

Electronic  
Journal of  
Business  
Ethics and  
Organization  
Studies

ejbo

# In this issue:

## Manuscript Submission and Information for Authors

PAGE 3

---



---

 Ida Okkonen & Tuomo Takala

### Editorial: Ethical Dilemmas in the Asylum System: Termination of Reception Services

PAGES 4-7

---



---

 Suvi Vallius & Aila Virtanen & Antti Rautiainen & Marko Järvenpää

### Goodwill and Ethics – Evidence from Finland

PAGES 8-18

---



---

 Jérôme Ballet & Kevin Lompo & Mahefasoa T. Randrianalijaona

### Does the Principle of Compensation Provide a Solid Basis for Establishing Corporate Environmental Responsibility: A Case Study of Madagascar's Mining Industry

PAGES 19-27

---



---

 David Birchall

### The Consequentialism of the UN Guiding Principles on Business and Human Rights: Towards the Fulfilment of 'Do No Harm'

PAGES 28-39

---



---

 Sari Huikko-Tarvainen & Pasi Sajasalo & Tommi Auvinen

### Mistä on Lääkärijohtajat Tehty?

PAGES 40-49

## EJBO - Electronic Journal of Business Ethics and Organization Studies

Vol. 24, No. 1 (2019)  
ISSN 1239-2685Publisher:  
Business and Organization  
Ethics Network (BON)Publishing date:  
2019-26-03<http://ejbo.jyu.fi/>Postal address:  
University of Jyväskylä,  
School of Business and  
Economics, Business and  
Organization Ethics  
Network (BON),  
P.O. Box 35,  
FIN-40351 Jyväskylä,  
FINLANDEditor in Chief:  
Professor Tuomo Takala  
University of Jyväskylä  
tuomo.a.takala@jyu.fiAssistant Editor:  
D.Sc (Econ.) Marjo Siltaoja  
University of Jyväskylä  
marjo.siltaoja@econ.jyu.fiAssistant Editor:  
D.Sc (Econ.) Suvi Heikkinen  
University of Jyväskylä  
suvi.s.heikkinen@jyu.fi

## Editorial board

Iiris Aaltio  
Professor  
University of Jyväskylä  
Jyväskylä, FinlandJohannes Brinkmann  
Professor  
BI Norwegian School of  
Management  
Oslo, NorwayZoe S. Dimitriades  
Associate Professor  
University of Macedonia  
Thessaloniki, GreeceJohn Dobson  
Professor  
College of Business  
California Polytechnic  
State University  
San Luis Obispo, U.S.A.Claes Gustafsson  
Professor  
Royal Institute of Technology  
Stockholm, SwedenPauli Juuti  
Professor  
Lappeenranta University of  
Technology  
Lappeenranta, FinlandKari Heimonen  
Professor  
University of Jyväskylä  
Jyväskylä, FinlandRauno Huttunen  
Associate Professor  
University of Eastern FinlandTomi J. Kallio  
Ph.D, Professor  
Turku School of Economics  
Pori University Consortium  
Pori, FinlandTarja Ketola  
Ph.D, Adjunct Professor  
University of Turku  
Turku, FinlandMari Kooskora  
Ph.D, Associate Professor  
Estonian Business  
School  
Tallinn, EstoniaVenkat R. Krishnan  
Ph.D, Professor  
Great Lakes Institute of  
Management  
Chennai, IndiaJanina Kubka  
Dr.Sc.  
Gdansk University of  
Technology  
Gdansk, PolandJohanna Kujala  
Ph.D, Acting Professor  
University of Tampere  
Tampere, Finland  
Hanna Lehtimäki  
Ph.D, Adjunct Professor  
University of Tampere  
Tampere, FinlandMerja Lähdesmäki  
Ph.D  
University of Helsinki,  
Ruralia Institute  
Helsinki, FinlandAnna-Maija Lämsä  
Professor  
University of Jyväskylä  
Jyväskylä, FinlandAri Paloviita  
Ph.D., Senior Assistant  
University of Jyväskylä  
Jyväskylä, FinlandRaminta Pucetaite  
Ph.D, Associate Professor  
Vilniaus Universitates  
Vilnius, LithuaniaAnna Putnova  
Dr., Ph.D., MBA  
Brno University of Technology  
Brno, Czech RepublicJari Syrjäla  
Ph.D, Docent  
University of Jyväskylä  
Jyväskylä, FinlandOuti Uusitalo  
Professor  
University of Jyväskylä  
Jyväskylä, FinlandBert van de Ven  
Ph.D (Phil), MBA  
Tilburg University  
Tilburg, The Netherlands

EJBO is indexed in Cabells Directory of Publishing Opportunities in Management and Global Digital Library on Ethics (GDLE) and in PsycINFO bibliographic database of the American Psychological Association.

EJBO is currently also listed in "The International Directory of Philosophy and Philosophers". First published in 1965 with support of UNESCO, the listing provides information about ongoing philosophic activity in more than 130 countries outside North America. More information can be found from website: <http://www.pdcnet.org>.

# Manuscript Submission and Information for Authors

## Copyright

Authors submitting articles for publication warrant that the work is not an infringement of any existing copyright and will indemnify the publisher against any breach of such warranty. For ease of dissemination and to ensure proper policing of use, papers become the legal copyright of the publisher unless otherwise agreed.

## Submissions

Manuscripts under review at another journal cannot be simultaneously submitted to EJBO. The article cannot have been published elsewhere, and authors are obligated to inform the Editor of similar articles they have published. Articles submitted to EJBO could be written in English or in Finnish. Paper written in Finnish must be included English summary of 200-500 words. Submissions should be sent as an email attachment and as Microsoft Word doc format to: Editor in Chief

Professor Tuomo Takala

Jyväskylä University School of Business and Economics, Finland  
email: tuomo.a.takala@jyu.fi

## Editorial objectives

Electronic Journal of Business Ethics and Organization Studies EJBO aims to provide an avenue for the presentation and discussion of topics related to ethical issues in business and organizations worldwide. The journal publishes articles of empirical research as well as theoretical and philosophical discussion. Innovative papers and practical applications to enhance the field of business ethics are welcome. The journal aims to provide an international web-based communication medium for all those working in the field of business ethics whether from academic institutions, industry or consulting.

The important aim of the journal is to provide an international medium which is available free of charge for readers. The journal is supported by Business and Ethics Network BON, which is an officially registered non-profit organization

in Finland. EJBO is published by the School of Business and Economics at the University of Jyväskylä in Finland.

## Reviewing process

Each paper is reviewed by the Editor in Chief and, if it is judged suitable for publication, it is then sent to at least one referee for blind review. Based on the recommendations, the Editor in Chief decides whether the paper should be accepted as is, revised or rejected.

The process described above is a general one. The editor may, in some circumstances, vary this process.

## Special issues

The special issue contains papers selected from

- the specific suitable conferences or
- based on a certain relevant theme

The final selection is made by the Editor in Chief, with assistance from the EJBO's Editorial team or from Conference Editorial team. In the case of conference papers, articles have already been reviewed for the conference and are not subjected to additional review, unless substantial changes are requested by the Editor.

## Manuscript requirements

The manuscript should be submitted in double line spacing with wide margins as an email attachment to the editor. The text should not involve any particular formulations. All authors should be shown and author's details must be printed on a first sheet and the author should not be identified anywhere else in the article. The manuscript will be considered to be a definitive version of the article. The author must ensure that it is grammatically correct, complete and without spelling or typographical errors.

As a guide, articles should be between 5000 and 12000 words in length. A title of not more than eight words should be provided. A brief autobiographical note should be supplied including full name, affiliation, e-mail address and full international contact details as well as a short description of previous achievements.

Authors must supply an abstract which should be limited to 200 words in total. In addition, maximum six keywords which encapsulate the principal topics of the paper should be included.

Notes or Endnotes should be not be used. Figures, charts and diagrams should be kept to a minimum. They must be black and white with minimum shading and numbered consecutively using arabic numerals. They must be referred explicitly in the text using numbers.

References to other publications should be complete and in Harvard style. They should contain full bibliographical details and journal titles should not be abbreviated.

References should be shown within the text by giving the author's last name followed by a comma and year of publication all in round brackets, e.g. (Jones, 2004). At the end of the article should be a reference list in alphabetical order as follows (a)

for books

surname, initials and year of publication, title, publisher, place of publication: Lozano, J. (2000), *Ethics and Organizations. Understanding Business Ethics as a Learning Process*, Kluwer, Dordrecht.

(b) for chapter in edited book

surname, initials and year, "title", editor's surname, initials, title, publisher, place, pages: Burt, R.S. and Knez, M. (1996), "Trust and Third-Party Gossip", in Kramer, R.M. and Tyler, T.R. (Eds.), *Trust in Organizations. Frontiers of Theory and Research*, Sage, Thousand Oaks, pp. 68-89.

(c) for articles

surname, initials, year "title", journal, volume, number, pages: Nielsen, R.P. (1993) "Varieties of postmodernism as moments in ethics action-learning", *Business Ethics Quarterly*, Vol. 3 No. 3, pp. 725-33.

Electronic sources should include the URL of the electronic site at which they may be found, as follows:

Pace, L.A. (1999), "The Ethical Implications of Quality", *Electronic Journal of Business Ethics and Organization Studies EJBO*, Vol. 4 No. 1. Available [http://ejbo.jyu.fi/index.cgi?page=articles/0401\\_2](http://ejbo.jyu.fi/index.cgi?page=articles/0401_2).

# Ethical Dilemmas in the Asylum System: Termination of Reception Services

## EDITORIAL

Ida Okkonen

Tuomo Takala, Editor in Chief

### Introduction

Among the political and legal challenges it faces, ethical and moral dilemmas are inevitably embedded in the immigration system. Furthermore, the current immigration crisis in Europe has given rise to an intense debate between European Union member states on the division of responsibilities between them and on human rights in general. In 2015, Finland, like many other European countries, faced great challenges as the number of incoming asylum seekers increased tremendously, mostly due to the lengthy and ongoing war in Syria and unrest among its neighbors (UNHCR, 2015, 2016). This has resulted in a tightening of the Finland's migration policy and legislation. In addition, the Finnish Immigration Service has been on the frontlines dealing with the unprecedented influx of migrants. They have tightened their practices and interpretation of the asylum policy after 2015. For example, in 2017 it did not consider asylum seekers' fear of violence in their home country as a legitimate reason for international protection as it once did in 2015. (Saarikomäki et al., 2018).

Close to 200 new reception centers were established in response to the crisis in 2015. Asylum seekers' reception services are required by Finnish law (Act on the Reception of Persons Seeking International Protection, 746/2011) to include housing accommodations, meals or cooking facilities, social services, health care, a reception allowance, legal aid, interpretation services, and employment and educational resources (Finnish Immigration Service, 2016). In situations where asylum seekers are not granted a residence permit, their access to reception services are terminated. If the clients (asylum seekers) cannot be forcibly returned to their home country by a public authority, they can either voluntarily return (financially assisted) or stay illegally in Finland without a residence permit or access to social security. Some estimates have suggested that there were 2000–4000 illegal asylum seekers in Finland in 2018 (Jauhiainen and Gadd, 2018), thus others have suggested that the number

was over 5000 already in 2017 (Yle Uutiset, 2017).

The Finnish Immigration Service makes decisions on asylum applications, and the reception center managers act as messengers to inform the clients of its decisions. After the asylum applications are processed and the decisions are made, the reception services are terminated within a certain time limit. Especially in situations where the decision is negative and the client's asylum application is denied, the managers may use their discretionary power to determine whether the amount of time before the services are cancelled should be prolonged. For example, they may continue to offer reception services to some extent if an asylum seeker's health is at stake. Moreover, managers might also think that it is inhumane and morally wrong to terminate the services if the clients really think that they cannot return to their home countries. Thus, managers may have doubts about the rightness/justness of the asylum process and the decision made, or their opinions might differ from those of the Finnish Immigration Service in terms of the severity of an asylum seeker's health conditions.

In this editorial, reception center managers' hypothetical ethical dilemmas are considered in the context of immigration. Hence, in this paper, we will examine the managers' ethical reasoning regarding the termination of reception services when asylum seekers refuse to return to their home countries voluntarily or they cannot be returned there by a public authority and thus choose to stay illegally in Finland without a residence permit. Specifically, we focus on hypothetical situations in which civic activism is applied or deliberated, meaning that the managers either refuse to terminate the services or seriously consider doing so. We examine the reasoning applied in such situations from the points of view of Kantian ethics and Aristotelian virtue ethics.

### Kant and duty ethics

According to Kant, an act's moral value does not depend on either its consequences or happiness, like in teleological ethical theories, but on the good will of



humans. In other words, an act is always judged independently of its consequences because actions can be morally wrong even if they (unintentionally) have good outcomes. In Kant's duty ethics, an act is ethically sound if it is done because of and according to a moral duty or law. Thus, the motivation is grounded in an obligation. The universal moral law is premised on the concept of intrinsic value and good will. In other words, an individual's good will and adhering to the moral law is valuable in itself (Deigh, 2010; Kannisto, 2007; Shakil, 2013).

Duty ethics views reason as being divided into theoretical and practical reason. Put simply, theoretical reason is knowledge, whereas practical reason is action grounded in the will. In other words, theoretical reason refers to our ability to know, whereas practical reason is associated especially with ethical behavior when deliberating on what is right (Deigh, 2010; Kannisto, 2007). According to Kant, practical reason is in fact willing and primary in relation to theoretical reason. Furthermore, ethicality is based on rationality, dictating that unethicity is irrational, and only individuals whose will is free are ethically responsible (Deigh, 2010; Kannisto, 2007). Thus, moral law is firmly rooted in the concept of freedom, which accompanies autonomy of the will and universality of the moral law. In conclusion, only people that are capable of rational reasoning are free.

Kant formulated categorical imperatives—a set of maxims (rules or principles) that are categorical in nature—to define the moral law and provide a framework of rational rules and principles. The categorical imperatives obligate people absolutely (do X). Absolutism of categorical imperatives means that a moral act is independent of external factors like personal qualities, emotions, desires, or environment. Kant stated that ethical behavior minimizes heteronomy of the will. Kant also defined hypothetical imperatives—imperfect duties—that bind only indirectly (if you will X, then do Y). They also rest upon pure rationality but are prone to subjective interpretation and preferences; thus, they are context dependent to some extent. Hypothetical imperatives are still morally binding, but individuals are not judged by not completing them; however, they are praised if they do. In summary, perfect duties are always truly completed, while imperfect duties are not because they are inconsistent in nature. (Deigh, 2010; Kannisto, 2007; Shakil, 2013).

Situations in which reception services are terminated can be examined from the viewpoint of ethics of duty. In these situations, managers may apply civic activism and refuse to terminate the services or otherwise question the law and policies. The first categorical imperative dictates: "Act only according to that maxim whereby you can at the same time will that it should become a universal law without contradiction" (Kant, 1785, see Shakil, 2013). According to Kant, this implies that moral law is independent of the personal qualities of a moral actor, and thus a moral principle should be applicable to any rational being. Furthermore, the perfect duties dictated by moral law should not result in logical contradictions (Shakil, 2013). Reception center managers might consider that services should never be terminated if a service recipient's human rights were threatened by the lack of services. This could be the case even if the client's health was not at stake. Thus, acting this way could be willed to become a universal law.

Furthermore, in situations in which managers encounter ethical dilemmas, the second formulation of the imperative could be suggested to apply as well. The second categorical imperative states: "Act in such a way that you treat humanity, whether in your own person or in the person of any other, never merely as a means to an end, but always at the same time as an end" (Kant, 1785, see Shakil, 2013). This refers to respecting eve-

ry individual's rational will to the same extent as one respects one's own (Kannisto, 2007). Thus, a moral actor must comply with a moral duty to ensure an end that is fair and equal for all people (Deigh, 2010; Shakil, 2013). Therefore, the reception center managers might reason that every human being should be treated humanely, fairly, and with respect. In other words, some reception center managers might feel that the policy related to immigration and asylum is not just or fairly implemented.

Finally, the third formulation states: "Therefore, every rational being must so act as if he were through his maxim always a legislating member in the universal kingdom of ends" (Kant, 1785, see Shakil, 2013). This is an interesting proposition from the ethical dilemma point of view at hand. A truly autonomous will is subject both to the laws that it makes for itself and as if others are bound by the same laws as well. In the ideal of autonomy, people create their own moral laws, and thus there is a duty to act by maxims that fit into the universal kingdom of ends. The reception center managers that refuse to terminate services to unsuccessful asylum seekers therefore act in a way that they would like (will) to become a universal moral law.

In Kantian ethics, the value of rationality cannot be perceived by experience, but an actor obtains it through categorical imperatives. The objectives are determined by the categorical imperatives and especially within their limits (Deigh, 2010). This raises the following question: Should managers leave their feelings and moral particularism (apply no overriding moral principles, regardless of the circumstances) behind and obey the law without question? Kant's ethics is often criticized because of its dogmatic nature. For example, it cannot reasonably be applied to most ethical dilemmas, since its premises do not acknowledge exceptions or hierarchical rules (although refraining from killing is a higher moral duty when compared to lying). It does not recognize situations where one could choose between a bad or a less bad choice. The act is either right or wrong, good or bad. Thus, Kantian ethics' greatest problem is found in its strictness when it disregards consequences and values only the moral worth of an act. (Deigh, 2010; Shakil, 2013).

## Aristotle and virtue ethics

Contrary to Kant's ethics, in which duties do not necessarily advance happiness, Aristotle's ethics aims to define what is required to promote happiness. According to Aristotle, a well-lived life constitutes friendship, pleasure, virtue, honor, and wealth (Kraut, 2018). Aristotle, among other ancient philosophers, thought that selfishness and the pursuit of happiness did not conflict with each other. Thus, they saw nothing wrong with egoism. Egoism was thought to be a natural part of humanity, but it should be exercised properly (Kraut, 2018).

In Aristotle's virtue ethics, an individual cannot achieve happiness if psychological, physical, and social dimensions are not simultaneously achievable. In other words, an individual also needs external resources like wealth, beauty, health, and friends in order to be happy. Virtue ethics covers certain virtues that people should have and cultivate in order to live well and achieve happiness (Kraut, 2018). Examples of intellectual virtues are wisdom, considerateness, and discernment. Furthermore, moral virtues include features such as courage, justice, modesty, honesty, and generosity. In general, ethical virtues are comprised of discretion and emotional and social skills. However, there is no clear consensus among contemporary virtue ethicists on what the list of virtues should entail (Tännsjö, 2013). Finally, Aristotle believed that upbringing plays a crucial role in leading an ethical, and thus a good, life. Thus, it is im-

portant to learn virtues and good manners in childhood, and then in adulthood one can reasonably use this capacity in order to pursue happiness (Kraut, 2018). This continues to be an important part of virtue ethics to this day, for virtue ethics is not about the features that we are born with (personality traits), but rather our character traits that can and ought to be developed through education (Tännsjö, 2013).

In Aristotelian ethics, virtues rest on both the sensitive soul and rational soul. The sensitive part is comprised of emotions, feelings, and desires. As appropriate feelings are of great importance in virtue ethics, moderateness is one of the central concepts in Aristotle's ethics. Furthermore, the rational part constitutes theoretical and practical reason. Theoretical wisdom (reason) comprises knowledge and intuitive understanding, whereas practical wisdom (reason) includes skills and discretion. In Aristotelian ethics, virtues always position themselves in the middle of two extremes, guided by practical reason. This is referred to as the golden mean. In sum, an ethically virtuous individual acts both sensitively and rationally, whereupon their behavior is truly motivated by their will and reason (Kraut, 2018). However, theoretical wisdom always overrides practical reason; for instance, in Aristotle's opinion, a philosophical lifestyle is more valuable than a political one.

Similar to how we examined the termination of reception services and civic activism/questioning of immigration policies from the duty ethics point of view, we can also investigate it from the viewpoint of virtue ethics. The situation can be evaluated from the perspective of managers' ethical virtues. Virtue ethics is based on the features a virtuous person should have and cultivate in order to live well and happily. An ethically virtuous individual has the knowledge and ability to balance and practically reason between two extremes, and thus they can put their feelings and emotions into perspective. In contrast to duty ethics, moral particularism applies in virtue ethics, meaning that each case is evaluated based on its particular circumstances and there are no analogous moral principles that could be applied to new cases. Could the managers' civic activism therefore be considered a virtuous act and morally right? On the one hand, we could say that the managers' behavior is virtuous when they aim to ensure the protection of asylum seekers' human rights when they could be considered at risk. In this case, the managers may possess ethical virtues like fairness, caring, courage, gentleness, and honesty. On the other hand, the managers' ethical behavior could also relate to their obedience and effectiveness in terms of pursuing the policy goals involved. Would it therefore be morally right to focus on the moderateness—the golden mean—between two extremes: a) caring for asylum seekers' well-being and b) caring for the protection of society's political and legal

system (the overall well-being of the society)?

## Conclusions

Kant's duty ethics outlines reasonably strict instructions in terms of what is right and wrong, claiming that categorical imperatives and universal moral law guide us toward righteous behavior. By contrast, Aristotle's virtue ethics does not offer any specific process model for ethical decision-making, but it does help to systemize our understanding of the quality of virtues. Like other normative ethical theories, including Kant's duty ethics that aims to answer the question of what is it that makes a right action right, virtue ethics focuses on the question what kind of person one ought to be (Tännsjö, 2013). Thus, virtue ethics focuses on individual features that can be assumed to be good in general, but it fails to offer a profound or all-encompassing explanation for or justification of why these features are valuable. However, it could be suggested that virtue ethics are useful for pondering the rightness of an ethically challenging situation by considering both feelings and practical reason. Although Aristotle claimed that ethical decision-making cannot rest upon rules and specific moral principles because it is always context dependent, he also admitted that some rules are necessary in the pursuit of happiness, such as refraining from murder, theft, and infidelity. Nonetheless, no rule can make ethical virtues and deliberation unnecessary.

When comparing Kant's duty ethics and Aristotle's virtue ethics, it can be concluded that duty ethics is duty-bound (rule-bound), whereas virtue ethics is value-objective (Knuutila, 1982). In the ethically challenging situation presented in this paper—the termination of reception services—reasoning can be explained from various points of view, not only based on the dichotomy between Kantian duty ethics and Aristotelian virtue ethics. While Kant's duty ethics is grounded in duties and rules that are binding in nature, a moral duty could be targeted at various recipients. In this regard, reasoning could follow moral principles that carry obligations toward asylum seekers, legislation (state and society), or oneself. Similarly, a person might reason based on certain virtues that are embedded in their professional code of ethics, such as those that relate to administrative managerial positions or those of a caring manager. The managers considered in this editorial are able to exercise their discretionary power in situations where services to asylum seekers must be terminated, but it is not by any means an easy task to do so and it seems to result in genuine ethical dilemmas. The question is are these dilemmas avoidable and could these dilemmas be prevented through better political decision-making?

## References

- Deigh, J. (2010), *An Introduction to Ethics*, Cambridge University Press, New York.
- Finnish Immigration Service (2016), "Key Figures on Immigration 2015", European Migration Network & Finnish Immigration Service. Available <https://bit.ly/2H4giFX> >
- Jauhiainen, J.S. and Gadd, K. (2018), *URMI Kaupunkianalyysi III*, Turun yliopiston maantieteen osasto. Available <https://urly.fi/191Z>.
- Kannisto, T. (2007), "Kant: Etiikka", *Filosofia.fi/Portti filosofiaan*. Available <http://filosofia.fi/node/2426>.
- Knuutila, S. (1982), "Perustuuko etiikan teoria arvoihin vai normeihin?" *Suomen Filosofisen Yhdistyksen järjestämä kotimainen tutkijakollokvio*, Jyväskylä 8.-9.5.1981, 16/1982, 1-126.
- Kraut, R. (2018), "Aristotle's Ethics", *The Stanford Encyclopedia of Philosophy*, Zalta, E.N. (ed.). Available <https://stanford.io/2EQTUh3>
- Saarikomäki, E., Oljakka, N., Vanto, J., Pirtajanniemi, E., Lavapuro, J. and Alvesalo-Kuusi, A. (2018), "Kansainvälistä suojelua koskevat

- päätökset Maahanmuuttovirastossa 2015–2017 – Pilottitutkimus 18–34-vuotiaita Irakin kansalaisia koskevista myönteisistä ja kielteisistä päätöksistä”, Oikeustieteellisen tiedekunnan tutkimusraportteja ja katsauksia, 1/2018.
- Shakil, A. (2013), "Kantian duty based (deontological) ethics". Available <https://bit.ly/2p2QYWy>. Based on Kant, I. (1785), "First Section: Transition from the Common Rational Knowledge of Morals to the Philosophical", Groundwork of the Metaphysic of Morals. Available <https://bit.ly/2H5eI6Z>
- Tännsjö, T. (2013), Understanding Ethics. Edinburgh University Press, Edinburgh.
- UNHCR (2015), "Asylum Trends 2014 - Levels and Trends in Industrialized Countries 2015", United Nations High Commissioner for Refugees, pp. 1-27. Available <https://bit.ly/2IVRUbw>.
- UNHCR (2016), "Global Trends - Forced Displacement in 2015", United Nations High Commissioner for Refugees, pp. 1-65. Available <https://bit.ly/2tVv5ui>
- Yle Uutiset (2017), "Suomen vastaanottokeskuksista on 'kadonnut' yli 5000 turvapaikanhakijaa", Yle Uutiset, 8.7.2017. Available <https://yle.fi/uutiset/3-9709831>.

---

## Authors

**Ida Okkonen** is a MSc in Kinesiology (2015) and MSc in Business and Economics (2017) from University of Jyväskylä. She is currently a doctoral student in the University of Jyväskylä, School of Business and Economics. Her areas of interest include Business and Organizational Ethics, Responsible Management and Qualitative Research.

**Professor Tuomo Takala** is a Doctor of Business Economics (1991), Philosophy (2012) and Sociology (2013). He has been a Full Professor in charge of Management and Leadership since 2002, and has also had several administrative duties, e.g. Vice Dean of the faculty (2001-2003) and Dean of the Faculty (2003-2004) in the University of Jyväskylä, School of Business and Economics. His research areas include Responsible Business & Administration, Leadership & Narratives and Charismatic Leadership. Takala is a continuing contributor on journals like Journal of Business Ethics, Emerald Journals, Business Ethics - An European Review and Social Responsibility Journal.

# Goodwill and Ethics – Evidence from Finland

Suvi Vallius  
Aila Virtanen  
Antti Rautiainen  
Marko Järvenpää

## Abstract

Goodwill appears as an intangible asset in the parent company balance sheet after purchasing a company, especially with big expectations of growth and synergy. However, there are ethical issues involved in presenting and accounting for goodwill. For example, if the manager pays too much for a company in the hubris of closing a deal in order to obtain his/her bonuses, the excess amount paid can currently be “hidden” into the parent company balance sheet under the name of goodwill. In this paper, we analyse the possible ethical dilemmas of goodwill accounting, valuation, impairments and risks. In particular, we ask, what ethical considerations are related to goodwill accounting, implied by goodwill changes and the relations between goodwill, risk and other fundamentals, such as profitability. Our empirical illustration, using Finnish small listed company data from 2007 to 2014, shows that high beta (indicating high business risk) correlates positively with high goodwill. This signals potential problems in the ethical and managerial practices and reflects heightened risks for the users of financial statements, such as analysts and auditors.

**Key Words:** goodwill, accounting, ethics, business risks, Finland

## Introduction

Goodwill is a classic subject in accounting research but researchers still have contradictory views about goodwill (Bugeja & Gallery, 2006; Johnson & Petrone, 1998; Owens, 1923; Seetharaman, Balachandran & Saravanan, 2004). Goodwill is the surplus price paid in relation to the fair market value of the net assets of an acquired company, and it is visible as an intangible asset in the parent company balance sheet after purchasing a company with big expectations of growth and synergy (IAS 16; Seetharaman et al., 2004). So what is so problematic about goodwill as a managerial issue from an ethical point of view?

Well, if the manager pays too much for a company in the hubris of closing a deal (see Roll 1986), or to increase the company size in order to obtain his/her bonuses, the excess amount paid is “hidden” to the parent company balance sheet under the name of goodwill. Further, goodwill is only expensed if its value is impaired, i.e. there are no future expectations of getting the cash flows, the money back. Here the manager may influence what is seen as likely future outcome from the acquisition. Especially in IT business, the “word on the street” is that even ridiculous amounts have been paid for small IT companies with high hopes but low incomes. In this paper, we discuss the managerial and ethical problems related to goodwill and illustrate this analysis with some Finnish financial statement analysis of the amounts and write-downs of goodwill. We ask whether goodwill accounting allows manipulative practices and misconceptions, likely to result in bad will among investors and managers.

Several companies have announced large-scale goodwill impairments. For example, Trainers’ House, a Finnish medium-sized company, announced an impairment of 17.6 million euros in 2011. Internationally, for example Microsoft announced an impairment of 6.2 billion dollars in 2012. The impairments mentioned above resulted in net losses for the financial period. Another international example is Hewlett-Packard, which made an impairment of 8.8 billion dollars

in November 2012 for an 11 billion dollar acquisition the company made only one year before. These multi-million impairments indicate that careless purchase or valuation of the company, and thereby incorrect valuation of goodwill, can result in heavy losses in companies of any size, even years after the acquisition. Seetharaman, Sreenivasan, Sudha & Ya Yee (2005) state that measuring the fair value of the goodwill is not unambiguous and companies should make detailed plans for maintaining the value of goodwill. However, previous research about the effects of goodwill impairment seems to focus on big companies and big markets (see Bugeja & Gallery, 2006; Hirschev & Richardson, 2002). In this paper, we study the effects of goodwill impairments of small and medium-sized companies in the Finnish market.

In 2005, the listed companies in Finland started to follow the International Financial Reporting Standards (IAS/IFRS) and the required annual impairment tests for goodwill. Before that, Finnish companies applied the principle of straight-line amortization of goodwill. The true-and-fair-view principle given by IFRS requires that the users of financial statements must be able to trust the information they get from the firm. This is a historically developed idea of a responsibility of the firm’s management and the accounting practitioners who prepare the annual reports, as well as a matter of image about the company. (e.g. Virtanen, 2009.)

Calculating goodwill for financial reporting is not only a technical matter with no connection with ethics (Melé, Rosanas & Fontrodona, 2017). We focus on goodwill, although there are several ways that accountants and managers can influence the reported accounting results of their organizational units (Fischer & Rosenzweig, 1995). Indeed, there is a link between ethics and financial reporting: companies with a high ethical commitment exhibit better quality financial reporting, and less earnings management, than those with a lower level of ethical commitment (Choi & Pae, 2011). In this paper, the analysis will be conducted in order to find out the possible ethical dilemmas that are associated with



goodwill accounting, valuation, impairments and risk. Our research question is as follows: What ethical considerations are there in goodwill accounting, implied by goodwill changes and the relations between goodwill, risk and other fundamentals?

The empirical illustration of this study examines the connections between goodwill and financial statement fundamentals, such as profitability (see Lev & Thiagarajan, 1993), and risk (measured with beta), using Finnish small listed company data from 2007 to 2014. We find, for example, that high beta (indicating high risk) correlates positively with high goodwill. We conclude that such finding may signal distrust in the ethical and managerial practices and reflect heightened risks for other users of financial statements, such as analysts and auditors.

## Goodwill and goodwill accounting

Previous research has focused mainly on the determination of the concept of goodwill and finding the correct book value of goodwill (mm. Bloom, 2009; Gore & Zimmerman, 2010; Gynther, 1969; Johnson & Petrone, 1998). Some have researched the value relevance of goodwill, such as the connection between goodwill and profit performance of companies (mm. Bugeja & Gallery, 2006; Hirschey & Richardson, 2002; McCarthy & Schneider, 1995; Vance, 2010). However, the changes in the value relevance of goodwill accounting after the adoption of IFRS have not been very widely studied in European context (see Hamberg & Beisland, 2014). Further, goodwill and its connection to the profit in the Finnish small business context have not been widely researched after the financial crisis and the adoption of the IFRSs, although Vallius (2014, 2016) noted that the absolute value of goodwill decreased from the year 2007 to 2012. However, we aim to study the connections between the amount of goodwill and financial statement fundamentals, such as profitability figures, and the ethical implications of the practices found.

Goodwill is the surplus price paid in relation to the fair market value of the net assets of an acquired company. In other words, it is the difference between the fair value of the purchased company and the fair value of the identifiable net assets. Thus, goodwill becomes an intangible asset in the parent company balance sheet after a purchase (acquisition) of another company (subsidiary). The purchase price paid (fair value) of the company may exceed the value of the purchased assets because of brand values, growth expectations, and synergies. (IAS 16; Seetharaman et al., 2004.)

Seetharaman et al. (2004) divide the accounting treatments for goodwill into three different schools of thoughts. According to the first one, goodwill should be written off against retained earnings right after the acquisition. The second school of thoughts demands, as does the current IAS/IFRS treatment, that goodwill should not be written off unless the impairment testing supports the impairment procedure. The third viewpoint represents the previously used goodwill accounting treatment in Finland, which required that goodwill should be amortised during a reasonable time. (Seetharaman et al., 2004.)

Bloom (2009), identified two different types of goodwill: internally generated and purchased goodwill. Under IFRS, the internally generated goodwill is not recognised. Bloom (2009) notes however that internally generated goodwill can represent up to 50 per cent of the value of some companies. IAS/IFRS denies the recognition of internally generated goodwill as an asset, because it is not an identifiable resource controlled by the company and it cannot be measured reliably (IAS 38.48-49).

Johnson & Petrone (1998) explain that goodwill can be con-

sidered from “top-down” and “bottom-up” perspectives. The former defines goodwill as a component or subset of something larger, i.e. future earnings from the business combination. Latter perspective determines goodwill as the premium paid over the book value of the net assets of the purchased company. According to the bottom-up perspective, the acquirer presumes to gain resources that have value through business combination in addition to the net identifiable assets of the purchased company, e.g. value through synergies not recognized by the acquiree (see Johnson & Petrone, 1998.)

Henning, Lewis & Shaw (2000) noted that the market mostly values the going concern component of goodwill (e.g. some asset may be used longer in the new company) as well as the synergy component of goodwill (e.g. asset being used better in the new company). Moreover, both components are significantly and positively related to the market value of a company. They also found that investors do not value the residual component of goodwill as an asset and will likely write off the portion of the residual during the year of the business combination. However, there are difficulties in measuring and recognising the gains and losses and in defining fair values of future cash flows, for example (Johnson & Petrone, 1998).

According to the IFRS 3, goodwill is defined as “An asset representing the future economic benefits arising from other assets acquired in a business combination that are not individually identified and separately recognised.” (IFRS 3, appendix A). Gynther (1969) noted that goodwill can be calculated as the sum of the intangible assets such as special skills, knowledge, high managerial ability, monopolistic situation, business connections, trade names and good reputation. The problem is that all these intangibles cannot be identified and their net values are disputable, even subject to moral hazards.

## Goodwill accounting rules

According to Finnish accounting standards (FAS), goodwill is recognised and it should be amortised systematically over the 5-20 years period of time. After the year 2005, big or listed Finnish companies have followed the IAS/IFRS. Especially IFRS 3 Business Combinations standard establishes the principles and requirements of how to recognise and measure goodwill. Standard also demands that a company should account for business combinations by applying the acquisition method, which requires identifying the acquirer, determining the acquisition date, recognising and measuring the identifiable assets acquired, the liabilities assumed and any non-controlling interest in the acquire, and also recognising and measuring goodwill or a gain from a bargain purchase (IFRS 3.4-5).

Goodwill acquired in a business combination should be recognised as an asset in the balance sheet and tested annually and whenever there are indications for impairment (IFRS 36.10 & 36.90). The impairment testing typically reflects the development of goodwill better than straight-line depreciation (see Huikku & Silvola, 2012a; Ojala, 2007). However, the reliability of the impairment test may include uncertainty and depend on various risky considerations as well as traces of information beyond the organization (Huikku, Mouritsen and Silvola, 2017). The objective of the IFRS 3 is to ameliorate the relevance, reliability and comparability of the reported information arisen from business combinations (IFRS 3.1). If the acquirer makes a bargain purchase, where the acquired net of the acquisition date amounts of the identifiable assets and the liabilities assumed exceeds the purchase price, the acquirer should recognise the resulting gain in profit or loss on the acquisition date (IFRS

3.34). Goodwill resulted in bargain purchase is also called negative goodwill (Ma & Hopkins, 1988).

The IAS 36 standard about impairment of assets has the objective of ensuring that “-- assets are carried at no more than their recoverable amount” (IAS 36.1). An asset is impaired if its carrying amount exceeds its recoverable amount, which is either the asset’s fair value less costs to sell or its value in use if the latter is higher (IAS 36.8 & IAS 16.6). The value in use of an asset is the present value of the future cash flows expected to be derived from an asset, which also includes choosing the appropriate discount rate for the future cash flows (IAS 36.6 & 36.30). Goodwill should be allocated to the cash-generating units, because it does not generate cash flows independently of other assets or groups of assets and is often allocated to multiple cash-generating units (IAS 36.81).

Bloom (2009) noted that allocating goodwill to cash-generating units is ambiguous. Sometimes goodwill can be allocated to a group of cash-generating units but not to individual cash-generating unit (IAS 36.81). Also if the organisation changes the composition of the cash-generating units, goodwill should be reallocated to the new units (IAS 36.87). Huikku & Silvola (2012a) state that changes in organisation structure can result as an impairment loss. On the other hand, organisational changes can prevent impairment of assets (Huikku & Silvola, 2012a). This allow managerial influence in what is considered as the recoverable amount.

Factors affecting impairment testing include estimated future cash flows, their growth rate, discount rate and the definition of the cash-generating units (Huikku & Silvola, 2012a). Further, deciding a legitimate amount of impairment in the eyes of various stakeholders may require using external experts and negotiating with auditors (Huikku et al., 2017). An impairment loss should be allocated to the cash-generating unit and reduce the carrying amount of the assets in two phases. First, the impairment loss should reduce the carrying amount of any allocated goodwill to the cash-generating unit, and then affect other assets of the unit in proportion on the carrying amount of each asset in the unit. Declines in carrying amounts are treated as impairment losses on individual assets, and recognised instantly (IAS 36.104 & 36.60). However, investors tend to interpret goodwill impairment as a result of poor managerial decisions and overpriced acquisitions (Seetharaman et al., 2005).

### The value relevance and ethics of goodwill

Value relevance can be defined as the association between accounting numbers and the market value of security (Barth et al., 2001). Many previous studies of goodwill are focused on determining the concept and the value relevance of goodwill (e.g. Bugeja & Gallery, 2006; Hirschey & Richardson, 2002; Jennings, Robinson, Thompson & Duvall, 1996; Lys, Vincent & Yehuda, 2012; Qureshi & Ashraf, 2013; Vance, 2010). The ethics come into play, when aims at increasing company market value are realized in misbehaviours in finance and accounting, such as through creative accounting and fraudulent corporate reporting (Melé et al., 2017). Further, focusing only on the behaviour of a manager, or a company, is not necessarily aligned with the wider ethical viewpoints and interests of the stakeholders or the society (see Melé et al., 2017; Windsor, 2006).

Indeed, ethical considerations have been divided into several traditions, such as utilitarian, Kantian or Rawlsian views as well as following rules (e.g. Melé et al., 2017; Windsor, 2006), although wider analysis of the theories of business ethics is beyond the scope of this paper. However, Melé et al. (2017)

highlight that being ethical is not just about following rules but about values and virtues. For example, Choi and Pae (2011) note that companies with a high ethical commitment exhibit better quality financial reporting, are engaged in less earnings management, report earnings more conservatively, and predict future cash flows more accurately than those with a lower level of ethical commitment.

McCarthy & Schneider (1995) investigated whether the US market perceives goodwill as an asset while defining the value of the company. They concluded that goodwill is perceived by the market with at least the equal value of other assets (McCarthy & Schneider, 1995). Also Jennings et al. (1996) noted that investors perceive recorded goodwill as a valuable economic resource. Jennings et al. (1996) concluded that the capitalisation of goodwill and the annual review is the best way to represent company’s resources and performance. Bugeja & Gallery (2006) investigated the value relevance of purchased goodwill and found that the value of a company is positively associated with purchased goodwill in the observation year. Thus, recently acquired goodwill is associated with the market value of a company, while older goodwill does not have future economic benefits according to market perception. The results of the Bugeja & Gallery (2006) are inconsistent with the current IAS/IFRS treatment. If recorded goodwill has no economic benefits after two years after the business combination, it should not be preserved in the balance sheet.

Hirschey & Richardson (2002) found negative stock price effects related to goodwill write-off announcements indicating that goodwill impairment may indicate for example bad decisions by the managers of purchasing company. Generally, Roll (1986) suggests that many acquisitions fail because the purchasing company managers have a whim or hubris to close the deal in order to grow or meet for example some bonus targets. In such case the purchasing company share prices are often expected to fall when an acquisition is declared (Roll 1986). However, the market reactions for acquisitions and especially to the goodwill are difficult to measure (see Lys et al., 2012; Vance, 2010). Vance (2010) found that most companies with high amount of goodwill performed at least as well as companies without goodwill. Furthermore, the rate of return on assets varied between different industries (Vance, 2010). Lys et al. (2012) suggest that companies with an expected economic loss from the business combination should write down the goodwill immediately because doubtful goodwill is typically not treated as an asset with value.

Hamberg & Beisland (2014) researched the value relevance of goodwill in Swedish context under IFRS 3. They found that goodwill as a percentage of equity has increased during the nine-year period. Further, they found that the size of goodwill impairments both in absolute value and in relation to book value decreased following the IFRS adoption. Furthermore, the goodwill impairments were not associated with stock returns after the change from Swedish GAAP to IFRS. Consequently, Hamberg & Beisland (2014) state that the introduction of the impairment-only standard may have had contradictory consequences in Europe and in the US. For example, Sahut et al. (2011) found that goodwill and other intangibles under IFRS are positively associated with share prices and with higher returns.

### Data and methods

The data for the empirical illustration of this study was collected from the financial statements of the selected small listed

companies with the stock exchange data from the years 2007-2014 (from Nasdaq OMX database). The predictive power of earlier goodwill related events was measured by analysing the stock price change for year 2015. All the selected companies had goodwill in their balance sheets in 2007, so companies with no recognised goodwill were excluded from the study. Furthermore, one company was excluded because of insolvency and bankrupt in 2014. In addition, company called Stonesoft Oyj was removed from the NASDAQ OMX Nordic stock exchange. All the selected companies operate mainly in Finland and belong to the Small Cap segment of NASDAQ OMX Nordic. However, after 2007, Elektrobit Oyj has moved to the Mid Cap segment and Revenio Group Oyj has transferred to the Healthcare sector, but both companies are still included in the study. The sectors on which this study focuses on are Industrials and Technology. Altogether 24 companies met the criteria mentioned and their data were analysed in SPSS Statistics program, e.g. through correlations analysis. The final selection of companies and key fundamentals are presented in Appendix 1 (starting from p. 16).

For many Finnish companies, goodwill data is not found in public databases but need to be manually collected from the annual reports of the companies. Also notes to financial statements may be valuable sources of company data (Yritystutkimus 2011, 7). The financial statement analysis will include ratios based on both balance sheet and income statement reflecting profitability, liquidity and solvency of the selected companies as well as other fundamental performance issues (Lev & Thiagarajan, 1993). In this study, the fundamentals used are those available in the Finnish context. Threats to the validity of this empirical illustration include for example the relatively small sample size and the measurement of fundamentals. However, the small sample is not randomly selected, but is basically the full population of companies with capitalised goodwill, although few companies were excluded from the data. The financial statements of the twenty-four (24) companies will be analysed during the eight-year period of 2007-2014 during which the international standards. The fundamentals selected for analysis are found in Table 1.

Three of the fundamentals portray the amount of capitalised goodwill, e.g. in relation to total assets or net sales. Four fundamentals measure the liquidity, profitability and solvency of the company. Liquidity will be estimated by the Current Ratio (CR), which is a liquidity ratio measuring the company's abil-

ity to conduct short-term obligations. Profitability on the other hand measures the financial performance of a company and will be estimated by two fundamentals, which include Net Profit or Loss and Return on Equity (ROE). The solvency will be evaluated with the Equity Ratio, which measures the relationship between shareholder's equity and liabilities (Yritystutkimus 2011).

## Results and analysis

If the market recognises capitalised goodwill as a risk, either from managerial and ethical point of view or economically, it should result as a connection with the stock beta ( $\beta$ ). The following research hypothesis will be investigated:

Hypothesis: Goodwill increases corporate risk and is related to poor economic performance.

The average amount of goodwill calculated from the yearly averages of all the companies in 2007-2014 was 18.36 million euros. The yearly average decreased every year from the 20.78 million euros in 2007 to 15.14 million euros in 2014. The average amount of goodwill in 2014 was 27 per cent less than in the first year 2007. The smallest median was 8.62 million euros in 2013 and the second smallest was 8.70 million euros in the next year 2014. The largest median was 12.78 million euros in 2010 and second largest 11.32 million euros in the previous year 2009.

Kesla Oyj had the minimum amount of goodwill during the whole period, which remained the same in 2007-2013 and decreased to 280 thousands of euros in 2014. Digia Oyj had the largest capitalised goodwill in 2007-2008 and the amount was 86.93 million euros in the first year and 89.65 million euros in the following year. During the rest of the period in 2009-2014, Affecto Oyj had the largest amount of goodwill varying between 62.81 million euros to 74.65 million euros. Both Digia Oyj and Affecto Oyj operate in the technology sector.

The sum of companies' goodwill decreased 27 per cent from the 498.82 million euros in 2007 to 363.31 million in 2014. In other words, goodwill worth almost 140 million euros disappeared from the balance sheets during the eight-years. The majority of the companies had less goodwill in 2014 compared to the first year 2007. All in all, 67 per cent of the companies lost goodwill, while 29 per cent gained more and only four per cent had the same amount during the whole time period. The largest decrease in the value of goodwill was reported by Trainers'

Fundamental	Formula
Goodwill =	The amount of goodwill in the balance sheet
Goodwill divided by net sales =	$\frac{\text{The amount of goodwill in the balance sheet}}{\text{Net sales}}$
Goodwill divided by total assets =	$\frac{\text{The amount of goodwill in the balance sheet}}{\text{Total assets}}$
Current Ratio (CR) =	$\frac{\text{Current assets} - \text{Tax receivables}}{\text{Current liabilities}}$
Net Profit/Loss =	$\frac{\text{Result for the period}}{\text{Net sales}}$
Return on Equity (ROE) =	$\frac{\text{Operating profit +/- financing income/expenses} - \text{income tax}}{\text{Shareholder's equity}}$
Equity Ratio =	$\frac{\text{Shareholder's equity}}{\text{Total equity and liabilities}}$

Table 1. Selected fundamentals and their formulae



House Oyj, which lost the value by 97 per cent and from the 52.5 million euros in 2007 to the 1.7 million euros in 2014. Although this may seem an outlier in statistical sense, it is worth considering from the ethical point of view. Also seven other companies lost more than 40 per cent of the value of goodwill during 2007-2014, which include Cencorp Oyj, Comptel Oyj, Digia Oyj, Glaston Oyj Abp, Ixonos Oyj and Revenio Group Oyj. Companies losing great amounts of goodwill were from the both industrials and technology sectors and evident differences between the two sectors were unperceived.

An important fundamental was also the goodwill divided by net sales (GWNS), which illustrates the degree of goodwill in relation to the volume of net sales. The average of goodwill divided by net sales of all the companies decreased from the year 2007 to the year 2014 (Figure 1). On average 54 per cent of the companies had less than 20 per cent of goodwill in relation to net sales, while 46 per cent had more than 20 per cent from which three companies had more than 50 per cent of capitalised goodwill.

Figure 1. illustrates also the degree of goodwill in relation to the amount of total assets (GWTA) on average during the eight-year period. The GWTA per cent was during the whole period between 22-26 %, which was less volatile compared to GWNS. In the first year, the degree was less than in the last year 2014. The amount of goodwill in relation to total assets increased during the period, while the amount of goodwill in relation to net sales decreased from 2007 to 2014.

In addition to the analysis of the financial statements, the betas were calculated. The beta of a stock (BT,  $\beta$ ) reflects the risk, particularly the sensitivity of stock price to the changes in market in the Capital Asset Pricing Model (CAPM, Sharpe, 1964). The betas (BT) were calculated for every year in 2007-2014. The market index used in the calculation was OMX Helsinki Small Cap GI. Majority of the companies had an average of the eight-year period BT value less than 1 (14 companies, see Table 2). Five of the companies had beta of 1, while five had value greater than 1 during the time period, i.e. as an average. A beta of less than one indicates that the investment is less volatile than the market but in case of small companies beta does not

necessarily portray risk in typical business risk sense but for example low trading. Cencorp Oyj had the greatest diversity in BT values, since in 2014  $BT = 6.1$  and in 2008  $BT = 0.8$ . By contrast, Solteq Oyj had the lowest diversity in BT values. In 2013, Solteq Oyj had the value of  $BT = 0.3$  and in 2011 the same value was  $BT = 0.8$ .

The correlations (Pearson's  $r$ ) were calculated with SPSS for all of the fundamentals during the eight-year period. The variables representing goodwill included the amount of capitalised goodwill in balance sheet (GW), goodwill divided by net sales (GWNS) and goodwill divided by total assets (GWTA). The other variables included Current Ratio (CR) reflecting the liquidity, Net Profit or Loss (NPL) and Return on Equity (ROE) related to the profitability and Equity Ratio (ER) measuring the solvency of a company<sup>1</sup>. Correlations were also calculated for the risk-factor beta (BT).

A negative correlation was found between the amount of capitalised goodwill and Current Ratio in the year 2008. The correlation coefficient was  $r = -.417$  and the statistical significance was  $p = .043$ . Also a negative correlation between the variables goodwill divided by net sales and Current Ratio was found during the years 2008, 2012, 2013 and 2014. Correlation coefficient was between  $r = -.410$  and  $r = -.520$ , while the statistical significance was between values of  $p = .047$  and  $p = .009$ . Further, negative correlation was found between goodwill divided by total assets and Current Ratio. Correlation coefficient was between the values of  $r = -.407$  and  $r = -.667$  and the statistical significance was between the values of  $p = .048$  and  $p = .000$ .

Regarding the stock price change or profitability goodwill did not have much predictive power, suggesting that performance and goodwill are not related. Considering the risk, measured with beta, a significant negative correlation was found between beta and stock price change ( $-.504$ ,  $p = 0.033$ ), suggesting that beta is not necessarily very good predictor for small companies with special items such as high goodwill.

<sup>1</sup> The following ROE fundamentals were replaced with the overall average of all other companies: Incap Oyj (2012), Vaahto Group Oyj (2012), Cencorp Oyj (2013 and 2014) and Ixonos Oyj (2014). This was necessary because of the negativity of the stockholders' equity, which would have resulted misleadingly as a high positive ratio.

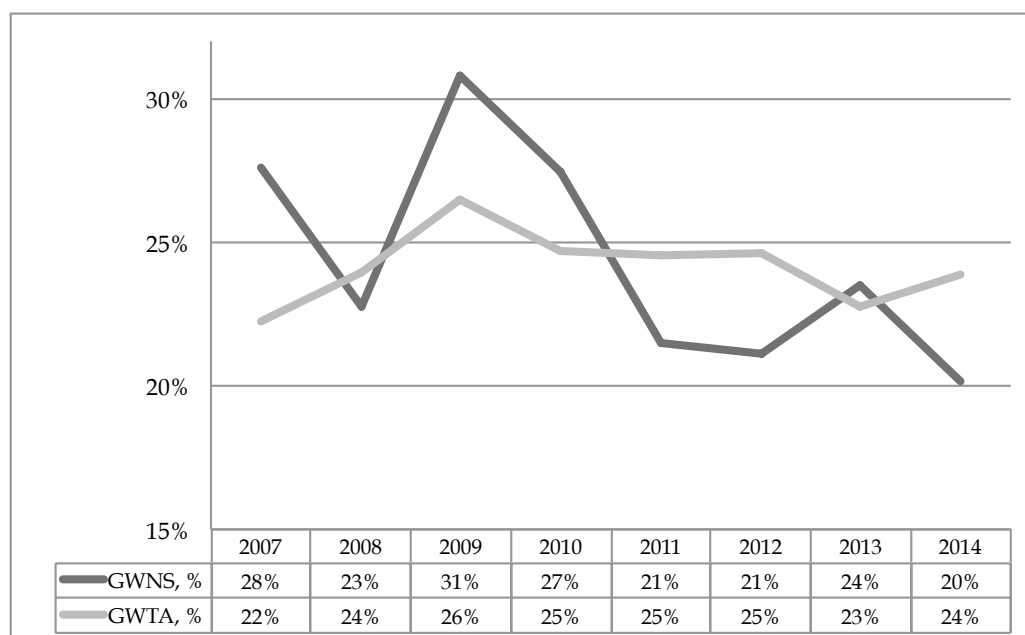


Figure 1. The percentage of goodwill to net sales and total assets



	Min BT	Max BT	Average BT
Affecto Oyj	0,4	1,1	0,8
Aspocomp Group Oyj	0,2	1,6	1,0
Cencorp Oyj	0,8	6,1	2,3
Componenta Oyj	0,3	1,6	1,0
Comptel Oyj	0,4	1,3	0,9
Digia Oyj	0,5	1,5	0,9
Dovre Group Oyj	0,4	1,1	0,8
Electrobit Oyj	0,6	2,3	1,4
Etteplan Oyj	0,3	1,3	0,8
Exel Composites Oyj	0,3	1,2	0,8
Glaston Oyj Abp	0,6	1,8	1,0
Incap Oyj	-0,6	1,1	0,7
Ixonos Oyj	0,9	1,8	1,3
Kesla Oyj	0,3	1,7	1,0
Neo Industrial Oyj	0,2	1,2	0,5
Revenio Group Oyj	0,7	1,9	1,2
Solteq Oyj	0,3	0,8	0,5
Tecnotree Oyj	0,5	1,9	1,1
Teleste Oyj	0,3	1,4	1,0
Trainers' House Oyj	-0,5	1,1	0,7
Tulikivi Oyj	0,1	1,2	0,8
Turvatiimi Oyj	-0,1	1,7	0,8
Vahto Group Oyj	0,0	1,0	0,3
Wulff-Yhtiöt Oyj	0,0	0,9	0,3

Table 2. The minimum, maximum and average values of beta during 2007-2014

A negative correlation was found between the goodwill divided by net sales and net profit or loss was found during 2007-2014. Correlation coefficient was between the values of  $r=-.420$  and  $r=-.828$ , while statistical significance was between the values of  $p=.041$  and  $p=.000$ . A negative correlation was found between goodwill divided by net sales and return on equity during 2007-2014. Correlation coefficient was between the values of  $r=-.426$  and  $r=-.861$ , while statistical significance was between the values of  $p=.038$  and  $p=.000$ .

During the year 2010 a weak negative correlation between the variables goodwill divided by net sales and equity ratio (ER) was found, while the correlation coefficient was  $r=-.408$  and statistical significance was  $p=.048$  (Table 3). Next a positive correlation between the variables goodwill divided by net sales and beta was found during the years 2013 and 2014 (see Table 3). Correlation coefficient was between the values  $r=.475$  and  $r=.600$ , while the statistical significance was between the values of  $p=.019$  and  $p=.002$ .

## Conclusions

In this study, we examined the problems of goodwill accounting as a managerial issue from an ethical point of view, as well as analysed the changes in the volume of capitalised goodwill in the balance sheets of Finnish small or medium-sized listed companies. A hypothesis that goodwill increases risk and is related to poor economic performance, was created and analysed.

According to the small business financial statement analysis, the amount of companies with different amount of goodwill did not change significantly from 2007 to 2014. Majority of the companies had 0-30 million euros of goodwill during the whole period, while the average amount of the yearly averages was around 18 million euros. By contrast, the yearly average amount of goodwill was almost thirty per cent less in 2014 compared to the first year 2007, which was quite remarkable difference. In euros, almost 140 million worth of goodwill disappeared from

	ER_3
GWNS_4 Pearson Correlation	-.408 *
Sig. (2-tailed)	.048

	BT_6	BT_8
GWNS_7 Pearson Correlation	.574 **	.600 **
Sig. (2-tailed)	.003	.002
GWNS_8 Pearson Correlation	.507 *	.475 *
Sig. (2-tailed)	.012	.019

Table 3. Correlations between ER and GWNS, and BT and GWNS

the balance sheets during the eight-year period. In conclusion, the descriptive statistics showed that the amount of goodwill decreased substantially from 2007 to 2014. This supports the suggestions of Giacomino & Akers (2009), who stated that due to the poor economic situation the increasing trend of goodwill impairments would continue. Our results also suggest that not all acquisitions fail because of hubris (Roll, 1986) but the economic downturns and the situations of the small or medium-sized companies vary a lot.

The correlation analysis of the fundamentals resulted as negative correlation between CR and goodwill, and with negative correlation between NPL and goodwill. However, considering the key issues of economic performance, ROE and stock price changes, no significant correlation was found between goodwill and price change or goodwill and profitability. Yet, in the correlation analysis a strong relationship between goodwill and companies' liquidity and profitability was found. With the relations to goodwill, these correlations indicate that goodwill is partly related to the performance of a company, for example to low liquidity (CR). Vance (2010) has also studied whether goodwill contributes to performance and concluded that companies with capitalised goodwill have performed at least as well as companies without goodwill. By contrast, research results did not show strong relationship between solvency and goodwill.

However, the results supported the first part of our hypothesis: goodwill is connected to an elevated risk of a company. We found a strong positive correlation between goodwill and beta. Such result may reflect the riskiness and possible ethical concerns related to acquisitions and management decisions involving combinations of businesses. In small business acquisitions there can be ethical and managerial aspects, misrepresentations and creative accounting, hubris etc., and unintended changes in company risk. Such ethical aspects may surprise the owners and affect managerial practices, with a possible effect on the company performance. However, if a wider ethical view is selected (see e.g. Melé et al., 2017; Windsor, 2006), accounting decisions may sometimes affect also other stakeholders, such as employees and auditors, and even society, considering for example tax aspects, possibly elevated bankruptcy risks or the long-term benefits of mergers and acquisitions.

Huikka et al. (2017) found that sometimes the amount of impairment may be a result of negotiations with valuation experts and auditors. We suggest that such experts and auditors might be vulnerable to lawsuits if the amount of impairment proves to be "wrong", even if there is no absolute truth but just several ethical and moral considerations of the truth. Further, considering that beta indicates operational risk, we argue that high goodwill increases the small company risks. This suggests that the risks, and the ethical considerations of goodwill in small company management, investing, analysis, research or

in auditing should not be underestimated. Further, our study contributes to earlier knowledge by clarifying the risks associated with goodwill impairments, and with professional auditing work (see Huikku et al., 2017).

Our results indicated a connection between goodwill and risk, but the linkage between capitalised goodwill and future stock exchange price, i.e. the value relevance of goodwill data, is not clear. However, the results of this study could be helpful for investors, analysts and financiers, when evaluating small companies and goodwill in their balance sheets. This adds to our understanding of the potential manipulative practices in goodwill accounting and ethical accounting research (see Melé et al., 2017; Choi and Pae, 2011). Further, our analysis points to the importance of ethical issues also in accounting education (see Choi and Pae, 2011; Fischer and Rosenzweig, 1995).

All in all, evidence was found supporting the relation be-

tween goodwill and company performance in small business context, but further research is needed to enlighten the ethical and managerial issues related to acquisitions. For example, the components of goodwill, such as “going concern” element, synergies or control (see IFRS 3; Johnson & Petrone, 1998), might be interesting areas for further research. For instance, case studies might provide broader knowledge of the ethical concerns of the managerial choices in goodwill accounting, especially if using a critical approach or if comparing the utilitarian, Kantian and Rawlsian views on decisions related to goodwill.

## Acknowledgements

The authors thank the anonymous reviewer and Sampo Pesonen for helpful comments.

## References

- Ahrens, T. & Dent, J. (1998), Accounting and Organizations: Realizing the Richness of Field Research. *Journal of Management Accounting Research*, Vol. 10, 1-39.
- Barth, M., Beaver, W. & Landsman, W. (2001), The relevance of the value relevance literature for financial accounting standard setting: another view. *Journal of Accounting and Economics*, Vol. 31 No. 1-3, pp. 77-104.
- Bloom, M. (2009), Accounting For Goodwill. *Abacus*, Vol. 45 No. 3, pp. 379-89.
- Bugeja, M. & Gallery, N. (2006), Is older goodwill value relevant? *Accounting and Finance*, Vol. 46, 519-35.
- Choi, T. H., & Pae, J. (2011), Business ethics and financial reporting quality: Evidence from Korea. *Journal of Business Ethics*, Vol. 103 No. 3, pp. 403-27.
- Deloitte. (2015), Yrityskauppabarometri Q1 2015 [WWW document]. [http://www2.deloitte.com/content/dam/Deloitte/fi/Documents/finance/Yrityskauppabarometri\\_Q1\\_2015.pdf](http://www2.deloitte.com/content/dam/Deloitte/fi/Documents/finance/Yrityskauppabarometri_Q1_2015.pdf) 21.2.2015.
- Duff & Phelps. (2014), European Goodwill Impairment Study <http://www.duffandphelps.com/Pages/newsDetail.aspx?itemid=828&list=News> 5.11.2014.
- Fischer, M., & Rosenzweig, K. (1995), Attitudes of students and accounting practitioners concerning the ethical acceptability of earnings management. *Journal of Business Ethics*, Vol. 14 No. 6, pp. 433-44.
- Gore, R. & Zimmerman, D. (2010), Is Goodwill an Asset? *CPA Journal*, Vol. 80 No. 6, pp. 46-48.
- Gynther, R. (1969), Some “conceptualizing” on goodwill. *The Accounting Review*, Vol. 44 No. 2, pp. 247-55.
- Hamberg, M. & Beisland, L-A. (2014), Changes in the value relevance of goodwill accounting following the adoption of IFRS 3. *Journal of International Accounting, Auditing and Taxation*, Vol. 23, pp. 59-73.
- Henning, S., Lewis, B. & Shaw, W. (2000), Valuation of the components of purchased goodwill. *Journal of Accounting Research*, Vol. 38 No. 2, pp. 375–86.
- Hirschey, M., & Richardson, V. (2002), Information content of accounting goodwill numbers. *Journal of Accounting and Public Policy*, Vol. 21, pp. 173–91.
- Huikku, J., Mouritsen, J., & Silvola, H. (2017), Relative reliability and the recognisable firm: Calculating goodwill impairment value. *Accounting, Organizations and Society*, Vol. 56, pp. 68-83.
- Huikku, J. & Silvola, H. (2012a), Miksi liikearvon arvonalentumiskirjauksia ei tule? *Tilintarkastus*, Vol. 56 No. 1, pp. 10-13.
- Huikku, J. & Silvola, H. (2012b), Liikearvon arvonalentumistestaus – voiko lukuihin luottaa? *Tilintarkastus*, Vol. 56, No. 2, pp. 11-13.
- IAS 16, 36 & 38, IFRS 3 & 8. (2014), 2014 International Financial Reporting Standards IFRS (Blue Book & Red Book).
- Jennings, R., Robinson, J., Thompson, R. & Duvall, L. (1996), The relation between accounting goodwill numbers and equity values. *Journal of Business Finance and Accounting*, Vol. 23, 513–533.
- Johnson, T. & Petrone, K. (1998), Is goodwill an asset? *Accounting Horizons*, Vol. 12 No. 3, pp. 293-303.
- Lev, B. & Thiagarajan S. R. (1993), Fundamental Information Analysis. *Journal of Accounting Research*, Vol. 31 No. 2, pp. 190-215.
- Lys, T., Vincent, L. & Yehuda, N. (2012), The Nature and Implications of Acquisition Goodwill. SSRN Working Paper Series, March 2012. <http://dx.doi.org.ezproxy.jyu.fi/10.2139/ssrn.1802612>
- Ma, R. & Hopkins, R. (1988), Goodwill – An Example of Puzzle-Solving in Accounting. *Abacus*, Vol. 24 No. 1, pp. 75-85.
- McCarthy, M. & Schneider, D. (1995), Market perception of goodwill: some empirical evidence. *Accounting and Business Research*, Vol. 26, pp. 69–81.
- Melé, D., Rosanas, J. M., & Fontrodona, J. (2017). Ethics in finance and accounting: Editorial introduction. *Journal of Business Ethics*, Vol. 140 No. 4, pp. 609-13.
- Owens, R. N. (1923), Goodwill in the Accounts. *The University Journal of Business*, Vol. 1 No. 3, pp. 282-99.
- Ojala, H. (2007), Does the reporting of goodwill impairment lag behind the economic impairment of goodwill under the impairment-only approach? *Essays on the value relevance of goodwill accounting*. Helsinki: Helsinki School of Economics.
- PwC. (2012), 29.10.2012. Euroopan yritysjärjestelyiden määrä nousussa ensimmäistä kertaa kahteen vuoteen. [WWW document]. <http://www.pwc.fi/fi/tiedotteet-2012/index.jhtml>
- Roll, R. (1986), The hubris hypothesis of corporate takeovers. *Journal of Business*, Vol. 59 No. 2, Part 1, pp. 197-216.
- Sahut, J-M., Boulerne, S. & Teulon, F. (2011), Do IFRS provide better information about intangibles in Europe? *Review of Accounting and Finance*, Vol. 10 No. 3, pp. 267-90.
- Seetharaman, A., Balanchandran, M. & Saravanan, A. (2004), Accounting Treatment of Goodwill: Yesterday, Today and Tomorrow. *Problems and Prospects in the International*

- Perspective. *Journal of Intellectual Capital*, Vol. 5 No. 1, pp. 131-52.
- Seetharaman, A., Sreenivasan, J., Sudha, R. & Ya Yee, T. (2005), Managing impairment of goodwill. *Journal of Intellectual Capital*, Vol. 7 No. 3, pp. 338-53.
- Sharpe, W. F. (1964), Capital asset prices: A theory of market equilibrium under conditions of risk. *The Journal of Finance*, Vol. 19 No. 3, pp. 425-42.
- Vallius, S. (2014), Liikearvon arvoa etsimässä – Liikearvon määrä ja arvonalentumiset sekä tulosekehitys pienteollisuustuotteet ja palvelut –yrityksissä sekä teknologiayrityksissä vuosina 2007-2012. Kandidaatintutkielma. Jyväskylän yliopiston kauppakorkeakoulu.
- Vallius, S. (2016), Goodwill impairments and the value relevance of goodwill of the small listed companies in Finland. Pro gradu -tutkielma. Jyväskylän yliopiston kauppakorkeakoulu.
- Vance, D. (2010), Return On Goodwill. *The Journal of Applied Business Research*, Vol. 26 No. 2, pp. 93-103.
- Virtanen, A. (2009), Revealing financial accounting in Finland under five historical themes. *Accounting History*, Vol. 14 No. 4, pp. 357-79.
- Windsor, D. (2006), Corporate social responsibility: Three key approaches. *Journal of Management Studies*, Vol. 43 No. 1, pp. 93-114.
- Qureshi, M. & Ashraf, D. (2013), Is goodwill capitalisation value relevant? Some UK evidence. *Accounting, Accountability & Performance*, Vol. 18 No. 1, pp. 19-34.
- Yritystutkimus ry. (2011), Yritystutkimuksen tilinpäätösanalyysi. Gaudeamus Helsinki University Press. Helsinki: Hakapaino Oy.

---

## Authors

**Suvi Vallius**, MSc. (Econ), Founder and CEO, Vallius Financial Management.

**Aila Virtanen**, Professor in accounting, University of Jyväskylä, School of Business and Economics.

**Antti Rautiainen**, Associate professor in accounting, corresponding author, antti.i.rautiainen@jyu.fi, University of Jyväskylä, School of Business and Economics.

**Marko Järvenpää**, Professor in accounting, University of Vaasa.

## APPENDIX 1

GW = The amount of capitalised goodwill

Company	2007	2008	2009	2010	2011	2012	2013	2014
Affecto Oyj	84,196	72,614	69,415	72,866	73,102	74,651	72,166	62,814
Aspocomp Group Oyj	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
Cencorp Oyj	2,028	2,028	2,966	2,967	2,967	2,967	2,538	0,441
Componenta Oyj	40,800	31,700	31,500	33,100	28,000	29,100	29,100	29,100
Comptel Oyj	10,832	19,027	19,355	19,626	10,832	2,646	2,646	2,646
Digia Oyj	86,932	89,649	65,545	65,545	44,543	51,105	44,550	44,550
Dovre Group Oyj	6,747	5,857	7,022	7,446	7,491	7,803	6,972	6,645
Elektrobit Oyj	19,597	18,258	18,503	18,519	19,264	19,295	19,319	19,343
Etteplan Oyj	29,426	33,207	31,184	36,028	36,331	39,930	39,131	38,642
Exel Composites Oyj	9,627	8,362	2,460	2,426	11,939	10,898	9,393	9,676
Glaston Oyj Abp	67,641	66,183	58,403	52,598	52,601	36,843	36,843	36,843
Incap Oyj	1,326	0,969	0,977	1,040	0,964	0,940	0,866	0,910
Ixonos Oyj	21,067	32,195	22,826	23,647	23,647	12,447	10,847	10,847
Kesla Oyj	0,360	0,360	0,360	0,360	0,360	0,360	0,360	0,280
Neo Industrial Oyj	4,527	4,587	3,520	3,624	3,477	3,484	3,252	3,252
Revenio Group Oyj	11,355	9,421	9,145	8,230	8,118	8,118	6,966	1,191
Solteq Oyj	8,086	8,286	8,286	6,199	6,199	12,728	12,730	12,730
Tecnotree Oyj	0,682	0,682	19,591	21,608	19,192	17,420	15,266	16,642
Teleste Oyj	12,686	13,865	31,657	30,959	31,277	31,350	33,252	33,121
Trainers' House Oyj	52,467	51,772	50,968	25,806	9,135	9,135	4,614	1,653
Tulikivi Oyj	4,266	4,266	4,174	4,174	4,174	4,174	4,174	4,174
Turvatiimi Oyj	12,261	11,973	11,973	16,054	16,054	15,493	15,493	15,493
Vaaho Group Oyj	1,702	1,702	1,702	1,702	1,702	1,692	1,692	1,583
Wulff-Yhtiöt Oyj	7,204	8,356	10,658	9,501	9,467	9,546	7,845	7,730

GWNS = Goodwill divided by net sales

Company	2007	2008	2009	2010	2011	2012	2013	2014
Affecto Oyj	0,864	0,552	0,674	0,639	0,574	0,560	0,543	0,512
Aspocomp Group Oyj	0,116	0,145	0,228	0,160	0,127	0,128	0,155	0,143
Cencorp Oyj	0,100	0,130	0,486	0,232	0,137	0,192	0,766	0,524
Componenta Oyj	0,064	0,047	0,105	0,073	0,049	0,053	0,057	0,059
Comptel Oyj	0,131	0,224	0,258	0,252	0,141	0,032	0,032	0,031
Digia Oyj	0,821	0,728	0,545	0,501	0,365	0,509	0,447	0,457
Dovre Group Oyj	0,132	0,094	0,116	0,105	0,102	0,083	0,071	0,067
Elektrobit Oyj	0,136	0,106	0,120	0,114	0,130	0,104	0,097	0,086
Etteplan Oyj	0,235	0,205	0,316	0,344	0,304	0,297	0,304	0,293
Exel Composites Oyj	0,085	0,088	0,035	0,033	0,140	0,143	0,136	0,122
Glaston Oyj Abp	0,251	0,245	0,385	0,352	0,439	0,319	0,301	0,296
Incap Oyj	0,016	0,010	0,014	0,018	0,014	0,015	0,034	0,049
Ixonos Oyj	0,356	0,429	0,340	0,278	0,290	0,219	0,325	0,453
Kesla Oyj	0,008	0,007	0,014	0,011	0,008	0,009	0,008	0,006
Neo Industrial Oyj	0,072	0,039	0,051	0,043	0,034	0,033	0,039	0,041
Revenio Group Oyj	0,460	0,209	0,305	0,280	0,378	0,320	0,516	0,074
Solteq Oyj	0,290	0,273	0,290	0,230	0,228	0,326	0,334	0,311
Tecnotree Oyj	0,010	0,009	0,368	0,356	0,308	0,237	0,207	0,225
Teleste Oyj	0,101	0,128	0,223	0,184	0,170	0,162	0,172	0,168
Trainers' House Oyj	1,750	1,170	1,844	1,657	0,583	0,687	0,456	0,207
Tulikivi Oyj	0,061	0,064	0,079	0,075	0,071	0,082	0,095	0,106
Turvatiimi Oyj	0,453	0,434	0,438	0,496	0,407	0,407	0,409	0,425
Vaaho Group Oyj	0,019	0,023	0,022	0,048	0,056	0,041	0,053	0,078
Wulff-Yhtiöt Oyj	0,097	0,110	0,143	0,102	0,096	0,106	0,094	0,104



GWTA = Goodwill divided by total assets

Company	2007	2008	2009	2010	2011	2012	2013	2014
Affecto Oyj	0,520	0,495	0,509	0,510	0,504	0,505	0,004	0,503
Aspocomp Group Oyj	0,043	0,086	0,096	0,089	0,183	0,153	0,168	0,201
Cencorp Oyj	0,116	0,171	0,287	0,073	0,086	0,159	0,137	0,096
Componenta Oyj	0,082	0,070	0,081	0,079	0,064	0,063	0,064	0,062
Comptel Oyj	0,147	0,229	0,234	0,257	0,151	0,039	0,039	0,034
Digia Oyj	0,581	0,584	0,581	0,568	0,507	0,553	0,535	0,554
Dovre Group Oyj	0,218	0,220	0,235	0,242	0,222	0,193	0,171	0,187
Elektrobit Oyj	0,083	0,101	0,116	0,148	0,167	0,135	0,134	0,116
Etteplan Oyj	0,406	0,421	0,505	0,533	0,554	0,523	0,525	0,512
Exel Composites Oyj	0,128	0,141	0,043	0,043	0,209	0,212	0,194	0,185
Glaston Oyj Abp	0,245	0,231	0,258	0,270	0,281	0,233	0,293	0,286
Incap Oyj	0,024	0,020	0,025	0,024	0,025	0,032	0,055	0,063
Ixonos Oyj	0,451	0,513	0,438	0,417	0,446	0,373	0,420	0,495
Kesla Oyj	0,012	0,011	0,014	0,013	0,012	0,013	0,010	0,008
Neo Industrial Oyj	0,043	0,043	0,037	0,034	0,036	0,055	0,069	0,073
Revenio Group Oyj	0,318	0,326	0,344	0,336	0,328	0,325	0,307	0,062
Solteq Oyj	0,367	0,376	0,392	0,360	0,357	0,470	0,501	0,508
Tecnotree Oyj	0,007	0,006	0,165	0,197	0,192	0,213	0,213	0,222
Teleste Oyj	0,163	0,184	0,288	0,266	0,235	0,261	0,267	0,250
Trainers' House Oyj	0,466	0,543	0,660	0,491	0,294	0,343	0,238	0,129
Tulikivi Oyj	0,068	0,065	0,069	0,070	0,074	0,081	0,076	0,088
Turvatiimi Oyj	0,648	0,660	0,706	0,650	0,703	0,698	0,737	0,746
Vaaho Group Oyj	0,033	0,041	0,034	0,044	0,047	0,056	0,072	0,119
Wulff-Yhtiöt Oyj	0,170	0,212	0,233	0,206	0,213	0,230	0,223	0,222

CR = Current Ratio

Company	2007	2008	2009	2010	2011	2012	2013	2014
Affecto Oyj	1,080	1,333	1,236	1,130	1,172	1,232	1,238	1,281
Aspocomp Group Oyj	0,814	1,957	1,498	1,109	1,818	1,862	2,299	1,840
Cencorp Oyj	1,515	1,023	1,232	1,126	0,705	0,504	0,292	0,159
Componenta Oyj	0,757	1,013	0,708	0,943	0,503	0,771	0,294	0,365
Comptel Oyj	2,806	1,921	1,604	2,141	2,159	1,414	1,342	1,298
Digia Oyj	1,896	0,581	1,114	1,248	1,113	0,854	0,864	0,783
Dovre Group Oyj	1,479	1,454	1,410	1,761	1,924	1,774	2,079	1,871
Elektrobit Oyj	2,601	2,927	2,584	1,862	1,721	1,266	1,372	1,518
Etteplan Oyj	1,271	0,969	0,837	0,893	0,792	0,806	0,768	0,769
Exel Composites Oyj	1,579	1,679	2,139	2,318	2,426	2,511	1,157	1,704
Glaston Oyj Abp	1,291	1,150	0,888	0,721	1,022	0,571	1,116	1,070
Incap Oyj	1,438	1,378	1,050	1,029	0,733	0,764	0,912	0,852
Ixonos Oyj	1,075	0,761	0,891	1,135	1,080	0,496	0,313	0,216
Kesla Oyj	2,495	2,492	2,267	2,071	2,093	1,979	1,800	1,991
Neo Industrial Oyj	3,395	1,938	1,887	1,084	0,702	0,874	1,008	0,984
Revenio Group Oyj	1,164	1,359	1,287	1,265	1,741	1,714	1,831	3,098
Solteq Oyj	0,688	0,942	1,098	0,607	0,660	0,829	0,763	0,768
Tecnotree Oyj	5,092	2,960	3,195	3,107	1,808	1,186	1,932	0,936
Teleste Oyj	1,796	1,821	1,368	1,410	1,413	1,260	1,362	1,414
Trainers' House Oyj	2,729	1,469	1,002	0,822	1,539	1,146	1,384	0,966
Tulikivi Oyj	1,590	2,019	1,879	1,847	1,455	1,702	1,840	1,597
Turvatiimi Oyj	0,352	0,481	0,349	0,425	0,381	0,354	0,280	0,293
Vaaho Group Oyj	1,136	1,098	0,910	0,823	0,890	0,561	0,785	0,338
Wulff-Yhtiöt Oyj	2,133	2,123	1,594	1,495	1,492	1,490	1,295	1,253

NPL = Net Profit or Loss

Company	2007	2008	2009	2010	2011	2012	2013	2014
Affecto Oyj	0,072	0,065	-0,069	0,008	0,042	0,057	0,042	-0,013
Aspocomp Group Oyj	-2,493	0,016	-0,190	0,036	0,307	0,164	-0,092	-0,095
Cencorp Oyj	-0,195	-0,294	-0,828	-0,272	-0,348	-0,865	-2,114	-14,750
Componenta Oyj	0,034	0,020	-0,096	-0,017	-0,005	-0,044	-0,030	-0,058
Comptel Oyj	0,132	0,078	-0,029	0,060	0,095	-0,155	0,031	0,064
Digia Oyj	0,055	0,060	-0,114	0,088	-0,184	0,040	-0,041	0,029
Dovre Group Oyj	-0,023	-0,002	-0,012	0,033	0,044	0,030	0,036	0,003
Elektrobit Oyj	-0,048	-0,287	-0,013	-0,097	-0,034	0,018	0,155	0,056
Etteplan Oyj	0,067	0,050	-0,033	0,041	0,039	0,042	0,034	0,047
Exel Composites Oyj	0,018	-0,031	0,085	0,093	0,093	0,027	0,044	0,072
Glaston Oyj Abp	0,026	-0,034	-0,353	-0,214	-0,137	-0,158	0,011	0,009
Incap Oyj	-0,013	-0,058	-0,096	-0,083	-0,057	-0,077	-0,331	0,030
Ixonos Oyj	0,053	0,047	-0,089	0,038	0,011	-0,387	-0,372	-0,345
Kesla Oyj	0,075	0,041	-0,064	0,044	0,044	0,003	0,019	0,003
Neo Industrial Oyj	0,018	-0,042	-0,056	-0,127	-0,061	-0,056	-0,014	0,022
Revenio Group Oyj	0,230	0,059	-0,027	-0,017	0,099	0,180	0,321	-0,043
Solteq Oyj	0,040	0,029	0,033	-0,137	0,033	0,043	0,043	0,046
Tecnotree Oyj	0,124	0,132	-0,304	-0,181	-0,250	-0,232	-0,034	-0,126
Teleste Oyj	0,075	0,051	0,003	0,029	0,034	0,035	0,042	0,043
Trainers' House Oyj	0,161	0,031	-0,254	-1,041	-1,173	-0,018	-0,471	-0,715
Tulikivi Oyj	0,005	0,021	-0,044	-0,015	-0,041	-0,012	-0,101	-0,067
Turvatiimi Oyj	-0,138	-0,148	-0,046	-0,132	-0,036	-0,101	-0,029	-0,035
Vaaho Group Oyj	0,044	0,004	-0,034	-0,086	-0,135	-0,204	-0,127	-0,163
Wulff-Yhtiöt Oyj	0,043	0,010	-0,009	-0,004	0,008	0,010	-0,047	0,008

ROE = Return on Equity

Company	2007	2008	2009	2010	2011	2012	2013	2014
Affecto Oyj	0,111	0,145	-0,133	0,017	0,088	0,113	0,083	-0,026
Aspocomp Group Oyj	-3,405	-0,262	-0,080	0,188	0,717	0,268	-0,141	-0,187
Cencorp Oyj	-1,656	-2,407	-1,873	-0,165	-0,275	-1,010	-0,904	-0,114
Componenta Oyj	0,215	0,188	-0,423	-0,106	-0,075	-0,288	-0,183	-0,257
Comptel Oyj	0,206	0,126	-0,047	0,089	0,179	-0,485	0,104	0,162
Digia Oyj	0,086	0,103	-0,235	0,170	-0,565	0,096	-0,113	0,078
Dovre Group Oyj	-0,075	0,010	-0,055	0,139	0,137	0,103	0,060	0,038
Elektrobit Oyj	-0,121	-0,432	-0,030	-0,216	-0,098	0,030	0,081	0,131
Etteplan Oyj	0,285	0,302	-0,133	0,158	0,227	0,231	0,174	0,214
Exel Composites Oyj	0,085	-0,176	0,232	0,208	0,226	0,065	0,250	0,192
Glaston Oyj Abp	0,050	-0,075	-0,773	-0,810	-0,308	-0,590	0,025	0,022
Incap Oyj	-0,058	-0,409	-1,043	-0,870	-3,049	-0,247	-16,490	0,106
Ixonos Oyj	0,146	0,140	-0,312	0,114	0,032	-2,934	-3,388	-0,114
Kesla Oyj	0,075	0,041	-0,158	0,122	0,149	0,010	0,065	0,011
Neo Industrial Oyj	0,020	-0,082	-0,081	-0,273	-0,507	-0,688	-0,158	0,190
Revenio Group Oyj	0,312	0,151	-0,052	-0,037	0,129	0,311	0,197	0,310
Solteq Oyj	0,115	0,090	0,094	-0,705	0,151	0,168	0,149	0,162
Tecnotree Oyj	0,112	0,122	-0,210	-0,152	-0,315	-0,492	-0,115	-0,551
Teleste Oyj	0,201	0,119	0,021	0,095	0,114	0,111	0,124	0,120
Trainers' House Oyj	0,079	0,022	-0,137	-0,462	-1,105	-0,015	-0,702	-2,861
Tulikivi Oyj	0,013	0,052	-0,044	-0,015	-0,289	-0,071	-0,211	-0,147
Turvatiimi Oyj	-0,890	-0,471	-0,171	-0,539	-0,190	-0,423	-0,156	-0,224
Vaaho Group Oyj	0,262	0,022	-0,034	-0,086	-0,708	-0,247	-0,138	-0,041
Wulff-Yhtiöt Oyj	0,155	0,038	-0,036	-0,025	0,048	0,050	-0,304	0,044

# Does the Principle of Compensation Provide a Solid Basis for Establishing Corporate Environmental Responsibility: A Case Study of Madagascar's Mining Industry

Jérôme Ballet  
Kevin Lompo  
Mahefasoa T. Randrianalijaona

## Abstract

The mining sector has been criticized for its lack of environmental responsibility, but a certain amount of progress has been evident. At the same time, a number of developing countries have opted for an environmental management framework underpinned by the principle of compensation. Even though this principle is closely aligned to corporate social responsibility, it does not appear to represent the most effective way of achieving corporate social responsibility. Based on a case study in Madagascar, we examine the application of the principle within a mining project and show that its inadequacy stems from failing to consider the population's response to the actions taken by companies. In our study, the principle of compensation was strictly applied, but the local population began to clear the forest once the mining project was underway. Our findings hence suggest that corporate social responsibility in this kind of context would be more effective if it were based on a stakeholder approach. In addition, our case study sheds new light on how the stakeholder approach should be interpreted.

**Key Words:** Compensation, Environmental Responsibility, Mining Industry

## Introduction

Over the last decade, Madagascar has experienced a considerable growth in its mining industry. As Reed (2002) underlines, this is a key sector for the development of the economy. Since the beginning of 2000, new legislation has compelled mining companies to obtain an exploitation licence. During this time, the government also launched a nature conservation strategy. This double thrust has led to a tension between the desire to protect the environment and the desire to develop the mining sector. Originally, the State department for Energy and Mining was responsible for defining exclusion areas. The Commission Interministérielle des Mines et des Forêts (Interministerial Committee on Mines and Forests) was also created in 2004. Its role was to prevent any overlapping between areas designated for the mining sector and areas designated for the protection of nature.

In spite of these arrangements, there exists a 33% overlap between mining concessions and protected areas (Cardiff & Andriamanalina, 2007). This illustrates the inherent conflict between exploiting natural resources and conserving the environment. The lack of an effective policy framework to solve this conflict reinforces the importance of a mining sector corporate responsibility towards the environment, especially as the sector's impact on the environment is significant (Walker & Howard, 2002; Hamann & Kapelus, 2004). This is true for precious stones (Duffy, 2005), graphite mining (République de Madagascar, 2003) and other mining operations (Friends of the Earth, 2004).

However, in this context what do we mean when we say that a company should be responsible? Is it simply to comply with the legal framework that the government has put in place to reduce the negative effects of its action? Or is it to compensate for these negative effects? Does it mean interacting with all

stakeholders, including local people, to define the rules that will be applied? And of course, there exist competing theories of corporate social responsibility (Garriga & Melé, 2004).

In our case study we analyze an initial conception of corporate social responsibility based on the application of the principle of compensation in relation to the damage caused by the activity of a company. In Madagascar the law makes provision for companies that want to obtain an exploitation licence, and according to the category of licence the company must carry out an environmental impact survey. The results of this survey determine if financial compensation should be arranged and if money transfers should be made to organisations for environmental protection and/or local communities. The principle of compensation therefore corresponds to a compensatory amount paid to organisations for environmental protection and/or local communities for the damage caused by the activity of a company. This amount is based on an estimated value of the environmental damage. The principle of compensation is not new, and economists have discussed it extensively (Kaldor, 1939; Hicks, 1940; Arrow, 1951 for origins; Kanbur, 2003; Cernea, 2003, for a recent discussion). Despite the conceptual inconsistencies noted in the initial discussions (see Arrow, 1951; Scitovsky, 1951; Mishan, 1962; and Stringham, 2001 for a more recent assessment), the application of this principle for development projects is often advocated (Bruce & Harris 1982, Little & Mirrlees, 1990). It has also acquired a new meaning with the arrival of the principle of ecological compensation (Rundcrantz & Skärbäck, 2003; Fengnian, 2006; van Noordwijk & Leimona, 2010). According to Stiglitz (2007), it could be used to regulate multinational companies by requiring them to assume their responsibilities.

We demonstrate that applying the principle of compensation is inadequate,

and this is supported by previous studies. Lea (1999), for instance, argues that such a principle runs the risk of generating excessive claims by stakeholders, whereas Broadhurst (2000) suggests that public policies are more suitable for regulating damage, as the assessment of the compensation is too complex to apply to corporate responsibility. In fact most of the studies focus on the level of compensation, either for development projects and displaced populations (Cernea & Mathur, 2007) or for environmental damage (Wende et al., 2005; Moilanen et al., 2009; Sun et al., 2013), with recurrent compensation being paid out on large projects such as highways (Kuiper, 1997; Cuperus et al., 2001), dams (Zheng & Zhang, 2006; Penz et al., 2011; Yu & Xu, 2016) and railways (Villarroya & Puig J., 2013).

Our case study highlights another disadvantage. We show how the behaviour of a local population changed after a mining project was initiated. We reveal that it is not so much financial compensation which causes this change in behaviour, but the behaviour of the companies themselves. The perception by community members that environmental protection is necessary can be affected by the actions of a company. Our case study hence gives credence to a reinterpretation of the stakeholder approach developed by Wicks et al. (1994), and Buchholz and Rosenthal (2005). Corporate responsibility must involve a relationship with community members, and this relationship must take into account any potential effects on stakeholder behaviour. Relations with stakeholders cannot be resolved through a compensation mechanism. Our case study emphasizes that even though a level of compensation may be deemed sufficient, applying the principle of compensation has led to unexpected changes in the behaviour of local populations, and this behaviour does not support environmental sustainability. Indeed, financial compensation is based on a rights rationale which proves inadequate when faced with the real issues of environmental protection. In particular, financial compensation does not take into account the changing behaviour of local community members vis-à-vis environmental protection. Behavioural economics, with its links to psychology and neuroscience, offers a new type of economic analysis that endeavours to improve our understanding of human behaviour (Camerer et al., 2011). Within the behavioural economics movement, economists and psychologists have pointed out that people's behaviour is often a reaction to other people's behaviour (Rabin, 1993; Camerer & Thaler, 1995; Cherry, 2001; Blanco et al., 2011), and that behaviour is socially contingent (Triandis, 1989; Nyborg et al., 2006; Di Paolo et al., 2008). They have also underlined that an external intervention via financial incentives or punishments may reduce intrinsic motivation (Deci, 1971, 1999; Titmus, 1971; Gneezy & Rustichini, 2000; Frey & Jegen, 2001; Bowles, 2008; Wrzesniewski et al., 2011, among others). We use behavioural economics to demonstrate how the stakeholder approach should be applied.

In accordance with Siggelkow (2007), we consider that the purpose of a case study is to illustrate a theoretical hypothesis. Our theoretical hypothesis is that stakeholders (the local population) interpret the behaviour of a company towards the natural environment in a way that modifies their own behaviour towards the natural environment. This hypothesis is linked to symbolic interactionism (Blumer, 1986): the value of things, for example, the natural environment, is derived from the interactions that individuals have with others, for example, a company. The value of things may evolve according to the interactions, and more specifically, the interpretation of the others' behaviour. As a result, and for this reason, the principle of compensation is largely inadequate in solving environmental

problems. Indeed, the principle of compensation is based on a monadic viewpoint of ethical decision-making. It advocates financial compensation for the damage caused to the natural environment, but it does not take into account the effects produced by the actions of the company on the stakeholders (the local population). Furthermore, financial compensation may lead to the assumption that the natural environment has an instrumental value, which reduces its intrinsic value and hence affects its overall value to the stakeholders. Therefore, corporate social responsibility should be combined with a stakeholder approach that takes into account the impact corporate actions have on the value of things to stakeholders and their potential to modify the behaviour of these stakeholders.

In the first section we present the case study i.e. the general context and the geographical area under study. In the second section we present the methodology. In the third section we set out the progress of the mining project and the financial compensation mechanism. In the fourth section we use the findings from our interviews to present how the behaviour of the villagers in the area changed during the project. In the fifth section we discuss our findings with regard to the stakeholder approach and more generally, moral theory.

## Case study

Our aim was to analyze a nickel and cobalt mining project run by Sherritt Ambatovy in the town of Moramanga in the centre of Madagascar. Rather than focus on the site of the mine, we looked at the construction of a pipeline carrying crude ore from Moramanga to the port of Toamasina (the capital of the Atsinanana region in eastern Madagascar). We chose to examine the passage of the pipeline through the town of Andasibe as this town possesses certain characteristics.

### General context

Madagascar is ranked 154th out of the 188 countries on the Human Development Index (UNDP, 2015). In total, 76.5% of the population lives on less than \$2 per day (INSTAT, 2010). In this context, companies involved in development projects have a huge responsibility to meet the expectations of both the population and the government. This responsibility is all the more pressing since the Malagasy government depends in large part on foreign direct investment to promote the country's development (Cocks, 2005). In the late 1990s, the government launched a poverty reduction policy through the promotion of economic growth. Foreign direct investments form the cornerstone of this policy (Sarrasin, 2006), which was conceived as a way of simultaneously reducing poverty and environmental damage. Indeed, the loss of forest area and biodiversity has been blamed on local populations, due in particular to a low level of agricultural productivity that forces people to constantly look for more farmland, and hence to stray into and clear forest land (Cleaver & Schreiber, 1998). The policy was a means to halt a vicious circle of poverty-environmental damage by enabling people to find jobs on major projects financed by direct foreign investment. This argument is routinely presented to national governments by international funding institutions such as the World Bank and companies seeking to invest. The policy design gives foreign companies considerable room to demonstrate social responsibility, and this corporate-responsibility-driven development framework has been applied to the mining sector. The World Bank, with Malagasy government approval, has made the mining sector in Madagascar the key instrument for Integrated Growth Pole programmes (Mission Economique de



Tananarive, 2007) in regions with good mining potential. Integrated Growth Pole programmes are development programmes based on the leading industries in each of a country's regions. They aim to produce development in a region, which when combined with the development occurring in all the other regions, is expected to lead to national development. The mining sector generates only a small proportion of national wealth (4% of GDP), but the Malagasy development plan predicts a figure of 30% in the future (Plan d'action Madagascar 2007–2012). Our case study therefore focuses on the mining sector, and in particular, on one of its largest ongoing projects.

#### Geographical area of study

Our case study is located in Andasibe, 138 km east of Antananarivo, the capital of Madagascar. It was one of the first towns in Madagascar to benefit from the implementation of a resources conservation programme which has been in operation since the colonial period. Andasibe has two protected areas: the Special Reserve of Analamazaotra and the National Park of Mantadia. According to the town's development plan (Commune rurale d'Andasibe, 2007), these two protected areas occupy a surface area of 8,312 hectares (810 hectares for the special reserve and 7,502 hectares for the national park). The two protected areas are managed by Madagascar National Park, a parastate structure responsible for managing protected areas in Madagascar. They comprise more than one thousand species of fauna and flora, and exhibit a very high rate of endemism (close to 77%). There are 140 species of orchid alone. In terms of fauna, there are 14 species of lemurs, 113 species of birds, 53 species of reptiles, 260 species of insects and 81 species of amphibians. The rate of endemism is very high for certain species, like amphibians (80%) and lemurs (100%) (Holloway, 2000).

All this makes Andasibe one of the main destinations for nature tourists/ecotourists and it is number three on the list of protected areas most visited by foreigners in Madagascar (ATW Consultants, 2009). The site also constitutes an important area for local tourists and plays a major role in raising awareness about environmental protection for groups of children who frequently come on school visits. There are actually more local visitors than foreign visitors, and this mix of local and foreign visitors has made Andasibe the second most visited town in Madagascar (Ministère de l'Environnement et des Forêts, 2009). Part of the admission fees to the protected areas (50%) goes directly to the town and must be used for micro project funding.

#### Cultural features of the area and implementation of the natural resource management programme

Like other rural areas in Madagascar, the agricultural sector dominates the economic activities of the town. Rice cultivation is widespread, as is the case for nearly every rural area in Madagascar. Most of the time, cultivation takes place on poor quality land and slash-and-burn land (tavy according to its local name), occupying about 90% of all agricultural land. There are also other crops, such as sugar cane, coffee and bananas. The practice of tavy for rice cultivation, however, represents a major risk of damage to protected forest areas (Aubert et al., 2003). This practice must of course be viewed in the light of the socio-economic context where it is exerted (Green & Sussman, 1990; Jarosz, 1993; Ganzhorn & al., 1997; Kull, 2000; UNDP et al., 2000).

Two key points arise: first, rice remains the staple food for the population and is eaten by virtually all Malagasy people (most households grow rice); secondly, protected areas occupy

significant space, which reduces the area available for agriculture. Arable land covers an area of 3,996.55 hectares (Commune Rurale d'Andasibe, 2008), whereas the total area of the town is 363 km<sup>2</sup>, meaning that agricultural land accounts for only 11% of the total area. It should be noted that Andasibe is in a fairly mountainous area and there is little suitable land for rice cultivation. The practice of tavy, although essential for the survival of the population of that locality, is a major risk for the sustainability of forests and protected areas, and the resources they contain.

To prevent the encroachment of agriculture onto protected areas, and according to the framework of the GELOSE law (According to Order no. 96-025 of the September 30, 1996 Act, local members of the population, being members of an association, become local institutions - CLB or VOI for Vondron' Olona Ifotony in Malagasy - with whom central government can draw up contracts that transfer management for certain natural resources), five natural resource management contracts were implemented in Andasibe and its surrounding area. These contracts represent a total area of 12,930 hectares, which is added to the 8,312 hectares of special reserve and national park. This additional protected land surrounds the special reserve and the national park, and local people are involved in its management. The purpose of these agreements is to prevent any encroachment, but land assigned under the natural resource contracts also hinders opportunities for farming.

To stop people farming in protected areas, natural resources management contracts, like almost all contracts of this type in Madagascar, are based on the cultural traditions of the local population, in particular, the dina mechanism (see for instance Fritz-Vietta et al., 2011 for other traditions that apply to natural resource conservation). The dina mechanism is a method for regulating the use of the natural resources on a territory. Traditionally, the village chief is the regulator. Regulation is specific to each village, but in an attempt to avoid too much resource degradation, there are overall similarities regarding restrictions of use. Contravening the restrictions is punishable by a sanction, which is again specific to each village, but which is generally a financial penalty. Natural resource management contracts implemented in the area under study follow this tradition. However, it is no longer necessarily the village chief who acts as regulator and enforces the sanction, but the entire population who implement the contract and who delegate its management to a small group of people.

#### Methodology of the study

We adopted a qualitative approach which relies on a contextual understanding and a thick description of behaviours. Thick description is understood here as the fact that behaviours cannot be interpreted outside the context in which they occur (Tracy, 2013). We hence used an interpretative qualitative research method (Geertz, 1973). We also conducted the study in three stages to ensure that our interpretation would be as robust as possible.

The first stage involved an initial contextualization based on secondary information (Communal Development Plan, etc.) i.e. we obtained historical information about the town. The purpose of this first stage was to gather information in order to have a clear insight of the local context compared to the national context. We collected documents from decentralized administrative bodies (town hall, etc.). During this stage we were able to trace the history of the area in relation to mining.

The second stage involved the actual survey, which we car-

ried out by staying on site for a period of one month (October 2009). We were able to collect qualitative data by interviewing local officials and key conservation actors (mayor of Andasibe, head of fokontany -the smaller territorial administrative unit-, people in charge of associations, etc.). These interviews were conducted with the aim of establishing an initial inventory of the population's behaviour with regard to natural resources. To the extent that the overriding objective was firstly to gain historical information about the area, and secondly, to have an idea of the population's perceptions of the current situation and problems related to the conservation of natural resources, we developed a semi-structured interview guide. The topics covered in the interviews were the state of natural resources and their level of degradation, as well as the behaviour of local people and the reasons for this behaviour. We were able to gain a rudimentary sense of this behaviour from the interviews.

The interviews were supplemented by interviews with the local population. In total, 50 formal interviews were conducted. None of these interviews were recorded because we were aware that local people might have been afraid that their statements would be used against them if they came to the attention of local authorities. We did not therefore take handwritten notes during the interviews, but we summarized the discussions once the interviews were finished. To ensure that interviewees could speak as freely as possible, we explained that the contents of the interviews would not be disclosed to the leaders of environmental protection organizations and/or local authorities. The interviews focused on the issues faced by people and how they were coping with these issues. During the interviews we asked questions about their environmental practices and what had changed for them since the arrival of the mining project. Furthermore, information was verified by onsite observations where necessary. The conflicting points of view of the local officials and the local population led us to propose our interpretation of the situation as described in the fourth and fifth sections.

Finally, a third stage of the study involved a second period on site (January 2011) to supplement and update the previously collected information. The aim of this third stage was to look at any changes to the situation or to the behaviour a year later. We conducted several interviews with local officials and local people, as well as a field observation of the situation, especially the level of degradation of resources compared to the previous visit. This is represented visually because we were unable to take accurate measurements. The interviews focused on changes, especially in behaviour, for just over a year. This third stage was important to understand the non-temporary nature of change in behaviour.

## Mining in the town

The goal of this section is consider the mining history of the area under study. The town's mining past is important in our study because people have become accustomed to mining. We therefore cannot simply interpret people's reactions to the mining project as a response to something new and outside their usual experience. Instead, we must understand their specific response to this mining project, and not to mining projects in general. All information used in this section comes from decentralized administrative documents (town hall records, etc.) and interviews with the decentralized authorities (the mayor) and other people in charge of the associations for the protection of natural resources.

Mining in the town has been marked by two distinct periods. In the first period, from the 1940s to the mid 2000s, graphite

mines had an important role. In the second period, the collapse of graphite mining has been offset by the passage of the pipeline for cobalt and nickel ore.

### An important mining past

Andasibe is rich in graphite and this is due to its geological formations. The ore has been mined in the town for many years. In 1940, during the colonial era, Arsène Louys Ltd. began mining for graphite. That same year, René Izouard Ltd. also started to mine for graphite. Until 2005, René Izouard mined on average 1,200 tons per year and Arsène Louys, 500 to 600 tons per year. The activity of these companies declined sharply after 2006.

The extraction of graphite requires a large amount of labour, so many people migrated to the area with the hope of finding employment in one of the two companies. In 2005, Arsène Louys employed 150 people from the town, while René Izouard employed 250 people.

Mining has played a major role in the economic and social development of Andasibe, not only through the jobs and training provided, but also through the taxes that the town has received. Thus, in 2003 the town earned 548,656 ariary (1 US\$=2,500 ariary) from mining rights. According to the mayor, this is the last year that the town benefited from these rights. Mining has gradually entered into crisis. The drop in the price of graphite at a global level, along with competition from China (As stated by a manager from Arsène Louys during his interview), has destroyed the mining industry in the region. Arsène Louys significantly reduced its activities after 2006; René Izouard also sharply reduced its activity, contracting its workforce from 250 employees to 14 employees in September 2009. In 2010, the two companies stopped their operations entirely. However, the majority of the laid off workers are now employed by Sherritt Ambatovy on the construction of the pipeline carrying crude nickel and cobalt ore. In addition, at the time of our case study, most of the former employees had found new jobs.

### The pipeline for nickel and cobalt and financial compensation

The passage of the pipeline began in early 2004. Sherritt Ambatovy (DYNATEC Corporation at the time) conducted a feasibility study for the nickel and cobalt mining project in the district of Moramanga. The passage of the pipeline caused the project to extend the company's mining footprint to three rural towns, namely Ambohibary, Andasibe and Morarano. After the positive conclusion of the results of the study in 2007, the creation of the infrastructure began. The first phase involved the construction of a pipeline carrying crude ore. As noted above, a large number of the employees from René Izouard and Arsène Louys were hired by Sherritt Ambatovy, which hence reduced the level of economic pressure on these households.

As required by the legislation, an impact study was carried out and compensation was defined for people incurring damage, especially landowners, who were compensated for the expropriation of their land to ensure the passage of the pipeline. At the time of our surveys, only one conflict persisted, over a piece of land belonging to Mitsinjo, an environmental preservation association; this land was part of a reforestation programme. No other land dispute was reported. This suggests that compensation mechanisms were deemed sufficient in the eyes of the landowners.

As well as the financial compensation offered for the expropriation of land, "visible" environmental damage was compensated, for example, in relation to trees that had to be cut down. As such, a local environmental conservation group, the Tarata Vondron'olona ifotony (VOI), received financial compensation

for the pipeline passing through a forest area for which the association could have received funding for an alternative reforestation project. This association was indeed engaged in a reforestation project. With the passage of the pipeline, the project had to be abandoned and the association was compensated for the loss of earnings it would have received if the reforestation project had been implemented. Although differences of opinion between the members of the association exist on the effective use of this compensation, the amount has not been the subject of litigation.

As most of the people in charge of associations for the protection of natural resources have told us, the financial compensation provided by Sherritt Ambatovy has been criticized. In particular, many immediate effects were felt on the environment, such as water pollution and the destruction of rice paddies after sludge carried by the pipeline was buried underground. This environmental damage has not led to any financial compensation.

Given all these elements, and despite there being problems (some pollution has not been compensated and a land dispute persists), the compensation mechanism seems to have counterbalanced the risks of injustice that the population may have felt. All our interviewees agreed that the financial compensation was fair.

## Discussion

The impact on the environment would certainly have been reduced if Sherritt Ambatovy had established a more personal relationship with the local people, for example, if it had shown its concern for the environment while explaining the technical constraints. The challenge of this case study derives from a mutual understanding of the responsibilities that have priority over rights. Indeed, rights are not the basis of responsibilities in our case. It is rather responsibilities that underpin rights.

The principle of compensation is based on a conception of justice in terms of rights i.e. local people have the right to be compensated. This principle is in line with much of contemporary moral theory as defined by Anscombe (1958), but also with the principle of compensation in economics (Little & Mirrlees, 1990). Stocker (1976) however stresses that contemporary moral theory leads to the promotion of a petty or schizophrenic moral life, precisely because it forgets that individuals are not discrete atoms with rights, but beings in relationships with each other. The ethics of care (Gilligan, 1982; Tronto, 1993, among others) has also emphasized that an ethics of justice founded on rights does not usually resolve rights conflicts and is particularly inadequate when applied to the majority of ordinary situations. As Baier (1985) notes, in many situations, morality cannot be reduced to a moral theory based on justice.

Our case study perfectly illustrates this issue, and highlights the importance of considering the response of individuals to situations. Indeed, despite the overall compensation that seems fair for the people who have suffered damage, the pipeline project has affected the local population's perception of environmental conservation. Unfairness is perceived in regard to the responsibilities assumed by the various protagonists. As an all-encompassing licence to operate, financial compensation cannot cope with the spillover effects on the behaviour of the local population caused by any difference in treatment in favour of mining companies. The ethical legitimacy of company activities is not a matter of rights and justice: it is also about how companies manipulate the environment, and how the company and its social environment are perceived (Sethi, 1979). Behind this

licence to operate there is the idea that mining companies are not just economic structures, but also social entities, and must exercise their responsibility towards the common good. This can be seen in the social expectations of equality in environmental responsibility. The issue is behavioural. Financial compensation should be a means to compel mining companies to behave responsibly. However, as far as local people are concerned, financial compensation as a tool provides little incentive to go further in the pursuit of a fair environmental responsibility. Justice based on rights is not symmetrical to injustice (see Sen, 2011 for a discussion) because injustice is anchored in responsibilities which are themselves unrelated to individual rights.

The principle of compensation is based on the notion that individuals are motivated only by their interests rather than by intrinsic motivation derived from care and responsibility (Salzman, 2005). Our case study shows the contrary. Furthermore, it demonstrates that intrinsic motivation can be diminished by the behaviour of a company. Corporate social responsibilities should therefore be considered in relation to behavioural issues. Jones (1995) has already stated that the stakeholder approach should be tackled within a behavioural framework. Of course, stakeholder theory has been widely debated and organized under at least three different approaches: descriptive, instrumental and normative (Donaldson & Preston, 1995; Freeman, 1999; Phillips, 2003; Phillips et al., 2003; Freeman et al., 2010) and the implications of this theory for corporate social responsibility have been amplified (Clarkson, 1995; Freeman et al., 2004; Branco & Rodrigues, 2007; Freeman et al., 2010). In particular, two issues that echo our case study have already been raised, those of fairness (Phillips, 1997) and the common good (Argandoña, 1998). From both a normative and an instrumental perspective, our case study contributes three elements to the debate. First, it shows that fairness is a mainstay in the stakeholder and corporate social responsibility framework, but that fairness should not be considered only as a reasonable basis for the distribution of costs and benefits. Fairness is above all interactionist, and behavioural issues are bound up with responsibilities. Second, this result implies that the stakeholder approach must emphasize relational aspects. Wicks et al. (1994), Burton and Dunn (1996), and Buchholz and Rosenthal (2005), in accordance with the ethics of care, have stressed the need to develop the relationship between a company and its stakeholders, not as a relationship of separate entities, but as a whole composed of related components. Our example illustrates that the failure to account for relational implications leads to a neglect of the stakeholders' behaviour in response to a company's actions. Indeed, if a company treats stakeholders as mere outside entities and does nothing more than respects their rights, it ignores the recognition that stakeholders seek and the efforts they are willing to make. This causes corporate social responsibility to break down. Third, Fraser (2001), Honneth (1996), and Fraser and Honneth (2003) emphasize the incompleteness of theories of justice. They note that the focus on rights and the issue of redistribution leaves out an essential element, which is the basis for "good living together" i.e. recognition. The findings of our case study demonstrate that this oversight is harmful because it leads to a response from people who do not feel recognized or whose efforts are not recognized. Therefore, what is at stake in a relational or caring approach toward stakeholders as part of corporate social responsibility is the need for stakeholders to be recognized by the company. As a result of this behavioural analysis, our study hence offers a way forward for establishing corporate social responsibility within a stakeholder framework analysis.



## Conclusion

Our case study highlights the fact that the ethics of rights-based justice is not always appropriate. This kind of ethics does not solve certain fundamental practical problems. In particular, the principle of compensation is unable to either address the effects on people's behaviour which have been caused by specific projects or to meet the requirements of corporate social responsibility. Our behavioural analysis hence shifts toward a deeper understanding of the relational aspects of the stakeholder approach from a normative as well as an instrumental perspective. Behavioural analysis could be a new avenue for evaluating corporate social responsibility.

From a normative (and practical) standpoint we can im-

agine that a process of discussion with the population on the economic value of the mining project would have put the need for the project versus the need for environmental preservation into perspective, and hence explained the technical constraints facing the project. These discussions would undoubtedly have reduced the feeling among the local population that there were different levels of responsibility. This type of process does not have to involve an ethics of discussion in the true sense of the term (Habermas, 1981; Appel, 1992), but could have taken the form of an ethical forum (Elster, 2003) in which a particular focus could have been placed on a mutual concern for the environment and a recognition of the efforts stakeholders make. Naturally, the influence of this practical implication on the behaviour of the stakeholders needs to be verified.

## References

- Anscombe, G.E.M. (1958), "Modern Moral Philosophy", *Philosophy*, Vol.33, pp.1-19.
- Appel, K.O. (1992), *Diskurs und Verantwortung*, Frankfurt am Main, Suhrkamp Verlag.
- Argandoña, A. (1998), "The stakeholder theory and the common good", *Journal of Business Ethics*, Vol. 17, N°9-10, pp.1093-1102.
- Arrow, K.J. (1951), *Social Choice and Individual Values*, New York, Wiley.
- ATW (2009), *Enquête visiteurs pour la filière tourisme à Madagascar*, Report for Ministère du Tourisme, Antananarivo.
- Aubert, S., Razafiarison, S., Bertrand, A. (2003), *Déforestation et systèmes agraires à Madagascar*, Montpellier & Antananarivo, CIRAD/CITE/FOFIFA.
- Baier, A. (1985), *Postures of the Mind*, Minneapolis, University of Minnesota Press.
- Blanco, M., Engelmann, D., & Normann, H. T. (2011), "A within-subject analysis of other-regarding preferences", *Games and Economic Behavior*, Vol.72, N°2, pp.321-338.
- Blumer, H. (1986), *Symbolic interactionism: Perspective and method*, Berkeley, University of California Press.
- Bowles, S. (2008), "Policies designed for self-interested citizens may undermine 'the moral sentiments': Evidence from economic experiments", *Science*, Vol.320, N°5883, pp.1605-1609.
- Broadhurst, A. (2000), "Corporations and the ethics of social responsibility: an emerging regime of expansion and compliance", *Business Ethics: A European Review*, Vol.9, N°2, pp.86-98.
- Branco, M. C., & Rodrigues, L. L. (2007), "Positioning stakeholder theory within the debate on corporate social responsibility", *Electronic Journal of Business Ethics and Organization Studies*, Vol.12, N°1, pp.5-15.
- Bruce, N., & Harris, R. G. (1982), "Cost-benefit criteria and the compensation principle in evaluating small projects", *Journal of Political Economy*, Vol.90, N°4, pp.755-776.
- Buchholz, R., Rosenthal, S.B. (2005), "Toward a contemporary conceptual framework for stakeholder theory", *Journal of Business Ethics*, Vol.58, pp.137-148.
- Burton, B. K., & Dunn, C. P. (1996), "Feminist ethics as moral grounding for stakeholder theory", *Business Ethics Quarterly*, Vol.6, N°2, pp.133-147.
- Camerer, C. F., Loewenstein, G., & Rabin, M. (Eds.) (2011), *Advances in behavioral economics*, Princeton, Princeton university press.
- Camerer, C. F., & Thaler, R. H. (1995), "Anomalies: Ultimatums, dictators and manners", *Journal of Economic Perspectives*, Vol.9, N°2, pp.209-219.
- Cardiff, S.G., Andriamanalina, A. (2007), "Contested spatial coincidence of conservation and mining efforts in Madagascar", *Madagascar Conservation & Development*, Vol.2, N°1, pp.28-34.
- Cernea, M. M. (2003), "For a new economics of resettlement: a sociological critique of the compensation principle", *International Social Science Journal*, Vol.55, N°175, pp.37-45.
- Cernea, M. M., & Mathur, H. M. (2007), *Can Compensation Prevent Impoverishment?: Reforming Resettlement Through Investments*, Oxford, Oxford University Press.
- Cherry, T. L. (2001), "Mental accounting and other-regarding behavior: Evidence from the lab", *Journal of Economic Psychology*, Vol.22, N°5, pp.605-615.
- Clarkson, M. E. (1995), "A stakeholder framework for analyzing and evaluating corporate social performance", *Academy of Management Review*, Vol.20, N°1, pp.92-117.
- Cleaver, K. M., and G. A. Schreiber (1998), *Inversing the Spiral. The Population, Agriculture Environment Nexus in Sub-Saharan Africa*, Washington, DC, World Bank.
- Cocks, T. (2005), *Investors still Query Madagascar Stability*, Reuters, February 8.
- Commune rurale d'Andasibe (2007), *Plan Communal de Développement*, Mimeo, Andasibe, Madagascar.
- Commune rurale d'Andasibe (2008), *Monographie de la commune*, Mimeo, Andasibe, Madagascar.
- Cuperus, R., Bakermans, M. M., De Haes, H. A. U., & Canters, K. J. (2001), "Ecological compensation in Dutch highway planning", *Environmental Management*, Vol.27, N°1, pp.75-89.
- Deci, E. L. (1971), "Effects of externally mediated rewards on intrinsic motivation", *Journal of personality and Social Psychology*, Vol.18, N°1, pp.105-115.
- Deci, E. L., Koestner, R., & Ryan, R. M. (1999), "A meta-analytic review of experiments examining the effects of extrinsic rewards on intrinsic motivation", *Psychological Bulletin*, Vol.125, N°6, 627-668.
- Di Paolo, E. A., Rohde, M., & Iizuka, H. (2008), "Sensitivity to social contingency or stability of interaction? Modelling the dynamics of perceptual crossing", *New Ideas in Psychology*, Vol.26, N°2, pp.278-294.
- Donaldson, T., & Preston, L. E. (1995), "The stakeholder theory of the corporation: Concepts, evidence, and implications", *Academy of Management Review*, Vol.20, N°1, pp.65-91.
- Dufy, R. (2005), "Global environmental governance and the challenge of shadow states: the impact of illicit sapphire mining in Madagascar", *Development and Change*, Vol.36, pp.825-843.
- Elster, J. (2003), *The Market and the Forum. Three Varieties of Political Theory*, London/New York, Routledge/Open University.
- Falk, A., Fehr, E., & Fischbacher, U. (2008), "Testing theories of fairness—Intentions matter", *Games and Economic Behavior*,



- Vol.62, N°1, pp.287-303.
- Fehr, E., & Gächter, S. (2000), "Fairness and retaliation: The economics of reciprocity", *Journal of Economic Perspectives*, Vol.14, N°3, pp.159-181.
- Fehr, E., Kirchsteiger, G., & Riedl, A. (1993), "Does fairness prevent market clearing? An experimental investigation", *The Quarterly Journal of Economics*, Vol.108, N°2, pp.437-459.
- Feng-nian, W. A. N. G. (2006), "About the Mechanism and Principle of Ecological Compensation", *Studies in Dialectics of Nature*, N°1(008).
- Fetchenhauer, D., & Huang, X. (2004), "Justice sensitivity and distributive decisions in experimental games", *Personality and Individual Differences*, Vol.36, N°5, pp.1015-1029.
- Fraser, N., & Honneth, A. (2003), *Redistribution or recognition?: A political-philosophical exchange*, London, Verso.
- Fraser, N. (2001), "Recognition without ethics?", *Theory, Culture & Society*, Vol.18, N°2-3, pp. 21-42.
- Freeman, R. E. (1999), "Divergent stakeholder theory", *Academy of Management Review*, Vol.24, N°2, pp.233-236.
- Freeman, R. E., Harrison, J. S., Wicks, A. C., Parmar, B. L., & De Colle, S. (2010), *Stakeholder theory: The state of the art*, Cambridge, Cambridge University Press.
- Freeman, R. E., Wicks, A. C., & Parmar, B. (2004), "Stakeholder theory and the corporate objective revisited", *Organization Science*, Vol.15, N°3, pp.364-369.
- Frey, B. S., Jegen, R. (2001), "Motivation Crowding Theory", *Journal of Economic Surveys*, Vol.15, N°5, pp.589-611.
- Frey, B. S., Oberholzer-Gee, F., & Eichenberger, R. (1996), "The old lady visits your backyard: A tale of morals and markets", *Journal of Political Economy*, Vol.104, N°6, pp.1297-1313.
- Frey, B. S., & Pommerehne, W. W. (1993), "On the fairness of pricing—an empirical survey among the general population", *Journal of Economic Behavior & Organization*, Vol.20, N°3, pp.295-307.
- Friends of Earth (2004), *Rio Tinto Threat to Madagascar*, Press Release, April 7.
- Fritz-Vietta, N. V., Ferguson, H. B., Stoll-Kleemann, S., & Ganzhorn, J. U. (2011), "Conservation in a biodiversity hotspot: Insights from cultural and community perspectives in Madagascar", In F.E. Zachos, J.C. Habel (eds), *Biodiversity hotspots* (pp. 209-233), Springer, Berlin, Heidelberg.
- Ganzhorn, J.U., Langrand, O., Wright, P.C., O'Connor, S., Rakotosamimanana, B., Feistner, A.T.C. et Rumpler, Y. (1997), "The state lemur conservation in Madagascar", *Primate Conservation*, Vol.17, pp.70-86.
- Garriga, E., & Melé, D. (2004), "Corporate social responsibility theories: Mapping the territory", *Journal of Business Ethics*, Vol.53, N°1-2, pp.51-71.
- Geertz, C. (1973), *The interpretation of cultures: Selected essays*, New York, Basic Books.
- Gilligan, C. (1982), *In a Different Voice. Psychological Theory and Women's Development*, Cambridge (MA), Harvard University Press.
- Gneezy, U., & Rustichini, A. (2000), "A fine is a price", *Journal of Legal Studies*, Vol.29, N°1, pp. 1-17.
- Green, G.M. et Sussman, R.W. (1990), "Deforestation history of the eastern rain forests of Madagascar from satellite images", *Science*, Vol.248, N°4952, pp.212-215.
- Habermas, J. (1981), *Theories des Kommunikativen Handelns*, Frankfurt am Main, Suhrkamp Verlag.
- Hamann, R. (2004), "Corporate Social Responsibility, Partnerships, and Institutional Change: The Case of Mining Companies in South Africa", *Natural Resources Forum*, Vol.28, N°4, pp.278-290.
- Hamann, R., and P. Kapelus (2004), "Corporate Social Responsibility in Mining Southern Africa: Fair Accountability or Just Greenwash?", *Development*, Vol.47, N°3, pp.85-92.
- Hicks, J. (1940), "The Valuation of Social Income", *Economica*, Vol.7, pp.105-124.
- Holloway, L. (2000), *Catalysing rainforest restoration in Madagascar*, Paris, Mémoires de la Société de Biogéographie.
- Honneth, A. (1996), *The struggle for recognition: The moral grammar of social conflicts*, Harvard, MIT Press.
- INSTAT (2010), *Enquête permanente auprès des ménages*, Antananarivo, INSTAT.
- Jarosz, L. (1993), "Defining and explaining tropical deforestation: Shifting cultivation and population growth in colonial Madagascar (1896-1940)", *Economic Geography*, Vol.69, N°4, pp.366-379.
- Jenkins, H., and N. Yakovleva (2006), "Corporate Social Responsibility in the Mining Industry: Exploring Trends in Social and Environmental Disclosure", *Journal of Cleaner Production*, Vol.14, N°3-4, pp.271-284.
- Jeppesen, T., & Andersen, P. (1998), "Commitment and fairness in environmental games", In Hanley, N. & H. Folmer (eds.), *Game Theory and the Environment* (pp. 65-83), London, Edward Elgar.
- Jones, T. M. (1995), "Instrumental stakeholder theory: A synthesis of ethics and economics", *Academy of Management Review*, Vol.20, N°2, pp.404-437.
- Kagel, J. H., Kim, C., & Moser, D. (1996), "Fairness in ultimatum games with asymmetric information and asymmetric payoffs", *Games and Economic Behavior*, Vol.13, N°1, pp.100-110.
- Kahneman, D., Knetsch, J. L., & Thaler, R. (1986), "Fairness as a constraint on profit seeking: Entitlements in the market", *The American Economic Review*, Vol.76, N°4, pp.728-741.
- Kahneman, D., Knetsch, J. L., & Thaler, R. H. (1986), "Fairness and the assumptions of economics", *Journal of Business*, Vol.59, N°4, pp.S285-S300.
- Kaldor, N. (1939), "Welfare Propositions of Economics and Interpersonal Comparisons of Utility", *Economic Journal*, Vol.49, pp.549-551.
- Kanbur, R. (2003), "Development economics and the compensation principle", *International Social Science Journal*, Vol.55, N°175, pp.27-35.
- Kapelus, P. (2002), "Mining Corporate Social Responsibility and the 'Community': The Case of Rio Tinto, Richards Bay Minerals and the Mbonambi", *Journal of Business Ethics*, Vol.39, N° 3, pp.275-296.
- Kuiper, G. (1997), "Compensation of environmental degradation by highways: a Dutch case study", *European Environment*, Vol.7, N°4, pp.118-125.
- Kull, C.A. (2000), "Deforestation, erosion and fire: Degradation myths in the environmental history of Madagascar", *Environment and History*, Vol.6, pp.423-450.
- Lea, D. (1999), "Corporate and public responsibility, stakeholder theory and the developing world", *Business Ethics: A European Review*, Vol.8, N°3, pp.151-162.
- Little, I. M. D., & Mirrlees, J. A. (1990), "Project appraisal and planning twenty years on", *The World Bank Economic Review*, Vol.4, N°suppl1, pp.351-382.
- Ministère de l'Environnement et des Forêts (2009), *Quatrième rapport national de la Convention sur la Diversité Biologique*, Antananarivo.
- Mission Economique de Tananarive (2007), *Le secteur minier, Fiche de synthèse*, Antananarivo, French Embassy.
- Mishan, E. J. (1962), "Second thoughts on second best", *Oxford Economic Papers*, Vol.14, N°3, pp. 205-217.
- Moilanen, A., Van Teeffelen, A. J., Ben-Haim, Y., & Ferrier, S. (2009), "How much compensation is enough? A framework for

- incorporating uncertainty and time discounting when calculating offset ratios for impacted habitat"; *Restoration Ecology*, Vol.17, N°4, pp.470-478.
- Nyborg, K., Howarth, R. B., & Brekke, K. A. (2006), "Green consumers and public policy: On socially contingent moral motivation", *Resource and Energy Economics*, Vol.28, N°4, pp.351-366.
- Penz, P., Drydyk, J., & Bose, P. S. (2011), *Displacement by development: ethics, rights and responsibilities*, Cambridge, Cambridge University Press.
- Phillips, R. (2003), *Stakeholder theory and organizational ethics*, San Francisco, Berrett-Koehler Publishers.
- Phillips, R. A. (1997), "Stakeholder theory and a principle of fairness", *Business Ethics Quarterly*, Vol.7, N°1, pp.51-66.
- Phillips, R., Freeman, R. E., & Wicks, A. C. (2003), "What stakeholder theory is not", *Business Ethics Quarterly*, Vol.13, N°4, pp.479-502.
- Plan d'action Madagascar (2007–2012), Un Plan Audacieux pour le Développement rapide, [http://planipolis.iiep.unesco.org/upload/Madagascar/PRSP/Madagascar\\_PRSP\\_Francais.pdf](http://planipolis.iiep.unesco.org/upload/Madagascar/PRSP/Madagascar_PRSP_Francais.pdf)
- Prasnikar, V., & Roth, A. E. (1992), "Considerations of fairness and strategy: Experimental data from sequential games", *The Quarterly Journal of Economics*, Vol.107, N°3, pp.865-888.
- Rabin, M. (1993), "Incorporating Fairness into Game Theory and Economics", *American Economic Review*, Vol.83, N°5, pp.1281-1302.
- Reed, D. (2002), "Resource Extraction Industries in Developing Countries", *Journal of Business Ethics*, Vol.39, N°3, pp.199–226.
- République de Madagascar (2003), *Evaluation environnementale sectorielle des mines*, Tecscult International, Montréal.
- Rundcrantz, K., & Skärbäck, E. (2003), "Environmental compensation in planning: a review of five different countries with major emphasis on the German system", *Environmental Policy and Governance*, Vol.13, N°(4), pp.204-226.
- Salzman, J. (2005), "Creating markets for ecosystem services: notes from the field", *New York University Law Review*, Vol.80, N°6, pp.870-961.
- Sarrasin, B. (2006), "Economie politique du développement minier a` Madagascar: l'analyse du projet QMM à Tolagnaro (Fort-Dauphin)", *Vertigo*, Vol.7, N°2, published online on 28 April 2006. Accessed May 10, 2012. <http://vertigo.revues.org/2401>. doi:10.4000/vertigo.2401
- Scitovsky, T. (1951), "The state of welfare economics", *The American Economic Review*, Vol.41, N°3, pp.303-315.
- Sen, A. (2011), *The Idea of Justice*, Cambridge (Mass), Harvard University Press.
- Sethi, S. P. (1979), "A conceptual framework for environmental analysis of social issues and evaluations of business response patterns", *Academy of Management Review*, Vol.4, N°1, pp.63-74.
- Siggelkow, N. (2007), "Persuasion with case studies", *Academy of Management Journal*, Vol.5, N°1, pp.20-24.
- Stiglitz, J. E. (2007), "Regulating multinational corporations: Towards principles of cross-border legal framework in a globalized world balancing rights with responsibilities", *American University International Law Review*, Vol.23, N°3, pp.451-558.
- Stocker, M. (1976), "The Schizophrenia of Modern Ethical Theories", In R. Crisp & M. Slote (Eds), *Virtue Ethics* (pp.66-78), Oxford, Oxford University Press.
- Stringham, E. P. (2001), "Kaldor-Hicks efficiency and the problem of central planning", *Quarterly Journal of Austrian Economics*, Vol.4, N°2, pp.41-50.
- Sun, L., Lu, W., Yang, Q., Martin, J. D., & Li, D. (2013), "Ecological compensation estimation of soil and water conservation based on cost-benefit analysis", *Water Resources Management*, Vol.27, N°8, pp.2709-2727.
- Tracy, S.J. (2013), *Qualitative Research Methods. Collecting Evidence, Crafting Analysis, Communicating Impact*, Chichester, West Sussex, Wiley & Sons
- Titmus, R. (1971), *The Gift Relationship: From Human Blood to Social Policy*, New York, Pantheon.
- Triandis, H. C. (1989), "The self and social behavior in differing cultural contexts", *Psychological Review*, Vol.96, N°3, pp.506-520.
- Tronto, J. (1993), *Moral Boundaries*, London, Routledge.
- UNDP, UNEP, World Bank, World Resources Institute (2000), *World Resources 2000-2001: People and Ecosystems, The Fraying Web of Life*, World Resources Series, United Nations, Washington D.C.
- UNDP (2015), *Human Development Report. Work for Human Development*, New York, UNDP.
- van Noordwijk, M., & Leimona, B. (2010), "Principles for fairness and efficiency in enhancing environmental services in Asia: payments, compensation, or co-investment?", *Ecology and Society*, Vol.15, N°4, Art.17, <http://www.ecologyandsociety.org/vol15/iss4/art17/>
- Villarroya, A., & Puig, J. (2013), "A proposal to improve ecological compensation practice in road and railway projects in Spain", *Environmental Impact Assessment Review*, Vol.42, pp.87-94.
- Walker, J., and S. Howard (2002), *Voluntary Codes of Conduct in the Mining Industry*, Mining, Minerals, and Sustainable Development Project, IIED, Working paper, London, IIED.
- Wende, W., Herberg, A., & Herzberg, A. (2005), "Mitigation banking and compensation pools: improving the effectiveness of impact mitigation regulation in project planning procedures", *Impact Assessment and Project Appraisal*, Vol.23, N°2, pp.101-111.
- Wicks, A.C., Gilbert, D.R., Freeman, R.E. (1994), "A feminist reinterpretation of the stakeholder concept", *Business Ethics Quarterly*, Vol.4, N°4, pp.475-497.
- Wrzesniewski, A., Schwartz, B., Cong, X., Kane, M., Omar, A., & Kolditz, T. (2014), "Multiple types of motives don't multiply the motivation of West Point cadets", *Proceedings of the National Academy of Sciences*, Vol.111, N°30, pp.10990-10995.
- Yu, B., & Xu, L. (2016), "Review of ecological compensation in hydropower development", *Renewable and Sustainable Energy Reviews*, Vol.55, pp.729-738.
- Zheng, H., & Zhang, L. (2006), "Chinese practices of ecological compensation and payments for ecological and environmental services and its policies in river basins", World Bank, Washington, DC, USA. [online] URL: <http://siteresources.worldbank.org/INTEAPREGTOPENVIRONMENT/Resources/ReportPESreviewChineseppracticeCAASFinalENFINAL.pdf>

---

## Authors

**Jérôme Ballet** is Associate Professor in economics at the University of Bordeaux, France. He was also the editor of the online journal Ethics and Economics (<http://ethique-economique.net>). [jerome.ballet@u-bordeaux.fr](mailto:jerome.ballet@u-bordeaux.fr), GREThA, Université de bordeaux, Avenue Leon Duguit, 33608 Pessac Cedex, France.

**Kevin Lompo** is Assistant Professor at the University of Ouaga 2, Burkina Faso. He is also Director of the Master Programme on Sustainable Mining Industry at the University of Ouaga 2.

**Mahefasoa T. Randrianalijaona** is Professor in economics at the University of Antananarivo, Madagascar. He is the Director of the CERED (Center for research in development economics).

# The Consequentialism of the UN Guiding Principles on Business and Human Rights: Towards the Fulfilment of 'Do No Harm'

David Birchall

## Abstract

In this paper I demonstrate that the UN Guiding Principles on Business and Human Rights (UNGPs) leans heavily on consequentialism to inform the corporate responsibility to respect to human rights. Through the conception of 'human rights impacts', the UNGPs adopt a standard of human rights-based negative act consequentialism, capturing any business act that has the outcome of 'removing or reducing' an individual's enjoyment of human rights. Such a lens is necessary because deontological human rights rules inadequately capture the full scope of global business harm to human rights. Consequentialist responsibility offers a much wider scope, of particular use around systemic, macro-level, harm, for example, agri-business decisions that harm the right to food. The great pity is that this consequentialist element goes largely ignored in the literature. Through elucidation and demonstration of the consequentialist ethic therein, this paper hopes to contribute to more ambitious readings of the UNGPs.

**Keywords:** business and human rights; UN Guiding Principles on Business and Human Rights; consequentialism; corporate power; do no harm.

## Introduction

The United Nations (UN) Human Rights Council adopted the UN Guiding Principles on Business and Human Rights (UNGPs) in 2011. The UNGPs elaborate three pillars: the state duty to protect human rights, the corporate responsibility to respect human rights, and access to remedy. Under the second pillar, business enterprises have a responsibility to respect 'all internationally recognized human rights', which are understood as at least those expressed in the International Bill of Human Rights.<sup>1</sup>

Many scholars have criticized the construction of the second pillar. Critiques have included the instrumentalist rationale underlying business responsibility (Wettstein, 2015), the lack of an ethical framework (Cragg, 2012), the minimalism of reliance on negative responsibilities (Bilchitz, 2013), a lack of stakeholder engagement (Deva 2013), confusions within human rights due diligence (HRDD) (Fasterling, and Demuijnck, 2013; Bonnitcha and McCorquodale, 2017; Fasterling, 2017) and the non-binding approach (Nolan, 2013). In this paper I want to focus on the immanent consequentialism of the responsibility to respect, rooted in the terminology of 'human rights impacts'. I will argue that the UNGPs adopt explicitly consequentialist language, and that consequentialist responsibility for the harmful outcomes of non-violative business actions is a vital component of business and human rights (BHR) responsibility. This consequentialist element has gone largely unnoticed, with 'impacts' taken to mean 'violations' (McCorquodale et al., 2017), primarily consisting of breaches of deontological obligations, significantly re-

stricting the scope of the UNGPs. By reifying this consequentialist element, the UNGPs can be recast as an expansive and ambitious document. So ambitious, in fact, that it is clear why the drafter, John Ruggie, moved away from binding legal standards, and into softer 'social norms' (Ruggie, 2017a, 13).

The basic standard underlying the corporate responsibility to respect is stated in Principle 13 as to '[a]void causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur'. The United Nations Office of the High Commissioner on Human Rights (OHCHR) guidance states that: '[a]n "adverse human rights impact" occurs when an action removes or reduces the ability of an individual to enjoy his or her human rights' (OHCHR, 2012, 5). As I explain below, this terminology is explicitly consequentialist. It encompasses all actions with the sole judgement criterion being the consequence of 'removal or reduction' of rights' enjoyment. This therefore establishes that we are discussing a form of negative act consequentialism, wherein corporate responsibility is invoked whenever any 'action' results in harm to the human rights of an individual.

This is a significantly wider scope than that proffered by deontology, wherein universal, inviolable rules bind all parties, such as the prohibition on slavery. Deontology covers only certain prohibited acts, commonly understood in human rights terms as the 'violation'. Therefore, if one's rights are harmed by a non-violative act, the deontological approach will occlude that harm. The consequentialist alternative is necessary because a huge range of business activities that breaches no deontological rule may cause significant harm to human rights. For example, agri-business was a major driver of the 2008 global food crisis, with the industry-wide switch to growing biofuels particularly causative (De Schutter, 2008, para. 21; 28-31). Such business decisions – no matter how harmful – can never feasibly be the subject of deontological rules, and

<sup>1</sup> This is composed of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the eight ILO core conventions of the Declaration on Fundamental Principles and Rights at Work. Other Conventions, such as the Convention on the Elimination of Discrimination Against Women (CEDAW) may also be relevant '[d]epending on circumstances' (UNGPs, Principle 12).



nor can regulation practicably keep pace with potentially harmful choices. Rather, a consequentialist framework, in which acts are contested solely on the harm they cause, best marries virtue and efficacy. Victims of the global food crisis could have used the 'impacts' framework to claim against companies. This alone is a transformative shift away from the deontological mores of most BHR instruments.

De Schutter (2006, 409; 443) argues that corporations should take 'economic responsibility' for the harm that their business decisions cause to human rights, and this is where consequentialism is most useful. Corporate control of global, transnational and national markets for food, housing, healthcare and work, corporate power stemming from investment choices, the ability to avoid tax, to cause climate change, and much more, causes harm to human rights, and yet is very poorly captured by a deontological outlook. The UNGPs, by covering any action which results in harm, offer a uniquely structuralized, macro-orientation on BHR problems.

I make four arguments in support of consequentialism. First, non-violative but harmful acts are profit-motivated, morally agential and intentional, and therefore legitimate areas of moral responsibility (Arnold, 2016). Second, these acts grow more significant with increasing corporate power under globalization, and it is therefore a temporally-appropriate conceptualization. This power brings corporations close to state-like, 'quasi-governmental' power (Wettstein, 2009). Third, states with such power have, through 'deliberately retrogressive measures' under the International Covenant on Economic, Social and Cultural Rights (ICESCR), negative consequentialist responsibilities (Ssenyonjo, 2013, 93; Courtis et al., 2014, 124). Fourth, such responsibilities are necessary to capture individual responsibility for systemic forms of harm, as occurs through global markets, for example.

The paper proceeds as follows: I will first discuss various forms of consequentialism. I then turn to the UNGPs, first describing the document, and then elaborating the forms of consequentialism adopted therein. I then argue why this consequentialist ethic is correct based on moral agency, power, human rights law, and harm, and finally I conclude.

## Introduction to Consequentialism

I begin with a brief overview of consequentialist ethics. It is important to note at the outset that the UNGPs adopt a unique, pragmatic form of consequentialism applicable to global business and within the limits of Ruggie's UN mandate. Consequentialism consists of a 'family of theories that holds that acts are morally right, wrong, or indifferent in virtue of their consequences' (Jameson and Elliot, 2009, 241). This tells us we need to consider the final consequence of our action, even if the act itself is not morally wrong. Consequentialism stands in opposition to deontology, which states that we are morally obligated to act in accordance with a certain set of principles and rules regardless of outcome (McNaughton and Rawling, 2006). In religious deontology, the principles derive from divine commandment so that under religious laws, we are morally obligated not to steal, lie, or cheat. Deontology typically produces absolute constraints on the individual. Murder is always wrong, even if one murder may save two lives.

The best known form of deontology is probably that of the Kantian perfect obligation (ibid.). These are universal obligations, which state that duty bearer A must (not) do action B in relation to individual C. Domestic law operates in this way, as a list of prohibitions which citizens can easily understand and

follow, and of which no breach is generally permitted. The most obvious deontological forms within BHR are the code of conduct-based approaches, such as multi-stakeholder initiatives in value chains, which list a set of prohibited or necessitated actions which firms must follow, such as prohibitions on slavery and child labour, and requirements to pay national minimum wage (See e.g. FLA, 2015).

Odell (2004, 15-17) breaks consequentialism and deontology into four comparative forms. Absolute deontology holds that consequences are irrelevant. Moderate deontology holds the primacy of the moral rule but allows room for the consideration of consequences. Absolute consequentialism states that only consequences matter. Such a theory would have no deontological rules and can otherwise be stated as '(a)ctions themselves are never right or wrong (ibid., 15). So, for example, murder would always be permitted if it was for the greater good. Moderate consequentialism holds that consequences take priority, but that acts also matter.

One common framing is that '[c]onsequentialist theories define morality in terms of good consequences' (ibid., 16). Often consequentialism is understood in a positive and seemingly demanding way. The classic utilitarian statement of Jeremy Bentham is a common consequentialist grounding: 'it is the greatest happiness of the greatest number that is the measure of right and wrong' (cited in Hart and Burns, 1977, 393). This implies that every action should be evaluated on the basis on the overall 'pleasure' (pleasure minus pain) predicted to be generated (Burns, 2005, 48). This is highly demanding both regarding the sacrifices required and its complexity. McNaughton and Rawling (2006, 441-453) critique consequentialism on these grounds, bolstered by partiality (the advantage of retaining special relationships), and options (deontology allows more scope for freedom than consequentialism). The demands of consequentialism are too high, because the full repercussions of our acts cannot be entirely known.

More limited forms include 'satisficing consequentialism' (Slote and Pettit, 1984), wherein one's acts should produce 'good enough' consequences; 'progressive consequentialism' (Jameson and Elliot, 2009) seeking a perpetual improvement in good consequences; and 'negative consequentialism' seeking the avoidance of harm (Popper, 1945; Contestible, 2006). The basic macro-critique of a lack of specificity can still apply to each of these. The irreducible aspect of the debate is that deontologists claim that consequentialist theories have 'spurious precision' (O'Neill, 2001, 163). Because lines of causation from act to outcome cannot be precisely determined, a consequentialist ethic becomes elastic (ibid.). In BHR regulatory terms, this challenge reads much like the problem of legalism: we need concrete standards to 'bind' all actors and consequentialism struggles to map hard standards (Campbell, 2006, 14-16; Sen, 2005). Whether one seeks maximal, satisficing, progressive, or negative consequentialism, one does not overcome the difficulty in understanding the consequences of one's actions. Consequentialists rebut this argument through attempts at creating precision, as well as pointing out deontology may lead to illogical and immoral decisions, and the more basic argument that deontology permits too much (Mulgan, 2001, 25-49). Even if consequentialism may lack precision, falling back on deontology merely permits consequentialist harm, rather than addressing it.

A second delineation within consequentialism is also relevant to the analysis herein, between act and rule consequentialism (Hooker, 1990). Act consequentialism states that every action should be evaluated based on its consequences. Act consequen-

tialism, which was the variant discussed above, is especially difficult to implement because it fails to offer a concrete enough framework. It does not necessarily have to be overly demanding ethically (e.g. negative act consequentialism), but it is difficult to implement because actors cannot fully consider all repercussions of their actions. Rule consequentialism is to some extent between deontology and consequentialism. Under rule consequentialism, actors follow a set of rules that have been designed to create good consequences (ibid., 76). Here then, the consequences themselves are not evaluated, rather, rules are trusted to create good consequences. This remains distinct from deontology, however, because the rules are not themselves inalienable moral norms. Having briefly introduced the concept of consequentialism I will next lay out in more detail the various elements present in the UNGPs.

### The Consequentialism of the UNGPs

The UNGPs state that corporations 'have a responsibility to respect' human rights. The content of this responsibility is elaborated through 'impacts'. Firms should '[a]void causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur,' and prevent or mitigate impacts linked to the firm (UNGP, Principle 13 (a) and (b)).

I will not discuss the question of linkages (part b) herein, instead focusing only on causal and contributory harm. As argued by Bonnitca and McCorquodale (2017, 912) and seemingly confirmed in a reply by Ruggie and Sherman (2017, 926), firms have 'strict responsibility' to prevent, mitigate and/or remedy all 'adverse impacts' on human rights to which they are causally linked<sup>2</sup>. Strict responsibility is taken from the legal terminology of 'strict liability', meaning that firms are responsible for all impacts regardless of moral or legal fault (Bonnitca and McCorquodale, 2017, 912), and was adopted because '[b]oth states and businesses are complex institutions. Notions of fault, which reflect ideas about the moral culpability of natural persons, are less relevant to harm caused by states and corporate actors' (Bonnitca and McCorquodale, 2017, 916). Because corporations are capable of harming rights in a variety of complex ways, they require strict responsibility of a form that would be impractical for individuals. All adverse impacts should be prevented, mitigated and/or remedied. The key question then becomes what constitutes an 'adverse impact'.

The OHCHR guidance (2012, 5) states that: '[a]n "adverse human rights impact" occurs when an action removes or reduces the ability of an individual to enjoy his or her human rights.' First, the phrase 'an action' is used. This must prima facie apply to any action. We not discussing only violations of human rights obligations, such as prohibitions on slavery or child labour. Rather, all actions are potentially within the scope. Alternatively framed, the act itself is not part of the judgement criteria. What matters is the consequence of the act.

The sole judgement criterion is that the action 'removes or reduces' an individual's enjoyment of human rights. This is unusual human rights language. Human rights treaties use the terminology of 'violation' and 'retrogression', in the negative/respect sense. The most logical way to understand the term is that 'removes' is akin to violation, covering those rights and

forms of harm that fit the either/or of deontological or legalistic compliance (this is itself a simplification, but adequate for current purposes, see discussion in De Schutter, 2014, 116-117). For example, one either is or is not being tortured or enslaved at any one time. If one is in either of these conditions, the correlated right has been 'removed'; in more common language, the deontological obligation has been violated.

The more important part for my argument is the term 'reduces'. 'Reduces', which means 'lessen the amount', appears synonymous with 'retrogresses', a term that means the 'de facto, empirical backsliding in the effective enjoyment of rights' (Courtis et al., 2014, 123). Both terms therefore have a quantitative element. The term 'retrogression' is found in the writings of the Committee on Economic, Social and Cultural Rights (CESCR, see General Comment 3, para. 9). A 'deliberately retrogressive measure' is one which quantitatively reduces access to a right (Courtis et al, 2014, 124). For example, a tariff on food could be deliberately retrogressive if quantitative proof was found that access to food in the state had retrogressed as a result. The essence of retrogression is that, for socio-economic rights particularly, it is important to measure how much access to food, healthcare, housing and education there is in a state, and to challenge state policies that retrogress this access. It is therefore, an innately consequentialist obligation, wherein only the outcome is judged.

The UNGPs adopt this same consequentialist and quantitative lens. An act that removes or reduces an individual's enjoyment of rights is an adverse impact. By the wording of impacts it does not matter what the initial act is. The act of torture is certainly covered, but so could be any number of rationale business decisions. The agri-business example, above, by definition 'reduced' individuals' enjoyment of rights. This could well also constitute a 'severe' impact on the grounds of scope, one of three judgement criteria of severity, defined as 'the number of individuals that are or will be affected' (OHCHR, 2012, 19). The wording of impacts means that any act is the legitimate subject of human rights critique, based solely on whether it has the consequence of a 'reduction' in an individual's enjoyment of rights. When it does, the firm has strict responsibility to prevent, mitigate or remedy.

Critics have argued that the UNGPs eschew a moral basis in favour social expectations, and Ruggie appears to agree, citing the 'social norms' underlying the business responsibility to respect (Ruggie, 2013, 103). Yet I would argue that the basic statement of 'impacts' does constitute an ideal moral norm. Simply, business should avoid undertaking any act that harms, in any way, the human rights of any individual. This highly ambitious moral norm is unlikely to be taken up by lawmakers or managers in the near future, and so, on pragmatic grounds, social expectations must guide its incremental embedding. As I explain below, the grounding in the social allows for public discussion over the extent and limits of consequentialist responsibility. This is sensible, because, as per the general problem with consequentialism described above, it can be difficult to provably link act and outcome, while at the same time it can be very easy to make reasonable arguments around such links.

The UNGPs do not discuss ethical concepts such as deontology and consequentialism. The reasons for replacing 'violations' with 'impacts' is also not fully elaborated. While many have assumed it is simply a normatively weaker synonym, this seems unlikely given its expansive definition (discussed in Deva, 2013, 97-98). It would not have been necessary to define 'impacts' in this way if this was the intention. The term 'abuse' is widely understood to be a less normatively binding synonym for

<sup>2</sup> Ruggie and Sherman do not explicitly confirm their agreement with this. They do however state that the authors' argument that HRDD can exculpate in the case of linkages 'falls short' of the language of the UNGPs, seeming to agree with strict responsibility for causal, contributory, and linked harm, with the distinction being that linked harm requires the use of leverage over the actor committing harm, rather than direct prevention and remedy.

'violation' applicable to non-state actors (Clapham, 2005, 49). Therefore, it appears *prima facie* reasonable that every aspect of 'impacts' was intentional and understood by Ruggie.

An understanding of Ruggie's normativity and academic background bolsters this argument. He developed the concept of 'embedded liberalism', which states that the post-war era was predicated on 'a grand bargain' between free trade and social wellbeing, in which states were permitted under trade law to significantly restrict trade in the national interest (Ruggie, 1982). The neoliberal era ruptured this, liberating trade, capital and corporations within transnational free markets and weakening social protections (Ruggie, 2008, 232). He has frequently voiced support for a renewed 'grand bargain' designed to limit business power in the social interest (Ruggie, 1998; Ruggie and Kell, 1999). He argues that 'policymakers [should] revisit the principles of embedded liberalism' by regulating corporations better, including balancing the risks and rewards of globalization (Abdelal and Ruggie, 2009, 153). He states that the 'macro-objective' of his UN mandate is to embed global markets in 'shared institutional values and social practices' (Ruggie, 2006, para. 18). Restricting an understanding of 'impacts' to mere non-violation would be only a very limited conceptualization an embedded liberalism-inspired set of 'values and social practices'. The consequentialist understanding proposes much greater limitations, particularly at the macro-structural level.

Ruggie's academic work focuses on political economy and global structures. He is concerned about rising corporate power and structural imbalances between business and society (Ruggie, 2017b) and the 'the widening gaps between the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences.' (Ruggie, 2014, 6). He highlights concerns about inequality, the imbalance in global rulemaking powers, and growing 'economic instability and social dislocation' (Ruggie, 2008, 232). While many working on BHR issues adopted a legalistic, and therefore often deontological, focus, on accountability and remedy for violations (Ramasastry, 2015, 240), Ruggie's priorities lie in managing power. At the 2016 UN Forum on Business and Human Rights he argued that exploitative economic structures were linked to 'populist forces [that] involve people who have been left behind by the liberalization and technological innovations.' He is a staunch critique of 'liability legalism' (Ruggie, 2007, 839), adopting Iris Marion Young's broader model of responsibility (*ibid.*, and Human Rights Council, 2006, para. 34) and views human rights as 'mediators of social relations', rather than (only) progenitors of law (Ruggie, 2017a, 14-15).

This more macro, less legalistic and more socio-economic orientation, I believe, underlies Ruggie's adoption of a consequentialist ethic in the UNGPs, because contestation of socio-economic harm by business is precisely what consequentialism promotes. As to why Ruggie has not pronounced on the subject, we can see this as part of his constructivist indeterminacy (Mares, 2013, 23-24), in which he deliberately created a document that appeared minimal, and so acceptable to antagonistic forces, but could be mined for new meanings over time (*ibid.*).

### Three Elements of Consequentialism in the UNGPs

In this section I will further describe the consequentialism of the UNGPs, elaborating four elements. First, they adopt negative act consequentialism. An outcome which fails to realise rights does not constitute an adverse impact. Second, there is an implicit progressive element, thanks to the grounding in the social norms. Third, human rights due diligence is a form of

rule consequentialism designed to promote the prevention and remediation of adverse impacts. I will elaborate each of these in turn.

#### Negative Act Consequentialism: Understanding Harm

The basic standard of human rights impacts is that of negative act consequentialism. An impact occurs when an act 'removes or reduces' rights enjoyment, and therefore, every act should be evaluated on this criterion. The wording is absolutely clear and, within the confines of negative responsibility for harm to human rights, there is no limit proposed: an act that removes or reduces an individual's enjoyment of rights is an adverse impact, for which corporations have strict responsibility to mitigate and/or remedy. Any act that causes any harm to anyone's rights, is covered. It is therefore not aimed at creating absolute good consequences, but at eliminating harm to human rights.

Negative consequentialism has some obvious downsides as a philosophy of individual morality. It is too weak, too demanding and too imprecise. It is too weak because individuals have many opportunities to do good. Particularly those in wealthier states and/or who have some spare time should, surely, do some good in the world. It is too demanding because many actions, such as driving a car, cause harm. Adding a caveat that one may do harm in order to do good is no longer negative consequentialism. It is too imprecise because many acts cannot be evaluated as a negative/positive dyad. Buying a t-shirt made in Bangladesh might contribute to child labour, and/or it might contribute to economic development.

These critiques also apply to business responsibility. Businesses can and should do good, businesses must perform some harmful acts, e.g. causing pollution, and businesses also cannot know all of their harmful impacts. It is reasonable to say that consequentialism is an impractical standard to which to hold businesses. However, there are three good reasons to support a consequentialist incursion into business responsibility. First, as above, if our rejection of consequentialism leads to reliance on deontology, we merely become permissive of a wide range of harms, ignoring, not addressing, the problem. Second, 'corporate responsibility' is already a rich field comprised of some hard and some soft human rights-based deontological rules, from laws to voluntary initiatives, while Corporate Social Responsibility encourages the fulfilment of imperfect obligations (Wettstein, 2012, 748-750). Therefore, unlike an ethical argument that individuals should live by negative consequentialist principles rather than another set of principles, here negative consequentialism is added to pre-existing governance arrangements. Consequentialism under the UNGPs merely fills in a gap, rather than eroding other responsibilities. Third, just because not every harm can be contested or even known should not mean that all such harm is excluded. Take climate change. A proposal to mitigate and remedy the harm caused to those in low-lying islands who lose their homes as a result of rising sea levels is not considered morally incoherent just because it excludes the harm suffered by another group, for example, those who suffer breathing difficulties in an urban environment. Consequentialist expansions of business responsibility must be allowed to evolve gradually.

The negative aspect has proved one of the most controversial elements of the UNGPs (Wettstein, 2015). Corporations, it is argued, require protect and/or fulfil responsibilities in addition to negative responsibilities. Through active negative responsibilities, and complimented by linkages and complicity, and UNGPs build some protective responsibility (Mares, 2012; Wettstein, 2013). Corporations do not, however, have protect



responsibilities beyond that linked to their operation, and they do not have fulfil responsibilities, although again, the lines can be rather blurred. The human rights element is a natural corollary of Ruggie's UN mandate. It does not necessarily provide a noticeable limit in itself, since any harm that business may do to individuals can be captured by human rights, assuming we understand them holistically. For example, harm to mental health is a particularly expansive area.

I do not deny the importance of positive responsibilities, but I do highlight the alternative expansiveness of consequentialist negative responsibility. The liability legalism model necessitates that the victim must be able to show that a specific business entity violated a specific legal right (Young, 2006, 116-118). The consequentialist model goes beyond this, because any reduction in enjoyment of rights stemming from a corporate act is covered. Darcy argues that tax avoidance harms human rights through reducing the state ability to protect (Darcy, 2017, 23). Food firms switching to biofuels did harm access to the right to food (De Schutter, 2008). Similar arguments could target mass automation (ICAR, forthcoming), and the right to just work and the on-demand economy (Natour, 2016). Philip Alston (2015) argues that extreme inequality harms human rights, and therefore any business act that contributes to rising inequality could be critiqued on consequentialist grounds. There is room for a great deal of debate around these impacts, but the expansive scope of negative consequentialism at least provides a starting point for that debate.

While the consequentialist ethic has gone largely ignored, there has been one important case brought under the 'impacts' framework that relies on consequentialist reasoning. Action Aid Denmark vs Arla Foods was a case filed at the Danish National Contact Point, a mechanism for handling complaints under the OECD Guidelines (OECD, 2011). This is distinct from the UNGPs but transplants the definition of 'impacts' and the tool of HRDD directly from the UNGPs. Specifically, the case was filed in relation to Chapter IV paragraph 5: 'Carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts' (ibid, 31). As the UNGPs lack a complaint procedure themselves, the OECD Guidelines are a useful tool to check implementation of the principles contained therein. Arla Foods was accused of failing to take into account the 'negative consequences' of its exportation of cheap milk products, 'which undermines the milk industry in the Global South and has negative consequences for the livelihoods of locals' (OECDWatch, 2014). The complaint alleged a failure to complete adequate HRDD taking into account all adverse human rights impacts. Arla Foods agreed and promised to 'engage in a more systematic identification, prevention and mitigation of actual and potential unintended consequences on local farmers' business prospects and rights that may be impacted by Arlas [sic] sales and operations' (ibid.).

This case perfectly demonstrates the ambitious scope of the UNGPs framework in going beyond deontological breaches. The EU has been criticized for subsidizing farm products that are then sold at below cost price to the developing world, harming local industry and development (Action Aid, 2011). However, with the EU unwilling to clamp down on the practice, it is necessary to turn to business responsibility. The practices of Arla Foods violated no deontological rules but did cause adverse human rights impacts on the basis of 'negative consequences' upon local livelihoods (OECDWatch, 2014). As per the rationale herein, if one's livelihood is adversely impacted, it may well reduce one's access to work, just work, food or health-

care, thereby having defined human rights impacts. This is the only case to have reached 'agreement' under the OECD Guidelines that adopts this understanding of 'human rights impacts' – every other case alleges specific violations – suggesting that the consequentialist scope of 'impacts' needs greater normative reification to bring its potential to fruition (OECDWatch, 2018).

Making corporations responsible for all negative consequences of their actions is a different form of ambition to drafting 'fulfil' responsibilities, but may not be less ambitious. Indeed, as I examine below, by asking businesses, activists and researchers to trace the links between corporate acts and harmful outcomes, it may be a more forceful form of responsibility, dedicated to excavating and understanding the various ways in which businesses harm rights beyond the deontological violation. Negative consequentialism challenges us to understand the full range of business harm to human rights, and this should be considered an essential element of human rights protection in an increasingly globalized, corporatized, and connected world.

#### Progressive Consequentialism: Incremental Shifting of Social Norms

Ruggie often adopts a discursivity of incrementalism, captured best by his description of the finalization of the UNGPs as 'the end of the beginning' (Ruggie, 2011, para. 13), designed to foster a gradual shifting of the social norms around what constitutes a human rights respectful business. He seeks 'cumulative change over time [that no] top down command-and-control regulation could possibly create (Ruggie, 2017a, 14). This ties in a practical sense with progressive consequentialist ethics. Progressive consequentialism 'is the view that a right action is one whose consequences improve the world... what [progressive consequentialism] requires of agents is that they act in such a way as to increase value in the world' (Jameson and Elliot, 2009, 244). It means, simply, that at every opportunity to act, the agent in question attempts to improve the world. Following one improving act, the next act will build on this, and so on. No single act need be overly demanding, but the sum total should lead to transformative progress. Within this theory, actors are also not permitted to cause harm. If any act is liable to cause harm, inaction becomes the most progressive (least retrogressive) option (ibid.).

One problem with progressive consequentialism 'is that it risks making morality extremely demanding for the highly moral and extremely undemanding for the morally indifferent' (ibid., 247). Demandingness appears to increase exponentially, a supererogatory deed today leads to demands for even greater supererogation tomorrow. The authors agree that this is true, and use an example of Gandhi and Bernie Madoff, positing that Gandhi's greater moral virtues make supererogation more personally justifiable. He may even demand supererogation from himself, and therefore progressive consequentialism captures our own innate virtuousness and pushes it as far as it can reasonably go. In my own opinion, the authors do not adequately justify the precision they claim for their theory, nor the demandingness criterion. Just like satisficing consequentialism, we left asking the question of how can we know that our actions are improving the world? However, these critiques are not relevant for progressive consequentialism as it applies in the UNGPs.

The UNGPs avoid these problems by addressing progressivism at the level of social norms (Ruggie, 2017a). '[W]here new hard law is not immediately in the offing, creating, consolidating, disseminating and embedding social norms is an indispensable tool for inducing changes in conduct' (Ruggie, 2017a, 14). This has two inter-related elements, the business norm and the



social norm. The former element aims to gradually expand the scope of what business feels it must address. Therefore, more responsive businesses will, like Gandhi, have greater demands placed upon them. This may not be perfectly fair, but it is a practical reality that has been used previously, for example, to foster extensive regulation of fashion-brand value chains. As important is the shifting of the social norms around what constitutes legitimate human rights-based critique of business, that is, what acts society contests in human rights terms. This is a question resting on value judgements that will shift over time, and Ruggie's open-ended framework allows significantly more ambitious arguments to be made around it, as will be shown in the next section.

What Ruggie has done is very clever. He has left an unlimited negative framework into which any and all harms can be fitted. However, he has not stated that all harm must be fitted into it (the word 'should' appears frequently), and he has not made this a binding standard. Had he done this, the UNGPs would presumably not have been approved by the Human Rights Council (Ruggie, 2013, 103). Rather, through debate in the 'global public domain' (Ruggie, 2005) the understanding of 'impacts' can evolve. This is based on his constructivist background, although many ethicists also value the importance of, for Sen, 'public discussion' (Sen, 2004, 329), and for Habermas 'deliberative democracy' (Habermas, 1994). The point, for Ruggie, is that only through public discussion will harms caused through less direct means become legitimate targets. Thus, rather than entering the contentious grounds of which ethical approach to adopt, Ruggie has created space for the most ambitious form, without demanding the most ambitious reading be immediately taken. The concept of 'severity' is useful in providing a prioritization strategy within this unlimited framework (OHCHR, 2012, 82). All impacts should be addressed, but the most severe impacts should take priority. This is rather unsatisfactory if we take a deontological approach, but logical under consequentialism. The most severe, including the most obvious, impacts, should take priority, while some impacts will require extensive investigation and argumentation to bring into the fold of corporate responsibility. For example, there is a historical norm that tax avoidance is not a BHR issue. Darcy (2017) seeks to challenge this norm through the UNGPs. Constructivists see these norms as innately malleable, and, in a normative sense, seek to open space under which norms can progressively evolve. 'Impacts' seeks to widen the BHR agenda, but through public discussion, rather than appeal to authority, and primarily by providing a rationale by which to build arguments, rather than rules that must be followed.

#### Rule Consequentialism: Diligently Investigating Harm

'Impacts' is very useful in widening the scope of BHR responsibilities, but also has disadvantages, particularly where social problems do not capture the wider public imagination. It has the advantage of breadth and the disadvantage of a lack of clarity. To address this problem, Ruggie offers the rule consequentialist technique of HRDD. This is designed to assist in mapping impacts, and increase both business and civil society knowledge of these impacts. Simply, following the 'rules' of HRDD will increase the chances of avoiding harmful consequences.

The process of HRDD is not perfectly aligned with the philosophy of rule consequentialism, but it does share some elements. Portmore defines rule consequentialism as holding 'that the rightness of an act depends not on the goodness of its consequences, but on whether or not it is in accordance with a certain code of rules, which has been selected for its good consequences

(Portmore, 2008, 1). Thus, philosophically, rule consequentialism is a rival, not a partner, to act consequentialism. There is however a major similarity between the techniques of HRDD and rule consequentialism, in that 'the rightness of an act' by a business is evaluated, in part, according to whether the rules of HRDD have been followed. This is the understanding of HRDD as potentially exculpatory practice that Bonnitcha and McCorquodale contested, above. Thus, on some interpretations of the UNGPs, even an adverse impact can be deemed 'right', or at least acceptable, if HRDD has been correctly practiced (e.g. Michalowski, 2013). On a strict responsibility understanding, the adverse impact remains unacceptable, but a firm that follows HRDD is less likely to cause such an impact. Thus, HRDD remains as a set of rules designed to prevent negative consequences, although the philosophical understanding of the rightness of act depending on the rules being followed is denied. This again fits the pragmatic tone of the UNGPs as it borrows from rule consequentialism, without being overly restricted by the philosophy.

Principle 17 states that:

In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.

HRDD should cover adverse impacts that the business causes, contributes to, or is directly linked to its operations. It should be specific to the context of the firm's operations, and should be ongoing (UNGP, Principle 17). Businesses should consult with relevant stakeholders to help identify potential impacts (18), integrate their findings into decision-making processes and provide sufficient budgetary allocations to address risks and extant impacts (19), and track the effectiveness of their responses using 'appropriate qualitative and quantitative indicators', as well as stakeholder consultation (20). Firms should report publicly on how they are addressing potential and extant impacts (21) and provide remedy for any impacts they have caused (22). Where necessary, firms should prioritize the most severe and/or irremediable impacts (24).

The essence of rule consequentialism is that one follows a prescriptive rule set designed to ensure good consequences. Under the UNGPs, HRDD provides a prescriptive rule set designed to identify, prevent and remedy all adverse consequences. Through the method of HRDD, all impacts can be tracked and understood. By conjoining act and rule consequentialism, Ruggie is able to harness the best of both worlds. Act consequentialism is the basic standard, but, given the indeterminacies inherent therein, the much simpler norms of rule consequentialism provide a toolkit through which to think about impacts. Although HRDD is meant as a business practice, the practice also informs civil society understandings and techniques. The tools of HRDD can be used by civil society, and failure to correctly practice HRDD can be a critical weapon.

One benefit of HRDD is that it asks, only, in the first instance, that firms 'know and show' their impacts. This is a lower bar than preventing and remedying all such harm, and one that fits with embedded transparency norms. Once impacts are known and shown, a more powerful argument that they should be addressed is available. This is particularly true of potentially retrogressive acts and particularly of acts with complex impacts, such as may occur with mass automation of factories, for ex-

ample (Freeman, 2015). It remains true that the full impact of business decisions will be difficult to map, but some harms stemming from non-violative acts will be apparent. Again, it is a practical form of ambition. Just because even well-designed HRDD might miss some issues, does not mean that the consequences of non-violative acts should not be investigated at all.

One problem with HRDD as a form of rule consequentialism is vagueness. There is an aspirational quality to the rules, wherein it is not at all clear what constitutes real compliance. For example, at what point is stakeholder consultation complete? If we see HRDD as rule consequentialism, there is reason to believe that it should provide reasonably determinate standards. As the OHCHR Guidance (2012, 33) makes clear at many points, 'there is no single answer' to how businesses should conduct HRDD. It should vary greatly with different contexts. There is also the ever-present issue of business acceptance and 'pushing the envelope' (Ruggie, 2013, 107). Ruggie clearly believed that too many concrete demands would result in push back. However, adopting the rationale of rule consequentialism, I would argue that there is scope in the future for a more strictly delineated set of HRDD standards. For example, Principle 21(a) regarding public communication of the identification and prevention and remediation of adverse impacts states that communications should '[b]e of a form and frequency that reflect an enterprise's human rights impacts and that are accessible to its intended audiences'. This could be improved by making specific requirements as to the frequency and form (such as translation into relevant languages). It would be ideal if over time incremental improvements to the definitiveness of HRDD were made, making it easier to see if the practice had been followed.

### Why is Consequentialism a Good Lens for BHR?

In this section I will argue that it is ethically valid that corporations have consequentialist responsibility for their harm to human rights. Firstly, corporate harm to rights, whether deontological violation or consequence, is still the product of moral agency. Second, corporations have power over rights and can therefore adversely impact rights in ways beyond deontological obligations. Third, human rights law as addressed to states deals with this similar state power over rights through consequentialist means. Fourth, the absence of consequentialism is an important gap in contemporary BHR praxis that allows harm to proliferate.

#### Moral Agency

Why should corporations have responsibility for the harmful consequences of their actions? I begin with a basic prefigurative step in the more basic argument that corporations are legitimate bearers of human rights responsibilities, that of moral agency (Arnold, 2016). Moral agency is the prerequisite of responsibility. Sepinwall (2015, 518) defines as moral agents 'those who are fit to be held morally responsible (i.e., praiseworthy or blameworthy) for their acts.' Without moral agency there is no possibility of bearing moral responsibility. A moral agent is therefore one that may hold obligations. This is distinct from a moral person, who holds both rights and obligations. Both Donaldson (1980) and French (1979) have argued that corporations are moral agents, capable of bearing obligations, but are not moral persons capable of claiming rights. There are many potential grounds for denying corporations moral personhood, including their unique form: they cannot die, eat, marry, be tortured, thus they at least would require radically

different or more limited version of rights. Bishop (2012) and Werhane (2016) both worry that granting corporations moral personhood would elevate them above individuals because of their greater (aggregated) power. Others argue that the individual should be supreme, and no group or aggregated power should prevail over the individual (List and Pettit, 2011, 179-181). Generally, these arguments lead to a position in which corporations rightly require some rights (such as to property and contract) but not the full body of human rights, and moreover the rights they do hold may have specific limits. The Citizens United decision controversially denied such a limit over free speech (Néron, 2016). This is problematic because it elevates corporations above the status of individuals, at least de facto based on their greater power.

Corporations are often described as moral agents due to their internal decision-making process (Arnold, 2016, 262). The decisions that eventually lead to human rights harm are part of complex process involving all manner of departments. No single individual can (usually) be held responsible for harms resulting from this process. Novelist John Steinbeck (1939, 43) described the logic thus: 'It happens that every man in a bank hates what the bank does, and yet the bank does it. The bank is something more than men, I tell you. It's the monster. Men made it, but they can't control it.' Because this decision-making process denies extensive moral agency to individuals within it, it follows that it is the corporation itself that must hold this agency.

The next important point is intentionality. Arnold defines intentionality 'as the ability to plan future actions in a coordinated manner' (Arnold, 2016, 257). This includes 'the capacity for reflective assessment of corporate plans and practices' (ibid., 262) Corporations have a large degree of scope when planning. Where and when to invest, whether to adopt an ethics or human rights policy, and how to address problems with suppliers, subsidiaries or state partners are issues in need of consideration, and over which firms can choose their own ethical approach, or lack thereof. This is key to intentionality: because corporations can make active decisions that cause harm to human rights, but simultaneously are capable of making different decisions that do not harm human rights, they are legitimately obliged to respect human rights (ibid., 262).

Grounding human rights responsibility in moral agency appears to collapse the distinction between deontology and consequentialism. If firm A is violating labour rights, and firm B finds that its practices are reducing access to food, both, as moral agents, are capable of preventing and remedying this harm to human rights. That is, if we accept that corporations have responsibility for their human rights violations on the basis of their moral agency and concomitant ability to plan, assess and reverse their acts, by that logic they hold equal moral responsibility for consequentialist harms resultant from non-violative acts. This leads to a position in which the morally agential corporation is responsible for the harm caused by its own acts. As long as the harm is foreseeable and/or discernible, the corporation with responsibility to respect human rights should have moral responsibilities to prevent, mitigate and/or remedy this harm. This is captured by the unlimited act consequentialist framing of the UNGPs. In some consequentialist cases the links and quantitative proof may be more difficult to draw, but this is also true of many deontological issues, such as those in value chains. A focus on intentionality opens space for a consequentialist lens because it starts from the act and then seeks the outcome. Switching to biofuels is just as morally agential as using child labour, and therefore subjecting the policy to human

rights critique is *prima facie* valid.

### Corporate Power

This ethical rationale provides a basis for legitimate consequentialist responsibilities. The issue of corporate power makes these responsibilities necessary. Corporations have significant power resources which can be instrumentalized in search of profits in ways which cause adverse impacts on rights. Some such impacts require consequentialist responsibilities, or else firms will be left unaccountable. A crucial element of consequentialist responsibility is that it allows the contestation of a much wider range of power instrumentalities.

Firms may 'intentionally' plan acts which lead them into human rights violations or complicity in such violations. They would be, by most conceptions of BHR, responsible for these violations. But firms can also intentionally plan acts which cause consequentialist harm, such as reduced access to food or healthcare. Failure to address such harms goes against the primary tenet of human rights, that they are inalienable to all persons, and that rights should provide 'trumps' against other arguments. The lack of consequentialist responsibilities mean that, in practice, only some rights provide trumps in some situations. In particular socio-economic rights only rarely, in practice, provide even an argumentative basis to claim as trumps against business actions, because they are most likely to be impacted through non-violative means.

This is most apparent where firms have a position akin to that of the primary agent of justice (O'Neill, 2001; Wettstein, 2009, 161-164). Here, due most likely to *de facto* control over a right within a community, or in some cases a shared control with an industry-based oligopoly, the decisions that a firm takes will directly impact a right. In these situations, the assumption that corporations are rule-takers subservient to state power breaks down. This also occurs where corporations can bypass state regulation, or have structural power over states, such as when making investment choices (De Schutter, 2006). States cannot mediate corporate behaviour, and so corporations require more direct, and expansive, human rights responsibilities. According to the wording of impacts, any instrumentalization of power that causes an adverse impact is captured.

O'Neill (2001, 181) argues that the distinction between primary and secondary agents is that the former is the rule-maker and institutional organizer, the latter the rule-taker. Primary agents have 'capacities to determine how principles of justice are to be institutionalised within a certain domain.' This leads to a relevant consequentialist distinction. The primary agent of justice must be a legitimate bearer of consequentialist responsibility, while secondary agents must merely follow the rules. Primary agents of justice are required to take into account outcomes when deciding policy, and this is exactly what 'impacts' proposes. This is a vital distinction: under 'impacts' the corporation is reconceived as partially coterminous to the primary agent of justice. Unlike most BHR instruments, the corporation must not merely follow prescribed rules, but must actively investigate the effects of all its policies and practices to ensure they are conducive to rights' respect. This is not a demand that would typically be made of a secondary agent, because it is too demanding. The empowered corporation, however, with both the capacity to cause structuralized harm through legitimate business decisions, and the capacity to understand and remake these decisions, is not a typical secondary agent. To fully understand how this can work in practice it is worth returning to the legal concept of 'retrogressive measures', because human rights lawyers have long dealt with this exact problem.

### Human Rights Law

The CESCR has a specific problem to address, in that socio-economic rights are harmed by a range of forces, and are not so likely to be directly violated, as, for example, the right to freedom from torture may be violated. Of course, all rights require a range of protections, and all rights have material, legal and normative bases that can be undermined by a range of factors. Nonetheless, these structural factors are magnified around socio-economic rights.

For states, acts may be disbarred under the ICESCR if they have the consequence of retrogressing the right in either a quantitative or juridical protection sense (Courtis et al, 2014, 124-6). General Comment 3 (1990 para. 9) lists 'deliberately retrogressive measures' as *prima facie* violations of the Covenant. 'A retrogressive measure is one that, directly or indirectly, leads to backward movement in the enjoyment of the rights recognized in the Covenant (OHCHR, 2012, para. 41). The use of the term 'deliberately' is not defined in the General Comment or subsequently. The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights also demurred from a definition. It is clear from the document, and General Comment's dealing with specific rights, that it does not mean to limit coverage to moral fault of the deontological violation variety. Rather, 'deliberate' should be seen similarly to morally agential intentionality, covering any state act which has the effect of retrogression.

The General Comment on the Right to Food (1999, para. 15) lists that 'measures preventing access' are violations of the duty to respect the right to food, and this includes changes to law or policy, based on the consequence of retrogression. Elsewhere, introducing tertiary education fees in the UK was deemed deliberately retrogressive, as were Egyptian government cuts to health, education and housing budgets, and 'increased recourse to regressive indirect taxes' (Ssenyonjo, 2016, 93-94). It is important to highlight the consequentialism of these rules. This is clearly shown in the Concluding Observations on Egypt, which stated:

The Committee is concerned that the reduction in the proportion of budgetary resources allocated for health, education and housing has resulted in retrogression in the effective enjoyment of the rights enshrined in the Covenant, disproportionately impacting disadvantaged and marginalized individuals and groups.

Note here that reducing the proportion of budgetary resources allocated to socio-economic rights is not the problem. The problem is the resultant retrogression, which has been traced back to budget cuts. Just like 'impacts', the outcome of retrogression is the only relevant factor. Any act may be retrogressive, no act necessarily is.

There are clearly many discrepancies between state and corporate responsibilities. Nonetheless, the basic idea that states have deeply embedded consequentialist responsibilities within human rights law should give us reason to consider such a rationale for corporations. Retaining the right to food example, we could compare a state tariff to a company production change. Neither are *prima facie* human rights violations. But, if state A implemented a tariff that resulted in 10% of its population suffering a quantifiable retrogression in the right to food; that tariff would be considered deliberately retrogressive. If company B implemented a change in production that resulted in a similarly quantifiable retrogression, and, at least, if the affected state was unable to prevent the retrogression, it should be challenged as an adverse impact on these individuals' right to food. This is bolstered by the Maastricht Principles on Extra-



territorial Obligations of States in the Area of Economic, Social and Cultural Rights (MPs), which clarify that state duties in this regard extend extraterritorially. If a state tariff, for example, caused a retrogression in the right to food of a neighbouring state, the first state would be in violation of its duties under the ICESCR (e.g. under MPs, Principles 13 or 20). They do so on the basis of the need for universal protection<sup>3</sup>. If corporations do not have such consequentialist responsibilities, a gap is evident in global human rights protection: some individuals' right to food will be unprotected. The UNGPs, by stating that firms have responsibilities to not commit any act that 'removes or reduces' rights enjoyment, provide a basis for such necessary consequentialist responsibilities.

### Systemic Harm

A fourth rationale is the systemic element of corporate consequentialist harm. Using the rubric above, a morally agential instrumentalization of a power resource that causes foreseeable or discernible harm to individuals' human rights is legitimately within the scope of human rights impacts, as it is within the scope of 'deliberately retrogressive measures'. For those concerned with business impacts on socio-economic justice, particularly, consequentialism is a necessary lens. Neither law nor politics, nor, to a significant extent, the BHR movement is doing enough to challenge corporate power and the harm it causes. Placing business decisions beyond the remit of BHR is most damaging single problem of the movement. When Samuel Moyn writes that human rights have been 'powerless' to contest neoliberalism (2015), and are 'not enough' in an 'unequal world' (2018), this is the mentality to which he refers, a mentality that separates violations and economic decisions, and therefore occludes a wide range of harms. Society understands the harm that these problems cause, and therefore empowering society to contest this harm in the powerful languages of human rights may be the best option currently available.

More ambitious scholars often turn to positive responsibilities to create more meaningful business involvement in socio-economic justice. Wettstein (2015, 757) makes this argument based on two interrelated factors. Some harms are 'the result of complex systemic interactions between a wide variety of different agents. This... makes it difficult, if not impossible, to assign [causal] responsibility'. Wettstein therefore turns to positive responsibilities based on capabilities, arguing that business entities are legitimate bearers of moral responsibilities to fulfil rights (ibid.).

While Wettstein is right that many global issues are complex and caused by a range of actors, this is no reason to deny responsibility for the specific role in harming rights that certain firms may have. Consequentialism encourages a focus on tracing the range of harms that corporations may cause to rights. Pogge (2008, 13) justifies a relational form of global justice on the grounds that we are all connected through the global economy, that those actors with power over and within the global economy have used this power to harm the powerless over a

long time period, and that they therefore have moral responsibilities towards those harmed. 'Impacts' captures the business side of this harm. This is, at least, a requirement alongside positive responsibilities.

Some examples of 'complex systemic interactions' may include climate change, socio-economic rights, and global labour fragility. These are complex, yet they are also problems that some individual corporations exacerbate in demonstrable ways in the course of making immense profits. Just 100 corporations are responsible for 71% of global carbon dioxide emissions, for example (CDP, 2017, 8). These firms could argue, quite fairly, that their customers and states also bear responsibility, but this argument does not deny that they bear significant responsibility themselves. 'Impacts' allow for such arguments on the basis of climate change causing harm, and these firms causing climate change. These links are (almost) undeniable and therefore responsibility under the UNGPs is similarly undeniable.

Finally, it is important to highlight that it is not virtuous corporate benevolence that is being sought, but rather an end to harm. There is a tendency to posit greater responsibilities for causal harms than for harms one has the capability to remedy. This may be a facet of engrained liberalism, predicated on some variant of JS Mill's maxim 'The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others' (Mill, 1859, 22). Linklater uses the example of being approached by two beggars, one of whom you have previously harmed, and what appears to be an innate predilection to feel extra responsibility for the causal role you have played in this person's misery (Linklater, 2011, 78). Within current ethical norms, contesting harm is more normatively valid, and, if understood holistically, a deeply ambitious project of its own. Understanding the links between corporate actions and harm to human rights and encouraging affected communities to put a wider range of harms into the 'impacts' framework represents a fruitful project in engendering greater business responsibility for human rights.

### Conclusion

I have made two arguments in this paper. The first is descriptive: 'human right impacts' under the UNGPs adopts a consequentialist framing. The second is normative: consequentialism is a necessary lens on business responsibility toward human rights. That businesses should avoid actions which remove or reduce the ability of individuals to enjoy their human rights offers an expansive framework in which we can consider the consequences of corporate activity from a human rights standpoint. This is a useful formulation to tackle the harmful repercussions of global business activity, especially as corporate scale, scope and power continues to develop. The global protection of human rights requires a form of business responsibility that encompasses the macro-impacts of business decisions. The UNGPs open space to begin this project, and this aspect should be reified and centralized.

<sup>3</sup> E.g. 'Without ETOs [extraterritorial obligations], human rights cannot assume their proper role as the legal bases for regulating globalization and ensuring universal protection of all people and groups' (MPs, 2013, 3)

### References

Abdelal, R & Ruggie, J.G. (2009), The principles of embedded liberalism: Social legitimacy and global capitalism. *New Perspectives*

on Regulation, Moss, D & Cisternino, J. ed., 151- 162. Action Aid. 'Milking the Poor - How EU subsidies hurt dairy



- producers in Bangladesh' 2011, at: <http://www.actionaid.org/eu/publications/milking-the-poor> [last accessed 31/7/2018].
- Report of the Special Rapporteur on extreme poverty and human rights, Philip Alston, on extreme inequality and human rights, A/HRC/29/31, 27 May 2015.
- Arnold, DG. (2010) Transnational corporations and the duty to respect basic human rights. *Business Ethics Quarterly* 20.3, 371- 399.
- Arnold, DG. (2016), Corporations and human rights obligations. *Business and Human Rights Journal* 1.2, 255-275.
- Arrhenius, G & Bykvist, K. (1995), *Future Generations and Interpersonal Compensations Moral Aspects of Energy Use*. Uppsala Prints and Preprints in Philosophy 21.
- Bilchitz, D. (2013), A chasm between 'is' and 'ought'? A critique of the normative foundations of the SRSG's Framework and the Guiding Principles. in Deva, S & Bilchitz, D eds. *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* Cambridge University Press.
- Bishop, JD. (2012), The limits of corporate human rights obligations and the rights of for-profit corporations. *Business Ethics Quarterly* 22.1, 119-144.
- Bonnitcha, J & McCorquodale, R. (2017), The Concept of 'Due Diligence' in the UN Guiding Principles on Business and Human Rights. *European Journal of International Law* 28.3, 899-919.
- Bonnitcha, J & McCorquodale, R. (2017), The Concept of 'Due Diligence' in the UN Guiding Principles on Business and Human Rights: A Rejoinder to John Gerard Ruggie and John F. Sherman, III. *European Journal of International Law* 28.3, 929-933.
- Burns, JH. (2005), Happiness and utility: Jeremy Bentham's equation. *Utilitas* 17.1, 46-61.
- Campbell, T. (2011) *Rights: A critical introduction*. Taylor & Francis.
- CDP. (2017), 'The Carbon Majors Report 2017' <https://b8f65cb373b1b7b15feb-c70d8ead6ced550b4d987d7c03fcd1d.ssl.cf3.rackcdn.com/cms/reports/documents/000/002/327/original/Carbon-Majors-Report-2017.pdf?1499691240> [last accessed 31/7/2018].
- Clapham, A. (2006) *Human rights obligations of non-state actors*. OUP Oxford.
- Committee on Economic, Social and Cultural Rights. General Comment 3: The nature of States parties obligations (Art. 2, par. 1), E/1991/23, 1 January 1991
- Committee on Economic, Social and Cultural Rights. General Comment No. 12: The Right to Adequate Food (Art. 11), E/C.12/1999/5, 2 May 1999
- Committee on Economic, Social and Cultural Rights. Concluding observations on the combined second to fourth periodic reports of Egypt, e/c.12/egy/co/2-4, 13 December 2013
- Contestabile, B. (2005) Negative Utilitarianism and Justice. *Philosophy as Therapy*.
- Cossart, S, et al. (2017), The French law on duty of care: A historic step towards making globalization work for all, *Business and Human Rights Journal* 2.2, 317-323.
- Courtis, C et al. (2014), Two Step Forwards, No Steps Back? Evolving Criteria on the Prohibition of Retrogression in Economic and Social Rights in Aoife Nolan, ed. *Economic and social rights after the global financial crisis*. Cambridge: CUP.
- Cragg, W. (2012), Ethics, enlightened self-interest, and the corporate responsibility to respect human rights: A critical look at the justificatory foundations of the UN framework. *Business Ethics Quarterly* 22.1, 9-36.
- Darcy, S. (2017) 'The Elephant in the Room': Corporate Tax Avoidance & Business and Human Rights. *Business and Human Rights Journal* 2.1, 1-30.
- De Schutter, O. (2008) Background Note: Analysis of the World Food Crisis by the UN Special Rapporteur on the Right to Food, Olivier De Schutter' 1, at <http://www.ohchr.org/english/issues/food/index.htm> [last accessed 21 July 2017].
- De Schutter, O. (2014), The role of global governance and the right to food in Aoife Nolan ed. *Economic and social rights after the global financial crisis*. Cambridge University Press, 90-118.
- De Schutter, O. (2014), 'Transnational Corporations as Instruments of Human Development' in Philip Alston and Mary Robinson (eds.) *Human Rights and Development*. OUP: Oxford, 403-444.
- Deva, S. (2013), 'Treating human rights lightly: a critique of the consensus rhetoric and the language employed by the Guiding Principles' in Surya Deva and David Bilchitz eds. *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* Cambridge University Press.
- Fair Labor Association. (2016), 'FLA Workplace Code of Conduct', at: <http://www.fairlabor.org/our-work/code-of-conduct> <http://www.fairlabor.org/our-work/code-of-conduct> [last accessed 31/7/2018].
- Fasterling, B. (2017), Human Rights Due Diligence as Risk Management: social risk versus human rights risk. *Business and Human Rights Journal* 2.2, 225-247.
- Fasterling, B, & Demuijnck, G. (2013), Human rights in the void? Due diligence in the UN guiding principles on business and human rights. *Journal of Business Ethics* 116.4, 799-814.
- Freeman, R. (2015), Who owns the robots rules the world. *IZA World of Labor*.
- Gold, M et al. (2018), A baby was treated with a nap and a bottle of formula. His parents received an \$18,000 bill. *Vox* at: <https://www.vox.com/2018/6/28/17506232/emergency-room-bill-fees-health-insurance-baby> [last accessed 27 July 2018].
- Habermas, J. (1994), Three normative models of democracy." *Constellations* 1.1, 1-10.
- Hooker, B. (1990) Rule-consequentialism. *Mind* 99.393, 67-77.
- Human Rights Council, Corporate responsibility under international law and issues in extraterritorial regulation: summary of legal workshops, A/HRC/4/35/Add.2, 2006, para. 34
- ICAR, "Robots and Rights", forthcoming 2018.
- Jamieson, D & Elliot, R. (2009), Progressive consequentialism. *Philosophical Perspectives* 23.1, 241-251.
- Linklater, A. (2011), *The problem of harm in world politics: Theoretical investigations*. Cambridge University Press.
- List, C & Pettit, P. (2011), *Group agency: The possibility, design, and status of corporate agents*. Oxford University Press.
- Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, (2013).
- Mares, R. (2014) "Respect" Human Rights: Concept and Convergence' in Bird, Cahoy, and Prenkert eds. *Law, Business and Human Rights: Bridging the Gap*. Elgar Publishing Ltd. 23-24 (in online version) <http://rwi.lu.se/app/uploads/2014/03/Respect-Human-Rights-Concept-and-Convergence.pdf> [last accessed 21 July 2017]
- McCorquodale, R et al. (2017), Human Rights Due Diligence in Law and Practice: Good Practices and Challenges for Business Enterprises §." *Business and Human Rights Journal* 2.2, 195-224.
- McNaughton, D & Rawling, P (2006), 'Deontology' in David Copp ed. *The Oxford Handbook of Ethical Theory* Oxford: OUP, 424-458.
- Michalowski, S. (2013), Due diligence and complicity: a relationship in need of clarification in Deva, S & Bilchitz, D. eds. *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* Cambridge University Press.
- Mill, JS. *On Liberty*. (published 1859), online at: <http://www.gutenberg.org/files/34901/34901-h/34901-h.htm> [last accessed 31/7/2018].
- Moyn, S. (2014), A powerless companion: Human rights in the age of neoliberalism. *Law & Contemporary Problems*. 77, 147-169.
- Moyn, S. (2018), *Not Enough: Human Rights in an Unequal World*. Harvard University Press.

- Mulgan, T. (2001), *The demands of consequentialism*. Clarendon Press: University of Oxford (2nd ed., first published 1995).
- Natour, F. (2016), *Respecting Human Rights in the On-Demand Economy: Closing the New Governance Gap*. *Business and Human Rights Journal* 1.2, 315-320.
- Néron, YP. (2016) Rethinking the ethics of corporate political activities in a post-citizens united era: Political equality, corporate citizenship, and market failures. *Journal of Business Ethics* 136.4, 715-728.
- Odell, JS. (2004), *On consequentialist ethics*. Wadsworth Pub Co.
- OECD. (2011), 'OECD Guidelines for Multinational Enterprises 2011 Edition'.
- OECDWatch. (2014), 'Action Aid Denmark vs Arla Foods', at: [https://www.oecdwatch.org/cases/Case\\_358](https://www.oecdwatch.org/cases/Case_358) [last accessed 31/7/2018].
- OECDWatch. (2018), 'Case Status: Agreement', at: [https://www.oecdwatch.org/cases/advanced-search/status/casesearchview?type=Status&search=en\\_Agreement](https://www.oecdwatch.org/cases/advanced-search/status/casesearchview?type=Status&search=en_Agreement) [last accessed 31/7/2018].
- OHCHR. (2012), 'Report on austerity measures and economic and social rights' General Assembly resolution 48/141.
- O'Neill, O. (2001) "Agents of justice." *Metaphilosophy* 32.12, 180-195
- Pogge, TW. (2008), *World poverty and human rights*.
- Popper, KR. (1966). *The Open Society and its Enemies*, Volume I. Routledge, UK, (5th ed., first published 1945).
- Portmore, D. (2008) 'Rule Consequentialism', at: <http://www.public.asu.edu/~dportmor/Rule%20Consequentialism.pdf> [last accessed 31/7/2018].
- Report of the Special Rapporteur on the right to food, Olivier De Schutter, *Building resilience: a human rights framework for world food and nutrition security*, A/HRC/9/23, 8 September 2008
- Report of the Special Rapporteur on the right to food, Olivier De Schutter, *Crisis into opportunity: reinforcing multilateralism*. A/HRC/12/31, 21 July 2009
- Ramasrastry, A. (2015), *Corporate social responsibility versus business and human rights: Bridging the gap between responsibility and accountability*. *Journal of Human Rights* 14.2, 237-259.
- Railton, P. (1984), *Alienation, consequentialism, and the demands of morality*. *Philosophy & Public Affairs*, 134-171.
- Ruggie, JG. (2008), *Taking embedded liberalism global: The corporate connection.* in Held, D Koenig- Archibugi, M. ed. *Embedding global markets: An enduring challenge*, 231-254.
- Ruggie, JG. (2006), *Interim Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and other Business Enterprises*, E/ CN.4/2006/97.
- Ruggie, JG. (2011), *Report of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises*, John Ruggie Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, A/HRC/7/31.
- Ruggie, JG. (2007), *Business and human rights: the evolving international agenda*. *American Journal of International Law* 101.4, 819-840.
- Ruggie, JG. (2013), *Just Business: Multinational Corporations and Human Rights* (Norton Global Ethics Series). WW Norton & Company.
- Ruggie, JG. (2014), *Global governance and "new governance theory": Lessons from business and human rights*. *Global Governance* 20.1, 1-14.
- Ruggie, JG. (2016), *Keynote speech at the 2016 UN Forum on Business and Human Rights* <http://www.ohchr.org/Documents/Issues/Business/ForumSession5/Statements/JohnRuggie.pdf> [last accessed 31/7/2018].
- Ruggie, JG & Sherman, JF III. (2017) "The Concept of 'Due Diligence' in the UN Guiding Principles on Business and Human Rights: A Reply to Jonathan Bonnitcha and Robert McCorquodale. *European Journal of International Law* 28.3, 921-928.
- Ruggie, JG. (2017a), *The Social Construction of the UN Guiding Principles on Business & Human Rights HKS Working Paper No. RWP17-030 Available at SSRN: <https://ssrn.com/abstract=2984901> or <http://dx.doi.org/10.2139/ssrn.2984901>* [last accessed 21 July 2017].
- Ruggie, JG. (2017b), *Multinationals as global institution: Power, authority and relative autonomy*. *Regulation & Governance*.
- Sen, A. (2005), *Human rights and the limits of law*. *Cardozo Law Review* 27, 2913-2927.
- Sen, A. (2004), *Elements of a Theory of Human Rights*. *Philosophy and Public Affairs* 32.4, 315-356
- Sepinwall, A. (2015), *Denying corporate rights and punishing corporate wrongs*. *Business Ethics Quarterly* 25.4, 517-534
- Slote, M & Pettit, P. (1984), *Satisficing consequentialism*. *Proceedings of the Aristotelian Society, Supplementary Volumes* 58 (1984), 139-176.
- Smith, J. (2013), *Corporate human rights obligations: Moral or political?* *Business Ethics Journal Review* 1.2.
- Ssenyonjo, M. (2016), *Economic, social and cultural rights in international law*. Bloomsbury Publishing (2nd ed.).
- Steinbeck, J. (1939), *Grapes of Wrath*. Viking Press.
- United Nations Office of the High Commissioner. (2012), 'The Corporate Responsibility to Respect Human Rights - An Interpretative Guide', HR/PUB/12/02.
- Werhane, P. (2016), *Corporate moral agency and the responsibility to respect human rights in the UN Guiding Principles: do corporations have moral rights?*. *Business and Human Rights Journal* 1.1, 5-20.
- Wettstein, F. (2009), *Beyond voluntariness, beyond CSR: Making a case for human rights and justice*. *Business and Society Review* 114.1, 125-152.
- Wettstein, F. (2009), *Multinational corporations and global justice: human rights obligations of a quasi-governmental institution*. Stanford University Press.
- Wettstein, F. (2010), *For better or for worse: corporate responsibility beyond "do no harm"*. *Business Ethics Quarterly* 20.2, 275- 283.
- Wettstein, F. (2012), *CSR and the debate on business and human rights: Bridging the great divide*. *Business Ethics Quarterly* 22.4, 739-770.
- Wettstein, F. (2013), *Making noise about silent complicity: the moral inconsistency of the 'Protect, Respect, Remedy' Framework in Deva, S and Bilchitz, D. eds. Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* Cambridge University Press.
- Wettstein, F. (2015), *Normativity, ethics, and the UN guiding principles on business and human rights: A critical assessment*, *Journal of Human Rights* 14.2, 162-182.
- Wood, S. (2012) *The case for leverage-based corporate human rights responsibility*. *Business Ethics Quarterly* 22.1, 63-98.
- Young, IM. (2006), *Responsibility and global justice: A social connection model*. *Social philosophy and policy* 23.1, 102- 130.

---

## Author

### David Birchall

PhD Candidate and Visiting Fellow, City University of Hong Kong School of Law and Editor of the Blog of the Business and Human Rights Journal

Email: [dbirchall2@cityu.edu.hk](mailto:dbirchall2@cityu.edu.hk)  
Phone: (852) 5286 7491



# Mistä on Lääkärijohtajat Tehty?

Sari Huikko-Tarvainen  
Pasi Sajasalo  
Tommi Auvinen

## Abstract

Leadership and leadership development have been valued to be the most important part in reaching the strategic goals of the health care. At this moment when Finland is preparing for an unprecedented reform of the health and social services, the impact of a physician leadership to the health care is probably more important than ever. The aim of this study is also to increase understanding of the physician leadership, the work of physician leader and how Finnish doctors value leadership work nowadays. A qualitative interview study (n = 23) was performed for the chief physicians and the heads of departments in The Central Finland Central Hospital. The study showed that a physician leader is defined by an organizational leadership position and a professional expertise which is required by social expectations, legislation and guidelines of medical ethics. The physician leadership is primarily reflected through management, less leadership. The work of a physician leader is leading specialists, in which patient work is inextricably linked. The study showed an enthusiasm for leadership work. The majority of the leaders enjoyed their work and had voluntarily applied to their current position. Based on this study and the available literature, over the past 30 years, the attitude of the Finnish physician leaders towards a physician leadership work seems to be turning into a more positive, more acceptable and more aspirational one.

**Avainsanat:** lääkäri, lääkärijohtaja, lääkärijohtaminen, johtaminen, physician leadership

## Johdanto

Suomalaisen terveydenhuollon ollessa suuressa muutoksessa (Suomen Lääkäriliitto, 2014a) ja pitkään valmistellun SOTE-uudistuksen kynnyksellä, lääkärijohtamisen merkitys on nyt mahdollisesti tärkeämpää kuin koskaan (ks. Hernandez, 2016). Terveydenhuollon hyvän johtamisen, toiminnan tarkoituksenmukaisuuden ja kustannusvaikutavuuden kehittämisen on nähty olevan muutospainetta avainasemassa (Suomen Lääkäriliitto, 2014a). Johtaminen ja johtamisen kehittäminen on lisäksi nostettu jo aiemmin tärkeimmiksi keinoiksi terveydenhuollon strategisten tavoitteiden saavuttamisessa (Grönroos & Perälä, 2004). Valtioneuvoston periaatepäätöksessä terveydenhuollon tulevaisuuden turvaamiseksi on jo vuonna 2002 esitetty keskeiseksi ratkaisuksi terveydenhuollon johtamisen kehittämistä (STM, 2002), ja vuonna 2004 Opetus- ja kulttuuriministeriön asettama työryhmä on lausunut, että sosiaali- ja terveysjohtamiseen liittyvää tutkimusta tulee kehittää (STM, 2004).

Lisäksi työryhmä on vuonna 2004 ehdottanut johtamiskoulutusta jatkumona, jossa johtamisen perusteet kuuluvat lääkäri- ja hammaslääkärikoulutuksen osalta peruskoulutukseen, minkä jälkeen koulutus jatkuisi täydennyskoulutuksena keskijohdolle ja ylimmälle johdolle (STM, 2011). Syksystä 2009 alkaen erikoistumiskoulutukseen on kaikissa lääketieteellisissä tiedekunnissa sisällytetty pakollinen lähijohtajakoulutus (STM, 2011). Ilmeisestä ajankohtaisesta tarpeesta ja erilaisista politiikkasuosituksista huolimatta viimeaikaista suomalaista tutkimusta lääkärijohtamisesta on tehty verrattain vähän (esim. Huikko-Tarvainen, 2017), mikä korostaa käsillä olevan tutkimuksen merkityksellisyyttä niin tutkimuksen kuin käytännön kannalta.

Eri maiden terveydenhuollon palvelujärjestelmissä on eroja, vaikka esimerkiksi maailmanlaajuisesti sairaaloiden toiminnallisissa perustoissa on selkeitä yhteneväisyyksiä. Terveydenhuoltojärjestelmien välillä on organisaatio- kuin hoitokulttuureissa kansallisia erityispiirteitä, jotka erottavat järjestelmiä tietyiltä osin omankaltaisikseen. (Wiili-Peltola, 2000; Virtanen, 2010.) Jo yksinomaan suomalainen käsitys johtamisesta ero-

aa monien eurooppalaisten kulttuurien painotuksista (Peltonen, 2004), esimerkiksi alhaisen valtaetäisyyden vuoksi (ks. Hofstede, 2001). Täten ulkomaisten tutkimustulosten sovellettavuudessa suomalaisen terveydenhuollon johtamistyöhön saattaa olla tiettyjä rajoitteita (Wiili-Peltola, 2000; Virtanen, 2010), minkä vuoksi suomalaisen lääkärijohtamisen tarkastelu on ajankohtaista ja tarpeellista.

Tässä tutkimuksessa tavoitellaan empiirisen tutkimuksen kautta ymmärrystä lääkärijohtamisesta: mitä lääkärijohtajalla tarkoitetaan, mikä on lääkärijohtamistyön ydinsisältö lääkäreiden johtamistyössä suomalaisessa käytännössä, ja miten suomalaiset lääkärijohtajat suhtautuvat lääkäreiden johtamistyöhön nykyisin. Samalla luodaan yhdenmukaisuutta ja selkeyttä niin aiheen ammatilliseen kuin johtamisteoreettiseen keskusteluun. Tutkimuksen tulosten pohjalta osoitetaan lisäksi hedelmällisiä suuntia jatkotutkimukselle. Tarkoitusta toteutetaan laadullisen, polkua lääkärijohtajaksi sekä lääkärijohtajan työnkuvaa kartoittavan empiirisen tutkimuksen kautta.

### Monitulkintainen lääkärijohtaja-käsite

Vaikka lääkärille on olemassa Suomen lakiin pohjautuva määritelmä (Finlex, 1994, Finlex, 2014), ja lääkäri-nimikkeen käyttö on tarkoin säädelty, lääkärijohtajalle ei vastaavaa yksiselitteistä lakiperusteista, tai muutakaan yleisesti hyväksyttyä määritelmää kuitenkaan ole (Tuomiranta, 2002). Lääkärijohtaja-käsitteen epämääräisyys on osaltaan hämärtämässä sitä, mistä lääkärijohtamisesta on kyse, ja mitä lääkärijohtajat viimekädessä nimenmaan johtamisroolissaan terveydenhuollon organisaatioissa tekevät. Kansainvälisesti tilanne on sama. Englanninkielisessä kirjallisuudessa lääkäreiden johtajatehtäväkuvaan liittyvät piirteet ovat jokseenkin jäsentymättömiä ja keskusteluissa useat vastineet – physician executive, physician leader, physician manager, medical director, chief physician, deputy chief physician, director of health services (Xirasagar, 2009) – ovat limittyneet toisiinsa moninaisin tavoin.

Suomessa lääkärit ovat perinteisesti siirtyneet johtavaan asemaan ammatillisen urakehityksen myötä usein ilman johtamiskoulutusta (ks. esim. Aira ym., 2006; Lehto ym., 2003; Brommels ja Mäntyranta, 1994). Osaan lääkärijohtajaviroista valikoidutaan akateemisen meritoitumisen kautta (Tamminen, 2014; HYKS, 2016), osaan on puolestaan valikoitunut oman alansa arvostetuimpia klinikoita (Sumanen ym., 2006; Virtanen, 2010). Suomen Lääkäriliitto (2013) katsoo lääkärin peruskoulutuksen antavan hyvän pohjan ymmärtää terveydenhuollon palvelutoiminnan logiikkaa, tehdä valintoja vaihtoehtojen välillä, ja saavuttaa asiantuntija-alaiden luottamus, mutta johtajavastuisiin ja -tehtäviin koulutus ei kuitenkaan suoraan valmenna.

Ensimmäisinä suomalaisina käytännön kautta hahmottuvina lääkärijohtajina voidaan pitää piirilääkäreitä, joiden tehtävät määriteltiin ensimmäisen kerran vuonna 1739 (Hermanson, 1989; Hjelt, 1892; Suomen Lääkäriliitto, 2014b). Vuoteen 1832 asti hallintolääkärin päätehtävä oli potilaiden hoito (Hermanson, 1989), siitä lähtien yleinen terveydenhoito (Hermanson, 1989; Soininen, 1943). Potilaiden sairaudenhoito kuului tehtäviin vain, mikäli se ei ollut esteenä muiden virkatehtävien suorittamiselle (Hermanson, 1989; Koskimies, 1943). 1970-luvulle asti lääkärijohtajana, esimerkiksi sairaalan johtavana lääkärinä toimiminen ei merkinnyt valintaa kliinisen eli potilastyöuran ja johtamisuran välillä, koska johtava lääkäri teki erikoisalansa ylilääkärinä aina myös potilastyötä. Tehtävä oli määräaikainen, ja näin toimikauden päätyttyä oli mahdollista keskittyä jälleen potilastyöhön. (Hermanson, 1989.)

Sittemmin vakiintuneen käytännön mukaisesti hallintolää-

kärillä tarkoitettiin lääkäriä, joka käyttää työajastaan puolet tai enemmän hallinnollisiin tehtäviin ja/tai toimii koko organisaatiossa, ei pelkästään yhden osastoryhmän tai klinikan johdossa (Hermanson, 1989). Kokopäivätoimiseksi lääkärijohtajia ehdotettiin Suomessa ensimmäisen kerran vuonna 1961, koska nähtiin kliinisten tehtävien suorittamisen johtamistyön rinnalla muuttuneen liian raskaaksi (Hermanson, 1989; Klossner, 1961). Kirjallisuuden mukaan viimeisen parin kymmenen vuoden aikana keskimäärin puolet suomalaisista johtavassa asemassa olevista lääkäreistä tekee potilastyötä (Tampsi-Jarvala ym. 2005; Viitanen ym., 2007; Lehto ym. 2003), ja merkittävä osa myös päivystystyötä (Suomen Lääkäriliitto, 2016).

Suomessa lääkärijohtajina näytettyvät ensisijaisesti virkanimikkeistön, ja sitä myötä organisatorisen position kautta johtajaylilääkärit, ylilääkärit, apulaisyylilääkärit, hallintoylilääkärit, osastonylilääkärit, piiriylilääkärit ja johtajalääkärit. Myös sairaalan johtajat, vastualueen johtajat sekä toimialueen johtajat ovat useimmiten lääkäreitä. Samoin vastaava lääkäri voidaan rinnastaa lääkärijohtajaksi, ja toisinaan myös tulosityksikön johtajat ovat lääkäreitä. Näin käsitteellä on suomalaisessa käytännössä vahvasti hallinnollis-organisatorinen ydinmerkitys.

Suomalaisessa käytännössä lääkärijohtajan viran tai toimen nimikkeestä ei välttämättä voi tulkita, mille hierarkkiselle tasolle hän työnkuvansa puolesta kuuluu (Virtanen, 2010; Lehto ym., 2003), tai millaisia johtamiseen liittyviä tehtäviä ja vastuita työhön sisältyy. Lääkärijohtajan toimialue sairaalassa riippuu siitä, kuinka monesta osastosta lääkärijohtaja vastaa, tai kuuluuko hän ylimpään johtoon (Virtanen 2010, 32). Virkanimike voi itse asiassa perustua pikemminkin palkkaustekniikkaan kuin organisatoriseen positioon ja siihen liittyviin johtamisvastuisiin (Isosaari, 2008). Suomalaisittain lääkärijohtaja-käsitteen sisältö vaikuttaakin näin määrittyvän, niin vallitsevan käytännön pohjalta, kuin kirjallisuudessa ensisijaisesti koulutuksen/profession, organisatorisen position ja siihen liitettävien tehtävien ja hallinnollisten vastuiden, sekä klinikon roolin erottamattomuuden kautta (ks. esim. Virtanen, 2010; Pulkka, 2013; Brommels, 2010).

Kansainvälisessä kirjallisuudessa käsitteellä lääkärijohtaja voidaan viitata kahteen eri asiaan: lääkäriin, joka toimii kliinisenä johtajana terveydenhuollon toiminnan muutoksissa tai henkilöön, joka on koulutukseltaan lääkäri, ja on noussut johtajaposition organisaatiossa (Xirasagar, 2009). Suurin osa kirjallisuudesta ja useimmat terveydenhuollon organisaatiot eivät kuitenkaan määrittele kummassa merkityksessä käsitettä käytetään (Xirasagar, 2009). Amerikkalainen kirjallisuuskatsaus ehdottaa, että käsitettä lääkärijohtaja (physician executive) käytettäisiin henkilöistä, jotka terveydenhuolto-organisaatiossa: 1) työskentelevät virallisissa johtotehtävissä, 2) antavat neuvoja kliinisissä tai ei-kliinisissä strategisissa toiminnoissa, tai 3) neuvottelevat tai tekevät sopimuksia niiden edustajina (Schneller ym., 1997). Näin yhteistä kansainvälisen kirjallisuuden määrittelytavoille ja suomalaisessa kirjallisuudessa tavattaville määritelmille vaikuttaa olevan sekä määrittelyn henkilö- että profesiosidonnaisuus.

### Muutos suhtautumisessa lääkärijohtamiseen

Aiemman suomalaisen kirjallisuuden mukaan lääkärit ovat kokeneet johtamistyön kliiniseen potilastyöhön verrattuna toisarvoisena työnä, vaikka he kokevat lääkäriesimiehenä olemisen edellytyksenä lääkäriyden erityisosaamisen tuntemuksen (Wrede ym., 2016; Ahlblad, 2014; Hannus, 2006), käytännössä siis lääkärikoulutuksen. Vaikka lääkärijohtamista on siis aiemman tutkimuksen perusteella odotettu, sitä ei niinkään vaikuta arvostetun.

Hermansonin (1989) ja Kekin (1979) mukaan 1970-luvulla Suomessa lääkärijohtajiksi – ensi sijassa hallinnollisiin virkoihin – hakeutuivat lääkärit, jotka eivät olleet kiinnostuneita kliinisestä työstä. Vuonna 1989 julkaistun väitöskirjatutkimuksen mukaan useimmat tutkimuksen kliinikkojohtajat ottivat hallintotehtävät vastaan vastentahtoisesti, ja lääkärit siirtyivät hallintotehtäviin enemmän sattuman kuin tietoisin valinnan kautta. Kliinisestä työstä hallintotehtäviin siirtymisen jälkeen lääkäreiden todettiin joutuneen läpikäymään vaikean sopeutumisprosessin. Hallintotyön nähtiin olevan lääkäreille enemmän työkokemuksen kautta vähitellen kehittyvä taito kuin teorian ja opiskelun myötä opittava ammatti tai erityinen osaamisalue. Kliinikkojohtajan ideaalityyppi suuntautui lääkäriprofession tuntien vähän tai ei olleenkaan kiinnostusta hallintotehtäviin muuten kuin profession edunvalvojana, ja vain osa lääkäreistä hyväksyi ajatuksen tehdä hallintotyötä täyspäiväisesti. Lääkärin hallintoura nähtiin eräänlaisena yksilösuorituksena, jonka hallinnollisista tehtävistä kiinnostunut saattoi halutessaan itse luoda itselleen. (Hermanson, 1989.)

Vuonna 2002 julkaistun lääkäreiden johtajuutta sekä lääkärijohtajien roolijännitteitä käsittelevän väitöskirjatutkimuksen mukaan tutkimuksen lääkärijohtajista (n=51) 39,2 % oli kiinnostunut asiajohtamistyöstä, 45,0 % henkilöstöjohtamistyöstä, ja vain 3,9 % olisi halunnut paneutua aikaisempaa enemmän kliiniseen työhön (Tuomiranta, 2002). Näin jo parissa vuosikymmenessä voidaan havaita lääkärikunnassa tapahtuneen merkittävä suhtautumismuutos johtamistyötä kohtaan: lisäksi hallinnon sijaan terminologia on muuttunut johtamiseksi, ja toisaalta johtamisen – asioiden tai ihmisten – arvostus on lisääntynyt aiempaan verrattuna. Sama kehitys on havaittu myös kansainvälisessä tutkimuksessa terminologian suhteen; jopa siten että asioiden johtamisen (management) sijaan painotus ja huomio on siirtynyt ihmisten johtamiseen (leadership) viime aikoina (Martin ja Learmonth, 2012).

Viitasen ym. (2002) tutkimuksen mukaan osastonlääkärit kokivat lähijohtajaroolia epäselviksi, minkä vuoksi osastonlääkärin johtajaroolin kehittäminen koettiin vaativan tuekseen sekä johtamiskoulutusta, että johtajaroolin selkiyttämistä organisaatiossa. Vaikka Suomen Lääkäriliitto suosittaa näkemään johtajan roolin terveydenhuollossa lääkäreillä omana urapolkunaan ja yhtä arvostettuna kuin akateeminen ja kliininen meritoituminen (Suomen Lääkäriliitto, 2014a), on lääkäreillä itsellään usein myös vallinnut asenne, että johtaminen ei ole työtä lainkaan (Järvi 2000, 4175). Vuoren (2005, 24) mukaan lääkäriasiiantuntijoita ei ole kiinnostanut omaksua aitoa johtajan roolia taloudellisten säästöjen ollessa keskeisin uudistusten perustelu.

Sumanen ym. (2006) tutkivat Suomen Lääkäriliiton viiden vuoden välein kyselytutkimuksella kerättävää Lääkärit-aineistoa vuodelta 2003, ja havaitsivat aineiston perusteella esimiesasemassa olevien lääkärin johtamistaitojen olleen paranemassa, ja että toimiminen esimiesasemassa lisäsi myönteistä arviota myös oman lääkäriesimiehen johtamistaidoista.

Viitanen ym. (2007) selvittivät kolmella erillisellä tutkimuksella vuosina 2001–2005 kysely- ja haastatteluaineistolla sosiaali- ja terveydenhuollon keski- ja lähijohdon tehtävissä työskentelevien henkilöiden johtamisosaamista ja johtamisympäristön muutosten vaikutusta johtamiskäytäntöihin. He havaitsivat tutkittujen johtajaryhmien edustajien kokeneen hallitsevan omasta mielestään parhaiten henkilöstöjohtamisen. Lisäksi keskijohtoa edustavat lääkärit kokivat osaavansa seuraavaksi parhaiten asioiden hoitamisen, yhteistyön ja kokonaisuuksien hallinnan. Johtajista 60 % koki tietävänsä, mitä ylin johto odottaa heidän johtamistyöltään, ja 80 % koki tietävänsä, mitä alaiset odottavat häneltä johtamistyössä. (Viitanen, 2007.)

Vuonna 2010 julkaistun lääkäri- ja hoitajataustaisten, keskijohdossa tai ylimpään johtoon kuuluvien johtajien toimikenttää julkisissa sairaaloissa käsitelleen Virtasen väitöskirjatutkimuksessa nähtiin lääkärijohtamisen olevan muuttumassa aikaisempaa ammattimaisemmaksi. Johtajaksi hakeutumisen ja kouluttautumisen nähtiin olevan aikaisempaa aktiivisempaa. Kuitenkin myös Virtasen tutkimuksessa, samoin kuin Tuomirannan (2002) väitöskirjatutkimuksessa aiemmin, tuli edelleen esille ristiriitaa lääkärintyön ja johtamisen välillä. (Virtanen, 2010.) Vuonna 2015 julkaistun terveys- ja sosiaalialan esimiesten johtamisvalmiuksia käsitelleen väitöskirjatutkimuksen mukaan lääketieteen tohtoritutkimuksen suorittaneissa lääkäreissä oli keskiarvoisesti enemmän esimiehiä, joiden johtamisprofiili luokiteltiin tutkimuksessa käytettyjen kriteerien mukaan ammattijohtajiksi. Lääketieteen lisensiaattitutkimuksen suorittaneiden esimiesten joukossa sen sijaan oli keskiarvoisesti ja prosentuaalisesti vähiten esimiehiä, joiden johtamisprofiili luokiteltiin ammattijohtajiksi. (Kujala, 2015.) Kujalan tuloksien mukaan lääkärijohtamisessa vaikuttaa kuitenkin tapahtuneen jo osittaista ammattimaistumista.

## Aineisto ja analyysimenetelmä

Empiirisen tutkimuksen kohteena olivat kaikki Keski-Suomen keskussairaalan ylilääkärit sekä osastonylilääkärit, joita lähestyttiin organisaation sisäisellä sähköpostikutsulla osallistua tutkimukseen. Keski-Suomen keskussairaala on Suomen suurin keskussairaala. Kohderyhmästä haastateltavaksi suostui kahdeksaltatoista eri erikoisalalta yhteensä 23 nais- ja mieserikoislääkäriä, joista 15 toimi ylilääkärinä ja 8 osastonylilääkärinä. Naisia haastatelluista oli 8 ja miehiä 15. Tutkimusstrategiaksi valikoitui laadullinen tutkimusote, ja aineistonkeruumenetelmäksi puolistrukturoitu haastattelu, jossa informantteja pyydettiin vapaasti valottamaan omaa urapolkuaan lääkärijohtajaposition, kertomaan työstään ja sen sisällöstä sekä miten he kokevat työnsä. Tarvittaessa haastateltaville esitettiin tarkentavia lisäkysymyksiä. Haastattelut toteutettiin huhti-kesäkuussa 2017 ja heinä-elokuussa 2018 haastateltavien itsensä valitsemissa sairaalan tiloissa, joissa ei haastattelun aikana ollut sivullisia.

Tietoiseksi suostumukseksi haastatteluun määriteltiin haastateltavien vapaaehtoinen sähköpostiyhteydenotto haastattelijana toimineeseen ensimmäiseen kirjoittajaan. Haastateltavat informointiin vapaaehtoisuudesta osallistua tutkimukseen, ja tietosuojaan liittyvät seikat huomioitiin tutkittaviin kohdistuvien eettisten periaatteiden mukaisesti (Hirsjärvi ja Hurme, 2011, 19–20; Tutkimuseettinen neuvottelukunta, 2012). Haastateltaville kerrottiin tutkimuksen tarkoitus, heidän oikeutensa keskeyttää osallistuminen ja kieltää tietojen käyttö missä tahansa tutkimuksen vaiheessa. Haastateltavien tietosuojaan vaalimista korostettiin ja myös sitä, että tutkimuksessa kiinnitetään erityistä huomiota siihen, että haastateltavien osallistuminen tutkimukseen ei paljastuisi, eikä heitä voitaisi tunnistaa tutkimusraportista. Ainoastaan haastattelija on tietoinen osallistujien henkilöllisyydestä.

Kaikki haastattelut nauhoitettiin, litteroitiin ja koodattiin. Digitaalisesti tallennettujen haastattelujen kestot olivat 22 minuuttia – 1 tunti 22 minuuttia ja haastatteluiden yhteiskesto 18 tuntia 32 minuuttia. Haastatteluista kertyi haastattelulitteraateja yhteensä 398 A4-sivua (kirjasin Calibri, fonttikoko 12, riviväli 1). Analyysimenetelmäksi valittiin teemoitteluperiaatteella toteutettu sisällönanalyysi, joka menetelmänä soveltuu kaikkiin laadullisen tutkimuksen perinteisiin. Sisällönanalyysin avulla pyritään saamaan tutkittavasta ilmiöstä kuvaus, joka kytkee tulokset ilmiön laajempaan kontekstiin ja aihetta koske-



viin muihin tutkimustuloksiin. (Tuomi ja Sarajarvi, 2009, 91, 103.) Teemoittelussa aineistosta poimitaan tiettyyn teemaan liittyvät asiat (Eskola ja Suoranta, 2005, 178). Haastatteluista on poimittu teemoittain aineistokatkelmia havainnollistamaan aineistosta tehtyjä tulkintoja. Aineistokatkelmista on poistettu tai vaihdettu sellaisia ilmauksia, jotka olisivat voineet vaarantaa informantin anonymiteetin. Näillä muutoksilla ei ole ollut vaikutusta analyysiin ja tulkintoihin, koska muutettu tekstiasu esiintyy vain aineistokatkelmissa. Ensimmäisen aineistonkeruuvaiheen tulokset (8 ylilääkärinä ja 1 osastonylilääkärinä) on julkaistu ensimmäisen kirjoittajan kauppatieteen maisterin tutkinnon oppinnäytetyönä (Huikko-Tarvainen, 2017).

## Tulokset

### Urapolku lääkärijohtajaksi

Haastateltavien urapolku oli kulkenut lääketieteen lisentiaatinkoulutuksen ja erikoislääkäritutkinnon kautta ennen lääkärijohtaja-asemaa. Kaikki haastateltavat olivat suorittaneet johtamiskoulutuksia vaihtelevan mittaisina ja laajuisina kokonaisuuksina, jopa useamman vuoden mittaiseen executive Master of Business Administration (eMBA) -koulutukseen asti. Yleisimmin suoritettu johtamiskoulutus (4 haastateltavaa) oli Suomen Lääkäriliiton järjestämä Erikoislääkäreiden johtamiskoulutus (ELJ). Lääkäritöihin oli yleensä hakeuduttu heti, kun siihen oli ollut laillisesti mahdollisuus, ja näin haastateltavilla oli jo ennen lääkärijohtajapositiota takanaan pitkä työura erilaisissa lääkäri- ja erikoislääkäritehtävissä.

Osa haastatelluista kertoi keskustelleen läheistensä kanssa mahdollisesta esimiestehtäviin hakeutumisesta ja lääkärijohtajatyön vaikutuksista muuhun elämään, ja sitä myötä lääkäriuran alkuvaiheessa ajatellut nimenomaisesti välttävänsä esimiestehtäviä uran edetessä.

Lääkäriksi [kun] valmistuin ja sitten kattelin noita ylilääkäreitä siellä ja kaikkee, niin mä aina vannoin, että musta ei ikipäivänä tule ylilääkärinä, mä en ikipäivänä hae sitä hommaa ... Esimies alkoi sitten minua ohjaamaan siihen suuntaan, et nyt menet vaan sinne johtamiskoulutukseen. (H36)

Osa haastatelluista koki oman persoonan tukeneen vastuun ja kehitystehtäviin hakeutumista jo lääkäri- ja erikoislääkäri vuosien työtehtävissä ennen lääkärijohtaja-asemaa: oli haluttu haastaa itseä ja kokeilla siipien kantavuutta esimiestehtävissä. Yksi haastateltava kertoi jo uran erikoistumisvaiheessa suunnitelleensa esimiesasemaan hakeutumista.

Jo oikeastaan ennen niin kun mä oon tienny, että mihin mä erikoistusin, niin mä oon tienny, että mä haluaisin tehdä jotakin tämmöstä niinku johtamistehtävää. (H34)

Aineiston ja aiemman tutkimuksen valossa (ks. esim. Lehto ym., 2003; Sumanen ym. 2006) tällainen aikainen, tietoinen lääkärijohtajauralle suuntautuminen on kuitenkin harvinaisempaa. Tosin vahva orientaatio omaan professioon ja kokemus siitä, että asema johtajana pikemmin häiritsee omaa ydinkiinnostusta, on tunnustettu muillakin aloilla. Esimerkiksi uusi ammattikunta, e-urheilijat, ovat esimerkki ihmisistä, joita rahan, urakehityksen ja aseman sijaan ohjaa halu tehdä ”omaa juttuaan”, pelaamista (Kallinen-Kuisma & Auvinen, 2018). Valtaosaa haastatelluista työ ja elämä olivatkin pikemmin kuljettaneet uralla niin, että lääkärijohtajapositioon siirtyminen tuntui lopulta vain ”luonnolliselta” urajakumolta.

Harva päättää silloin kolmekymppisenä, et musta tulee halintolääkäri. Enpä juuri ole tavannut. Sen takia varmaan ... johtaviin tehtäviin siirtyminen tapahtuu tämmöisessä kypsässä iässä niin kuin minulla. Ku hallitset sen [oman työn], yhtäkkiä sä toteat, että tämä perusduuni alkaa sujuu aika mukavasti, niin sen jälkeen rupeaa miettimään vähän laajempia kuvioita. (H21)

Aikaisen uravaiheen tietoisien valinnan sijaan tyyppilliseltä vaikuttaa siis jossain vaiheessa työuraa orastaneiden ajatusten lääkärijohtamispositioon suuntautumisesta vahvistuminen lääkärityövuosien myötä. Näin kehityskulkua lääkärijohtajapositioon voisikin luonnehtia vähittäisenä johtajan rooliin, ja sen myötä koituvuuteen vastuisiin kypsytymisenä (ks. Heilmann, 2018).

Osa haastatelluista koki osin uhrautuneensa johtamistehtävään. Osa puolestaan oli halunnut edetä lääkärijohtajapositioon kokiessaan lääkärijohtajana pystyvänsä paremmin vaikuttamaan työpaikkansa asioihin ja/tai terveydenhuollon asioihin laajemmassa mittakaavassa kuin rivilääkärinä.

Siinä vaiheessa, kun on ollut johtajana jonkin aikaa, niin sä huomaat, että siinä oikeasti pystyy vaikuttamaan asioihin ja pystyy oikeasti muuttaa jotakin käytäntöä. Eikä se ole silleen vaan, että sä kahvihuoneessa puhut muille, että tää vois mennä hyvin näin. (H23)

Myös omakohtaiset kokemukset johtamiskulttuurin puutteista olivat saattaneet herättää haastateltavan pohtimaan syvemmin johtamisen merkitystä organisaatiolle ja sen jäsenille, mikä oli myötävaikuttanut työpaikan vaihtoon, ja sitä myötä siirtymistä lääkärijohtajapositioon.

Siellä [edellisessä työpaikassa] ... tämä niin sanottu johtaminen ... ei oikein minun mielestäni toiminut. Ja olisi ollut vaan aika uudelle sukupolvelle ja aukeisi tämä paikka, niin mä sitten tulisin tänne. (H37)

Taloudelliset seikat olivat yksi vaikutin muiden joukossa: osastonylilääkäreille lääkärijohtajanimikkeellä on mahdollistunut erikoislääkäri virkaa korkeampi palkkataso. Myös työelämän sattumilla koettiin olleen oma vaikutuksensa lääkärijohtajapositioon päättymisessä: jos aiempi työpaikka ei tarjonnut koulutusta vastaavaa työtä, lääkäri oli päättänyt ottaa työtä vastaan toiselta paikkakunnalta, jossa samalla olikin ilmaantunut mahdollisuus hakea myös lääkärijohtajapositioon.

Aineiston perusteella lääkärijohtajapositioon päättymisestä piiryykin kuva joko ajatuksellisena kypsytymisenä, ja johtajarooliin jopa osin vastahakoisena hyväksymisenä tai siihen ajautumisenä, kuin aktiivisena pyrkimisenä.

No minähän en ikinä kuvitellut, että musta tulee mitään johtajaa...tai et mulla olisi ollut tavoite, että musta tulisi johtaja. (H23)

Lääkärijohtajaksi päättymiseen on aineiston perusteella ollut vaikuttamassa useita seikkoja yhdessä tai erikseen. Lääkärijohtajan virkaa oli saatettu hakea omaehtoisesta halusta edetä uralla korkeampaan, ja näin useimmiten myös paremmin palkattuun tehtävään, tai toisaalta taustalla oli saattanut vaikuttaa esimiehen tai kollegojen suositus. Kuvio 1 (s. 44) tiivistää havaintomme lääkärijohtajapositioon päättymisen taustavaikuttimista.

### Lääkärijohtajan työnkuva

Tämä tutkimus vahvistaa aiempia havaintoja lääkärijohtajan työstä moniulotteisena ja jopa ristiriitaisina rooliodotuksia si-

		Hakeutumisen luonne	
		Positiivinen	Negatiivinen
<b>Motivaation lähde</b>	Sisäinen lähde	KUTSUMUS Persoona tukee vastuutehtäviin hakeutumista Halu edetä uralla Halu haastaa itsensä Halu esimiestehtäviin	PAKKO Uhrautuminen muiden edestä Aiemman työpaikan toimimattomaksi koetun johtamiskulttuurin vuoksi työpaikan vaihto
	Ulkoiset lähde	JÄRKISYYT Korkeampi palkkataso Esimiehen kannustus Mahdollisuus vaikuttaa paremmin työyhteisön asioihin Läheisten kannustus virkahaussa	AJAUTUMINEN Akateeminen meritoituminen Pitkä työura Sattuma Työpaikan vaihtaminen Kysytty virkaan

Kuvio 1. Lääkärijohtaja-käsitettä määrittävät tehtäväkokonaisuudet

Kliininen työ	Ihmisten johtaminen ja henkilöstötyö	Asioiden johtaminen
Potilastyö; ml. hoito sekä potilaiden ja omaisten kanssa keskustelu ja neuvonta	Moniammatillinen tiimityö potilaan hoitoon osallituvien eri ammattiryhmien kanssa (esim. hoitohenkilökunta, sosiaalitoimi)	Työn ja työtapojen sekä hoitopolkujen kehittämistyö
Lääketieteen opiskelijoiden ja erikoistuvien lääkäreiden perehdytys- ja ohjaustyö	Työntekijöiden kanssa keskustelu, neuvonta ja ohjaus	Kokoustamista eri tahojen kanssa (esim. sairaanhoitopiirin toimintaan liittyvät kokoukset sekä kokoukset alueellisten hoitoketjujen selkeyttämiseksi ja jalkauttamiseksi)
Oman erikoisalalan erikoislääkäreiden konsultointityö	Kokoustaminen (esim. lääkäri- ja ylilääkärimeetingit sekä eri erikoisalojen yhteismeetingit)	Kokouksissa puheenjohtajana toimiminen (esim. viranomaisyhteistyötapaamiset)
Muiden erikoisalojen konsultointityö (esim. moniammatillista yhteistyötä vaativissa potilashoitotilanteissa)	Työnohjaus (oman työn työnohjaus, oman yksikön, erikoistuvien lääkäreiden työnohjaus)	Luentojen ja muiden esitysten valmistelu (esim. oman erikoisalalan klinikkatapaamisluentojen valmistelu ja sairaanhoitopiirin kokousten esitysten valmistelu)
	Töiden delegointi (esim. kliinisten eri vastualueiden jakaminen klinikan erikoislääkäreille)	Työn suunnittelu ja kehitystyö (esim. riittävien henkilöstöresurssien suunnittelu ja työtoimintamallit esim. työvoimaresurssipulassa)
	Osastopalaverit	Sopimuksien tekeminen (esim. palvelutuottaja- ja kilpailutus sopimukset)
	Muiden työyhteisön ammattiryhmien esimiesten tapaaminen työprosessien kehittämiseksi ja sujuvoittamiseksi	Työyksikön suunnittelu- ja kehittämistyö (esim. työvuorolistojen laatiminen)
	Rekrytointi- ja perehdyttämispöytä	Palvelujen laadunvalvonta ja valitukseen vastaaminen
	Kehityskeskustelut; ml. alaisen urakehitykseen liittyvä suunnittelu	Viranomaisyhteistyö (esim. sosiaalitoimi, poliisi, pelastuslaitos)
	Työn tekemiseen liittyvät hallinnolliset ja operatiiviset tehtävät (esim. työaikaohjelmien seuranta sekä työ- ja päivystyslistojen laatiminen)	Suuronnettomuusvalmiussuunnitelmat ja niiden johtaminen, kenttätyötehtävien suunnittelu ja johtaminen
		Laskujen hyväksyminen
		Budjetti- ja vuosityösuunnitelma
		Kirjeenvaihto sähköpostitse
		Potilaslähettiläiden käsittely ja lähetepotilaiden hoitokiireellisyysarviot
	Erilaisten lomakkeiden allekirjoitustyö (esim. työtuntilistat, päivystysilmoitukset ja loma- sekä koulutuslomakkeet)	
	Palvelujen laadunvalvonta ja valitukseen vastaaminen	

Taulukko 2. Lääkärijohtaja-käsitettä määrittävät tehtäväkokonaisuudet

sältävänä (Tuomiranta, 2002). Työhön voi kuulua vaihtelevia tehtäviä aina erikoistuvan ja erikoislääkärin töistä asiantuntijaorganisaation johtamisen kautta talous- ja muihin hallintotehtäviin. Osa tehtävistä koettiin sellaisiksi, ettei yksikään edeltävä koulutus ollut niitä opettanut, vaan ne oli opittu hallitsemaan kokemusperäisesti osana käytännön lääkärijohtajantyötä. Taulukko 2 tiivistää havaintomme lääkärijohtaja-käsitettä keskeisesti määrittävistä tehtäväkokonaisuuksista.

Valtaosa haastatelluista ylilääkäreistä teki potilastyötä osana lääkärijohtajan työtä. Näin aiemmat havainnot (ks. esim. Viitanen ym. 2007) potilastyön merkittävästä osuudesta lääkärijohtajan työnkuvassa vaikuttavat edelleen olevan vallitsevaa käytäntöä. Potilastyön ja johtamisen osuus ylilääkäreiden työkuvasa jakautui yleisimmin jokseenkin tasan potilastyön ja johtamistyön välille. Painotukset työtehtäväkokonaisuuksien välillä saattoivat vaihdella päivittäin ja viikottain, joko ennalta sovitusti, tai yllättäen, pysyvämmiin tai toistaiseksi sovitun työnkuvan mukaan, erikoisaloittain, erikoisalan lääkärimiehitysasteen mukaan, yksikön koon, vastuutehtävän luonteen, hierarkisen aseman, sekä muiden mahdollisten lisävastuiden mukaan. Myös yksiköiden kokonaistyömäärät, kuten potilaslähetteen määrä ja työmäärän jakautuminen, vaikuttivat lääkärijohtajan työpäivän kulkuun ja pituuteen, sekä työntehtävien jakautumiseen lyhyellä ja pitkällä aikavälillä. Osastonylilääkäreillä työ painottui ylilääkäreitä enemmän kliiniseen potilastyöhön, mutta siinäkin esiintyi ylilääkäreiden tapaan vaihtelua työtehtävien painotuksissa. Haastateltujen lääkärijohtajien työnkuvat ja tehtäväpainotukset poikkesivat toisistaan. Samoin vaihtelua oli samankin lääkärijohtajan työkuvasa päivien ja viikkojen välillä, mikä yleisemminkin kuvastaa johtamistyön ei-rutiiniluonnetta ja tilanteisuutta (Heilmann, 2018; Auvinen ym., 2018).

Tiettyjen erikoisalojen lääkärijohtajat kuvasivat työpäivien saattavan venyä aamusta ja/tai illasta, ja joillakin erikoisaloilla töihin saatetaan hälyttää mihin vuorokaudenaikaan hyvänsä. Osa tutkimuksen lääkärijohtajista teki edelleen myös vapaaehtoisesti päiväpotilastyön ohella päivystyspotilastyötä. Osalle päivystyspotilastyö oli tärkeä kokonaispalkkaa kohottava tekijä. Vaikka lääkärijohtajien työnkuva muuttuu tilanteen vaatiessa, oli työviikkojärjestys kuitenkin yleensä ennaltsuunniteltu, ja työaikaa voitiin jakaa ja suunnitella eri työtehtävien kesken tarpeen ja tilanteen mukaan.

Lääkärijohtajat kokivat myös työyhteisön odottavan lääkärijohtajilta potilastyöhön osallistumista, minkä osa koki paineena siirtää potilastyötä johtamistöiden edelle, ja ilmeisenä haasteena yhteen kietoutuvien lääkärin ja johtajan velvoitteiden välillä.

Saan perustella tosi usein, että mitä sä oikein niin kun teet, että teetkö sä oikeata työtä ollenkaan...eihän... nyt kukaan minkään muun alan pomo ajattele, että se ei olisi oikeata työtä se johtaminen...että kyllä mä voin olla päätoiminen johtaja ilman, et mun täytyy joka päivä selittää sitä, että mä en tee potilastyötä. (H35)

Puhuessaan työstään ja sen piirteistä haastateltavat tukeutuivat rutiinimaisesti kahtiajakoon potilastyön ja johtamis/hallintotyön välillä. Edelleen, johtamistyöstä puhuessaan lääkärijohtajat usein viittasivat siihen ei-potilastyönä, eivätkä pääsääntöisesti tehneet eroa ihmisten johtamisen (leadership) ja asioiden johtamisen (management) välille. Ei-potilastyö kattoi haastateltavien puheessa kaikki potilastyön ulkopuolelle jäävät työtehtävät, mikä kuvastaa potilastyön nauttimaa yleistä arvostusta, sen luontaista keskeisyyttä lääkäriprofessiolle, sekä kliinisen pätevyyden jatkuvan osoittamisen tärkeyttä myös osana johtajaroolia (ks. myös Viitanen ym., 2007; Kaukoranta, 2012). Samalla kahtiajaon voidaan nähdä heijastelevan johtamistyön

implisiittistä vähempiarvoisuutta.

#### Lääkärijohtamisen monirooliristiriita

Lääkäriyhteisöä asiantuntijaorganisaationa ei koettu helppimmasta päästä johdettavana työyhteisönä. Lääkärijohtajat näkevät lääkäreiden johtamisen asiantuntija-johtamistyönä, joka fluktuoi potilastyön ja johtamistyön välillä. Tämä koettiin haasteellisenä asetelmana, mutta ei mahdollisena tilanteena. Parhaiten tällaista tilannetta nähtiin voitavan johtaa omaamalla hyvät johdettavan erikoisalan kliiniset taidot, joilla johtamistaitojen puutteita koettiin voitavan kompensoida.

Tietyissä pesteissä se voi olla tosi vaativa paikka, et sul on alaisina erittäin kokeneita lääkäreitä. Ja jos ei sul ole niitä omia kannuksia, niin sul on aika huonot eväät toimia sitten. Sä et saa auktoriteettia millään muotoa, mutta jos toisinpäin, ni se onnistuu taas varsin selkeästikin, helpostikin. Annetaan paljonkin anteeksi (H37)

Se tuntuma säilyttäminen siihen potilastyöhön on myöskin välttämätöntä sen uskottavan kliinisen johtamisen kannalta. (H34)

Potilastyön vaihtuminen ei-potilastyöhön saatetaan myös kokea potilastyöstä luopumisena, mihin voi liittyä epävarmuus lääkärin arvosta ilman potilastyötä. Lääkärijohtajan ammattidentiteetti ja työmoraali ovat vahvasti lääkäriydessä, johon johtaminenkin pitkälti tukeutuu.

No jos ihan oikeasti haluaa lääkärijohtajaksi, niin kyllä kannattaa minusta vielä toisen kerran harkita. Mutta sitten, jos on tosissaan, niin mikä ettei... kyllä se [johtaminen] paljon raskautta tuo tähän hommaan...mutta jonkun pitää tehdä näitäkin...en mä nyt tällä sitä tarkoita, että minä väheksyisin tätä työtä, mutta se tarkoittaa sitä, että niin kyllä tässä [johtamisessa] on oma stressikertoimensa. Että helpommallakin saa sen leipänsä päälle voita. (H1)

Myös aiemman tutkimuksen valossa lääkärit ovat pitäneet lääkäriesimiehenä toimimisen edellytyksenä lääkäriyksen erityisosaamisen tuntemusta (Wrede ym., 2016; Ahlblad, 2014; Hannus, 2006). Lisäksi on todettu, että vain lääkärikoulutuksen saanut voi arvioida alaistensa lääkäreiden osaamisen, työn laadun, onnistumisen ja jatko- ja täydennyskoulutustarpeet (Suomen Lääkäriliitto, 2010). Suomen Lääkäriliitto suosittaa, että kliinistä työtä tekevien lääkäreiden esimiehenä tulee olla lääkäri, ja hänellä tulee olla johtamistyöhön tarkoituksenmukaiset resurssit (Suomen Lääkäriliitto, 2014a).

Tutkimuksen havainnot saattavat viitata myös siihen, että kliinisesti meritoitumista ei enää nähtäisikään aiemman tasoisena vaateena lääkärijohtajuudelle: Osan haastateltujen lääkärijohtajien mielestä lääkärijohtajan lääkäriysoosuuden osamistasoksi riittää, että lääkärijohtaja osaa oman erikoisalansa lääkärintaidot hyvin, mutta ei tarvitse olla klinikan paras klinikko kuten aiemmin (Sumanen ym., 2006).

Lääkärin pitää olla siellä edessä, joukkojen edessä tekemässä työtä. Ja vaikka lääkärijohtaja ei voi olla huippu ehkäpä enää siinä omassa erikoisalassa, koska siihen johtamiseen menee aikaa, nii silti se sillä omalla työllään näyttää sitä esimerkkiä, että näin meillä tehdään töitä ja on kaikilla tavalla semmoinen ryhdikäs esimerkillinen. (H11)

Suomen Lääkäriliiton suosituksen mukaan yleisjohtajuuden lisääntyessä lääkärin tulisikin osata luopua osasta kliinistä rooliaan ja pystyä keskittymään varsinaisiin johtamistehtäviin. Pitkän lääkäriuran ja/tai akateemisen meritoitumisen myötä lääkärin työn substanssiosaaminen on joka tapauksessa lääkäri-



johtajatehtäviin hakeutuneilla jo vahvaa. (Suomen Lääkäriliitto, 2014a.)

Johtamistyölle koettiin ajoittain olevan vaikeuksia löytää aikaa myös sen vuoksi, että potilastyön koettiin menevän kaiken muun työn edelle. Työympäristö ja työolosuhteet ohjaavat, suosivat ja osittain pitävät itsestäänselvyytenä, että kaikki lääkärikoulutetut eli myös lääkärijohtajat tekevät potilastyötä. Tätä asetelmaa tukemassa on myös lääkärikoulutettujen yhteinen eettinen lähtökohta; eri järjestelmissä toimivien lääkäreiden eettiset velvoitteet ovat samat (Suomen Lääkäriliitto, 2013).

Mä perun vaikka kokouksia tai jätän muut hallinnon hommat taustalle ja teen sitten niitä [johtamistöitä] illalla tai viikonlopulla, mutta meidän strategia on et potilas ensin...et jos vaikka joku lääkäri sairastuu, niin mä menen sinne paikkaamaan, mutta haluan myös johtaa sieltä edeltä ja haluan tietää mitä kentällä tapahtuu. (H44)

Täten lääkärikoulutuksen ja profession myötä noudatettavaksi tulevat lait ja eettiset ohjeistukset eivät poistu lääkärin siirtyessä lääkärijohtajaksi. Toisaalta ammattijohtajuus edellyttää lääkäriltä lisäkoulutusta ja mahdollisuutta keskittyä johtamiseen (Suomen Lääkäriliitto, 2014a).

Tutkimuksen lääkärijohtajat kokivat työnsä negatiivisina puolina byrokratian, sekavat ja lukuisat tietojärjestelmät, hyvin tehdystä työstä ansaituksi koetun kiitoksen puutteen, henkilöstön ristiriitojen selvittelyt sekä työyhteisössä joskus esiintyvän epäreilun taktikoinnin. Vaikeina ja haastavina asioina koettiin ajan myös riittämättömyys, tunne keskeneräisyydestä ja riittämättömyydestä, työasioiden priorisointi ja voimavarojen jakaminen eri työtehtävien välillä.

Siis päivittäisestä tästä paperin pyörittämisestä. Siitä mä en tykkää yhtään. Ja sitten on tietojärjestelmät...niistä mä en tykkää yhtään (H37).

No kaikista inhottavinta ja haastavinta, niin vaikeinta ja kuormittavinta on se, kun aika ei riitä...Et se riittämättömyyden tunne, että ei kerta kaikkiaan repeä joka paikkaan, eikä kerta kaikkiaan ehdi. Se on se, mikä minua eniten repii ja semmoinen keskeneräisyyden tunne. (H44)

Haastavinta on henkilöstöhallinnon vaikeiden asioiden selvittely, ihmisten väliset konfliktit. Ei kuukaan tykkää ruveta selvittämään riitoja. (H27)

Musta on vaikeata ja kuormittavaa, että on esimerkiksi semmoisia alaisia, jotka ovat hyviä siinä pelamisessa ja juonittelussa, et joutuu jotenkin vastakkain semmoisen kanssa tai reagoimaan siihen. (H34)

Tutkimuksessa nousi esiin myös aitoa innostusta johtamistyötä kohtaan. Valtaosa lääkärijohtajista viihtyi työssään ja oli omaehtoisesti hakeutunut nykyiseen positioonsa. Omaehtoinen kiinnostus johtamistyöhön nähtiin tärkeänä johtamistyössä onnistumisessa.

Tämä on yks parhaita pestejä sairaalassa... niin tämä on semmoinen mielenkiintoinen, mutta kyllä aika paineinen ja haasteinen paikka. .... kyllä siihen pitää olla se motivaatio ja tietynlainen palo siihen johtajuuteen, että ei se tule päälle liimattuna.... Johtajuus sinänsä on jo arvo, että joku on johtaja, vaikka ei tekisi mitään potilastyötä. (H35)

Myös Suomen Lääkäriliitto suosittaa, että johtamistehtäviin hakeutumisen tulee olla tietoista, ja johtotehtävissä toimivilta tulee edellyttää koulutusta ja johtajan rooliin asettumista (Suomen Lääkäriliitto, 2014a).

Johtamistyölle toivottiin potilastyön veroista arvoa. Johtamistyön näkemistä "oikeana työnä" perään kuulutettiin sekä työyhteisön että lääkäreiden taholta, mutta myös omaa uskoa johtamistyön arvoon pohdittiin.

Et olisi se ihan kivaa, että joku tässä talossa arvostaisi ihan sitä esimiestyötä. Myös lääkärikunnassa nähtäisiin se arvo, et jos ei me itse sitten arvosteta sitä, niin kuinka me voidaan ajatella, et kukaan muukaan arvostaa lääkärijohtajaa. (H35)

Avoimesti tunnustettaisiin [johtaminen] vaativaksi tehtäväksi ja myös avoimesti tehtäisiin, niin että se [johtaminen] on vaativaa. Ja sitten myös, että määriteltäisiin se, et minkä verran ja kuuluuko siihen kliinistä työtä ollenkaan vai onko se täysaikainen pesti. Et tavallaan, et se tunnustettaisiin se asema. (H27)

Suomen Lääkäriliiton suosituksen mukaan, lääkärin tulee arvostaa eri tehtävissä – niin esimiehenä kuin viranomaisrooleissa – toimivien kollegojen työnkuvia (Suomen Lääkäriliitto 2014a). Osa haastatelluista koki muiden alojen johtajien kanssa käytyjen keskusteluiden voivan toimia lääkärijohtajille vertaistukena auttamassa näkemään johtamistyö potilastyön veroisena "oikeana" työnä.

## Pohdinta

Tämän tutkimuksen tulosten ja käytössä olevan aiemman kirjallisuuden perusteella voidaan todeta, että lääkärijohtamistyötä määrittävät yhtäältä organisatoriseen positioon liittyvä esimiesasema, toisaalta, ja aivan erityisesti, lääketieteellinen asiantuntijuus, jota edellyttävät niin yhteiskunnalliset odotukset ja lainsäädäntö, kuin lääkärin etiikan ohjeistukset. Myös johtamis- ja ihmissuhdetaidot sekä talousosaaminen määrittävät enenevässä määrin lääkärijohtamistyötä (ks. myös Turunen 2018). Lääkärijohtaminen käsitteenä näyttäytyy aineiston valossa monitulkintaisena. Havainto ei itsessään ole yllättävä – onhan jo johtamisen käsite itsessään monitulkintainen ja hämärä – johtamiselle on tuotettu vuosikymmenten saatossa jopa useita satoja toisinaan toisistaan huomattavasti eroavia, toisinaan keskenään limittyviä määritelmiä (esim. Ahonen 2001; Juuti 2001; Ciulla 1998). Suurin osa johtamisen määritelmistä perustuu kuitenkin ajatukselle, jonka mukaan johtaminen käsittää prosessin, jossa ihminen pyrkii tarkoituksellisesti vaikuttamaan muihin ihmisiin organisoimalla, opastamalla ja helpottamalla toimintaa ja ihmistenvälisiä suhteita organisaatiossa tai ryhmässä (Yukl, 1989; Yukl, 2010), mikä kuvaa hyvin myös lääkärijohtajan työtä.

Lääkärijohtajan työ kuvautuu kuitenkin aineistossa ensisijaisesti johtamisen/hallinnon (management), vähemmän johtajuuden (leadership) kautta. Sitä myötä lääkärijohtajan työ näyttäytyy asiantuntijatyön johtamisena (ks. Heilmann, 2018), johon erityispiirteensä liittyy erottamattomasti lääkärinä syvä asiantuntemus kliiniseen potilastyöhön liittyen. Haslamin ym. (2012, 143–144) johtamista koskevan yleisestikin luonnehtivan tutkimuslöydöksen mukaan johtajaksi haluavan tulee korostaa itsensä ja johdettavan ryhmän yhteisiä piirteitä sen sijaan, että pyrkisi erottamaan johdettavistaan: itsekategorioinnin teorian metakonstrastiperiaatteen mukaisesti jokaista ryhmän jäsentä pidetään paremmin ryhmää edustavana ja vaikutusvaltaisempana siinä määrin kuin hänen ominaisuuksiensa koetaan edustavan

sekä, 1) mitä yhteistä ”meillä” on, että 2) mikä erottaa ”meidät” heistä, ja valintatilanteissa ryhmän jäsenet suosivat sisäryhmä-prototyypisiä piirteitä ilmentäviä johtajia, ei niinkään yleisesti johtajia stereotyyppien (esim. reiluus, luotettavuus, karisma) mukaisesti kuvaavia johtajia. Kuten aineistomme ilmentää, peruslähtökohtana lääkärikunnan piirissä on, että lääkärijohtajan on suositeltavaa olla itse myös koulutukseltaan lääkäri. Lääkärijohtajan tulee näin olla ammatillisen viiteryhmänsä tunnustettu jäsen, eli yksi ”meistä”.

Aineistomme mukaan yhtäältä näyttää, että lääkärijohtajaksi päätyneissä korostuu management, ei niinkään leadership, joskin toisaalta, lääkärijohtajat eivät tee selkeää eroa johtajuus- (leadership) ja johtamis- (management) roolien välille kuvaressaan työtään. Management, sisältäen hallinnolliset vastuut, juridiset kysymykset, ja kansalliset toimintaperiaatteet erityispiirteineen on selkeämmin terveydenhuoltojärjestelmäsidonnan ilmiökokonaisuus, siinä missä leadership, sisältäen alaisen tukemisen, opettamisen, ja osaamisen kehittämisen on jopa universaali, erilaisia elämänoja läpäisevä ilmiö. Lääkärijohtamisessa leadership-roolilla on viimekädessä hippokraattinen ydin kollegiaalisuuden ja yhteisöllisyyden kautta, koska auttamis- ja opetusvelvoitteet resonoivat sekä Hippokrateen valan, että leadership-käsitteen ytimen kanssa.

## References

- Ahlblad, J. (2014). Lääkäri haluaa lääkärijohtajan. Suomen Lääkärilehti, Vol. 69 No. 10, 690–691.
- Ahonen, A. (2001). Organisaatio, johtaminen ja edistyksen puhekäytännöt: Liikkeenjohdollisen tiedon kentät, kerrostumat ja kulttuurinen paikka. Doctoral Dissertation, Turku School of Economics, Turku.
- Aira, M., Mäntyselkä, P., Myllykangas, M. & Kumpusalo, E. (2006). Kenen joukoissa seisot? Johtavan lääkärin haasteellinen asema terveyskeskuksessa. Suomen Lääkärilehti, Vol. 61 No. 17, 1883–1888.
- Auvinen, T., Riivari, E., & Sajasalo, P. (2018). Lessons Learned from Traditional and "new age" Leadership. Kirjassa Eskola A (Ed.) Navigating Through Changing Times: Knowledge Work in Complex Environments, Routledge, 95–112.
- Brommels, M. (2010). Vastuu tekee lääkäristä johtajan. Lääketieteellinen Aikakauskirja Duodecim, Vol. 126 No. 5, 470–471.
- Brommels, M. & Mäntyranta, T. (1994). Lääkärijohtajien asenteet johtamiskoulutukseen. Su-omen Lääkärilehti, Vol. 49 No. 36, 3868–3871.
- Ciulla, J.B. (1998). Leadership Ethics: Mapping the Territory. In Joanne B. Ciulla (Ed.) Ethics. The Heart of Leadership, Praeger, Westport, CT, 1–25.
- Eskola, J. & Suoranta, J. (2005). Johdatus laadulliseen tutkimukseen. Gummerus Kirjapaino Oy, Jyväskylä.
- Finlex. (1994). Laki terveydenhuollon ammattihenkilöistä 559/1994, 2§. Saatavilla: <http://www.finlex.fi/fi/laki/ajantasa/1994/19940559#a559-1994>
- Finlex. (2014). Laki terveydenhuollon ammattihenkilöistä. Oikeus toimia terveydenhuollon ammattihenkilönä. 30.12.2014/1355, 4§. Saatavilla: <http://www.finlex.fi/fi/laki/ajantasa/1994/19940559#a30.12.2014-1355>
- Grönroos, E. & Perälä, M.L. (2004). Johtamistutkimus terveydenhuollossa: Kirjallisuuskat-saus. Sosiaali- ja terveysalan tutkimus- ja kehittämiskeskus, Helsinki.
- Hannus, T. (2006). Lääkäri haluaa lääkärijohtajan. Suomen Toimintaympäristön muutokset ovat arkipäivää myös sosiaali- ja terveyspalvelualalla, mikä vaatii esimiehiltä hyviä ammatijohtamisvalmiuksia (Kujala, 2015). Johtamista delegoimalla ja erilaisilla henkilöstöjohtamisen muodoilla on todettu olevan myönteinen yhteys työtyytyväisyyteen, innovatiivisuuteen ja työpaikassa pysymiseen (STM, 2004). Täten on tärkeää, että lääkärijohtajatkin ovat kiinnostuneita johtamistyöstään ja sen kehittämisestä, sekä se että myös he viihtyvät työssään. Tämän tutkimuksen sekä käytettävissä olevan kirjallisuuden perusteella 30 vuoden aikana lääkäreiden oma suhtautuminen lääkärijohtajan työhön ja lääkärijohtamiseen näyttää Suomessa kääntyneen myönteisempään, hyväksytympään ja tavoitellumpaan suuntaan. Tämänkin tutkimuksen lääkärijohtajat pääsääntöisesti viihtyvät työssään.
- Havainnostamme avautuu lisätutkimustarve lääkärijohtamisen tarkasteluun erityisesti ihmisten johtamisena, ja toisaalta lääkärijohtamisen arvopohjasta kumpuavien vaikutteiden tarkasteluun osana johtamistyötä. Lisäksi syytä on pureutua syvällisemmin sekä lääkäreiden itsensä kokemuksiin haasteisiin ja kehittämisaiheisiin omassa johtamistyössä, mutta perusteltua olisi myös tutkia johdettavien kokemuksia lääkärijohtamisesta – millainen kuva hyvästä ja tehokkaasta lääkärijohtajasta piirtyy niin johtajien kuin johdettavien kokemusmaailman kautta.
- Lääkärilehti, Vol. 61 No 20, 2272–2273.
- Haslam, S. A., Reicher, S. D. & Platow, M. J. (2012). Uusi johtamisen psykologia. Gaudeamus Helsinki University Press, Helsinki.
- Heilmann, P. (2018). Leading Specialists, in Eskola A (Ed.), Navigating Through Changing Times: Knowledge Work in Complex Environments, Routledge, New York, 19-36.
- Hermanson, T. (1989). Lääkäri terveydenhuollon hallinnossa. Lääkintöhallituksen tutkimuksia 49. Väitöskirja, Kansanterveystieteen laitos, Helsingin yliopisto.
- Hernandez, J.S. (2016). Leading your physicians: perspectives and perceptions. (Management Matters). Physician Leadership Journal, Vol. 3 No 6, 50–53.
- Hirsjärvi, S. & Hurme, H. (2001). Tutkimushaastattelu. Teemahaastattelun teoria ja käytäntö, Gaudeamus Helsinki University Press, Helsinki. ISBN 951-570-458- 8.
- Hjelt, O. (1892). Svenska och finska medicinalverkets historia 1663–1812. Andra delen. Helsingfors central-tryckeri, Helsingfors. Saatavilla: <http://runeberg.org/medhist/1/0026.html>
- Hofstede, G. (2001). Culture's consequences: Comparing values, behaviors, institutions and organizations across nations (2nd ed.), Sage, Thousand Oaks.
- Huikko-Tarvainen, S. (2017). Lääkärijohtajan työn status preasens. Pro gradu. Johtaminen, Jyväskylän yliopisto.
- HYKS. (2016). Sairaanhoidoalueen lautakunta § 63, 22.11.2016. [verkkojulkaisu]. [viitattu: 30.1.2017]. Saatavilla: <http://webcache.googleusercontent.com/search?q=cache:bcargXCMpRkJ:hus01.tjhosting.com/kokous/20162217-8.PDF+&ccd=1&hl=fi&ct=clnk&gl=fi&client=safari>
- Isosaari, U. (2008). Valta ja tilivelvollisuus terveydenhuollon organisaatioissa. Tarkastelu lähijohtamisen näkökulmasta. Väitöskirja. Hallintotieteiden tiedekunta, Vaasan yliopisto.
- Järvi, U. (2000). Selvitysmies Jouko Isolauri: Johtajuus on ansaittava. Suomen Lääkärilehti, Vol. 55 No. 41, 4174–4175.
- Juuti, P. (2001). Johtamispuhe. PS-Kustannus, Jyväskylä.
- Kallinen-Kuisma, M. & Auvinen, T. (2018). E-urheilun johtaminen – Lähtölaukaus empiirille tutkimukselle suomalaisesta

- näkökulmasta. EJBO Electronic Journal of Business Ethics and Organization Studies, Vol. 23 No. 2, 34-43.
- Kaukoranta, S.S. (2012), Onko erikoissairaanhoidossa sijaa jaetulle johtajuudelle? Lääkärijohtajien puhetta johtajuudesta. Pro gradu. Kauppatieteellinen tiedekunta, Vaasan yliopisto.
- Kekki, P. (1979), Terveystieteiden hallinnon koulutus lääkärin kannalta. Suomen Lääkärilehti Vol. 34, 41-46.
- Klossner, A. (1961), Sairaalaalustus ylilääkärin näkökulmasta. Sairaala 24, 546-549.
- Koskimies, A. (1943), Piirilääkärilaitoksemme. In memorian. Lääketieteellinen Aikakauskirja Duodecim, Vol. 59 No. 5, 202-211.
- Kujala A. (2015), Esimiesten ammattijohtamisvalmiuksien mittaaminen visuaalisella kehystetyillä - murto-osaa myydyt? Tarkastelussa terveys- ja sosiaaliala. Väitöskirja. Sosiaali- ja terveystiede. Vaasan yliopisto.
- Lehto, J., Viitanen, E., Autio, V. & Lääkäri 98 tutkimuksen ryhmä. (2003), Minkälaiset lääkärit nousevat johtaviin asemiin? Suomen Lääkärilehti, Vol. 58 No. 51-52, 5209-5213.
- Martin, G. P. & Learmonth, M. (2012), A critical account of the rise and spread of 'leadership': The case of UK healthcare. Social Science & Medicine, Vol. 74 No 3, 281-288.
- Peltonen, T. (2004), Organisaatio- ja johtamistutkimuksen uudet haasteet. Liiketa- ja sosiaaliala aikakauskirja, 2, 199-203.
- Pulkka, A. (2013), Lääkärijohtajuus ja ylilääkäreiden ammatti-identiteetti muuttuvassa asiantuntijaorganisaatiossa. Pro gradu. Johtaminen ja organisaatiot. Kauppatieteellinen tiedekunta, Lappeenranta teknillinen yliopisto.
- Schneller, E.S., Greenwald, H.P., Richardson, M.L. & Ott, J.A. (1997), The Physician Executive: Role in the Adaptation of American Medicine. Health Care Management Review, Vol. 22 No. 22, 90-96.
- Soininen, G. (1943), Lääninlääkärilaitoksemme esihistoriaa. Lääketieteellinen Aikakauskirja Duodecim, Vol. 59 No. 11, 495-519.
- Sosiaali- ja terveysministeriö. (2002), Valtioneuvoston periaatepäätös terveydenhuollon tu-levaisuuden turvaamiseksi. Kirjapaino Keili Oy, Vantaa. Saatavilla: [http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/70091/esite2002\\_6.pdf?sequence=1&isAllowed=y](http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/70091/esite2002_6.pdf?sequence=1&isAllowed=y)
- Sosiaali- ja terveysministeriö. (2011), Erikoislääkäri- ja erikoishammaslääkärin koulutuksen uudistamistarpeet. Erikoislääkärin koulutustyöryhmän loppuraportti. Saatavilla: <http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/71959/URN%3aNB%3afi-fe201504226354.pdf?sequence=1&isAllowed=y>
- Sosiaali- ja terveysministeriö. (2014), Sosiaali- ja terveysalan johtamiskoulutustyöryhmän muistio. Opetusministeriön työryhmämuistioita ja selvityksiä 2004:30. Saatavilla: <http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/80419/tr30.pdf?sequence=1&isAllowed=y>
- Sumanen, M., Viitanen, E., Virjo, I., Hyppölä, H., Halila H., Kumpusalo, E., Kujala, S., Iso-koski, M., Vänskä, J. & Mattila, K. (2006), Lääkärien arviot kollegojen johtamistaidoista ovat parantuneet viidessä vuodessa. Suomen Lääkärilehti, Vol. 61 No. 41, 4241-4249.
- Suomen Lääkäriliitto. (2010), Lääkärin asema terveydenhuollossa. Saatavilla: <http://www.laakariliitto.fi/uutiset/jasenuutiset/laakariliiton-linjauks-laakarin-asema-terveydenhuollossa>.
- Suomen Lääkäriliitto. (2013), Lääkärin etiikka. 7. Painos. Esa Print Oy, Lahti. ISBN 978-951-9433-64-6. [verkkojulkaisu]. Saatavilla: [http://www.laakariliitto.fi/site/assets/files/1273/laakarin\\_etiikka\\_2013.pdf](http://www.laakariliitto.fi/site/assets/files/1273/laakarin_etiikka_2013.pdf)
- Suomen Lääkäriliitto. (2014a), Lääkärin asema terveydenhuollossa ja terveydenhuollon johtaminen. Saatavilla: [https://www.laakariliitto.fi/site/assets/files/1229/l\\_k\\_rin\\_asema\\_terveydenhuollossa\\_ja\\_terveydenhuollon\\_johtaminen\\_muistio\\_hyv\\_ksytty\\_140822.pdf](https://www.laakariliitto.fi/site/assets/files/1229/l_k_rin_asema_terveydenhuollossa_ja_terveydenhuollon_johtaminen_muistio_hyv_ksytty_140822.pdf)
- Suomen Lääkäriliitto. (2014b), Saatavilla: <http://www.slideshare.net/laakariliitto/lkriit-yhteiskunnallisina-vaikuttajina-140508.pdf>
- Suomen Lääkäriliitto. (2016), Lääkärit Suomessa. Saatavilla: [http://www.laakariliitto.fi/site/assets/files/1268/ll16\\_tilasto2016\\_net1\\_170114.pdf](http://www.laakariliitto.fi/site/assets/files/1268/ll16_tilasto2016_net1_170114.pdf)
- Tampsi-Jarvala, T., Viitanen, E. & Lehto, J. (2005), Johtajana sosiaali- ja terveystoimissa. Sta-kes Aiheita 7.
- Tammilaakso, S.M. (2016), Lääkäriesimiesten johtamiskompetenssi ja johtamisosaamisen kehittäminen. Pro gradu. Hallintotieteiden tutkinto-ohjelma, Tampereen yliopisto. Saatavilla: <http://urn.fi/URN:NBN:fi:uta-201609132261>
- Tamminen, J. (2014), Lääkärit johtamaan. Suomen Lääkärilehti, Vol. 69 No 10, 726.
- Tutkimuseettinen neuvottelukunta (2012), Hyvä tieteellinen käytäntö ja sen loukkausepäilyjen käsitteleminen Suomessa. Saatavilla: [https://www.tenk.fi/sites/tenk.fi/files/HTK\\_ohje\\_2012.pdf](https://www.tenk.fi/sites/tenk.fi/files/HTK_ohje_2012.pdf)
- Tuomi, J. & Sarajärvi, A. (2009), Laadullinen tutkimus ja sisällönanalyysi. Gummerus, Kirjapaino Oy, Jyväskylä.
- Tuomiranta, M. (2002), Lääkärin johtaja - lääkäri vai johtaja? Tutkimus lääkärijohtajan roolijännitteistä ja johtamisroolin omaksumisesta erikoissairaanhoidossa. Väitöskirja, Tampereen yliopisto. Saatavilla: <http://urn.fi/urn:isbn:951-44-5291-7>
- Turunen, J.P. (2018), Miksi oppiminen on tärkeää koko lääkärin uran ajan? Aikakauskirja Duodecim, Vol. 134 No. 23, 2311-2314.
- Viitanen, E., Kokkinen, L., Konu, A., Simonen, O., Virtanen, J.V. & Lehto, J. (2007), Johtajana sosiaali- ja terveydenhuollossa. Kunnallisuuden kehittämissäätiön tutkimusjulkaisu nro 59, Vammalan Kirjapaino Oy, Vammala. Saatavilla: ISBN 978-952-5514-70-4. <http://www.kaks.fi/sites/default/files/Tutkimusjulkaisu%2059.pdf>
- Viitanen, E., Wiili-Peltola, E. & Lehto, J. (2002), Osastonlääkäri lähesmiehenä "Enemmän tammönen seniorikonsultti". Suomen Lääkärilehti, Vol. 57 No. 38, 3755-3757.
- Virtanen, J.V. (2010), Johtajana sairaalassa. Johtajan toimintakenttä julkisessa erikoissaira- lassa keskijohtoon ja ylimpään johtoon kuuluvien lääkäri- ja hoitajataustaisten johtajien näkökulmasta. Väitöskirja. Turun kaupakorkeakoulun julkaisuja, Sarja A 2, Uniprint. Saatavilla: <http://urn.fi/URN:ISBN:978-952-249-070-4>.
- Vuori, J. (2005), Terveys ja johtaminen. Terveystieteiden terveydenhuollon työyhteisöissä. WSOY, Helsinki.
- Wrede, S., Olakivi, A., Fischer, N. & Sigfrids, A. (2016), Autonomia ja ammatillisuus käytännön lääkäreiden näkökulmasta, Helsingin yliopisto ja Suomen Lääkäriliitto. Saatavilla: [http://tuhat.helsinki.fi/portal/en/publications/autonomia-ja-ammatti\(44dee6d8-beb5-4b0c-8603-7dfd4d81cc0a\).html](http://tuhat.helsinki.fi/portal/en/publications/autonomia-ja-ammatti(44dee6d8-beb5-4b0c-8603-7dfd4d81cc0a).html)
- Wiili-Peltola, E. (2000), "Sairaala sosiaalisena organisaationa: Uusia kuvia vanhoissa raa-meissa", Sosiaalilääketieteellinen Aikakauslehti, Vol. 37 No. 2, 122-133.
- Xirasagar, S. (2009), Physician Leadership and Development, in Johnson, J. (Ed.), Health Organizations: Theory, Behavior, and Development. Sudbury, Massachusetts, Jones and Bartlett Publishers, 331-348.
- Yukl, G. (1989), Managerial Leadership: A Review of Theory and Research, Journal of Management, Vol. 15 No. 2, 251-289. Saatavilla: <https://search-proquest-com.ezproxy.jyu.fi/docview/61037417>
- Yukl, G. (2010), Leadership in Organizations. 6.edition. Upper Saddle River, Pearson Prentice Hall.



---

## Authors

**Sari Huikko-Tarvainen, LL, KTM, eMBA**

Ihotautilin ja allergologian erikoislääkäri  
Yleislääketieteen erikoislääkäri  
Väitöskirjatutkija, Jyväskylän yliopiston kauppakorkeakoulu  
sari.huikko-tarvainen@fimnet.fi

**Pasi Sajasalo, KTT, dosentti**

Yliopistonopettaja, johtaminen  
Jyväskylän yliopiston kauppakorkeakoulu

**Tommi Auvinen, KTT, dosentti**

Yliopistonlehtori, johtaminen  
Jyväskylän yliopiston kauppakorkeakoulu