

# LEGITIMACY, SOCIAL CAPITAL AND 'DIRTY HANDS': A THREE-CONSTITUENT APPROACH TO ETHICAL LEADERSHIP UNDER DURESS

Paper submitted to the International Studying Leadership Conference 2013, Rome. A revised version was published in *Leadership and the Humanities*, March 2015

**Paul Sanders**

## **Abstract**

This article considers ethical leadership in the context of a duress situation, using the concepts of 'dirty hands', 'gray zone', social capital, and legitimacy. Comparative historical case study material showcases how the approach to duress and dilemmas can be ethically 'optimised', and how this is related to the management of social capital and legitimacy. The material under discussion is taken from the German Occupation of the British Crown Dependency of Guernsey in the Second World War. The article's relevance to business is owed to the fact that internationalisation increases gray zones - and, with it, the likelihood of 'dirty hands' reflexes – to which code-and-compliance 'solutions' such as CSR cannot provide a convincing ethical response. Finally, it also seeks to contribute to an ongoing 'historical turn', through its advocacy of archival material and the historical method in management studies.

## **Author**

Dr Paul Sanders

NEOMA Business School, Reims Campus

Department of Economics, Culture and International Affairs

59, rue Pierre Taittinger

51100 Reims

France

## **Keywords**

Legitimacy – dirty hands – gray zones – social capital – leadership ethics – wicked problems – extreme contexts – German occupation of the British Channel Islands 1940-1945 – historical turn

## Introduction

In an article published in 2010 that investigated civilian leadership responses to a historical duress situation, the German Occupation of the British Channel Islands in the Second World War, I showcased the social capital dimension of ethical duress leadership (Sanders, 2010). The aim was to comparatively measure ethical leadership outcomes in the two main islands of Jersey and Guernsey and explain the difference through the social capital link. The key limitation of the approach was that it did not describe the exact ‘mechanics’, something I will attempt to do in the pages that follow. For this, I will integrate several additional notions into the ‘black box’ of ethical duress leadership: ‘dirty hands’, ‘gray zones’, ‘wicked problems’ and the legitimacy dimension. In line with Hannah et al. (2009: 898), who argue that leadership can ‘intensify or attenuate levels of extremity’, I argue that social capital and legitimacy are the leadership constituents that can temper the dependence on ‘dirty hands’, as well as minimise the amount of dirty hands necessary to attain outcomes that are ethically satisfactory or sufficient. The article will conclude that, rather than relying on normative and prescriptive frameworks, the correct locus of ethical duress leadership is within this triangle of social capital, legitimacy and 'dirty hands'.

Leadership ‘under duress’ corresponds to leadership in ‘extreme contexts’, a concept coined by Hannah et al. (2009). Rather than mere crisis, this topos relates to a particularly ‘extensive and intolerable magnitude of physical, psychological, or material’ threat to an organisation (Hannah et al., 2009: 898). It is ‘one of the least researched areas in the leadership field’, but, at the same time, ‘perhaps the area where leadership is most needed’ (Hannah et al., 2009: 897; 898). The term ‘duress’ was chosen because it encapsulates particularly well the entrapment of entities and individuals alike in a criminal state, and the double binds and dilemmas that resulted from this.

The general link between social trust and ethics is embedded in the fact that reciprocal trust is related to virtues, such as honesty, that reduce transaction costs and bear social and economic rewards (Martinez and Soledad, 2005). The notion of trust leads to the social capital concept. This denotes ‘social networks and associated rules of reciprocity which [...] create both individual and collective value’ (Martinez and Soledad, 2005). At its heart lie trust, networks and norms (Osgood and Ong, 2001: 208-209; Maak, 2007: 333; Fukuyama, 2002). According to Fukuyama (2011: 16-17) and Rothstein (2003: 49), social capital is the result of reiterated prisoner's dilemma games that increase trust over time. The role of social capital in duress situations is present in the social science literature (Forrest and Kearns, 2001; Osgood and Ong, 2001; Rothstein, 2003; Fowler and Etchegary, 2008). Trust - and social capital – dissipate or reduce in a crisis (or under duress) because it is difficult to build relationships or because previous ones are dissolved (Fowler and Etchegary, 2008: 337). This calls for a specific

leadership dimension, such as Maak's framing of responsible leadership within the moral complexity of multiple stakeholder claims (Maak, 2007); an extension of this approach to a characterised duress situation is proposed by Sanders (2010).

The incidence of institutional development on social capital is strong, for the former has a catalytic role in enabling social capital to raise efficiency (Durlauf and Fafchamps, 2004: 14). Citing the Northian definition of institutions, as the 'formal and informal rules of the game', provides room for integrating the concept of 'legitimacy'. The latter relates to the fact that social actors and entities act in conformity with a political, legal and constitutional 'regime' whose rules and norms they respect; it reiterates the fact that social capital is not an independent variable, but context-dependent (Bourdieu, 1986; Osgood and Ong, 2001: 208). It is legitimacy that sways social capital in a particular direction.

The key role of legitimacy in developing and strengthening social entities has long been a core theme of social research, before also being taken up by organisation studies. As Keyes, Hysom and Lupo (2000) found in their theory of positive organisations, legitimate authority has positive effects on employee well-being, and on business outcomes. It creates a self-sustaining virtuous cycle where these positive effects feed back into the legitimation of leaders. Legitimacy as a lever for social capital also relates to the state-of-the-art in current leadership research, i.e. approaches focusing on followership, relationality and complexity (Wheatley, 1999; Uhl-Bien, 2006). Much less known, however, is how leader legitimacy and ethics bear out in crisis or under duress.

'Dirty hands' as a term evolved in response to the inadequacies of conventional virtue, justice and rights approaches to provide a reliable framework for moral action in extreme situations characterised by high levels of competition, outright war or war-like conditions. 'Dirty hands' circumscribes what one might call 'legitimate ruthlessness'. It caters to the fact that duress does not allow the luxury of straightforward solutions devoid of moral ambiguity, but requires the identification of a 'lesser evil'. 'Dirty hands' shares one feature with common dilemmas, namely that all existing options for action are unpalatable. However, unlike dilemmas, where no direction exists as to which action should be taken, in 'dirty hands' situations the necessary choice of option is painful, but obvious (Coady, 2011). As a term, 'dirty hands' appears for the first time as the title of a play by French existentialist philosopher Jean-Paul Sartre, which premiered 1948, but its origins are much older. It is preconfigured in Plato's 'noble lies', and it provides the bedrock for Machiavelli's take on a utilitarian 'doing good by doing evil'. The beginnings of a structured 'dirty hands' discussion stretch back to the politicised context of the Vietnam War, and the notion was reactivated in the wake of 9/11, when it informed the debate on the 'war on terror', torture 'lite', and on scenarios such as the 'ticking bomb' (indicatively Ignatieff, 2004).

'Dirty hands' is not interested in manifest or absolute evil, but is concerned with those good men who find themselves under an obligation to commit transgressions that would be deemed unethical in

'normal' contexts. The Second World War provides a particularly dramatic backdrop for the issues and ambiguities involved, as it is generally perceived as the epitome of a just war, and a pitched battle between the forces of good and evil. Exemplary in this respect is the work of Michael Walzer, Stephen Garrett and John Rawls, who all wrote on 'dirty hands' by drawing on Second World War case studies (Walzer, 1977, 2004: 33-50; Garrett, 1993; Rawls, 1999). Their pivotal focus was the most heavily debated Allied 'wrong' of the war, the firebombing of German and Japanese cities, and the deployment of Atomic weapons in August 1945.

### Defining the 'crumple zone'

'Dirty hands' does not amount to a 'blank check' for immoral behaviour. Machiavelli's 'the ends justify the means' comes attached with a fundamental proviso: the ends must bear a relation to 'superior moral goods'. This is what emerges from a reading of his *The Discourses on the First Decade of Livy*. Another thing that emerges are his republican and libertarian leanings, for Machiavelli's definition of superior moral goods is based on his admiration for the Ancient Roman Republic. He specifies, for example, that no efforts should be spared to safeguard a strong republic that respects individual liberty and guarantees the wellbeing of its inhabitants (Nederman, 2009). This means that not all ends, not even most ends, justify the means (Alexandra, 2007: 2). Viciousness is always a last resort, permissible once all other options have been exhausted.<sup>1</sup> As Garrett writes about reliance on dirty hands, 'there are certain circumstances in which this may be morally justifiable whereas there are other situations in which a moral defense is much more problematical' (Garrett, 1993: 22). There then is a 'gray zone' around the application of 'dirty hands' that warrants further exploration.<sup>2</sup>

The ambiguities of the gray zone attach to the wider ambiguity of the topic under discussion in the context of this article, civilian administration and collaboration under Nazi Occupation. The question posed is whether this may have been subject to a 'crumple zone' where it was possible to realise important positives. This goes against the historiographical grain of the past decades, which bestowed a positive connotation on resistance only. When Jacques Semelin wrote his pioneering *Unarmed against Hitler* (1993), he, like practically all historians of his generation, chose the resistance paradigm as his default position. Framing his study around cases of qualified civilian resistance, such as the Dutch General Strike of 1941 or the grassroots efforts aimed at rescuing persecuted minorities, he discounted activities that did not challenge the occupier frontally or which were subject to ambiguity - regardless of the effects that they may have had. Particularly taboo in the scientific discourse were the activities of collaborators, as collaboration was considered a more or less undiluted version of evil. As Robert O. Paxton wrote in his paradigmatic history of Vichy France (1972), the presence of the regime brought no benefits to the French; quite to the contrary, it made matters worse for them, and they would have been better off without Vichy. The argument mirrored Hannah Arendt's earlier take in her *Eichmann in Jerusalem* (1963), in particular her controversial comments

on the scale and the speed of the execution of the Holocaust, which would not have been possible without collaboration, followed by the argument that bureaucratic chaos and disorder would have resulted in a significantly lower number of victims.

The argument about collaboration as the ‘ultimate stage of evil’ has become increasingly untenable. Not that Arendt’s indictment of Jewish and non-Jewish collaboration in the Holocaust was inaccurate. The problem lies rather in the generalisation, which neither engages in periodisation nor distinguishes between specific contingencies and individuals; her approach is a-historical. The even more serious problem with the collaboration narrative of the past decades is that it also conflicts with historical fact, in particular what we now know about victimisation rates during the Holocaust: these were higher in countries where German rule was direct than in those countries where national governments engaged in a policy of state collaboration.<sup>3</sup> The only variable capable of accounting for this persistent difference is the presence of precisely these collaboration regimes, and of ‘principal agent problems [that] had a ‘negative’ effect on the implementation of Nazi policy’ (Hollander, 2011). The previous assumption that collaborators acted, invariably, as ‘willing executioners’ (to borrow Daniel Jonah Goldhagen’s catchphrase), should not be generalised then. Collaboration could, in fact, be driven by a motivation to realise positives - however limited and partial this may have been. The high level of institutional and organisational differentiation of modern industrial societies did not work in a linear manner, merely propping up the Nazi enterprise of exploitation and submission, but could also benefit centrifugal forces. The continued functioning of states and bureaucracies did not automatically decrease chances of survival, as suggested by Arendt and others, just as a context of state collapse or disorder did not automatically increase chances of survival. As the example of Denmark shows, a sophisticated industrial society could, indeed, rescue its entire Jewish population. At the same time, low levels of official cooperation with the Nazis and high levels of civilian resistance did not necessarily translate into what one would normally expect to be a key objective of such resistance, i.e. the rescue of persecuted minorities. A comparison of the Netherlands and Norway, two directly occupied countries where the civilian resistance factor was very prominent, with Denmark and France, two countries where it was lower (due to the continued presence of legitimate collaborating governments)<sup>4</sup> produces a paradox: Jewish survival rates in Denmark and France were significantly higher than in the Netherlands and in Norway (Hollander, 2011).

While it is not suggested that a smaller proportion of Jews arrested by the authorities and deported to the camps - such as in the French case - is morally admissible, these new facts nevertheless shift the debate from the previous Paxtonian paradigm, which argued that collaboration invariably led to worst possible outcomes. Deontological concerns should not lead us to disregard the potential for positives of the ‘dirty hands’ of collaboration and continued government; in particular as the outcomes of such ‘dirty hands’ could be more important than those obtained through outright resistance. The variation that obtained between different countries and contexts attests to a ‘crumple zone’ that forces us to

rethink how operating under duress might be constituted in order to maximise any available opportunities for moral positives.

Defining a benchmark for 'best possible outcomes' in the 'crumple zone' has to take into account that the solution to complex problems involving multiple stakeholders can only ever be a matter of the 'golden mean'. The principal constraint in this particular situation was to solve the contradiction that 'good government' not only benefited the occupied, but also the Nazi occupier. The action of the civilian authorities therefore had to be consistent with limiting the windfalls the occupier might reap from collaboration to the minimum. At the same time it had to cater to the legitimate disposition of those patriotic citizens who felt uneasy about collaboration, allowing them forms of disapproval, however limited; and it had to avoid 'hasty sacrifices' of the collective safety and well-being of the population. A framework for dealing with this type of quandary exists in 'fair share' principles, the idea of a correlation between an actor's leverage over outcomes, on the one hand, and the moral obligation to use such leverage for positive impact ('fair share'), on the other (Santoro, 2000: 143-158). A corollary of this is the duty to build coalitions for collective action, wherever this is possible. Regarding those parts of occupied Europe where officials had margins, the golden mean was then situated in a triangle between a moderate good government strategy, a moral obligation to resist, where important, non-negotiable principles were at stake, as well as a duty to avoid needlessly sacrificing or endangering the lives of the innocent. The last two sides of the triangle can be illustrated through resistance efforts in Denmark and Norway: The Allied destruction of the heavy water production facility in Vemork, Norway, was a moral obligation, for the risk of Nazi Germany building nuclear weapons had to be eliminated at all cost. Despite the extremely high stakes (which could have excused a less considerate approach towards civilian 'collateral damage'), the Norwegian SOE operatives responsible for sabotaging the plant in 1943 and destroying the stock of heavy water in 1944 went the 'extra mile' in order to allay German suspicion about the possibility of an 'inside job' and deflect attention away from the civilian population; they also made every reasonable effort to minimise the number of civilian casualties that their sabotage entailed. Meanwhile, in occupied Denmark assassins working for the Resistance targeted around 400 Danish Gestapo collaborators, but left Germans entirely out of the game, in order to avoid German reprisals against Danish civilians (Bennett, 1999: 249-256; Nationalmuseet). As can be attested through multiple examples, such a responsible approach was far from the norm (Bennett, 1999; Garrett, 1993).

### **'Dirty hands' and the Occupation as a wicked problem**

What were the underpinnings of islanders' 'dirty hands'? Before turning to this problem, a brief historical survey of the islands is necessary.

The British Channel Islands are micro-states, situated in the bay of Saint-Malo, in close geographical proximity to France. As 'crown dependencies', Whitehall and Westminster have no jurisdiction in the islands, which are completely independent from the UK constitutional and political process. Each bailiwick has its own parliament, government, legal system and administration, and each is headed by a Bailiff, who answers to the Crown only. Merely, the areas of defense, citizenship and foreign affairs are outsourced to the UK government. As a result of these particularities, the islands are not interlinked constitutionally or institutionally. Their only commonality is the geographical denomination ('Channel Islands') and their shared Norman French culture. Prior to the Occupation in 1940 both islands had taken steps to streamline their decentralised executive to allow for swift decision making, through the creation of a Superior Council (Jersey) and a Controlling Committee (Guernsey). About one fourth of the population evacuated to Britain, in mid-June 1940. German forces landed in the islands on 30 June 1940. On their arrival the Channel Islands authorities enacted the advice of the UK government to 'continue administration'. They gave their own interpretation to this advice through their pursuit of a policy of 'correct relations'. The principal watershed of the Occupation occurred in summer 1941, when Hitler assigned a priority status to the fortification of the islands. Over the following two years they were turned into the most heavily fortified section of the 'Atlantic Wall'. One effect of the fortification program was a radicalisation and tightening of the regime. Together with the troops, the islands now also played host to thousands of foreign workers - the majority of them forced. Food shortages, restriction of movements and security alerts combined to increase the pressure on the civilian population. The Germans sought to ease population pressure by singling out individual groups and deporting them to internment camps. The largest of these deportations took place in September 1942. Earlier, in June 1942 the Germans had confiscated islanders' radios, a measure that sparked a movement of defiance, as a result of which islanders were sent to prisons and concentration camps. When the islands were cut off from France in 1944, the German garrison refused to surrender. The final period of the Occupation was characterised by hunger, but also an unprecedented Red Cross relief operation that would save the population from starvation. The Channel Islands were the last territory to be liberated from German occupation, on 9 May 1945 (Sanders, 2005).

Channel Islanders were in the fortunate position that they enjoyed some margin of freedom. These margins were due to the fact that the Germans considered them their racial equals, but also that German rule in the islands was indirect, similar to the situation in Vichy France or in Denmark. On the one hand, such an indirect occupation regime catered well to leaders' moral responsibility to keep their communities out of harm's way; maintaining this privileged regime could justify a certain measure of 'dirty hands' (Walzer, 2004: 33-50). The moral downside, however, was that the natural interest of the occupied in maintaining law and order (rather than growing anomie and anarchy), clashed with the fact that 'good government' benefitted not only them, but also the Nazi occupier. The second downside of talking this leadership call was that it could function as a 'moral trap', requiring ever greater 'dirty

hands' from the occupied, so that they may continue to benefit from preferential treatment. Safeguarding the greater good through 'dirty hands' was a slippery slope that could very easily lead to a race to the bottom. This indicates that there could be more or less 'dirty hands' involved.

An integral part of any attempt at limiting the amount of 'dirty hands' required was to arrive at a correct analysis of the situation. The Occupation was, if we use Keith Grint's catchphrase, *vu jadé*, an unprecedented and 'wicked' problem, for which there was no precedent, and which required leadership. 'Wickedness' is a term applied to problems that are particularly intractable or complex. Such problems present 'no clear relationship between cause and effect', and they often have no 'stopping point'. For this reason, tackling a wicked problem through a 'tame solution' produces secondary effects that amplify the seriousness of the original problem. For a leader, the trick in gaining leverage is to have the courage to resist coming up with the pretense of an immediately 'workable solution' (Grint, 2010: 15-17). The first notion deluding civilian leaders in the islands into attempting to do precisely this was their firm trust in the legal foundation of the Occupation, the Hague Convention. Of the latter John Leale, the second president of the Guernsey Controlling Committee, stated that it best safeguarded islanders' 'rights and interests as British people'.<sup>5</sup> This quasi-religious faith was not deserved: the Convention represented a lukewarm international minimum standard of rules of engagement, on whose agenda protection of civilians did not figure very highly (Greenwood, 2000). As a consequence, a large amount of legal space requiring definition remained void, enabling an occupier to bestow upon the Hague rules the interpretation that best suited him. 'Sticking to' international law did not take into account the volatility of the environment, nor the fact that the islands authorities were dealing with an occupier who had no interest in considerations of justice and an equitable rule of law. Finally, the Hague rules could undermine the civilian leadership, as their application often looked like assisting the enemy (Sanders, 2005: 69-70; 92); they also gave a false feeling of security.

The second vector of the islanders' tame solution to the complex problem of occupation was their policy of 'correct relations' with the Germans. Increasing leverage through relationships with German commanders was not a bad move as such, if one understood its limitations. For one thing, relations that became too cordial did not make the most of British prestige. Secondly, tying oneself to a standard as ambivalent as 'correct behaviour' is a serious mis-step, as it places the burden of proof on yourself and sets your partner's expectations too high. Third, there was the question as to whether a 'gentlemen's agreement' was possible with German commanders, many of whom were anything but genuine good faith negotiators. Even if islanders could not be expected to know anything about the polycratic nature of the Nazi regime, with its interloping layers and levels of authority, and its deliberate confusion over areas of responsibility, it was common sense to hold back with trust when dealing with an unknown variable.

On all these three counts, the choices made in Guernsey were particularly impetuous. From the beginning, Ambrose Sherwill, the Attorney General of Guernsey and first President of the Controlling Committee, endorsed a hard line for local ‘troublemakers’, and a soft line with regard to the German occupier. Motivated by the desire to shield the civilian population from calamity, the new social contract in occupied Guernsey was formulated a few days before the arrival of the German occupying force, when John Leale, the other leading member of the Controlling Committee, declared:

Should the Germans decide to occupy this Island, we must accept the position. There must be no thought of any kind of resistance, we can only expect that the more dire punishment will be meted. I say this, the man who even contemplates resistance should the Germans come is the most dangerous man in the Island [sic] and its most bitter enemy. The military have gone. We are civilians.<sup>6</sup>

Once the Germans were in occupation of the island, Sherwill entered into close contact with Major Lanz, the first German island commandant. Sherwill's vision on the principle of abidance by standards of international law took mutual relations to a level, where, some days into the Occupation, he stated, in a local press announcement, that these were not merely ‘correct [, but] cordial and friendly’.<sup>7</sup> This orientation in no way counted in the volatile environment, for Sherwill's scheme soon collapsed; the principal reason being that ‘cordial relations’ in no way covered the inevitable loyalty problems that arose out of their very operation. This is consistent with what has been said about the secondary effects of tackling complex problems through tame solutions. The trigger for the early crisis in islander-occupier relations in Guernsey were the raiding parties that the British military started sending to the island, a fortnight after the German arrival. These raids were conducted in a very amateurish manner and they raised German suspicion that islanders were scheming behind their backs. At the end of July 1940 two British servicemen, Philip Martel and Desmond Mulholland, whom the British military had landed more than a fortnight earlier but then proved unable of ferrying off the island, contacted Sherwill in order to arrange their surrender to the Germans. This request was nothing extraordinary in itself, save for the fact that both had landed in civilian clothes, which, technically, made them spies. To save their lives (and those of their helpers) Sherwill engaged in a ‘double game’ with the Germans. The problem of having set German expectations too high now came to the fore. While Sherwill managed to ‘pull off’ the surrender of the two men without an incident, albeit after having fitted them with uniforms from a local stockroom, he sensed that he would not be so lucky the next time around (Cruickshank, 1975: 90-91). Having already tried to solve his dilemma as a senior administrator responsible for the safety of islanders through internal surveillance, Sherwill now stepped up his efforts to create further ‘goodwill’. These efforts included his famous 7 August speech, at the first States meeting in the presence of Lanz; with its specific reference to making the Occupation a ‘model to the world’, the two pillars of which were to be the ‘tolerance [...], courtesy and

correctness' of the German military, and the 'dignity [...] and exemplary behaviour' of the civilian population.<sup>8</sup> Other gestures were more heavy-handed. An example was the case of the manager at Le Riche's grocery establishment, reported to the German authorities after he had reprimanded an assistant who ignored local customers and gave precedence to Germans. Guernsey then passed an ordinance under which islanders could be charged with 'uttering speech likely to bring about deterioration in the relations between the German Forces [sic] and the civilian population'. Sherwill later claimed that the island authorities had tried to prevent worse from happening to the man, by charging him in their own court, but the real reason need not have been as benevolent.<sup>9</sup>

Sherwill's 'next time' came in September 1940, when he 'got wind' of two other British servicemen stranded in the island, native Guernseymen Hubert Nicolle and James Symes (Sherwill, 2006: 146). As their predecessors, they had landed in civilian clothes and they were prepared to surrender, if German assurances could be obtained that no reprisal action would be taken. This time the matter was a lot more delicate, however, as Nicolle was the son of a Guernsey government cadre. Any direct involvement in the surrender on the part of Sherwill would immediately arouse German suspicion of a spying ring. The details of supplying the two men with uniforms and arranging their surrender were therefore left to others. Sherwill had only one way in which he could weigh in on the outcome - his close relations with the German Kommandant. The evidence of the continued presence of British military personnel in the island became hard to ignore when the Germans arrested a third British officer, Captain Parker, who was landed in Guernsey to liaise with Nicolle and Symes. Major Bandelow, Lanz's successor in Guernsey, may have sensed that Sherwill knew something about the on-goings, but his suggestion, to Sherwill, to publish a joint communication in the local press, which included an amnesty deadline for the surrender of British military personnel still at large, in exchange for their surrender, seemed like a golden opportunity out of the dilemma. Without giving the game away, Sherwill accepted the offer to publicise the amnesty deadline. Nicolle and Symes then surrendered before the expiry of the deadline, on 21 October 1940. However, in a spectacular about-face the German side then reneged on Bandelow's promise and arrested and transported thirteen people to Paris, including Sherwill, where they had to face a charge of espionage. The hardened German policemen Sherwill now had business with soon called his bluff, claiming that he had given the German authorities the impression that he was 'their man', and accusing him of betrayal. Sherwill refuted the allegation that he had duped the Germans, but he also realised that he had committed an error in not having made it unmistakably clear to the Germans, from the very beginning, that in case of conflict of interest his loyalty to his country would always trump his loyalty to the occupying force.<sup>10</sup>

As he would write later, when the interest of one's country or the safety of one's countrymen are at stake, one must, if necessary, 'lie and lie' (Sherwill, 2006: 92).

Although the espionage charge was dropped in December 1940, thus bringing the affair to a relatively lenient conclusion, it created a debt towards the Germans that islanders would have to repay and set the tone for the remainder of the Guernsey Occupation. Ruffling feathers was even more out of the

question from this point onwards. The Germans immediately took advantage of this new situation and raised the stakes. Throughout 1941 they continued to harass the island population with threats of reprisals, mostly in connection with the continued hypothetical sheltering of military personnel, the real enough sabotage of cables and the appearance of painted V (for Victory) signs in response to a British radio campaign.<sup>11</sup> Under the weight of the circumstances, John Leale, Sherwill's successor as President of the Controlling Committee increased the hard-line rhetoric of 'no resistance' by one notch. Painful as his intercessions were to the patriotically-minded, he still managed to resist overstepping the invisible moral line.<sup>12</sup> The Rubicon was only crossed by Victor Carey, the Bailiff, who submitted to German hectoring, in July 1941. He did this by offering a £25 reward, in the local newspaper, for anyone willing to volunteer information on a V sign, over which the Germans had cooked up their customary brouhaha.

Besides showcasing the 'wickedness' of the Occupation and the resultant inadequacy of a tame approach, the Nicolle-Symes affair shows how this could bring out negative secondary effects and thereby increase the need to rely on further 'dirty hands'. This is in line with the overall notion of tackling wicked problems via tame solutions, which amplifies their noxiousness. Without the tame solution of 'correct and cordial relations' Sherwill's loyalty problems would not have occurred; it would not have been necessary to pass an ordinance and criminalise certain types of behaviour, as seen in the case of the Le Riche's manager; and Bailiff Carey may have seen less of a reason to exhort islanders to a practice of denunciation that could only erode public trust. Finally, the affair demonstrated a 'dirty hands' within the 'dirty hands', i.e. Sherwill's insufficient regard of the fact that 'dirtying one's hands' went both ways: it was not sufficient to apply the lesson to one's own; it also needed to be applied to the Germans.

### **Leadership legitimacy and 'damage' limitation**

The inappropriate analysis and handling of the 'wicked problem' of occupation damaged two key components of social trust: group cohesion and leadership legitimacy. These are critical to lowering dirty hands, and to attaining superior ethical leadership performance under duress. Of particular interest here is the work of Jacques Semelin on relations between the occupied and their Nazi occupiers in Europe during the Second World War, and on ultimate outcomes in terms of civilian resistance. Semelin argues that civilian resistance strategies blossomed in contexts characterised by an institutional framework of democracy and pluralism, the enablers being social cohesion and leadership legitimacy (Semelin, 1993).<sup>13</sup>

The theoretical link between social cohesion and social capital is provided by Forest and Kearns (2001). The role of social capital in managing ethical duress having already been dealt with in a previous article (Sanders, 2010), the bulk of the emphasis will lie on the role of legitimacy.

Suffice it to say, that social capital can also perform a ‘negative’ role; as concerns the case study, it could just as well weigh in on the side of conformism (and the stifling of opposition) than in the morally more desirable opposite direction. Unusual, anti-systemic behaviour can only be expected, if the legitimacy of the regime to which individuals are subject is answered in the unequivocally negative, or if key proponents of legitimacy rally the forces of anti-systemic behaviour. Legitimacy thereby acts as a lever for social cohesion and moves this in a particular direction.

To understand legitimacy during the Occupation, it is crucially important to consider legitimacy watersheds (Conway and Romijn, 2004). These are notoriously difficult to define, as both resistance and collaboration could be legitimate up to a certain point. As a general rule, a regime of foreign occupation may have legality on its side, but not legitimacy. To be sure, the German occupiers followed this pattern and lost any legitimacy they may have had to begin with relatively quickly. In occupied Europe legitimacy was therefore either vested in the collaborating governments or, more seldomly, in the rump administrations who continued to work under the instructions of the occupying authorities; or in the exiled governments, most of which operated out of London. Often, the association of collaborating bureaucracies and German occupier entailed a rapid loss of legitimacy – if they had had any to begin with - and the rapid rise of movements of opposition who sought to fill the vacuum. If we take the examples of Denmark or France, then we notice that the official policy of collaboration was legitimate in the beginning, but that this started to decline in 1941-42, before shifting to the resistance, in the second half of 1943. The Danish government then resigned, whereas the Vichy government continued to function, which entailed the loss of its remaining pockets of legitimacy (Peschanski, 2004).

### **A comparison of Guernsey and Jersey**

In terms of outcomes, a number of conspicuous differences emerged between the two islands of Guernsey and Jersey. One was the paternalistic, sometimes even patronizing rhetoric and tone that characterised official communications with the general population in Guernsey (Sanders, 2005, 2010); this had no equivalent in Jersey. Another was such a thing as the passing into Guernsey legislation of a German Order requiring Jews to wear a six-pointed yellow star, in June 1942. It has to be said that this order was also submitted to the civilian authorities of Jersey, where it was rejected (Cohen, 200: 41). Finally, the little active resistance there was in the islands had a harder time gaining a foothold in Guernsey than in Jersey. Whereas Jersey cultivated the rudiments of a resistance movement, the name of the game in Guernsey was symbolic resistance, exemplified, in particular, by the illicit spreading of British radio news (Carr et al., 2014).

Some of these differences can be put down to environmental constraints, such as Guernsey’s superior strategic value, frontline position, heavier military imprint, and age structure (as compared to Jersey),

but this does not explain all. The outcomes were also impacted by that other Guernsey specificity, the steady erosion of social capital. Significantly, this social capital depletion predated the arrival of the German force (Sanders, 2010). It took shape in June 1940, when a panic movement swept the island, as a result of which forty percent of the civilian population evacuated to England. That so many left can be put down to wavering and miscommunication on the part of the British government, but also to the lack of resolve of the Guernsey leaders. When a similar panic had threatened in Jersey, the Bailiff of Jersey had decided to make a public declaration which calmed the waves: out of a total Jersey population of 50,000, only 6,600 would leave, and Jersey's population structure retained its pre-war character (Cruickshank, 1975: 41-45; Sanders, 2005: xx). This is not what could be said of Guernsey, where families were torn apart and where scores of old and vulnerable people remained behind, falling victim to a significant leap in mortality rates, in 1941–1942 (Sanders, 2005: 152).<sup>14</sup> After the botched evacuation, social capital was further eroded by the decision of the collective leadership of Guernsey to put their trust in the rules-based framework of the Hague Convention, zero tolerance for local 'troublemakers'<sup>15</sup>, and the goodwill strategy of 'cordial and correct relations' with the German occupier. As we have seen, the flawed nature of this 'tame' approach emerged in the wake of the Nicolle-Symes affair.

The catalyst for social capital depletion was legitimacy loss. The first vector of this was dual power and the lack of unified leadership. This created internal contradictions and played into the hands of those Germans who saw greater utility in the 'iron fist' than in the 'velvet glove'. Whatever one might think about his tame strategy, the only Guernsey contender who could have matched the general leadership abilities of Alexander Coutanche, Bailiff of Jersey since 1935, was Ambrose Sherwill. He showed his colours in summer 1940, when he saved four British officers from being shot as spies.<sup>16</sup> Sherwill was, to all practical intents, the 'top man' in Guernsey, conducting Bailiff Carey's executive business on top of his official duties as Attorney General and President of the Controlling Committee in Guernsey.<sup>17</sup> He did have one important handicap, however: he lacked the undivided authority and prestige of Coutanche who was both Bailiff and President of the Jersey Superior Council. The arrangement between himself and Carey meant that Sherwill could not avail himself of the same degree of teamwork as Coutanche, who worked in tandem with Duret Aubin, the Attorney General of Jersey. This tandem saw Duret Aubin do most of the low-level pleading, while Coutanche remained inaccessible to any but the most high-ranking Germans – the 'big gun', ready to be wheeled out in extremis. This 'game' contained an element of political showmanship aimed at leveraging influence with those German officials whose foreign policy sensitivities or Anglophilia could be exploited. Sybil Hathaway, the Dame of Sark, employed very similar stratagems. Already during evacuation week her firm authority avoided scenes of panic as seen in the other islands. The other advantage the Dame used to great effect was her knowledge of Germany and the Germans, whose language she spoke fluently,

and her noble extraction, which enabled her to see eye-to-eye with her German peers, of whom there were a considerable number in the islands (Marr, 2001: 320).

Similar things must have been intended for Guernsey, but failed because the Bailiff resisted encroachments onto his prerogative by the Controlling Committee; at the same time he lacked the charisma and energy of a Coutanche or Hathaway.<sup>18</sup> The duality of power was not specific to Sherwill's short period at the helm of the Guernsey Controlling Committee, but continued in the four-and-a-half years during which it was led by his successor, John Leale. As a result, the leadership in Guernsey never worked *unisono*.

The second vector was the handling of the legitimacy issue on a wider systemic level. In the islands, the battle for legitimacy was less vociferous, but no less convoluted than elsewhere in Europe. Legitimacy in the islands was vested in the collaborating civilian authorities (the British had advised them to 'continue administration'), but it could also be claimed by those islanders invoking the name of Britain by urging resistance against the enemy of Britain. The situation was based on a paradox and it opened the door to ambiguity. Rather than shifting from one strand to another as the war progressed, in the islands these two legitimacies existed side by side, and this dualism lasted until the end of the Occupation. This is not to say that the emphasis could not change. The overall dynamic was composed by the presence of two constituencies: a majority that was opposed to anything likely to irritate the Germans, and amenable to giving in to their demands; and a substantial minority who felt that islanders emerged relatively unscathed from the Occupation not because they respected international law, top-down hierarchy, paternalism or disciplinary measures, but because they were members of an enemy nation whom the Germans considered their equals. In terms of earning German respect, they thought, this soft power of British prestige (might) trumped right. The second group also criticised 'correct relations' as a standard of behavior and demanded a sterner attitude on the part of the islands authorities. They anticipated that only this could neutralise the temptation to pre-empt German demands through anticipatory obedience and the setting in motion of a vicious circle of self-reinforcing collaboration. The very real danger of this scenario was that it would destroy public trust and lead to the emergence of a mutual surveillance society, where denunciation would become a public virtue. This would hand the Nazis on a plate what they couldn't have achieved themselves: a self-policing environment, on the ruins of an obliterated community. Preventing the scenario of a Hobbesian regression of this type, one that would tip the scales of community life in a self-destructive direction was a very close second, morally, to the priority of assuring the physical survival of the civilian population. For the first two years of the Occupation, the timorous majority had the upper hand over the more daring part of the population. However, the public opinion shift of 1941-1942 that followed the tightening of the regime turned the tables on the majority. In the wake of the wireless confiscation, the arrival of the forced workers and the deportations of civilians to internment camps an increasing number of people became, in principle, more favourably disposed to opposition (Willmot,

2005). This minority could not be simply overlooked, as it enjoyed significant support. This can be attested through the massive popular movement of defiance, in both islands, that followed the wireless requisition in 1942. The logistical, moral and material assistance provided to escaped forced and slave labourers, an effort that was particularly strong in Jersey, speaks a very similar language (Sanders, 2005).

Throughout, the legitimacy of the islands authorities was vested in their ability to avoid a contest between the two core constituencies. Such a fatal weakening of the body politic was incompatible with the calling of a responsible leader. Achieving this depended on taking stock of the interests of the two local constituencies, consolidating group trust, and building a new consensus. Public approval seeking not only maintained the feedback mechanism and reinforced leader legitimacy, but it was also a smart move for dealing with a 'wicked problem'. As Grint demonstrates in his D-Day book (Grint, 2007), collective 'brain-storming' or 'thinking outside the box' is far more likely to lead to the *dénouement* of an intractable problem than authoritarianism. It is also a rather good antidote for surviving a backlash, if no *dénouement* materialises after all. Followers will have become stake-holders and will find it difficult to pin failure on their leaders.

While 'plebisciting' as a feature of leadership legitimacy can be detected in followership and relationality approaches (Ben-Yoav, Hollander and Carnevale, 1983; Ospina and Uhl-Bien, 2012; also Dellve and Wikström, 2009), the task of arbitrating between the two constituencies and striking a new balance was something of a tightrope walk. As the literature tells us, in a crisis (or duress) context the discourse required to retain (or restore) legitimacy has to be extended from salient stakeholders to the general public (Hasbani and Breton, 2013). But how is one to go about navigating a median course between the Scylla of compliance with the occupier and the Charybdis of patriotism calling for 'something to be done' against the Empire's enemies?

Officials were right in taking a dim view of incidents which could lead to spirals of violence. They could not afford to stir up sentiment that may have encouraged irresponsible hotheads. It was equally sound to give the impression that German law was to be obeyed. At the same time, they could not be strangers to cunning and they had to discreetly point the way; they had to leave no ambiguity about the mainspring of their authority, the Crown; and they had to take good care of not maneuvering themselves into catch-22s. Any good government under occupation required the recognition of Realpolitik and Machiavellian power play, but also could not turn a blind eye to considerations of justice. The basic idea is that of the 'double game'.

The type of implicit social contracts developed in both islands attests to the handling of the legitimacy issue. On comparison, we will find that the opportunistic Jersey version ('live and let live') was more in line with the 'wicked problem' approach. While it was certainly not encouraged, the Jersey leaders were never pro-active in rooting out opposition. While open provocation was taboo, islanders were granted the freedom to decide for themselves. The signal given was that those who got into trouble with the Germans should not rely on any assistance; but the overall orientation was to neither

encourage nor discourage passive resistance. This took into account the growing despondence among certain people, who might revert to desperate means, if they were not given a lid to let off steam (Sanders, 2010). One key 'dirty hands' case in Jersey offers perfect illustration of the prevailing attitude. It concerned Frederick Page, a Jerseyman reported to the Germans by the island authorities in 1943, for wireless reception, a practice considered a serious offence by the Germans. The wireless offence had come to the attention of the local police through a tip-off from a member of the public.<sup>19</sup> The police could have, of course, 'looked the other way', but this would have exposed them to the risk of being themselves denounced to the Germans. In this situation Centenier Garden, the officer in charge, made an informal approach to his superior, the Attorney General, Charles Duret Aubin. The latter gave him the advice that he 'must decide with his own conscience where his duty lay'. Under a German order passed in 1942 he was obligated to signal all anti-German occurrences; he therefore added, that he would have 'no alternative' but to pass on the matter to the Germans, if he did receive a formal police report.<sup>20</sup> When Garden put the matter to his colleagues their unanimous opinion was that they had a duty to the community and that they should not risk the police force coming under direct German control. A report was sent to the Attorney General, who then forwarded it to the Germans. Quizzed about the case after the war, Duret Aubin presented it as *force majeure*, thereby passing under a veil of silence that the dilemma was partially or even entirely self-inflicted: the 'slippery slope' that had brought the local police into a situation where they could be forced to report a fellow islander, for something that was not a crime under the law of the island, could have been anticipated (Sanders, 2005: 62-66). In addition, this was not the only case where the authorities 'sacrificed' groups or individuals to safeguard the 'greater good'. On the other hand, the authorities' compliance may have also been motivated by the desire to avoid paying the political price that 'better foresight' would have entailed. Notwithstanding these misgivings, however, doesn't the fact that a resistance-minded policeman<sup>21</sup> would confide in the Attorney General, without fear of reprimand, on a problem of conscience related to his official duties, tell an astounding story about the level of social trust that still existed in Jersey, as far into the Occupation as mid-1943? If, under occupation law, Duret Aubin had to signal all anti-German occurrences, wouldn't this have included his conversation with Garden? And didn't he indicate that he would only forward the case to the German authorities if he received a written report? This indicates an important margin for 'looking the other way' in other, more favourable circumstances. It also points in the direction of the Jersey authorities having understood the double-binds in which the Occupation placed all officials.

In Guernsey, a similar 'intimacy' seems to have existed in the beginning of the Occupation. But this collapsed after Sherwill's ouster in the wake of the Nicolle-Symes affair. By 1941, the approach had already become a lot less forgiving. The social contract adopted in Guernsey can be resumed in the phrase of a Guernseyman who escaped to England in August 1943 and who stated in his security service debrief that the authorities of his island 'would not even close their eyes to instances of passive resistance'.<sup>22</sup> This pro-active discouragement of opposition is what made the difference. The creeping

loss of leadership legitimacy in Guernsey can be gauged from Bailiff Carey's offer of a £25 reward for denunciation in 1941, but also from the major civilian trial in occupied Guernsey, in early summer 1942. This was the second of two trials concerning the pilfering of German and islander-owned depots by members of the island police force, between autumn 1941 and early spring 1942. The raids on the German depots had been the object of a military trial, in April 1942, and had led to the conviction of eighteen policemen. Once they completed their trial, the Germans handed over the case to the Royal Court of Guernsey, for prosecution of the civilian charges. Although there was evidence that the statements used in both trials were unreliable, as they had been extracted through third-degree methods, the civilian authorities went ahead with this trial and convicted nine of the ten indicted. After the war eight of these asked for their civilian convictions to be overturned, claiming that the island authorities had pressured them into pleading guilty, in order to avoid an early collapse of the civilian trial (and embarrassment to themselves); and that the political context had rendered them unable to present the genuine motive of their action, i.e. sabotage of the enemy's war effort.

The official line on this event has been that the island bosses were motivated by paternalism, and that trying the civilian charges in the island court prevented worse, such as having to send the men back to the Germans for a second trial. Contrary to this myth, however, the policemen and their hierarchy had been divided by an ever widening ocean of incomprehension since even before the Occupation. Following the outbreak of war in September 1939 many in the island police force – which contained several ex-servicemen - had wished to enlist in the armed forces. While it is unclear whether pressure was exerted to compel the men to remain at their posts<sup>23</sup>, the fact is that by the time the Germans invaded, none had joined up. Once the trap shut many of the men began to realise their predicament, and regretted their decision. Policing their fellow islanders in the interest of a policy of frictionless collaboration with the enemy was not something they had bargained for. Resentment against officials for putting them in this situation mounted. Torn between two antagonistic, but equally legitimate positions – the duty to do something for King and Country, on the one hand, and the call to ensure that the Occupation stayed frictionless, on the other - the police force became confused as to where their duty lay. One of the men described the situation they faced in the following terms:

The Police Force [...] was in a difficult position, because we had to convince the Germans that we were working for them, at the same time as we were [...] doing our best not to help them.

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In order to come out well of this situation, the authorities had to recognise the profound implications of this difficult and unprecedented situation for all public officials; they had to use their discretion to the full; their subordinates needed guidance in order to tackle the worst ethical pitfalls; and it was imperative to maintain social trust. Enforcing blind obedience could not be relied upon in this situation; what was needed were additional informal arbitrages. The police in both islands were in a

particularly acute predicament because they were the best-informed collective group of islanders. We know that it was no secret to the police in Guernsey that often two measures were being applied. They had first-hand knowledge of the black market trades in the island; and they also knew who was working the system to his or her advantage, and how.<sup>25</sup> At the same time they experienced the deprivation suffered by islanders without the right connections to get them through these difficult times (Bailey, 1961: 16).<sup>26</sup> Men in this kind of exposed position need to be led in a particular manner; invoking strict obedience to authority can no longer suffice. This is where the crux of the problem lies, for this cluster of men had no guidance on how to behave in the political vacuum that was the Occupation, and in particular how to navigate the 'Sycylla und Charybdis' of legitimacy. The inability of their leaders to explain why they could not afford to tackle the Germans head-on led to a void in communication. The inclinations in the force emerge clearly from a memo drafted by the policeman spearheading the post-war action for rehabilitation, Frank Tuck; it leaves no doubt that the police had wanted to do anything *but* open the doors to German officers and salute them.<sup>27</sup> Another of the men, Kingston Bailey, stated that, as a branch of executive government, the police became practically useless: 'I turned a blind eye on almost everything, completely ignoring our Police [sic] duties and averting my attention, as far as possible, to the Germans'.<sup>28</sup> From there, things went adrift, and the police started to take 'things' into their own hands. Soon enough they were not only at the forefront of anti-German sentiment, but also of anti-German action. Bailey dated the commencement of his own 'petty' resistance with Tuck in March 1941, and they were soon followed by other members of the force (Bailey, 1961: 15-16; Bell, 1995: 106-108; 133-38).<sup>29</sup> The embryonic movement was then galvanised into further action by the radio broadcasts of Douglas Ritchie (alias 'Colonel Britton'), a BBC radio agitator exhorting populations across occupied Europe to engage in 'gentle disruptive activities' against the occupier. 'Britton's missives fell onto exceptionally fertile ground among the men of the Guernsey police force:

We [...] felt that he was talking to us and inciting us to action. After all, he was talking to us in English, and we were the only part of the realm occupied. Why would he speak in English to the French, the Poles, the Dutch, or the Belgians?<sup>30</sup>

## Conclusion

While 'dirty hands' has been a permanent feature of the literature in just war theory and political philosophy, its application to management and leadership studies is *terra incognita*. One notable exception to this trend is Neal and Tansey's case study of Rafiq Hariri's 'dirty hands' leadership in post-civil war Lebanon (Neal and Tansey, 2010).

The reason why 'dirty hands' is thought to be irrelevant to business lies in the erroneous belief that 'dirty hands' only occurs in the domain of high politics; that, somehow, it does not exist in the

corporate sector. This argument is untenable, considering the scale of MNC internationalisation. As I have argued elsewhere, 'dirty hands' in business is an unavoidable consequence of the gray zones of internationalisation (Sanders, 2012). Global companies do not face the level playing field once promised by globalisation advocates, but conflictuality, volatility, and opacity, all of which translate into governance gaps. Any vacuum emerging from a high-stakes context with considerable governance gaps is likely to see a return of raw power. In war as in peace, duress increases the inclination to override 'conventional' ethical programming and take moral 'shortcuts'. The duress experienced in this environment is not merely a conceptual, operational or sustainability challenge, but also an ethical one.

Empirical evidence of 'dirty hands', pointing in the direction of a hyper-competitive (or even hostile) international business environment is not systematic, but emerges sporadically. The connivance of government and business as well as the paradigm of 'globalisation as warlike competition' were highlighted by the case of Eginhard Vietz, the boss of a well-known German company providing pipeline and other industrial equipment to emerging markets. In an interview with *Handelsblatt*, in 2010, Vietz qualified the international anti-corruption discourse as 'pure hypocrisy' and 'facilitating payments' as the international norm. He also accused several nations (including the United States) of providing embassy support to companies bidding for lucrative public contracts in emerging markets. Having had his 'coming out' as an active participant in the game of international bribery, the offices of Vietz were promptly raided by the Hanover prosecutor and he was fined €50,000 by a German court in 2011 (Iwersen, 2010a; Iwersen, 2010b; *Handelsblatt*, 2011). Similarly damaging evidence emerged in connection with the 2008 settlement against Siemens, a UN Global Compact signatory, which resulted in a \$1.6 billion fine, the 'largest [...] for bribery in modern corporate history'. According to a German criminal investigator quoted by the New York Times, '(b)ribery was Siemens's business model' (Schubert and Miller, 2008). The ubiquitous condemnation of Russian corruption is also put into perspective by the fact that some of its 'victims', such as William Browder's Hermitage Fund, apparently found nothing afoul there as long as their own business was booming (Elder, 2013). Other cases that could have prompted more curiosity about 'dirty hands' are the experiences of IKEA in Russia, or Google and Apple in China.

The swiftness with which these and similar occurrences are brushed aside by the management scholar community allows the conclusion that a positive bias is in operation that downplays the conflictuality of globalisation, as well as the wickedness of global problems affecting business. We can see this bias at work in business environment textbooks or course syllabi that focus on international institutions, culture, language, and business systems, but which make no mention of the impact of geopolitical power contests. Try to find a case study thematising 'dirty hands' in business, as this author did in preparation for ethics and international business environment modules at his home institution, and you are sure to be disappointed. Apart from the obvious 'bad boy categories' such as corruption, supply chain mismanagement and labour rights in emerging markets (about which there is already a

longstanding international consensus), other important topics affecting global business, such as shadow banking, tax havenry, creative accounting, organised crime, disinformation, PR wars, unfair competition, ‘false flag’ operations, or borderline lobbying – to name but a few - are either peripheral or have no place in educating tomorrow’s leaders. Although there are some signs of ‘improvement’ – such as a call for a special issue of the journal *Organization Studies* on the ‘dark side of business’ (Linstead, Maréchal and Griffin, 2010) - a lot of ground remains to be covered.

The second reason why the ‘management community’ has not developed appropriate models (and discourse), on par with those of the theorists and practitioners of government, is the claim that ‘dirty hands’ can be dealt with through a ‘tame’ mix of CSR, multi-stakeholderism and PR. This is where the parallel with the above case study is most clear-cut. Rather than there being reason to doubt the ethical minefield of global problems, their noxiousness is increased by the fact that these problems are ‘wicked’. The claim that CSR and sustainability can solve global ethical quandaries is therefore blown out of proportion. One reason for the *debacle* is their code-and-compliance approach, which is based on experience in the benign market context of high-income economies. When this approach is ‘dropped’ into the more conflictual context of emerging markets, it fails. That this is only inadequately understood is, among other things, owed to the fact that a mere fraction of total CSR research output deals with emerging markets (Egri and Ralston, 2008). This insufficiency reveals an idealist bias, which blocks the way to an appreciation of realist alternatives.

One alternative to a CSR focus is the refocus on institutional context and the enshrining of ethical leadership. This produces tangible efficiency and moral effects in situations of extreme duress (such as Nazi Occupation) where one could have expected very little or no scope for such a thing. What the present article has confirmed is that, in addition to keeping an eye on social capital, a virtue-based approach requires leaders to have an awareness of the moral perniciousness of wicked problems, as well as the political intelligence to adeptly handle the legitimacy issue.

If we wanted a modern parallel for the importance of legitimacy, we might turn to the contested legitimacy of globalisation and the issue of global governance. A recent survey-based research on the legitimacy of leadership in international climate change negotiations found that ‘a leader’s overall commitment to solving the climate change problem’ by far topped respondents’ ranking criteria for assessing leadership bids. Another conclusion was that an ability to promote the common good trumped national self-interest, but that there was as yet no recognizable global leader on the issue. This lack of legitimacy hampered the chances of attaining an effective climate change regime (Karlsson, 2012: 53-54).

As was the case with reliance on international law in occupied Guernsey, the illusion of rules-based ‘kits’ as a *passe-partout* for complex global problems does not bolster global leader legitimacy either. And yet, legitimizing globalisation has never been as important. We might take a warning from history that human progress does not march single file and in one single direction, but can take many detours.

As Niall Ferguson shows in his *The War of the World* (2006), it can even regress. The most violent century in human history may have begun on a note bearing an uncanny resemblance to today's globalisation, but that didn't prevent the world from descending into seventy-five years of economic instability, punctuated by periodic imperialist aggression, ethnic tension and orgies of killing, in August 1914.

## Bibliography

- Alexandra A (2007) Professional ethics for politicians? In: Primoratz I (ed) *Politics and Morality*. New York: Palgrave Macmillan, pp.76–91.
- Arendt H (1963) *Eichmann in Jerusalem: A Report on the Banality of Evil*. New York: Viking Press.
- Bailey K (1961) *Dachau*. London: Brown Watson.
- Bell W M (1995) *I Beg to Report: Policing in Guernsey during the German Occupation*. Guernsey: Guernsey Press Company.
- Ben-Yoav O, Hollander EP and Carnevale PJ (1983) Leader legitimacy, leader-follower interaction and followers' ratings of the leader. *The Journal of social psychology* 121(1): 111-115.
- Bennett R (1999) *Under the Shadow of the Swastika*. New York: New York University Press.
- Bourdieu P (1986) The forms of capital. In: Richardson J (ed) *Handbook of Theory and Research for the Sociology of Education*. New York: Greenwood, pp.241-258.
- Browning C (2010) *Remembering Survival: Inside a Nazi Slave-Labor Camp*. New York: Norton.
- Browning C (2005) 'Alleviation' and 'compliance': the survival strategies of the Jewish leadership in the Wierzbnik ghetto and the Starachowice factory slave labor camps. In: Petropoulos J and Roth JK (eds) *Gray Zones: Ambiguity and Compromise in the Holocaust and its Aftermath*. New York: Berghahn, pp.26-36
- Carr G, Sanders P and Willmot L (2014) *Protest, Defiance and Resistance in the Channel Islands 1940-1945*. London: Bloomsbury
- Coady C (2011) The problem of dirty hands. *The Stanford Encyclopedia of Philosophy*. Available at: <http://plato.stanford.edu/archives/sum2011/entries/dirty-hands/> (accessed 8 December 2011)
- Cohen F (2000) *The Jews in the Channel Islands during the German Occupation 1940-1945*. London: Jersey Heritage Trust in association with the Institute of Contemporary History and Wiener Library.

- Conway M and Romijn P (2004) Introduction. *Contemporary European History* 13: 377-388.
- Cruickshank C (1975) *The German Occupation of the Channel Islands*. London: Oxford University Press for the Trustees of the Imperial War Museum.
- Dellve L and Wikström EK (2009) Managing complex workplace stress in health care organizations: Leaders' perceived legitimacy conflicts. *Journal of Nursing Management* 17(8): 931–941.
- Durlauf S and Fafchamps M (2004) Social Capital. *Working paper of the Centre for the study of African economies* 214. Available at: [www.bepress.com/csae/paper214](http://www.bepress.com/csae/paper214) (accessed 23 April 2010).
- Egri C and Ralston D (2008) Corporate responsibility: a review of international management research from 1998 to 2007. *Journal of International Management* 14 (4): 319-39.
- Elder M (2013) Sergei Magnitsky verdict 'most shameful moment since Stalin'. *The Guardian*, 11 July. Available at: [www.theguardian.com/world/2013/jul/11/sergei-magnitsky-russia-trial-verdict-tax-fraud](http://www.theguardian.com/world/2013/jul/11/sergei-magnitsky-russia-trial-verdict-tax-fraud) (accessed 6 November 2013).
- Ferguson N (2006) *The War of the World: Twentieth-Century Conflict and the Descent of the West*. Harmondsworth: Penguin.
- Forrest R and Kearns A (2001) Social cohesion, social capital and the neighbourhood. *Urban Studies* 38 (12): 2125–2143.
- Fowler K and Etchegary H (2008) Economic crisis and social capital: the story of two rural fishing communities. *Journal of Occupational and Organizational Psychology* 8 (2): 319-341.
- Fukuyama F (2001) Social capital, civil society and development. *Third World Quarterly* 22 (1): 7-20.
- Fukuyama F (2002) Social capital and development: the coming agenda. *SAIS Review* 22 (1): pp.23-37.
- Garrett SA (1996) *Ethics and Airpower in World War II: The Bombing of German Cities*. New York: St Martin's Press.
- Garrett SA (1993) *Conscience and Power: An Examination of Dirty Hands and Political Leadership*. New York: St Martin's Press.
- Greenwood C (2000) International humanitarian law (laws of war). In: Karlshoven F (ed) *The Centennial of the First International Peace Conference – Reports and Conclusions*. The Hague: Martinus Nijhoff Publishers, pp.252-254.
- Grint K (2007) *Leadership, Management and Command: Rethinking D-Day*. Basingstoke: Palgrave Macmillan.
- Grint K (2010) *Leadership: A Very Short Introduction*. New York: Oxford University Press.
- Guernsey Star (1941) Extract from Jurat Leale's speech in the States, 22 March.

- Handelsblatt (2011) 50.000 Euro Strafe für Mittelständler Vietz, 28 September. Available at: <http://www.handelsblatt.com/unternehmen/industrie/korruptionsaffaere-50-000-euro-straefe-fuer-mittelstaendler-vietz/4670464.html> (accessed 6 November 2013).
- Hannah ST, Uhl-Bien M, Avolio BJ and Cavarretta FB (2009) A framework for examining leadership in extreme contexts. *The Leadership Quarterly* 20(6): 897-919.
- Harris P (2010) Machiavelli and the global compass: ends and means in ethics and leadership. *Journal of Business Ethics* 93(1): 131-38.
- Hasbani M and Breton G (2013) Restoring social legitimacy: discursive strategies used by a pharmaceutical industry leader. *Society and Business Review* 8(1): 71-89.
- HM Stationery Office (1952) *In the Privy Council on appeal from the Royal Court of the island of Guernsey between William George Quin and others, and Her Majesty the Queen*, no. 10, London.
- Hollander E (2011) Swords or shields? Implementing and subverting the Final Solution in German-occupied Europe. *Working paper, Department of Political Science, Wabash College*. Available at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1906430](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1906430) (accessed 6 September 2013).
- Ignatieff M (2004) *The Lesser Evil: Political Ethics in an Age of Terror*. Harmondsworth: Penguin.
- Iwersen S (2010a) Eginhard Vietz: Der Kampf gegen Schmiergeld ist reine Heuchelei. *Handelsblatt*, 10 August. Available at: [www.handelsblatt.com/unternehmen/mittelstand/nachrichten-trends/der-kampf-gegen-schmiergeld-ist-reine-heuchelei/3512132.html](http://www.handelsblatt.com/unternehmen/mittelstand/nachrichten-trends/der-kampf-gegen-schmiergeld-ist-reine-heuchelei/3512132.html) (accessed 23 March 2011).
- Iwersen S (2010b) Razzia beim Mittelständler; Eginhard Vietz: Dann gehe ich eben ins Gefängnis! *Handelsblatt*, 20 August. Available at: [www.handelsblatt.com/unternehmen/management/koepfe/eginhard-vietz-dann-gehe-ich-eben-ins-gefaengnis/3520220.html](http://www.handelsblatt.com/unternehmen/management/koepfe/eginhard-vietz-dann-gehe-ich-eben-ins-gefaengnis/3520220.html) (accessed 23 March 2011).
- Karlsson C, Hjerpe M, Parker C and Linnér BO (2012) The legitimacy of leadership in international climate change negotiations. *Ambio* 41(1): 46-55.
- Keyes CLM, Hysom SJ and Lupo KL (2000) The positive organization: Leadership legitimacy, employee well-being, and the bottom line. *The Psychologist-Manager Journal* 4(2): 143-153.
- Kieler J (2008) *Dänischer Widerstand gegen den Nationalsozialismus. Ein Zeitzeuge berichtet über die Geschichte der dänischen Widerstandsbewegung 1940-1945*. Hannover: Offizin.
- Levi P (1988) *The Drowned and the Saved*. Abacus: London.
- Linstead SA., Maréchal G and Griffin, RW (2010). Special issue on 'The dark side of organization'. *Organization Studies* 31(4): 509-511.

- Nationalmuseet (n.d.) Stikkerlikvidering – Modstandskampens blodige byrde. Available at: <http://natmus.dk/historisk-viden/danmark/besaettelsestiden-1940-1945/flammen-og-citronen/modstandskampens-blodige-byrde/> (accessed 5 August 2013).
- Nederman C (2009) Niccolo Machiavelli. *Stanford Encyclopedia of Philosophy*. Available at: <http://plato.stanford.edu/entries/machiavelli/> (accessed 24 March 2011).
- Maak T (2007) Responsible leadership, stakeholder engagement, and the emergence of social capital. *Journal of Business Ethics* 74 (4): 329–343.
- Marr J (2001) *The History of Guernsey. The Bailliwick's Story*. Guernsey: The Guernsey Press.
- Martinez C and Soledad M (2005) Los valores éticos del capital social y su influencia en el crecimiento económico. *Informacion Comercial Espanola Revista de Economia* 823 (English summary).
- Michel A (2012) *Vichy et la Shoah: Enquête sur le paradoxe français*. Paris: CLD.
- Neal MW and Tansey R (2010) The dynamics of effective corrupt leadership: lessons from Rafik Hariri's political career in Lebanon. *The Leadership Quarterly* 21(1): 33-49.
- Osgood M and Ong B (2001) Social capital formation and development in marginal communities, with reference to post-Soviet societies. *Progress in Development Studies* 3(1): 205-219.
- Ospina SM and Uhl-Bien M (2012) Exploring the competing bases for legitimacy in contemporary leadership studies. In: Ospina SM and Uhl-Bien M (eds) *Advancing Relational Leadership Research: A Dialogue Among Perspectives*. Charlotte: Information Age Publishing, pp.1-40.
- Paxton R (1972) *Vichy France: Old Guard and New Order*. New York: Knopf.
- Peschanski D (2004) Legitimacy/legitimation/delegitimation: France in the dark years - a textbook case. *Contemporary European History* 13(4): 409-423.
- Petropoulos J and Roth JK (eds) (2005) *Gray Zones: Ambiguity and Compromise in the Holocaust and its Aftermath*. New York: Berghahn.
- Rawls J (1999) Fifty years after Hiroshima. In: Rawls J *Collected papers*. Cambridge MA: Harvard University Press, pp.565-572.
- Rothstein B (2003) Social capital, economic growth and quality of government: the causal mechanism. *New Political Economy* 8(1): 49-71.
- Sanders P (2005) *The British Channel Islands under German Occupation 1940-45*. Jersey: Jersey Heritage Trust.
- Sanders P (2010) 'Managing under duress' – Ethical leadership lessons from the Nazi occupation of the British Channel Islands 1940-1945. *Journal of Business Ethics* 93 (suppl. 1): 113-129.

- Sanders P (2012) Is CSR cognizant of the conflictuality of globalisation? A realist critique. *Critical Perspectives on International Business*. 8(2): pp.157-177.
- Santoro M (2000) *Profits and Principles: Global Capitalism and Human Rights in China*. Ithaca: Cornell University Press.
- Schubert S and Miller TC (2008) At Siemens, bribery was just a line item. *New York Times*, 20 December. Available at: [www.nytimes.com/2008/12/21/business/worldbusiness/21siemens.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2008/12/21/business/worldbusiness/21siemens.html?pagewanted=all&_r=0) (accessed 6 November 2013).
- Semelin J (1993) *Unarmed against Hitler: Civilian Resistance in Europe, 1939-1943*. Westport Connecticut and London: Praeger.
- Sherwill A (2006) *A Fair and Honest Book: The Memoirs of Sir Ambrose Sherwill*. Lulu.com.
- Tost LP (2011) An integrative model of legitimacy judgments. *Academy of Management Review* 36(4): 686-710.
- Uhl-Bien M (2006) Relational leadership theory: exploring the social processes of leadership and organizing. *The Leadership Quarterly* 17(6): 654-676.
- Von Aufsess M (1985) *The von Aufsess Occupation Diary*. Chichester: Phillimore.
- Walzer M (1977) *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. New York: Basic Books.
- Walzer M (2004) *Arguing About War*. New Haven: Yale University Press.
- Wheatley MJ (1999) *Leadership and the New Science*. San Francisco: Berrett-Koehler (2<sup>nd</sup> edition).
- Willmot L (2005) 'Nothing was ever the same again': public attitudes in the occupied Channel Islands June-December 1942. *The Local Historian: Journal of the British Association for Local History* 35 (1): 9-20.

### Key to notes

IA: Island Archives Guernsey

IWM: Imperial War Museum London

JAS: Jersey Archives Service Jersey

TNA: The National Archives London

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<sup>1</sup> The central tenet, that the wise prince does good if he can, but should be prepared to act in the opposite way if he must, is outlined in chapter XXVIII of *The Prince*.

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<sup>2</sup> In a chapter titled ‘The gray zone’, in his *The Drowned and the Saved* (1989), Primo Levi spoke of the imprudence ‘to hasten to issue a moral judgment’ when dealing with wartime guilt. Levi himself was prepared to absolve all individuals ‘whose concurrence in the guilt was minimal and for whom coercion was of the highest degree’, for, in his view, responsibility lay with the system. In the light of Levi’s remarks, one may also ask whether a leader who gets his community through hard times should be admired (rather than despised), even if this requires him to ‘dirty his hands’.

<sup>3</sup> Indirect occupation regimes were characterised by power-sharing agreements limiting German interference to security and policy initiatives, and formal monitoring of the local administration, but they lacked the routine issuing of direct German orders to the lower echelons in the administration. This ‘state collaboration’ allowed home-grown institutions to deploy initiative and issue instructions to local administrations, which could be subject to interpretation. Naturally, the German authorities had the power to by-pass any agreement and issue direct orders to local administrations, but this had a specific political cost: it could cause an upset with the respective national government and torpedo the overall effectiveness of the occupation regime. There were, then, limits to what could be obtained through brute force. This was a particularly important consideration in those cases where the Germans had a vital economic, political or propaganda interest in maintaining semi-independent national governments and institutions.

<sup>4</sup> See the fourth chapter, on legitimacy, in Semelin (1993); for illustration of the legitimacy issue in Denmark, s. Kieler (2008).

<sup>5</sup> TNA.HO.45/22424. Report of the President of the Controlling Committee on the activities of the Committee during the German Occupation, 23 May 1945.

<sup>6</sup> IWM. Documents.13409.Dening 9. Force 135, I(b). Report ‘Resistance during the Occupation’, n.d.

<sup>7</sup> IWM.Documents.13409.Dening 4. Sabotage and Betrayal, Unknown author (Guernsey), n.d.

<sup>8</sup> ‘Report delivered to States of Guernsey by A.J. Sherwill, 7 August 1940’, reprinted in Sherwill (2006: 272).

<sup>9</sup> IWM.Documents.13409.Dening 4. Sabotage and Betrayal, Unknown author (Guernsey), n.d.; for Sherwill’s version, see Sherwill (2006: 139-142).

<sup>10</sup> IA.G 01-07. Typescript, ‘Extract from the Commentary of the Manual of military law, issued by the War Office, 1929 Edition’, n.d.

<sup>11</sup> IA.FK 01-11. Feldkommandatur 515 (Knackfuss) to the Bailiff of Guernsey, and to Nebenstelle Guernsey. Re. Plakatierung einer Proklamation, 5 April 1941.

<sup>12</sup> After a cable sabotage in March 1941, Leale said that anyone who had wished to do so could have left the

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island the year before; he concluded, that those who stayed had accepted the position and would 'act as good citizens', see *Guernsey Star* (1941).

<sup>13</sup> What applies to outright resistance also applies to the gray zones of collaboration with potential positive windfalls on the common good. By inverse inference we argue that these two factors also impacted on the opposite to resistance: collaboration. But contrary to Semelin's model of civilian resistance, we now also have to factor in the additional parameter of 'dirty hands'.

<sup>14</sup> How crucial family ties were for survival emerges from Christopher Browning's (2005, 2010) research on the Starachowice/Wierzbnik labour camp, in wartime Poland. The survival rate in this Jewish camp was significantly higher than in other, comparable institutions. The other factor that allowed for this rate was 'dirty hands' (high ingroup-outgroup differentiation and bribery).

<sup>15</sup> In June 1940 members of the island police force called on potential dissenters, and asked them to 'tone down' for the duration, TNA.HO.144/22237. MI19. Report no. 2507 'Guernsey Side Lights on Island Affairs', 20 November 1944; 'Excerpts from private letter of Guernsey Commission Agent brought over by informant 2503/2503A', n.d.

<sup>16</sup> His specific role was acknowledged in Home Office correspondence, in 1944, TNA.TS.26/89. J A R Pimlott (HO) to J M Martin CVC, 18 September 1944.

<sup>17</sup> IWM. Documents.13409.Dening 4. 'Report by Major Lanz, 216 ID, the first German Commandant', 1940.

<sup>18</sup> In 1944 a senior administrator, Max von Aufsess referred to the Guernsey statesmen as 'weaker characters' and to the Guernsey government as less 'politically sound and stable' than Jersey's. Letter to General von Schmettow, 14 Sept 1944, reprinted in his diary, Von Aufsess (1985: 24).

<sup>19</sup> JAS D/Z/1943/19. Centenier Garden to Attorney General, 2 June 1943.

<sup>20</sup> JAS D/Z/1943/19. Memorandum, Attorney General, 4 Aug. 1945.

<sup>21</sup> Garden is mentioned as such in the intelligence debrief of three Jersey escapees, TNA.HO.144/22237. MI19. Report no. 2510(S), 'Jersey Reliable Personalities. Further interrogation of three Jersey escapees', 27 November 1944.

<sup>22</sup> TNA.HO.144/22834. Memo, J T D Hubert, 23 August 1943.

<sup>23</sup> Harper claimed that Inspector Sculpher prevented him from joining HM forces in 1940, IA.AQ 1214/17. William M Bell Collection. Affidavit Harper, 10 January 1950 (copyright in the estate of Jack Harper). As to Tuck's description there is some conflict: in the 1942 civilian trial he stated that the men received no straight answer to the question as to whether they had to 'stay' or could 'join', *HM Stationery Office* (1952: 33). In

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their 1950 memo to Advocate Randell, however, Tuck and Bailey contended that the men were prevented from joining, through a threat of forfeiture of their pension rights, TNA.HO.284/6. Letter of Mess. Tuck and Bailey to Advocate Randell, 26 July 1950; also Bell (1995: 133).

<sup>24</sup> IA.AQ 1214/17. Affidavit Short (date missing, presumably 1951) (copyright in the estate of Frederick Short).

<sup>25</sup> IA.AQ 1214/17. Affidavit Tuck, 28 February 1951 (copyright in the estate of Frank Tuck).

<sup>26</sup> Several such cases appear in the men's post-war affidavits, IA.AQ 1214/17. Affidavits, *passim* (various copyright holders).

<sup>27</sup> TNA.HO.284/6. Letter of Mess. Tuck and Bailey to Advocate Randell, 26 July 1950.

<sup>28</sup> IA.AQ 1214/17. Affidavit Bailey, 10 February 1951 (copyright in the estate of Kingston Bailey).

<sup>29</sup> IA.AQ 1214/17. Affidavit Harper, 10 January 1950 (copyright in the estate of Jack Harper); Affidavit Burton, February 1951 (copyright in the estate of William Burton).

<sup>30</sup> IA.AQ 1214/17. Affidavit Harper, 10 January 1950 (copyright in the estate of Jack Harper).