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Abstract

To engage with inequality, I explore how corporate governance theory is based on inher- ently contingent ideas of the legal and organizational structuring of the modern public cor- poration in a corporate 'architecture', and how these contingent ideas affect the distribution of privileges, protections and proceeds to different types of actors. I argue that the currently dominant corporate governance theory ignores a specific corporate architec- ture that provided internal and external legitimacy to the modern public corporation by embedding a set of trade-offs between constituent groups and cementing those trade- offs into a broader institutional setting. Ignoring this architecture leads to the redirection of the privileges and protections embodied in the modern corporation to the exclusive benefit of an implicit coalition of market value-oriented shareholders and managers, while the risks to all other actors, interests and timeframes are relegated to the status of 'externalities'. I explore how a focus on contingent conceptions of the modern corporation and of corporate governance provides an organizational-level explanation for growing inequality with which existing sectoral and state-centric approaches and means for engagement can be complemented.

Keywords: Inequality, Corporation, Corporate governance, Corporate architecture, Oligopoly, Political economy

1. Introduction

Recent reports show how the top 1% earners and investors have rapidly captured an increasing share of national income, while low and middle-income workers have seen a flatlining of real income growth in the past decades. Notably, this development toward a new 'Gilded Age' has taken place while average employee productivity, as well as average earnings per employee, has been rising (Lin and Tomaskovic-Devey, 2013; McCall & Percheski, 2010; Piketty, 2014; Turbeville, 2015; Van Arnum & Naples, 2013).

Multiple explanations have been advanced to explain how this increase in the unequal division of social wealth has taken place. One explanation focuses on a process of 'financialization', viewed as "the increasing role of financial motives, financial markets, financial actors and financial institutions in the operation of the domestic and international economies" (Epstein, 2005). In this account, financial companies capture an increasing share of overall profits, non-financial companies acquire an increasing share of profits out of financial activities, and incomes in the financial sector rise disproportionally (Dore, 2008; Krippner, 2005; Krippner, 2012; Lapavitsas, 2011). A second explanation has been provided in the form of a concentration of market share in firms with very high productivity per worker (Kristal, 2013). As Davis (2017) reports, "The firms that have gone public since 2000 rarely create employment at a large scale; the median firm to IPO after 2000 created just 51 jobs globally." As this picture is repeated across industries, including finance, inequality can be attributed to decreasing number of workers being engaged in 'superstar' firms that capture an increasing market share (Cohen, 2017; Davis, 2017; Autor, Dorn, Katz, Patterson, & Van Reenen, 2017). A third explanation is provided in the form of the rise of so-called 'super-wages' usually found among corporate top-executives in both the financial and nonfinancial sectors (Ireland, 2005; Piketty, 2014).

While the first two explanations are mostly focused on the macro-level, either through wealth distributions through broad sectoral changes or through a more or less inescapable overall movement toward concentration in market sectors, the third explanation is particularly interesting from the perspective of Organization and Management Studies, as it allows an organization-level explanation for the distribution of wealth. Gourevitch and Shinn (2005: 3) argue that "Corporate governance – the authority structure of a firm – lies at the heart of the most important issues of our society. That authority structure decides who has claim to the cash flow of the firm, who has a say in its strategy and its allocation of resources. As such, corporate governance affects the creation of wealth and its distribution into different pockets." Considering that the corporation is still the dominant form of legal representation for business organization (Guinnane, Harris, Lamoreaux, & Rosenthal, 2007), it may be surmised that the choice for a particular theory of corporate governance as a specific division of rights, obligations, and proceeds of the corporation will have broad effects as a distributive logic on the social division of wealth, both at the corporate and at the national levels (Dore, 2008; Ireland, 2005; Ireland, 2010; Jacoby, 2008; Jansson, Larsson Olaison, Veldman, & Beverungen, 2016; McCall & Percheski, 2010; Zingales, 2000). The notion that the current development of inequality at the macro-level can, at least in part, be explained in relation to the adoption of corporate governance arrangements provides the basis for an exploration of historical developments in corporate governance theory.

I start with a brief historical overview of the development of the modern public corporation as a highly specific legal and organizational configuration of a set of legal elements. The way this configuration developed provided a number of privileges and protections, including the capacity to have a perpetual legal representation, to separate and professionalize the activity of management, to develop board duties in the interest of the corporation as a whole, to pool capital in a relatively safe way and to engage in secondary market trading. These capacities, I argue, are the effect of the adoption of a specific corporate 'architecture' that transforms the position of actors and groups involved in corporate governance on the basis of a number of trade-offs.

By the end of the 19th century, the capacities provided by the modern public corporation were augmented by the development of corporate groups, providing the basis for the development of oligopolistic economic organization. The Wall Street Crash significantly threatened the legitimation for the modern corporation and oligopolistic economic organization, necessitating the acceptance of a social contract that provided a number of institutional constraints and a broad redistribution of social wealth from the 1930s onwards. The distribution of wealth in this period can then be linked to the preservation of a social license for the public corporation and, by extension, for the capacity to retain a central building block for oligopolistic economic organization.

I then explore how from the 1970s onwards new contactual theories provided a new corporate governance theory that allowed for the reimagination of the corporation, corporate architecture, the roles and rights of specific actors in the corporate architecture, and the institutional constraints placed upon the corporation. These reimaginations effectively prioritized the interests of an implicit coalition of market value oriented investors and managers, materializing in the adoption of specific managerial strategies that shifted the proceeds of the modern corporation toward this implicit coalition (Aglietta & Rebérioux, 2005; Ireland, 2005, 2009).

In the discussion I argue that engaging with corporate governance provides an interesting way to provide an organization-level explanation for contemporary inequality and explore some means for engagement. A contingent concep-tion of corporate architecture provides an interesting conceptual approach to engage with the division of rights and claims to corporate value in relation to growing inequality that may complement existing sectoral and state-centric approaches and means for engagement, such as a universal basic income and taxation (Davis, 2009; Piketty, 2014).

2. The public corporation and the capacity for oligopolistic economic organization

The modern public limited liability corporation provides the most dominant organizational form for contemporary business organization (Guinnane et al., 2007). However, until the mid-19th century an essentially dispersed and atomistic type of economy prevailed, organized around the entrepreneurial activity of sole proprietorships and unlimited liability partnerships (Avi-Yonah, 2010; Carroll, Lipartito, Post, Werhane, & Goodpaster, 2012; Ciepley, 2013; Perrow, 2002). At least until the early 19th century Joint Stock Corporations operated with unlimited liability and under a conditional charter and were ruled by the law of partnership, making them hard to distinguish from corporations with a public purpose or from partner-ships (Harris, 2015; Ireland, 1999).

It was only when an increasingly reified notion of the 'separate legal entity' (SLE) came to mediate the relation between shareholders, managers and assets and liabilities that a modern concept of the corporation started to develop under a newly developing corporate law. The development of the SLE provided a series of direct benefits and protections including an enduring type of legal representation for private ventures and the avoidance of inheritance taxes. The indirect benefits of the SLE included the development of a new corporate architecture that changed the embedding of ownership, control, risks and liabilities in relation to new interpretations of the actors involved in the formation and operation of the modern corporation.

The development of the SLE took place in relation to the development of a new corporate 'architecture'. This architecture provided a new and attractive organizational setup in legal and economic terms, as it allowed for riskier operations that could expand in time and place, for a board of directors as a separate organ of the corporation, and for a professionalization of the management function with discretionary space and fiduciary duties toward 'the corporation' (Ciepley, 2013; Ghoshal, 2005; Johnson, 2010; Robé, 2011; Segrestin & Hatchuell, 2011; Perrow, 2002; Veldman, 2016a,b). Because the new corporate architecture allowed the appointment of professional managers, rather than the appointment of specific members of the shareholder pool, and because this architecture changed the focus for managerial duties toward 'the corporation' rather than to a particular subset of the shareholders, and thereby promised legal protection against expropriation by majority shareholders, this new architecture served shareholders in retail and minority positions particularly well (Chandler, 1997; Freeman et al., 2011; Lamoreaux, 1998). Moreover, the combination of limited liability and a move toward fully paid up shares – which changed the nature of the share into a definite right, rather than an object for future claims – disconnected investors from duties and liabilities arising from management and from future financial obligations (see Freeman et al., 2011; Horwitz, 1985; Ireland, 1999). As the combination of changes to the conceptualization of shares and shareholders eventually enabled full liquidity in share trading, the development of secondary markets for shares in public corporations further limited the risk exposure associated with shareholding by offering a quick exit route, while at the same time signif- icantly enhancing the earning potential of these shares (Ireland, 1999).

A broad reconceptualization of elements and constituencies and a related trade-off of roles, rights, claims and obligations thus provided the basis for a new corporate architecture that had nominally positive effects for most of the newly conceptualized corporate constituencies. However, most of its benefits were bestowed upon minority shareholders, who, compared to a traditional unlimited liability partnership architecture, found in this architecture an opportunity for a relatively risk-free investment in a secondary share market without the risks and liabilities of engaging in actual 'management' (Freeman et al., 2011; Johnson, 2010; Turner, 2017). However, to attain these benefits, shareholders had to accept that they were reconceptualized in the new architecture of public corporations as a largely external constituency without direct claims to ownership and control (Ireland, 1999).

The modern public corporation thus developed on the basis of a contingent development of legal elements and their organization in a specific architecture. Once the new corporate architecture was in place, the understanding of individual elements in this architecture – such as the separate legal entity, shareholders, directors and shares – had been significantly changed and had been put in a completely new ordering. Based on an elaborate trade-off of roles, rights, claims and obligations between the elements within this architecture, a highly specific division of roles and rights developed between corporate constituencies. The understanding of this architecture as well as the understanding of the elements within this architecture, including the understanding of corporate constituencies like directors, managers, and shareholders, differed significantly from the understanding of the nature of these elements and the structure of rights, claims and obligations between these elements that had been assumed in the unlimited liability partnership architecture that had been dominant until the 19th century. Neither the reconceptualization of these individual elements nor the way these legal elements became reorganized in a new corporate architecture were self-evident by the time these reconceptualizations were devel- oped (Perrow, 2002; Freeman et al., 2011; Johnson, 2010; Turner, 2017; Veldman, 2017a; Veldman & Willmott, 2017a,b).

The development of this new architecture was to have significant effects when, toward the end of the 19th century, the already substantive capacities of the modern corporation as a new legal construct were further enhanced by the development of corporate groups. As these opened the way for both horizontal and vertical integration and for the integration of transnational operations across jurisdictional boundaries (Arrighi, 2010; Chandler, 1997; Fligstein, 1993; Hannah, 2010 [1976]; Perrow, 2002), the capacities pioneered in the modern corporation started to have significant effects on the structure of the US and UK economies. Multiple merger waves from 1880 to 1914, from 1919 to 1920, and again in the 1950s and 1960s concentrated assets and wealth in large corporations and corporate groups, correlating with periods of steep rises in social inequality, notably between the 1890s and 1930s, and with the emergence of a financial oligarchy (Arrighi, 2010; Bowman, 1996; Carroll et al., 2012; Chandler, 1997; Fligstein, 1993; Hannah, 2010 [1976]); Piketty, 2014; Scott, 1981).

The relation between the legal and economic possibilities offered by the modern corporation and macro-economic effects, both in terms of developing oligopolistically organized 'corporate' or 'visible hand' economies and in terms of a steep rise in social inequality was not lost on contemporaries. It was becoming increasingly clear that the dispersed and atomistic type of economy that had prevailed at the start of the 19th century, with economic activity organized around legal forms with architectures that were based on unlimited liability, limited time horizons and a jurisdictionally confined status such as sole proprietorships or small partnerships, was being displaced by legal forms with architectures that allowed for limited liability, unlimited time horizons, professional management, and transjurisdictional operations. It was widely considered at the time that the development of these elements and architectures in the context of the modern corporation[1] provided the basis for unfair competition with other types of legal representation: "How could consumers or workers expect to get a fair deal or bar - gain equally when they were mere mortals, up against wealthy, immortal corporations?" (Carroll et al., 2012: 67).

The Great Crash of 1929 brought political and economic concerns about these developments to a head. The oligopolistic reorganization of the economy and monopoly power (Harris, 2006; Tsuk, 2003; Van Horn, 2011), the relation of this reorganization to the division of social wealth (Marens, 2012; Piketty, 2014), the perceived influence of corporate elites in the polit-

[1] The use of these elements did not remain exclusive to the public corporation, as they were often reversely applied to other legal forms (Guinnane et al 2007; Lamoreaux, 1998). However, many of these elements were pioneered in the context of the modern public corporation; the modern corporation to date remains the most dominant and visible outcome of the reasoning on the development of these legal elements and the initial impact of their development and configuration was greatest in the historical context of a developing architecture for the public corporation (Johnson, 2010; Veldman, 2017a).

ical domain (Berle and Means, 1932; Bowman, 1996; Tsuk, 2003), and broad condemnation of the behavior of US financial elites that had enriched themselves in the period leading up the crash by making enormous capital gains on stocks (Krier, 2009; Piketty, 2014) provided the elements for a 'crisis of corporate capitalism' (Chorev & Babb, 2009; Duménil & Lévy, 2001; Ptak, 2009).

Concerns about the restructuring of the economy were reflected in Berle and Means' seminal work 'The Modern Corporation and Private Property' (2010 [1932]). Berle and Means described the modern corporation as an increasingly dominant institution, which, because of an increasing dispersal of shareholdings, was increasingly run by a small cadre of professional executive managers. As the result of a lack of capacity on the part of shareholders, the judiciary, and the state to practically engage with the way these institutions were run, the newly minted 'managers' wielded immense economic, social, and political power through their position in the modern corporation, even though they did not have any direct claims to 'ownership' over these dominant institutions. For Berle and Means and many of their contemporaries, the fact that more or less unaccountable managers with no clear claim to their position ran institutions that allowed for an increasing concentration of economic and political power presented a concrete problem in terms of the legitimacy of the modern corporation and the managers that ran it (Bratton & Wachter, 2008; Diamond, 2011; Mizruchi & Hirschman, 2010; Moore and Rebérioux, 2007; Weinstein, 2012).

At the same time, it was apparent that the modern corporation provided the capacity for central economic coordination and economic growth, which was considered important, also in relation to the seemingly unstoppable rise of fascism and communism (Fourcade & Khurana, 2013: 140; Khurana, 2007: 202; Marens, 2012; Pinto, 2005). The solution was considered to be a 'social contract'. Under this social contract, managerial elites would provide legitimacy for the modern corporation under managerial control and the centrally coordinated, oligopolistically organized economy it enabled by using the capacity for central economic coordination to provide overall economic and social utility (Khurana, 2007).

Framing the role of managers and management by the necessity to provide social and economic legitimacy to the corporation promoted the conception of managers as 'mediating hierarchs' who would balance and synthesize a plurality of interests including national strategic interests, employment creation, the support of networks of suppliers, development of new technology as well as an adequate return for shareholders (Segrestin & Hatchuel, 2011; Khurana, 2007; Marens, 2010; O' Sullivan, 2001). In their role as 'corporate statesmen' (Khurana, 2007) that controlled 'private republics' (Miller, 1976) these managers would accept a relatively controlled rate of income (Drucker, 1946). Similarly, shareholders would accept a general decline in influence, relatively low levels of dividends, and government regulation (Aglietta & Rebérioux, 2005; Ireland, 2003; Khurana, 2007; Tsuk, 2003). What they received in exchange was a relegitimation for the modern corporation as a specific institution and, relatedly, an oligopolistically organized corporate economy from which they stood to gain as relatively well-protected *rentier* shareholders in a secondary share market (Ireland, 2000). Finally, employees surrendered personal autonomy and their capacity for militant labour union organization by accepting work in vertical organizations with highly hierarchical structures that asked for long-term commitment and investment in firm-specific training. In exchange, a high share of corporate turnover would consistently go to the labour share, allowing for the maintenance of long-term contracts, stable career plans, and high investment in training and R&D (Jacoby, 2008; Khurana, 2007: 205; Perrow, 2002; Vidal, 2013; Whyte, 1963). All these constituencies stood to benefit from maintaining the social contract, par- ticularly because US corporations were lavished with subsidies and defense spendings, allowing them to grow and increas - ingly dominate markets nationally and internationally (Arrighi, 2010; Carroll et al., 2012; Drucker, 2006[1946]; Marens, 2012; Weinstein, 2012).

If we understand the development of the modern corporation and of corporate architecture as contingent, rather than teleological, developments, we may connect the development of the modern corporation as a specific organizational and legal construct to the macro-economic redistribution this development enabled (Veldman & Willmott, 2017b). New and contingent notions of legal representation and of organizational architecture, significantly divergent from previously dominant notions and managed by managers with limited claims to legitimacy provided the basis for the development of oligopolistic economic organization with significant effects in terms of the distribution of social wealth. The 1929 Wall Street Crash put the precarious and contested legitimation for the modern corporation and its macro-economic consequences to the test (Ciepley, 2013; Djelic, 2013; Hannah, 2010 [1976]; Johnson, 2010). In this light, the redistribution of social wealth in western economies between the 1930s and 1970s (Piketty, 2014), as well as the development of a view of the modern corporation as a quasi-social and indeed 'soulful' (Kaysen, 1957) institution that could serve wide social goals (Carroll et al., 2012) may be linked to the necessity to provide a relegitimation for the modern corporation and the oligopolistic economic organization it enabled.

3. Appropriation

The notions that managers had to balance and synthesize a plurality of interests, that employees were to be relatively well protected, and that economic activity in an oligopolistically organized market had to be controlled came hand in hand with increasing government regulation (Foucault, 2008[1979]: 216, 323). From the end of the 1940s economists and lawyers in the Chicago Schools of law and economics increasingly started to rally against what they saw as inappropriate government meddling in private affairs that fostered collectivism and the rise of a nanny state (Ptak, 2009; Van Horn, 2011) and against the legitimacy of protections for incumbent managers who viewed themselves as benevolent 'statesmen', seemingly at the expense of shareholder influence, control, and dividends, as well as market value for the corporations they administered (Aglietta & Rebérioux, 2005; Friedman, 1970; Mansell, 2013; Tsuk, 2003). New contractual theories of the firm, including Property Rights Theory (PRT) and Positive Agency Theory (PAT) provided a number of theoretical reformulations of the modern corporation, its architecture and its governance that would radically transform the theoretical conceptualization and relation of this institution to the market and to the state (Aglietta & Rebérioux, 2005; Alchian & Demsetz, 1972; Hart & Moore, 1990; Jensen & Meckling, 1976; Weinstein, 2012).

PRT reconceptualized the corporation as a set of optimizable value streams, the value of which could be assessed by the market at any point in time against immediate and future market value. As stock market prices directly reflected the firm's future expected cash flows both as an integrated corporation and as a collection of separable parts, the effects of strategic managerial choices, both realized and unrealized, could be read from the market valuation of the corporation (Davis, 2009; Fourcade & Khurana, 2013). In addition, PRT reconceptualized 'control' over the corporation as a commodity that could be traded in a market for corporate control (Davis 2009; Manne, 1965; Van Horn, 2009). The reinterpretation of the activity of managing into a generic, readily transferable and replaceable activity (Aglietta and Réberioux, 2005; Ghoshal, 2005; Overbeek, Van Apeldoorn, & Nölke, 2007) in combination with the constant and immediate gauging of the value of the cor- poration opened the way for a constant threat of 'market intervention' if managerial practice would not be sufficiently direc- ted toward the production of market value gauged by market actors judging the immediate and future market value of the corporation as a set of optimizable value streams (Fourcade & Khurana, 2013).

However, the notion of a public corporation or its 'control' as 'property' that could be traded in a 'market' proved problematic in relation to the prevailing legal conception of the modern corporation as a legal 'entity'. This particular concern was met by positive agency theory (PAT), in which the ontological status of the legal 'entity' was reduced to that of a 'contract' in a 'nexus'. Because a 'contract' in a 'nexus' cannot meaningfully be 'owned', the whole concept of 'ownership' had little bear- ing on the corporation itself. Perhaps even more importantly, the corporation characterized as a Nexus of Contracts (NoC) provided little more than a constantly reconfigurable set of contracts that provided no clear 'inside' or 'outside' and which could thus be interpreted existed as the extension of voluntary contracting in a broader market. Joining PRT and PAT, both the corporation and its control could be conceived as nothing but the outcomes of voluntary contracting in a broader market (Aglietta & Rebérioux, 2005; Biondi, Canziani, & Kirat, 2007; Bratton, 1989).

This interpretation allowed for the reinterpretation of the core corporate governance architecture. Rather than an architecture that related to a division of rights and claims between corporate constituencies, the NoC view reconceptualized corporate control as the outcome of an exclusive contractual arrangement between shareholders as 'principals' and managers as 'agents' (Aglietta & Rebérioux, 2005: 29; Jackson, 2000; Lan & Heracleous, 2010). Because this contracting takes place in an essentially competitive market, and because with PRT it can be argued that managerial performance can be judged by external market valuation, shareholders can perform their disciplinary role at arm's length. The provision of 'control', then, could be assumed by the shareholders identified as 'principals' operating in a dyadic relation with managers as 'agents' without jeopardizing the privileges and protections of the public corporation as a legal construct (Aglietta & Rebérioux, 2005; Weinstein, 2012).

Another benefit of this interpretation was that the corporation, viewed as the outcome of contracting or as a contract in itself, would present a generic market agent and as such would not substantially alter the basic structure of a competitive market. If corporations existed as market agents in an essentially competitive market, it could then be argued that the market itself could provide the yardstick and control necessary for the provision of optimal social utility, that corporate accountability and monitoring of governance could be left wholesale to market parties and that the institutional controls that had been a part of the social contract could be understood as hampering market forces in the provision of optimal social utility (Aglietta & Rebérioux, 2005; Davies, 2010; Friedman, 1970; Van Horn, 2009, 2011; Weinstein, 2012).

These reconceptualizations of the modern corporation as an innocuous market agent, of corporate architecture as a reduced dyadic relation, and of the provision of social and economic utility through enhancing the market value of public corporations were relatively quickly adopted and institutionalized in corporate governance codes, accounting rules, financial regulations, and business and law school curricula (Ghoshal, 2005; Horn, 2012; Khurana, 2007; Whitley, 1986). As these notions became reflected in corporate law, finance, and accounting theory, shareholders became increasingly emboldened to use this new setup to coerce top-managers to push through strategies intended to impress or placate financial markets. To win over executives who objected to a contraction in the discretionary space they had enjoyed in the heyday of the 'man- agerial revolution'; who thought that the public corporation might be a quasi-social institution with broader goals than the exclusive creation of shareholder value; or who failed to see the attraction in being projected as the intrinsically reticent part of an exclusive relationship with shareholders, the new theory of corporate governance provided a number of carrots, includ- ing remuneration packages in the form of performance bonuses and stock options. As a result, managers from the late 1970s onwards quickly started to internalize the demands of capital markets (Froud & Williams, 2007; Horn, 2012; Khurana, 2007; Krier, 2009; Lazonick and O'sullivan, 2000; Pye, 2001, 2002; Overbeek et al., 2007).

The reconceptualization of the modern public corporation and its architecture and the subsequent internalization by managers of demands of capital markets as the ultimate providers of normative and de facto control had stark effects in terms of the division of corporate proceeds. It was followed by a continuous rise in payouts to shareholders and executive managers, and a decline of the factor share of corporate proceeds going to all other stakeholders. Researchers have suggested that in the US, the early 1950s through to the mid-1970s saw corporations directing 45% of their after-tax profits in divi- dends and in 1981, corporations still directed 58 percent of after-tax profits to shareholders (Jacoby, 2011: 295;

Meyerson, 2014). Between 1990 and 1995 nonfinancial corporations paid out 78% of their after-tax profits out as dividends (Newfield, 2008:128), in 2000 the percentage had risen to 89 percent (Jacoby, 2011: 295), and between 2003 and 2012 dividends went up to 37% and share buybacks to 54%, bringing the total up to 91% (Lazonick, 2014). In the UK, 86 of the largest companies that are included in the S&P Europe 350 Index increased their dividend payouts and share buybacks to a total of 89 % in 2001–2010 (Lazonick, 2014; see also Turbeville, 2015). A similar historical development can be observed with regard to CEO remuneration. Between 1936 and the mid-1970s average pay stayed below $1 million (in 2000 dollars); it fell in the 1940 s, and only very gradually grew from the early 1950s to the mid-1970s, averaging less than 1 percent growth a year. However, between 1978 and 2013 the growth of executive remuneration in the US averaged 937%, while over the same per- iod, the labour share rose with 10.2% (Bivens, 2015; Cohen, 2017; Turbeville, 2015).

Based on these figures the overall picture is a continuous increase in managerial remuneration in combination with the redistribution of corporate proceeds to shareholders, which may have reached 90% or more of corporate profits going to dividends and shares in the US and the UK since the 2010s. In the same period, a consistent fall can be witnessed in the share for labour, despite productivity growth in the sectors affected (Ireland, 2005; Jacoby, 2008; Lazonick, 2013, 2014; Luce, 2015; Mishel & Davis, 2015; Turbeville, 2015).

Arguably, the development of new conceptions of the corporation as a Nexus of Contracts, rather than an integrated 'entity' with a long-term perspective and of corporate architecture; of corporate architecture as an exclusive dyadic relation between 'principals' and 'agents' with specific behavioral expectations; and of 'accountability' in terms of serving capital markets provided the intellectual basis for a new elite of executive managers to eschew "loyalty to workers, products, corporate structures, businesses, factories, communities, even the nation" (Khurana, 2007: 303). As 'hired hands' they would divest businesses, lower costs, downsize, outsource and lay off in order to ramp up corporate profits on the short-term (Khurana, 2007: 303; Lin and Tomaskovic-Devey, 2013), notably at the point of mergers and takeovers (Fourcade & Khurana, 2013; Krier, 2009). By the same token, R&D budgets, investment in employee skills and long-term or non-financial commitments such as promotion ladders and social welfare benefits were discounted (Jacoby, 2005; Lazonick and O'Sullivan, 2000; Millon, 2013).

We may argue, then, that the introduction of the new contractual theories presented a reconceptualization of the corporation and of corporate governance, in which the relation between and interests of managers and shareholders were put central, while the interests and risks of all other parties involved in corporate governance were relegated to the status of ' externalities'. This provided the basis for a zero sum game in which an ongoing increase in the proportion of corporate prof- its going to shareholders and managers was funded by the uptake of short-term strategies that came at the expense of the privileges and protections of all other stakeholders (Johnson, 2012; Millon, 2013). Eventually, the economic and labour rights shifts at the organizational level started to materialize in a shift in the division of social wealth at the macro-level (Dore, 2008; Ireland, 2005, 2010; Jacoby, 2008; Jansson et al., 2016; Lin and Tomaskovic-Devey, 2013; Zingales, 2000).

4. Discussion: Appropriation of the modern corporation and inequality

In this paper I have explored links between the development of corporate governance theory and unequal division of social wealth at the macro-level. Recent movements toward growing inequality can be related to an explosive growth of the distribution of corporate proceeds to capital gains and to the so-called 'super-wages' found among corporate top- executives (Piketty, 2014: 315). In turn, I have argued, these developments can be explained in relation to the emergence of a theory of corporate governance that took root from the 1970s onwards (Ireland, 2005, 2009).

A new theory of corporate governance provided an architecture in which the interests of subsets of 'principals' and 'agents', posited as rational utility-maximizing economic agents with a very short time horizon, are prioritized. The adoption of this theoretical setup provides a theoretical architecture, a behavioral rationale and concrete incentives for executive managers to align their interests with those of short-term market-value oriented traders and to use their increasingly tem- porary position inside the corporation to ascend the ranks of *rentier* investors themselves (see Piketty, 2014) at the expense of the interests and time-frames of all other corporate constituencies and stakeholders, conveniently relegated to the status of 'externalities' (Veldman 2017b). As this theoretical setup directs managerial focus away from the corporation itself and its long-term objectives toward strategies that extract value from corporations in the short term, notably by raising dividends and using share buybacks, and as it externalizes the costs and risks of such strategies to actors, interests and time-frames outside those of the core corporate governance relation, this setup provides the theoretical background for an implicit coali- tion of short-term market value oriented market traders and executive managers positioned at the heart of the corporate governance to capture the investments of various types of actors with different types of interests over multiple time- frames that are specific to the type of institutional structure that the modern corporation provides (Aglietta & Rebérioux, 2005; Bratton, 1989; Dore, 2008; Ghoshal, 2005; Ireland, 2005, 2009; Jacoby, 2008; 2011; Johnson, 2012; Khurana, 2007; Krier, 2009; Lazonick, 2014; Stout, 2015; Van Arnum & Naples, 2013).

The identification of this implicit coalition and the behavioral characteristics that enable these subsets of shareholders and managers to capture corporate value provides the basis for a possible engagement with two ongoing issues in the domain of corporate governance. The first issue is the ongoing theoretical debate about the problematic status of conceptu- alizations of the corporation, the separate legal entity, corporate architecture and (fiduciary) duties of managers and inves- tors in this new dominant theory of corporate governance (Biondi, Canziani, & Kirat, 2007; Stout, 2012; Veldman & Morrow, 2016; Veldman & Willmott, 2016, 2017a,b; Weinstein, 2012). The second issue is the proven disconnect between CEO remuneration increases and actual improvement in economic performance (Bebchuk and Fried, 2005; Jensen & Murphy, 1990). The absence of effective intervention on the part of (institutional) investors with regard to this continuous increase has become a staple of public condemnation and corporate governance reform proposals worldwide (see Cadbury, 2002; Greenbury Report, 1995; Tricker, 2015). A common explanation for these ongoing remuneration increases is provided by Bebchuk et al. (2002) and taken up by Piketty (2014: 24). Arguing that a freestanding and uncontrollable managerial elite uses its position to set its own remuneration levels to enrich itself at the expense of all other corporate constituencies, and notably at the expense of the shareholders, this explanation posits that a rising managerial remuneration may be under- stood as the outcome of a lack of capacity on the part of shareholders to engage with such excess. This explanation provides a reason to strengthen shareholder voice, to dismantle protections for boards, and to enhance the capacity for engagement by shareholders with corporate strategy and with boards (Bower & Paine, 2017; Horn, 2012; Pye, 2001; Pye, 2002). However, despite the broad acceptance of this explanation ; despite a growing institutionalization of the capacity for (institutional) shareholders to engage with corporate boards on the basis of an imputed capacity to effectively monitor managerial teams and to replace such managerial teams in an open market for corporate control ; and despite a dramatic growth in the size of shareholdings held by institutional shareholders in public corporations, providing them with a growing capacity to engage, factual engagement by (institutional) shareholders with executive remuneration remains muted (McCall & Percheski, 2010; Reich, 2016).

As strengthening shareholder voice does not seem to stem managerial compensation, another explanation may be developed by looking at the implicit coalition prioritized in contemporary corporate governance . If we assume that managers operate in a theoretical environment that provides the rationale and an institutional environment that provides the incentives to prioritize the interests of a very specific subset of shareholders over the interests and risks to all other actors, interests and timeframes connected to the corporation, we may interpret non-engagement with the remuneration packages of executive managers as signaling the continuation of an understanding between a specific kind of 'principals', i.e. shareholders oriented toward short-term market value increases and a specific kind of 'agent', i.e. executive managers willing to act as the "fallible, indeed eminently corruptible, agents of shareholders " (Khurana, 2007: 368). Similarly, we may interpret the continued use of problematic assumptions of the corporation and its governance in terms of the capacity to maintain a theoretical setup that allows this implicit coalition to continue capturing and redirecting increasing shares of social wealth from the modern corporation and, hence, from an oligopolistically organized economy to short-term market value-oriented traders and managers (Davis, 2009; Ireland, 2005; Jacoby, 2008; Khurana, 2007; Krier, 2009; Lazonick, 2014; Reich, 2016; Weinstein, 2012).

In relation to this analysis two types of engagement with corporate governance theory and practice may be developed. The first is to scrutinize the status of (subsets of) classes of actors in corporate governance as an empirical issue, rather than depart from abstract theoretical assumptions. A more empirical approach may be used to show that the redirection of value toward short-term market value-oriented shareholders affects shareholders with divergent interests and time-frames from the stylized and ideal-typical behavioral and ontological assumptions underpinning the currently dominant theory of corpo- rate governance (Strine, 2010, 2014).

A more empirical approach may also be used to show that, despite ongoing pressure for more shareholder voice and capacity for engagement, and despite their imputed role as monitors in a market that relies on monitoring by such parties, (institutional) shareholders have insufficiently engaged with the ongoing rise of executive remuneration, even though it contributes to increasing social inequality; have insufficiently countered short-term strategizing in corporations, even though this strategizing has negative effects for the long-term perspectives of corporations (Lazonick, 2014; Sorkin, 2015); and have insufficiently engaged with systemic risks like climate change, even though many parties have pointed toward their 'stewardship' role. In this light, reforms of corporate governance that focus primarily on strengthening (institutional) shareholder voice and engagement for the provision of accountability and monitoring, including stewardship and enlightened shareholding, are problematic and may well be misdirected. Furthermore, the identification of subsets of the shareholder and manager constituencies with divergent interests provides the basis for the development of a more empirical approach to a diversity of interests and time-frames in these constituencies. Developing a taxonomy of such subsets provides the means to focus on the position, rights and interests of those specific subsets, such as retail investors and end beneficiaries, and to identify cross-cutting interests between such subsets and other actors in the corporate governance field (Levillain et al., fc; Veldman & Morrow, 2016; Veldman & Willmott, 2016a,b).

A second type of engagement may be provided by focusing on the status of the modern corporation as a highly specific legal construct and the necessity to maintain a social license for the modern corporation . As explored above, the provision of *internal* legitimacy is related to the continued acceptance of a corporate architecture that is based on a large number of tradeoffs between corporate constituencies , which affect their relative status, position, and the orientation of their (fiduciary) duties. The development, implementation and preservation[2] of a corporate governance theory that, replaces an architecture based on these tradeoffs with a problematic conception of corporate architecture based an implicit prioritization of subsets of constituencies; ignores the connection between use of the separate legal entity, a reconceptualization of the role and position

[2] Although the historical and programmatic similarities to the emergence of neoliberalism are striking (see Ireland, 2009; Mirowski & Plehwe, 2009; Weinstein, 2012), they are not further developed here

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of shareholders, and the presence of broad sets of privileges and protections such as limited liability, minority shareholder protection, liquid shareholding, a secondary share market; and reconceptualizes the role, position and duties of managers as subservient to market actors, rather than toward the corporation as a whole provides a problematic theoretical background for the development of internal legitimacy. The practical outcomes of this model are just as problematic, as the gains on the side of an implicit coalition of market value-oriented shareholders and executive managers reportedly come at the expense of investments in innovation and human capital, providing a problematic basis for a long-term perspective in corporate strategy and development (Jacoby, 2008; Lazonick, 2014).

External legitimacy relies on the provision of a rationale for the continued use of the modern corporation and for oligopolistic economic organization. For a limited time, a broad social contract provided the basis for external legitimacy as a set of constraints for shareholders and managers enabled the redirection of value created in public corporations toward a broad set of actors, interests and time-frames. The adoption of the corporate governance normativity that has held sway since the 1970s has taken away these constraints, allowing for the use of the modern public corporation in the exclusive interests of an implicit coalition, while the costs and risks of this redirection were redirected toward all other actors, inter- ests, and time-frames. As this new model ignored long-term and systemic risks, including macro-economic, political and environmental risks such as stranded assets, inequality and climate change, it affects a wide range of actors, interests and time-frames, including end beneficiaries in pension funds, shareholders with different interests and timeframes from short-term market value oriented traders (Sorkin, 2015; Strine, 2010, 2014) and states confronted by a consistent push to reduce taxation and to accept the offloading of corporate economic risks onto their citizens (Ireland, 2015; Jacoby, 2008; Lazonick, 2014; Reich, 2016; Veldman & Morrow, 2016).

The legitimacy of the modern public corporation as a contingent construct and associated architecture that enabled oligopolistic economic organization is linked, internally, to the preservation of a broad set of trade-offs between constituencies and an orientation of the board and executive managers toward 'the corporation', and, externally, to the preservation of a broad social contract that enables a redistribution of corporate proceeds that allows to engage with risks to broad sets of actors, interests, and time-frames. The development and institutionalization of a theoretical setup that allows for the exclusive use of the modern corporation in the service of an implicit coalition of short-term market value oriented traders and managers provides the basis to question the internal and external legitimation for the continued use of this construct and the privileges and protections it enables and to develop a more inclusive position toward the variety of actors, interests and time-frames with a stake in corporate governance (See Bower & Paine, 2017; Goyer, 2011; Segrestin and Hatchuell, 2011; Stout, 2012; Strine, 2010, 2014; Williams & Zumbansen, 2011).

5. Conclusions

To engage with inequality I have explored how evolving theories of corporate governance present 'architectures' that affect the specific division of rights, claims, obligations, and proceeds toward corporate and non-corporate actors, interests and time-frames and how these architectures affect the distribution of corporate value. From the 1970s onwards a theory of corporate governance took root that provided an architecture in which short-term market-value oriented traders and executive managers are promoted to a core status, while the interests and time-frames of all other constituencies and stakeholders are relegated to the status of 'externalities'. I explored how this architecture redistributed corporate value toward this implicit coalition and, in turn, affected the broader distribution of corporate value.

The identification of a link between the development of corporate governance theories and the division of social wealth provides an interesting organization-level explanation that may complement existing sectoral and state-centric explanations for and engagement with inequality. To provide the means for this engagement I argue that the provision of both internal and external legitimacy for the use of the modern public corporation may be connected to the development of a corporate governance theory that expands the consideration of actors, interests and time-frames in strategic management and notably with the direction of managerial attention and corporate resources to economic, political, and social risks presented by growing social inequality and climate change that are connected to corporate strategizing. The development of a taxonomy of actors, interests and time-frames can be used to expand on stylized behavioral assumptions and to identify cross-cutting interests between subsets of constituencies in the field of corporate governance willing to engage with these issues.

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