MEANINGS OF OWNERSHIP OF THE FIRM

ESRC Centre for Business Research, University of Cambridge
Working Paper No. 238

by

Simon Learmount & John Roberts
ESRC Centre for Business Research
Judge Institute of Management Building
University of Cambridge
Trumpington Street
Cambridge, CB2 1AG
Tel: +44 (0) 1223 765334
Email: sal25@cam.ac.uk

June 2002

This Working Paper forms part of the CBR Research Programme on Corporate Governance, Contracts and Incentives.

Abstract
The notion of 'ownership of the firm' is central to conventional treatments of corporate governance, yet there is very little discussion about what this means in practice. In this paper we briefly draw attention to some of the debates around the notion of ownership in various disciplinary fields, and then recount and discuss some of the meanings associated with ownership of the firm that we have found in two empirical studies carried out in the UK and Japan. Our aim is to illuminate and disturb some of the commonly taken for granted notions of what it means to 'own' a firm.

JEL Codes: G34, L20, L00

Keywords: corporate governance, ownership

Introduction

What motivated us to write this paper was the divergence between conceptions of firm ownership in the mainstream corporate governance literature, and the understandings and meanings attributed to the notion of firm ownership amongst the practitioners with whom we were interacting in the course of our empirical fieldwork. Furthermore, we found that there was little conceptual or empirical work in the economics or organizational literatures that explicitly set out to address what it means to 'own' a firm. This contrasts strongly with a fairly rich literature on the institution of ownership in a variety of other disciplinary fields, including philosophy, political theory and law. Our aim in this paper therefore is to draw attention briefly to some of the some of the debates around the notion of ownership in a number of disciplinary fields, and then recount and discuss some of the meanings associated with ownership of the firm that we have found in two empirical studies carried out in the UK and Japan.

The Notion of 'Ownership'

The notion of 'ownership of the firm' is central to conventional treatments of corporate governance, which is widely seen to be a 'problem' that arises from the separation of firm ownership from its control (Shleifer and Vishny 1997, Monks 2001, OECD 1999). Although several researchers have attempted to establish the ownership rights of different contributors to the corporation, notably labour, on the basis of the residual risk that they share in the firm (Blair 1995, 1996; Blair and Kochan 2000), the mainstream consensus is that shareholders are the *de facto* owners of corporations, given their ownership of the firm's equities and associated voting rights (LaPorta et al 1999).

Berle and Means (1932) are usually credited with popularising the notion of shareholders as company owners. They argued that in the earliest days of American industrialisation, companies, which were organised to deal with major projects such as the construction of railways and canals, tended to be private institutions, and were administered by their founders on the basis that they were their own private property. However during the second half of the nineteenth century in the United States, professional managers established strong control within what were becoming large multi-divisional corporations, and shareholders, who were granted the benefits of limited liability, became increasingly numerous and dispersed, and less able to exercise their role as owners of the firm:

> The separation of ownership from control produces a condition where the interests of owner and ultimate manager may, and often do, diverge, and where many of the checks which formerly operated to limit the use of power disappear. (Berle and Means 1932: 6-7)

What many scholars have ignored though, is Berle and Means' suggestion that as a result of the widespread dispersion of shareholding, active ownership of the firm had been replaced by a far more passive form of 'ownership'. Consequently, in their view, the traditional conception of the corporation as an entity truly owned by shareholders had broken down. The effective disintegration of the private corporation signalled the arrival of the corporation as a social institution:

> Neither the claims of ownership nor those of control can stand against the paramount interests of the community. [...] It remains only for the claims of the community to be put forward with clarity and force. Rigid enforcement of property rights as a temporary protection against plundering by control would not stand in the way of modification of these rights in the interest of other groups. When a convincing system of community obligations is worked out and is generally accepted, in that moment the passive property right of today must yield before the larger interests of society. (Berle and Means 1932: 312)

Berle and Means proposed that ‘the “control” of the great corporations should develop into a purely neutral technocracy, balancing a variety of claims by various groups in the community, and assigning to each a portion of the income stream on the basis of public policy rather than private cupidity’ (p.313).

In two separate papers, however, Berle (1931, 1932) qualified this by arguing strongly that in the absence of a well-defined system of responsibilities to society, a system of accountability to shareholders was vital, or else managers would be unaccountable to anyone:

> You cannot abandon emphasis on the view that business corporations exist for the sole purpose of making profits for their shareholders until such time as you are prepared to offer a clear and reasonably enforceable scheme of responsibilities to someone else. (Berle 1932: 1365)

It is this argument that appears to have prevailed, serving to muzzle further challenges to the notion of shareholders as firm owners up until the 1970s.

At this time, however, new economic theories emerged to challenge the idea of shareholder ownership of the firm. The publication of Alchian and Demsetz’s (1972) seminal paper *Production, Information Costs and Economic Organisation*, followed by Jensen & Meckling’s (1976) paper *Theory of the Firm: managerial behavior, agency costs and ownership structure* introduced the idea of the firm as a nexus of contracts amongst individual factors of production. Further to this neo-classical conceptualisation, new institutional economists also developed the idea of firm as contract in a slightly different form. This was originally put forward by Coase (1937), but was really only developed after the 1970s, in particular by Williamson (1979, 1985). The arguments associated with these two schools of thought are well rehearsed elsewhere (Milgrom and Roberts 1992), so will not be repeated here.

In common with the managerialist conception of the firm, shareholders are afforded a pre-eminent position in the firm in these economic theories. However, where these theories explicitly address the issue of property rights in the firm (Demsetz 1967; Hart and Moore 1990; Fama 1980), it is made clear that the position of shareholders in a company is not based on an idea that they 'own' the company, but stems from the supposition that they are its residual risk-takers (Alchian and Demsetz 1972). Fama (1980) makes the point about the irrelevance of firm ownership explicitly:

> [...] ownership of capital should not be confused with ownership of the firm. Each factor in a firm is owned by somebody. The firm is just the set of contracts covering the way inputs are joined to create outputs and the way receipts from outputs are shared among inputs. In this 'nexus of contracts' perspective, ownership of the firm is an irrelevant concept. (1980: 290)

The underlying premise here is that the fullest possible expansion and disaggregation of property rights in the firm is most likely to result in efficient outcomes (which are assumed to be desirable), as all its discrete components are thereby able to be claimed and traded efficiently. Milgrom and Roberts (1992) neatly summarise this viewpoint thus:

> The institution of ownership accompanied by secure property rights is the most common and effective institution for providing people with incentives to create, maintain and improve assets. (Milgrom and Roberts 1992: 288)

Such a viewpoint is now rarely challenged within the contemporary economics and management literature. This is in spite of criticism from other academic disciplines. For example, MacPherson (1978), a political theorist, draws attention to the inherent problem in this prevailing conceptualisation of property as a bundle of exclusive individual rights for liberal democratic theory. He argues that the conceptualisation of private property as involving the right to *exclude* others from the use of or benefit of some thing, is not a necessary logical attribute of the institution of property, and moreover conflicts with the liberal-democratic ethic of equality of opportunity:

> […] when the liberal property right is written into law as an individual right to the exclusive use and disposal of parcels of the resources provided by nature and of parcels of the capital created by past work on them, and when it is combined with the liberal system of market incentives and rights of free contract, it leads to and supports a concentration of ownership and a system of power relations between individuals and classes which negates the ethical goal of free and independent individual development. (p.199-200)

MacPherson argues that this is an intractable problem, unless the institution of property is broadened from being concerned with the seemingly sacred right of the individual to exclude others, to include as well the individual right not to be excluded by others from the achievements of society as a whole. This can take one or both of two forms: an equal right of access to the accumulated means of labour, or a right to an income unrelated to work but commensurate with what is needed for a full human life.

Most studies of ownership in disciplinary fields other than economics also make the point that the term does not express a straightforward universal value, but is a socially constructed and socially enforced institution that creates and maintains certain relationships between people. In other words, the institution of ownership is much more complex than simple physical possession in that it is negotiated and enforced through social convention, customs and laws, which may change over time. Furthermore, the meanings that people attribute to ownership may not correspond precisely to this institution, but they are informed by and in turn inform the institution.

At the risk of over-simplifying, the main disagreements around the notion of ownership usually concern firstly what particular array of rights people should be allowed to have over 'things', which is a normative issue (to be more precise, an issue of distributive justice), and second to what extent the array of rights is an accurate expression of the chosen underlying normative principles (Christman 1994).

There is broad consensus as to what are the main principles upon which concepts of distributive justice can be built (Greenberg and Cohen 1982; Deutsch 1985; Kellerhals and Lazega 1988). The first (and most widely accepted) principle is *merit*, which argues for proportionality of contribution and return. The second principle is *need*, which argues that fundamental needs must be satisfied. The third principle is *status*, which argues that similarity in social identity must be associated with similar returns. Arguments about appropriate/legitimate forms of ownership result from, for example, the fact that these principles may conflict, the criteria used to define them are not easy to agree upon, they are difficult to measure, and their relative importance may vary according to the nature of the 'thing' to be owned.

For example, merit has historically been seen as the most valid principle upon which to base a system of distributive justice, to the extent that it often appears to be viewed as a universal (Kellerhals and Lazega 1988). However, there is a significant body of research that shows that the accent on merit is stronger when actors' resources are high (Alves and Rossi 1978), when the group has instrumental rather than expressive aims (Deutsch 1985; Leventhal 1980), and when interpersonal relations are abstract rather than immediate (Stake 1983). By contrast, when resources are low, aims are expressive and relationships immediate, it is likely that need will be viewed as a more legitimate principle for distributive justice. Other studies have shown that an emphasis on merit is often associated with an assumption that the resources to be distributed are reasonably easily quantifiable, such as financial assets. However, where the nature of the good at stake is different or less easy to measure (for example affective or educative support), need is often accepted as a more legitimate principle for distributive justice than merit (Toernblom and Foa 1983; Hochschild 1981).

Further to disagreements about what particular principles should be used to underpin a legitimate system of ownership, there are then questions about how these principles are best measured (merit for example might be measured by productivity, effort, length of service, level of education and so on), and then what particular array of ownership rights is an appropriate expression of the principles decided upon. Again, a consensus has evolved that ownership is constituted of six main attributes (Christman 1994; Becker 1977; Reeve 1986; Waldron 1988; Munzer 1990). These are:

- The right to possess, implying exclusive physical control that is allowed by the resource, in addition to the right to non-inteference
- The right to use, entailing exclusive use and a duty on the part of others not to use without permission
- The right to the capital, implying the power to dispose of and transfer title of the resource, which can be sub-divided into the right to alienation, consumption and modification
- The right to manage, which includes the power to contract with others concerning control over uses of the resource
- The right to security, including the right against expropriation, which qualifies the previous four attributes
- The right to the income, that is the increased benefit accruing to the resource as a result of trade

In modern societies it is highly unlikely that any individual will be able to claim all six of these attributes in relation to a particular resource – freehold land, for example, is still taxed, subject to planning restrictions and regulated in a number of different ways. Consequently, even though we may commonly refer to the 'owner' of a resource, in practice this implies a limited range of rights in respect of the particular resource or good 'owned'. Exactly which rights, and in what proportion, constitutes one of the principle objects of debate about the institution of ownership.

The brief review presented thus far suggests that the notion of firm ownership is far more complex than that usually portrayed in the corporate governance literature, where the firm is generally assumed to be the inalienable property of its shareholders. In what follows, we want to report two qualitative empirical studies that throw some preliminary light on what ownership of the firm means to people actively involved with companies on a day-to-day basis.

M&E Denton

M&E Denton (the name has been changed to preserve anonymity) is a UK manufacturer, founded early in the 19th century, which has continued up to the present day as a privately owned company in which family members retain a 70% stake. The family is now in its sixth and seventh generation and numbers about 500 individuals. The occasion for the research was an emergent problem of ownership and control at Denton and its attempted resolution through the creation of a family shareholder council. The qualitative research consisted of some 17 interviews with members of the new shareholder council and five executive and non-executive members of the company board of directors.

This nearly two hundred year old company has acted as if it were a sort of time capsule in which 19C attitudes to ownership and control had been reproduced, at least amongst some sections of the family. The case offered what can be imagined as a condensation of the history of the corporation and the changing nature of ownership and control within this. In the context of this paper we want to use this case to illustrate some of the dimensions of this anachronistic view of ownership, and then outline the ways in which these were being challenged by both commercial and family pressures.

Ownership as inheritance

> You see the fundamental thing is these people have their money in the business. They are all very wealthy by our standards but because of this ethos that you hold the shares to pass on to the next generation, and on the whole they have not got diversified portfolios, so these are rich people who own a house and a lot of shares in Dentons and bugger all else.

The family connection is a source of considerable wealth for family members but it has a number of unique dimensions that set it apart from a conventional view of corporate ownership. It is wealth resulting from the business that bears the family name; it is ownership of a specific set of assets rather than some general portfolio of shares. The family name and business are mutually defining; ownership in this sense is a 'birthright' rather than a choice. To be a Denton owner is therefore an intimate part of one's identity - it defines the self and one's social location to a high degree.

As a privately owned company there is only an internal market for shares but even use of this is constrained by a sense that the shares must be passed on; wealth comes to the current generation as an inheritance from their parents and this, in turn, is felt to imply an obligation that the shares should be held for the next generation. Selling the shares has a sense of something like betrayal of one's inheritance and a denial of ones identity- the breaking of an intimate set of relations. Ownership is transient only in the sense that the shares pass through the owner from parents to children, rather than a more typical autonomous and rational decision to buy and sell. The rights to dividends from the profits of the company carry with them a strong sense of responsibility. Several people talked about a sense of guilt about a wealth that was not earned. Others spoke of difficult decisions in their early adult life about whether to follow parental expectations to work in the business or pursue other interests. But with or without a managerial career as a complement to ownership, the business itself was seen almost entirely in non-pecuniary terms; as a paternalistic cultural inheritance that valued the product, and acknowledged responsibilities to similarly long serving employees and the communities in which a Denton factory was central.

> The business has a soul and its important that it has a soul. It gives me self respect I am proud to work for this company as simple as that - its unique.
>
> It's the idea that this business is a good thing and it employs a lot of people, it should be producing good goods and it should be a model of what a good business should be and that's what we should be doing.

To be a family owner of Denton shares is therefore much more, and very different from, being an investor in a general portfolio of equities. Here is ownership not as a portfolio but as a share in a very specific set of assets as much human and cultural as physical and financial, which carries with it a felt sense of obligation to one's parents and grandparents, to the company and its employees and the communities in which it operates, and to future generations for the husbanding of resources over which one has but transitory control.

> This isn't really my money I'm the custodian of it. It's a notion of stewardship, custodianship. It's terribly meaningful.

Ownership out of control

The recent history of Denton as a business had been less than easy. The immediate post-war period had seen the company go through a period of considerable profitable growth under the autocratic leadership of one family member - Adrian Denton. Up until and during this period there were still a large number of family members working at senior management and board level within the company. Ownership was itself concentrated in three main family groupings one of which Adrian led. His successful management of the business brought him authority within the family who were for the most part grateful that the business was in seemingly capable hands. It was only at the end of Adrian's rein that the first tensions began to appear in this combination of ownership and control. Here it is only possible to outline some of the key ways in which a crisis of ownership and control emerged within the family and business.

One source of perceived difficulty came from Adrian's assumption that succession should be held within his family group:

> He was just very dynastically minded and saw not only his eldest son but all three of his sons taking leading roles in the business and there was some horse trading that went on inevitably.

He appointed his eldest son, Francis, as his successor, whilst with various bits of 'horse trading' the other dominant family groupings secured other senior jobs for their children. Not only was the business maturing and going through major technological and market changes but Francis also apparently lacked the business talent of his father. The board at that time contained a mixture of family and professional managers with no distinction between executive and non-executive roles.

> Francis was a weak man but supported by his executive – he was a bit like King john – you know those barons, provided they could run their patch uninterrupted, uncriticised, and unchecked they weren't going to mess up anyone else's patch.

After ten or so years of business decline the retired patriarchs of the dominant family groupings became so alarmed that they forced Francis to appoint a professional manager for the first time as chief executive. This man immediately confirmed the family's worst fears about ceding control to an outsider by sacking three family executive directors. There then followed a chaotic decade in which all the worst possible outcomes of a destructive combination of ownership and control were enacted.

With declining profitability, fierce battles began between the various dominant family groupings as to the leadership of the business. These battles were fought as much in the boardroom as in the family. In this respect the dispersion of ownership within the family can itself be seen to have become a problem but there was no mechanism whereby other family shareholders could protect themselves from the battling family executives. The board did eventually appoint a number of non-executive directors, but they felt that they were listened to by neither the managers nor the family executives.

> The board didn't have any mechanisms for consulting shareholders and almost didn't see why it should.

Francis was eventually forced to resign as chairman, although he insisted that he remain a director, and was replaced by an outsider nominated by another section of the family. In turn, a family member replaced the chief executive. What followed was a perception that the new chairman and non-family directors exploited family divisions by playing one family group off against the other to their own advantage.

> I thought it was in the hands of people who had no understanding, who had no wish to understand and who were in it for themselves.

> That the management were writing their own cheques and looking after their own interests and saying kind of 'up yours ' to the family.

After several changes of chairman and chief executive, this negative dynamic ended in a non-family chairman seeking to push through the sale of Denton to a conglomerate. This shock recommendation had the effect of dividing the family between those who wanted to resist the sale at any cost, and those who had become so disillusioned by the poisoning of family and business relations that sale seemed the preferable option. The following two quotes capture the differences of view between these two camps.

> The people I represent no longer felt they had the emotional involvement in this. They had a strong view that the company was no longer the company they used to love. They had a view that the shareholders were impossible, the management were impossible so the only thing to do was to sell it.
>
> I would have felt very ashamed if I hadn't done anything and also I felt very angry at that point. If one is brought up with something like that - well there are two things. I suppose you feel badly - a kind of uncomfortableness about owning something for which you do not work, but also a sense that we were brought up not to sell your shares, there was a very big down on people who sold their bonus issues, and also you are not looking at people who have many shares in other things, people weren't speculating, so the whole issue of things like share price weren't very real questions in all of it.

So the implosion of the ability of the family to act as owner managers, and their early attempts to achieve at least a partial separation of ownership and control had seemed only to polarize the family. On the one side were those who felt that the family had to reassert its direct control over the company. On the other side were those who felt that neither firm nor family were controllable, and who therefore wanted a complete divorce from the company through sale.

This version of an emergent problem of ownership and control is more complex than a simple dispersion of ownership creating effective managerial control. Certainly there is a belief in the minds of shareholders that senior professional managers have a different set of interests and motivations than those of the family. (In)secure in its wealth, the family can fear the unprincipled self interest of these individuals and, in particular resent a managerial proposal to sell what they did not own. The lack of executive skill in the family, nevertheless, creates a necessary dependence on these same managers even if this is difficult to acknowledge. However, it cannot all be blamed on the managers for, as the performance of Denton declines, there is an emergent tension between the dispersed owners and the different factions of owner/managers. Struggles between the executive representatives of different family groups apparently displaced and was threatening the control of the business; Denton's boardroom became a place were family battles were enacted.

A differentiation and integration of ownership and control

The struggle between those who wanted to sell and those who wanted to reassert direct family control culminated in an Extraordinary General Meeting where the sale was rejected by a very narrow margin of shareholders. The chairman who had proposed the sale resigned and it was left to both the victorious and vanquished members of the different family groupings to begin to find a way forward. There had been an attempt during the preceding period to establish some sort of forum of family shareholders with whom the chairman of the board could communicate. This informal grouping had never succeeded because significant portions of the family refused to have anything to do with it. In the light of the recent crisis the potential for such a representative forum of family shareholdings began to be explored more seriously. These were then combined with a series of recommendations from a consultant for the restructuring of the board at Denton. What emerged within a year of the EGM was a new board structure in which there were to be four executive directors, a non-executive chairman and four other non-executives, two of whom were to be elected by the newly created shareholders council. This body was to have fifteen members, each elected as a representative of different shareholding interests.

In place of the either/or formulation of the problem of ownership and control – reinvest in direct control or sell - the creation of the shareholders council can be seen as way both to differentiate out and also integrate ownership and control. The board could now focus on the direction and control of the business whilst the shareholder's council could deal with family ownership issues. These related concerns were then re-integrated through meetings between the council and board members. At the time of the research the council had been in existence for some five years. Here we can only document what were widely perceived as the very positive effects of this new governance arrangement.

Compared with the previous period where direct family control was failing, the council and its relationship with the board has produced the paradoxical effect of enhancing shareholder control through a retreat from direct control.

Given the coincidence of family and business relationship one of the most tangible effects of the council is felt to have been the healing of family divisions. The earlier struggles for power within the business and fight over the proposed sale of Denton had created considerable animosity between different factions of the family. The council's quarterly meetings have gradually healed these earlier wounds. They have also had the unanticipated effect of involving the younger generations of the family, and allowing distant members of the family to renew each other's acquaintance. Much of the work of the council has involved deliberations as to how to deal with the issue of eventual flotation which has now been subtly redefined in terms of 'marketability'. For the first time, however, the council provides a structure through which the interests of dispersed family shareholders can be equally represented and reconciled.

The other central preoccupation of the council has been the performance of the business. There are regular informal contacts between the chairman of the board and council. The company chairman also attends and makes a presentation to the quarterly council meetings, followed by questions. On occasions, the chief executive and finance director also attend council meetings. There is now perceived to be a much higher level of information available to shareholders, and, given that the council is a single representative body, no opportunity for management to play off one section of the family against another. For board members there is relief that family struggles no longer take place within the boardroom. More positively, the council provides an efficient forum for communication with family shareholders, and has given the board greater confidence in its own work through giving it an explicit and timely understanding of shareholder views in relation to corporate performance and strategy. Around a number of potentially contentious issues related to share options, bonuses, and appointments the council has proved itself able to redirect management proposals. More subtly, the greater clarity and trust that the council has created both between family members and between the council and board, is seen to have created a context in which the new chief executive has been able to address a number of long standing strategic and operational issues within the business. Although the family no longer has any executive role in the business, the routine accountability between the board and council means that there is now a more accurate and informed image of shareholder interests in the minds of directors, and no doubt that these interests have to be taken into account. In particular, the council has become a vehicle through which the family values have been able influence a number of aspects of business policy.

Japanese Corporate Owners

Our second account of meanings associated with ownership of the firm, is based on data collected in Japan, where 153 employees and directors in 26 different companies, banks and other financial institutions were interviewed as part of an exploratory study of Japanese corporate governance practices. The sample included some of the largest public multinationals, as well as some small, entrepreneurial companies that at the time of the research had recently been or were in the process of being listed on the Japanese Stock Exchanges. Some of the companies were highly profitable, whilst others were making losses. Some were ‘global companies’, exporting around the world, whilst half of the sample were purely domestic concerns.

Shareholders as corporate participants, not owners

At the time of the research between 1998-2000, there was enormous turmoil within Japanese industry, associated with an unrelenting economic downturn and profound financial reform taking place. In addition, international institutional investors were becoming increasingly pro-active in the management of their Japanese share portfolios, partly as a result of holding larger volumes of Japanese shares, and partly as a result of the poor performance of these investments. Some of the larger American institutional investors had begun to visit companies in which they held shares, introducing themselves as corporate owners and expecting to be received, and listened to, as such. Consequently, the issue of corporate ownership was an important topic of debate in the media and at various business association meetings, and was exercising the minds of almost all the respondents we interviewed.

Nonetheless within all of the companies we studied, while there was often some rhetoric about shareholders owning the company, when pressed company employees and directors acknowledged that in practice, shareholders were not seen as, or treated as, company owners. For example a senior director of a manufacturing company explained:

> I should be saying 100% to the shareholder but this is a sort of formal or legalistic answer. But this does not really reflect my sentiment.

One interviewee, responsible for a Japanese Investor Relations' organisation, tried to clarify why shareholders were not seen as company owners in Japan:

> Well there is no sense of shareholder ownership in Japan, it is *kyoodootai* [a co-operative or collaborative body], the corporation involves many kinds of stakeholders, so there are no strong owners. Domestic institutional investors do not think of themselves as owners. When investors used to meet with

> companies it was friendly and informal - they called it the *okabunushikai* [the major shareholder meeting], once or twice a year, with most of the investors from banks. But not really because they were shareholders, well it's difficult so I can't really explain properly.

What this interviewee found difficult to explain was how different the general perception of (major) shareholders was amongst Japanese company directors and employees, from the received Anglo-American notion of the shareholder as owner of the company. Shareholders had never been perceived to enjoy any particular ownership rights in the companies in which they were invested, so the relatively recently introduced idea that shareholders might be able to unilaterally influence company decisions seemed to be difficult to comprehend.

In every company we studied, a distinction was made between what were termed 'political' or *mochiai* (cross-) shareholders and 'investment' shareholders, but neither group appeared to be recognised as having any specific ownership rights in the firms in which they held shares. Investment shares tended to be viewed simply as that, investments with no other specific claims on the company. But even political shareholdings, resulting from the common practice of exchanging shares between business partners, were not perceived to confer any particular ownership rights on the holders of these shares. Instead they appeared to be seen simply as symbols of a close, mutually beneficial business relationship:

> They are not really shareholders. They want to understand the software or the hardware. They don't really want finance information and so on. Shares only signify the good relationship between them and us.

In practice, company directors controlled the allocation of equities, tending to select their majority shareholders on the basis of established business relationships. For example, the finance director of one of the longest-established companies in the sample, acknowledged that many share deals continued to be carried out in closed sessions, rather than through the market:

> We have a finance directors [*keiretsu*] group meeting regularly, so we know the faces and can have conversations at these meetings. Sometimes I might sit here, and he will sit there, and I will have the need to make *mochiai*, so while we are chatting the deal is done. When they have a need to sell our stock they will come to us, discuss their situation, and we will consider their proposal. This might happen when their business results are extremely bad, and they have a lack of cash.

This does not conform to the mainstream Anglo-American view of shareholders as corporate owners selecting managers as their agents. Indeed, shares allocated in this way did not appear to confer any sense of firm ownership at all, neither in the eyes of the company directors doing the allocating nor the shareholders to whom shares were allocated. This was true even for large Japanese institutional investors we interviewed: for example, employees at a major Japanese life insurance company acknowledged that the reason the organisation bought equities in companies was as much to cement sales with client companies and their employees, as it was to achieve returns on the equity investments.

Rather than being associated with a hierarchical owner/agent relationship, the practice of exchanging shares in this way was discussed as entailing a balance of power between the parties. It seemed that by eschewing an ownership type of relationship, shareholders and companies were able to enter into a far more trusting and productive association than would otherwise have been the case. For example, the president of one company explained that the relatively equal relationship with one particular bank with which his company had exchanged shares, guaranteed reciprocal trust that was uncomplicated by the potential of one partner exercising undue influence over the other because of specific rights or claims associated with the notion of ownership:

> The advantage is that whenever I face a problem I can personally ask them [the main bank] to help me, and I am *positive* [emphatically] that they will help me. And also they have a lot of knowledge about M&A and so on, so I can always call them to help me. I want confidentiality, but I don't always want an agreement or contract with them. There is no liability there; there is always I owned you or you owned me, always there is that kind of relationship, but with [bank name] we don't have any of that.

This interviewee, like many others, spoke of ownership in negative terms, implying that as an unequal power relationship it would constrain rather than enhance the quality of communication between partners. Without the hierarchical type of relationship implicit in the notion that shareholders were owners of the company, it appeared that company directors felt extremely comfortable communicating and liasing with their major equity holders. For example the finance director of one company, not part of a recognised business group, told us:

> Every month, not me but one of the directors visits [our biggest shareholder] and explains what has happened that month and the monthly results, and listens to their comments. He visits the president, the chairman and the executive vice presidents so that all of them have the opportunity to ask questions. This is the Japanese way of communicating. As for [the second biggest shareholder, a life insurance company] and other institutions I myself visit twice a year, because in this country we don't have quarterly reporting, so we explain and invite questions from them, and normally not only the person in charge of the relationship but the president and several key executives will attend.

This kind of willing and open communication contrasted strongly with reported encounters between some of the Japanese companies studied and foreign institutional investors who, at the time of the research, had begun to make official visits to companies in which they had invested asserting what they saw as their rights as owners. Such visits were viewed with enormous suspicion; for example, the manager of a trust bank talked about the complete bewilderment of one of his clients when a non-Japanese institutional investor first made contact with the company in the mid 1990s:

> For example four or five years ago no-one knew about [US pension fund] - they first saw the letters sent by [US pension fund] to the companies and they thought it was another *sokaiya* [corporate extortionist]. Honestly. They thought they were racketeers trying to get money out of Japanese companies.

Such reactions seemed to confirm the importance in Japan of acting in a relationship in ways that precluded one or other partner from being perceived as taking advantage of a powerful position. By acknowledging and being sensitive to the balance of power in the relationship, each party was able to act in ways that nurture and are in the best interests of the long-term relationship. In this respect, frequent references to the balance of power in relationships, and the generally unenthusiastic attitude to the notion of shareholders as owners, appeared to be associated with a sensitivity to the potential dangers of abusing a powerful position which comes with any hierarchically based association.

The idea that shareholders are not perceived to be, in any practical sense, owners of Japanese companies is not a novel finding. Economic historians have long argued that the nature of corporatisation in Japan following the Meiji Restoration strongly contributed to the emasculation of shareholders and the associated genesis of stable interlocking shareholding (Fruin 1992; Yamamura 1997). It is argued that the pre-existence of household forms of organisation, rapid economic change, the need to adopt foreign technology quickly and the relative scarcity of capital during the late nineteenth century, compelled the majority of companies to specialise, and precluded diversification or rapid expansion. However, as some companies began to establish nationwide rather than local or regional business, they realised the need to create economies of scale and scope. Rather than developing vertically or horizontally integrated companies, networks of closely or loosely allied groups of companies, which are commonly known as *keiretsu,* were established. Partly to raise capital and partly to cement business relationships, shares were often sold to friendly companies and institutions, rather than on the open market. Masaki (1979) reports the explicit advice of Mitsubishi Bank and Mitsubishi Mining in offering stocks for the first time in 1928 as an example of the type of understandings that commonly accompanied such share exchanges:

> Since these stocks are offered for a long-term investment, such action as immediately selling them should be abstained from in the light of moral obligation to the company. If it is necessary, however, to sell them, inform the head office beforehand so that we can buy them back at the selling price. (p. 46)

Okazaki (1994) suggests that the 1940s wartime planned economy also strongly influenced /re-inforced this attitude to shareholders. At this time, the government felt that the stabilisation of manager-worker relations needed to be prioritised in order to contribute to the war effort, so efforts were made explicitly to attenuate the power and authority of shareholders *vis-à-vis* companies. For example, the Japanese Cabinet on 7 December 1940 passed an Act entitled 'The Outline of the Establishment of a New Economic System' which viewed shareholders, managers and employees as equal participants in the firm, and had the effect of strengthening the role of managers, and re-focused firms away from a simple pursuit of profit (Okazaki 1994).

What our interviews suggest, is that in spite of the myriad changes taking place within Japanese industry, this notion that shareholding entailed participation and partnership in the firm, rather than ownership of the firm, was not changing significantly. The idea that by virtue of owning shares in a company, you thereby were granted some form of 'ownership' rights in the firm, continued to be (in the eyes of both company employees and shareholders alike) difficult to understand.

Acting as an owner

In all of the companies we studied that had been established since 1945, founding families rather than shareholders were frequently referred to as 'owners', even when they did not hold a majority shareholding. Furthermore, founding families were often considered to be owners of many of the long-established companies we studied, even where they held insignificant proportions of the issued shares. For example, in one company we were told by one of the directors:

> [...] here the influence of the founding family is still great. Here, where the [name] family ownership is only 10% or so, still they act as owners.

In another large, listed company, the current president was a descendant of the founder, in spite of his family having no significant shareholding in the company at all. One employee at the company claimed:

> [Company name] really belongs to the [name] group, and although it is a listed company it is owned by the [name] family, even though they do not have a significant shareholding.

Even in the cases where there was no continuing involvement of a founding family in the affairs of a particular company, its ownership was often likened to, or discussed in terms of, a family. One of the principal implications here seemed to be that, like a family, it is difficult to talk meaningfully of an individual or specific group 'owning' the firm. This is because the firm is perceived primarily to constitute a social institution, not a contrived agglomeration of inputs, assets and outputs. This view of the firm was reflected in almost all company practices. For example, there were invariably long inductions into the company for new employees, where socialisation and acculturation were consistently given higher priority than introductions to operational issues. Salaries in the majority of companies were *not* designed to provide a gradually increasing income over time, but a wage appropriate to an employee's stage of life (the rate of increase in salaries tends to accelerate for employees in their late twenties, when they are likely to begin a family, and decelerates in the early 50s when it is assumed that family expenses are reduced). It was also the case that in many companies, accommodation was provided for employees, again appropriate to the stage of life which an employee had reached: for younger employees this might be a dormitory, while for older employees with children this would be a family apartment. Given the importance attached to the socialisation of employees into the corporate community, the Japanese term '*sha-in*', or 'member of the company', seemed to be a more accurate label than 'employee'. One *sha-in* who had been with his company for about 15 years maintained:

> Once you are employed by a company you can experience several jobs within the company through internal rotation, and as you learn more you feel more relaxed and happy with the life you are given by the company, and you concentrate more on building a career within the company without thinking about outside the company. This comfort makes us feel very happy and that we are protected by the company in our day-to-day life, and within that framework you can plan your life.

This, and many other similar comments, suggests a recognition amongst employees that over time, their own personal interests and status are increasingly bound up with the interests and status of the company itself, to the extent that their own lives become inextricably interlinked with those of their colleagues and the company as a whole. One employee made plain the extent to which he felt his future was bound up with that of his company:

> [...] do you know the term ‘corporate citizen’? The company invests in us, and this means that the company is financing us, like a school. So I think we have to give back something to the company. All workers are incorporated into the company and have a sense of being a citizen of the company.

In these respects, it seems that conceiving of the firm as a bundle of assets that can be broken down into component parts and bought and sold easily, was very difficult for those who were part of this system to comprehend. ‘Ownership’ of the firm, has as a consequence, very different meanings than the Anglo-American idea which is generally associated with a bundle of enforceable rights and claims in relation to the company. Instead, ‘ownership’ of the firm seems to imply being responsible for the actions of one’s company as a whole, a responsibility that is shared with one’s colleagues. As a consequence, for employees in the majority of companies we studied, ownership of the firm seemed to be bound up with a strong sense of joint and several responsibility for the company, which resulted from the strong sense of identification with and commitment to the company and one’s colleagues. One employee summed up succinctly what ‘ownership’ of the firm meant for him in this sense of the word:

> We employees think that we are the owners. When I am doing a job I sometimes think what is best for our company, not just for myself - I tend not to work just for our official responsibility, but acting as if I am the president or chairman. This is the strong point of Japanese company.

Concluding Reflections

In the above we have sought to illuminate and disturb taken for granted notions of the ownership of the corporation, through drawing upon two pieces of qualitative empirical research which both offer perspectives on ownership amongst corporate practitioners themselves. The Denton case, precisely because it contains some rather anachronistic views of ownership, makes it possible to see that the meaning of ownership is contextually and historically contingent. In so far as it offers sight of an earlier version of UK corporate ownership, it suggests how thin and impoverished is our current view of ownership of the firm. Family ownership ties you to a specific company where the rights to dividends are inseparable from a set of felt responsibilities, to past and future members of the family as well as to those who consume and produce the product.

A similar relational specificity characterises the reported Japanese understanding of shareholding. Shareholding is expressive of relational bonds, and comes to be embodied and enacted through particular face to face relationships. Shareholding does not carry with it a set of exclusive rights – of control, or disposal - but rather is an explicit acknowledgement of reciprocal dependence and obligation built up in the course of business relationships. As in Denton, the sale of shares for personal gain is felt as a betrayal of these obligations. Instead, the rights of shareholders are inseparable from strongly felt senses of responsibility. In Denton this responsibility is part of a paternalistic view of ownership; the benefits of exclusive rights to wealth, control and status bring especial responsibilities. In the Japanese case material, whilst there are vestiges of such family based paternalism, reciprocal responsibilities and obligation seemingly accrue without any necessary reference to 'ownership' in a contemporary western sense. Instead, a deep identification with the 'company' as social institution, both by self and others, is the basis for a more inclusive sense of 'ownership'; ownership as belonging, standing in for, representing in one's person, bearing the obligations.

What both cases suggest is that ownership can only be thought of as a relational concept rather than as a property that inheres somehow within the individual. Part of the problem of an exclusive version of ownership, as with any designation of identity, is that it tacitly depends upon and creates what it is not. So the owner in this exclusive sense creates and requires the non-owner manager who must then be feared precisely because he is not one of us; because s/he might behave as an owner rather than the agent that you wish him to be. Marx was right therefore to observe the antagonism inherent in the private ownership of socialised means of production. Interestingly, if a relational view of ownership is insisted upon, the rights claimed as owner cannot be readily divorced from the responsibilities to others that are implied; instead such a divorce has itself to be socially contrived through the depersonalising and decontextualising – alienating - mechanisms of the market. Distance avoids the discomfort of guilt.

Ownership is this regard can be seen as an attempt to enact a fantasy of omnipotence which denies or reverses the actual dependencies in which a person is embedded. So the demand that the agent should enact the will of the principal, contains a denial of the limitations – skill, knowledge, body – of the owner as well as a refusal to acknowledge the owner's need of others. It is this fantasy of omnipotence rather than the divorce of ownership and control that is arguably the source of governance problems. So in Denton, the interests of the owner/managers were only aligned whilst the firm did well. A decline in performance set executive owners against each other as well as against the other shareholders. The problem of governance as an excess of autonomy predated the separation of ownership and control. Similarly, the early attempts at separating ownership and control led to an impossible struggle for dominance between different family executives and executives only because each seemed to believe that such control could be made absolute; that others could and should be but a mirror of my will.

It is essential to distinguish between control as an intention and its social outcomes; as Giddens (1984) rightly insists control in terms of outcomes always has the form of a 'dialectic' in which there is autonomy and dependence in both directions. And, indeed, the separation of ownership and control at Denton was only effected through a process of differentiation, that realised control through a retreat from the attempt at direct family control; through an acknowledgment of autonomy and dependence in both directions between the family owners and managers. Governance here, although defined as a right of ownership, can be seen to have depended for its success on the skilful development of processes of accountability both within and between the board and shareholder council. Such accountability – the giving and demanding of reasons for conduct - is precisely what an exclusive definition of ownership refuses, and what it risks socially – that an individual or group becomes a law unto themselves (Roberts 2001). The solution to the governance problem is therefore not necessarily bound to means whereby the rights of ownership can be reasserted or captured by others but rather depends upon preventing the fantasy of omnipotence from taking root.

In this respect the Japanese case material is highly instructive. Whereas in Anglo-American governance systems we play upon the fear and greed of the 'individual' to secure the different interests of the corporation and its shareholders, in Japan security is sought through protecting the relational bond rather than the self. The result is a system in which there is a relatively low incidence of individual sanctions or rewards, but precisely because of this, no limit to the possibility for identification with the corporation and the interests it contains. Interests are aligned through creating no opportunity to effectively differentiate out a set of interests that are exclusively mine. Paradoxically, as the final case quote suggests, this captures all the motivational benefits of ownership for a broad group of staff – they think and act as if the company were theirs – with none of the paranoia that haunts exclusive forms of ownership.

References

Alchian, A.A. & Demsetz, H. (1972). "Production, Information Costs and Economic Organisation." *American Economic Review*, **62**(5): 777-95.

Alves, W. and Rossi, P.H. (1978). "Who Should Get What? Fairness judgements and the distribution of earnings." *American Journal of Sociology*, **84**: 541-563.

Becker, L. (1977). *Property Rights: philosophic foundations*. Boston: Routledge and Kegan Paul.

Berle, A. (1932). "For Whom Corporate Managers Are Trustees: a note." *Harvard Law Review*, **45**: 1365-72.

Berle, A.A. & Means, G.C. (1932). *The Modern Corporation and Private Property.* New York: Macmillan.

Blair, M. (1995). *Ownership and Control: rethinking corporate governance for the twenty-first century*. Washington D.C: Brookings Institute.

Blair, M. (1996). *Wealth Creation and Wealth Sharing*. Washington, DC: The Brookings Institution.

Blair, M. and T. Kochan, Eds. (2000). *The New Relationship: Human Capital in the American Corporation*. Washington, D.C: Brookings.

Christman, J. (1994). "Distributive Justice and the Complex Structure of Ownership." *Philosophy and Public Affairs*, **23**(3): 225-250.

Coase, R.H. (1937). "The Nature of the Firm." *Economica*, **4**: 386-405.

Demsetz, H. (1967). "Towards a Theory of Property Rights." *American Economic Review*, **57**: 347-359.

Deutsch, M. (1985). *Distributive Justice*. New Haven: Yale University Press.

Etzioni, A. (1975). *A Comparative Analysis of Complex Organizations: on Power, Involvement and their Correlates*. New York: Free Press.

Fama, E. (1980). "Agency Problems and the Theory of the Firm." *Journal of Political Economy*, **88**(2): 288-307.

Fruin, W.M. (1992). *The Japanese Enterprise System.* Oxford: Clarendon Press.

Furby, L. (1978). “Possession in Humans: an exploratory study of its meaning and motivation.” *Social Behavior and Personality*, **6**(1): 49-66.
Giddens, A. (1984). *The Constitution of Society*. Cambridge: Polity.
Greenberg, J. and Cohen, R. L. (eds) (1982). *Equity and Justice in Social Behavior*. New York: Academic Press.
Hart, O. and Moore, D. (1990). “Property rights and the nature of the firm.” *Journal of Political Economy,* **98**(6) 1119-1158.).
Hochschild, J. (1981). *What’s Fair? American Beliefs about Distributive Justice*. Cambridge, MA: Harvard university Press.
Jensen, M.C. & Meckling, W.H. (1976). "Theory of the Firm: managerial behavior, agency costs and ownership structure." *Journal of Financial Economics*, **3**: 305-60.
Kay, J. & Silberston, A. (1995). "Corporate Governance." *National Institute Economic Review*, **153**, August: 84-98.
Kellerhals, J. and Lazega, E. (1988). *Individual Property Rights and Conceptions of Privacy in the Family*. Working Paper, Centre for Socio-Legal Studies, University of Oxford.
LaPorta, R., Lopez-de-Silanes, F. and Shleifer, A. (1999). “Corporate Ownership Around the World.” *Journal of Finance,* 54, 471-517.
Leventhal, G.S. (1980). “What Should be done with Equity Theory?” In K. Gergen, M. Greenberg and R. Willis (eds), *Social Exchange Theory*. New York: Plenum.
Macpherson, C.B. (1978). *Property; mainstream and critical positions*. Toronto: University of Toronto Press.
Masaki, H (1979). "The Financial Characteristics of the Zaibatsu in Japan: the old zaibatsu and their closed finance." In K. Nakagawa (ed.), *Marketing and Finance in the Course of Industrialization*. Tokyo: Tokyo University Press.
Milgram, P. and Roberts, J. (1992). *Economics, Organization and Management*. Englewood Cliffs, NJ: Prentice Hill.
Monks, R. (2001). *The New Global Investors*. Oxford: Capstone.
Munzer, S. (1990). *A Theory of Property*. Cambridge: Cambridge University Press.
OECD (1999). *OECD Principles of Corporate Governance*. Paris: OECD

Okazaki, T. (1994). “The Japanese Firm under the Wartime Planned Economy.” In M. Aoki and R. Dore (eds), *The Japanese Firm: the sources of competitive strength*. Oxford: Oxford University Press.

Reeve, A. (1986). *Property*. Atlantic Highlands, N.J: Humanities Press.

Roberts, J. (2001). Trust and control in Anglo-American systems of corporate governance; individualising and socialising processes of accountability. *Human Relations*, forthcoming.

Shleifer, A. and R. W. Vishny (1997). “A Survey of Corporate Governance.” *Journal of Finance,* **52**(2): 737-783.

Stake, J.E. (1983). “Factors in Reward Distribution: allocator motives, gender and protestant ethic endorsement”. *Journal of Personality and Social Psychology*, **44**: 410-414.

Toernblom, K.Y. and Foa, U.G. (1983). “Choice of Distributive Principles. cross-cultural evidence on the effect of resources.” *Acta Sociologica*, **26**: 161-173.

Waldron, J. (1988). *The Right to Private Property*. Oxford: Oxford University Press.

Williamson, O.E. (1984). "Corporate Governance." *The Yale Law Journal*, **93**: 1197-1230.

Williamson, O.E. (1985). *The Economic Institution of Capitalism.* New York: Free Press.

Yamamura, K. (1997). *The Economic Emergence of Modern Japan*. Cambridge: Cambridge University Press.