

FLUID RELATIONSHIPS IN TRANSITIONAL TIMES: A COMMENT ON EMPLOYEES AND CORPORATE GOVERNANCE

Deborah A. DeMott†

The nature of work is not static, nor is the structure of relationships through which people perform work for others. That employment relationships vary greatly and are far from immutable is relevant to the role that employees and their interests may play in the institutions that determine a corporation's strategic direction and general business plans. In this brief comment, I focus on only a few of the interesting points raised by the principal papers. I suggest that discussions about corporate governance in relation to the interests of employees should consider changes in the nature of relationships, not all of them relationships of employment, through which work is done. In the United States, changes in the structure of work relationships may enhance, not weaken, justifications for retaining the status quo, in which employees as such do not play a formal role in corporate governance and directors must, subject to applicable law, exercise their discretion to enhance corporate profit and shareholder gain.¹ In any event, these changes are of an order of magnitude that should redefine the frame of reference for analyzing the relationships between employees' interests and corporate governance.

My starting point is that we live in an era of relentless change in technology and in social and economic circumstances, in which the impact of economic activity often overruns national boundaries. Transactions intermediated through capital markets may carry widespread consequences for businesses and people, regardless of their physical location. Additionally, the content of work has changed: much work now involves using discretion in interactions

† David F. Cavers Professor of Law, Duke University School of Law; Centennial Professor, Law Department, London School of Economics.

1. See PRINCIPLES OF CORPORATE GOVERNANCE: ANALYSIS AND RECOMMENDATIONS § 2.01 (1994). Directors may act consistently with this standard by taking action that will not result in an immediate and particular profit and that is justifiable only over the long run, including action that will benefit the corporation by enhancing employees' morale. *Id.* cmt. f.