE Consultative Document, *op. cit.*

results are achieved by an amalgam of collective bargaining and a system of consultation, formal and informal, all of which has been well and truly tried and proved already. The feeling is that to take the matter further and put workers on to the board of directors is largely unrealistic. How do you at one and the same time represent one sector of the enterprise, the employees, and also the company as a whole? In one breath you fight for your own group, in the next you have to consider the firm's responsibility to its shareholders. The conflict of interests is acute, and, where the system has been tried in Britain, it seems to result either in the worker-director becoming a 'boss's man', or in arguments at board level which bring the company's work to a standstill, often because of a trifling issue. This, at least, is how the argument goes, and most British workers are less than enthusiastic about 'participation'.

But need it be like this? Does not the answer really lie in educational reforms which would encourage the working man to take responsibilities from which he nowadays shrinks? The old trade union adage that 'it's management's business to manage' will simply not do. The German approach to this question is well known, and the irony of it is that the concept derived from the British Trades Union Congress which, after the second world war, was called upon to advise on the reconstruction of Germany's labour relations. The idea is that a firm constructs its management in two tiers. One board of directors handles the technical operation of the enterprise. A supervisory board, one-third of which is composed of workers' representatives, handles the overriding policy questions, including the role of hiring and firing. Let it be said at once that the German system has not yet proved itself, and many observers are reluctant to conclude that it has really worked. Many other factors account for Germany's relative freedom from strikes; and in any case the TUC argues that it is one thing to set up a system for a country starting again from scratch after major defeat in war, quite another to transplant it to another country whose traditions are alien to it.

A change of heart is discernible, however, now that the European Economic Community is urging the TUC to support the two-tier system as a working method for Britain. Slowly and tentatively, the TUC is coming to think that the German system has an advantage over collective bargaining, for it brings the worker for the first time into an area of decision which affects him profoundly: decisions to close a plant in one place, to open a new one in another, to merge with another company, to diversify the company's products. Tradi-

tional bargaining hardly touched these issues. The two-tier system controls them. But the TUC would require variations: half the directors would have to be workers' representatives, chosen through trade-union election channels, and they would be answerable, not to the shareholders, but to the unions. Whether this would be workable or acceptable is a matter for massive debate. Moreover, it is clear that the TUC would see the system as a means of attracting more and more social issues away from parliament in favour of the industrial arena. Questions of housing, for instance, and even education might well be drawn within the scope of industrial planning. This, the critics point out, is exactly what happens in countries like Spain where a form of the corporate state exists, and, to the british mind, the corporate system belies democracy, bearing as it does the overtones of fascism. Many trade unionists, too, will have to be persuaded that workers' participation is not a subtle means of absorbing the labour movement into a centralized centre of power with a view to neutralizing it.

One alternative to two-tier management is what is known as common ownership. In this system the business belongs entirely to those who work in it. There are no shareholders, and the working capital is first borrowed and then earned by making profits. Salaries are paid, and also wages, but in addition each worker (that is owner) receives a share of profits in proportion to his grade and wage rate. All decisions are taken through a democratic process. Apart from the fact that common ownership might put unions out of business, and the mere existence of the unions is seen by many as an indispensable safeguard of human rights, the system has only been worked so far by very small firms, some with as few as twenty or at most a few hundred workers. It is not at all clear how it would transplant to major industry, a process which would in any event transform for better or worse the whole of the nation's economy.

In my own opinion, the only theory which really stands up to the demands of human and christian justice is that of common ownership, provided that the role of the unions as watchdogs and advisers is preserved. Many changes would have to be made in the outlook of the workers, the very people which the system seeks to serve; and who yet, at present, would see no future for it. It is a tragedy that, in the search for a just economic system, some of the biggest hurdles to overcome will be the working people's preferences. That does not dispense the nation from examining the possibilities and trying to make some progress very soon. It is totally un-christian that most

working people are largely at the mercy of decisions taken over their heads, that they should lead such passive lives with little or no control and responsibility for their destinies. One of the first problems an improved concept of management would be faced with is that of job enrichment and satisfaction. It is not just a question of securing better wages, but of rescuing millions of more or less affluent workers from the tyranny of the soulless, monotonous production line: a task which enlightened firms like Volvo are now beginning to tackle. It is also a question of giving some meaning at last to phrases like a property-owning democracy or a society where the individual helps to make things happen instead of just letting them happen to him.

The difficulties are immense, and yet I venture to take hope from the now indisputable fact that a growing number of businessmen themselves are frankly accepting that free enterprise as we know it is not good enough; and while most of them would not go along with a plea for common ownership, they do accept that changes are coming and ought to come, and are trying to see how best they can shape them. It is for such reasons that I would vote for an evolution of the existing economic system, rather than for even a peaceful revolution which would pose more problems than it could solve.