How To Legally Own Another Person

–Even the church had its hippies –Coase does not need math –Avoid lawyers during Oktoberfest –the expat life ends one day –people who have been employees are signaling domestication

In its early phase, as the church was starting to get established in Europe, there was a group of itinerant people called the gyrovagues. They were gyrating and roaming monks without any affiliation to any institution. Theirs was a free-lance (and ambulatory) variety of monasticism, and their order was sustainable as the members lived off begging and from the good graces of townsmen who took interest in them. It is a weak form of sustainability, as one can hardly call sustainable a group of a people with vows of celibacy: they cannot grow organically and would need continuous enrolment. But their members managed to survive thanks to help from the population, which provided them with food and temporary shelter.

Sometimes around the fifth century, they started disappearing –there are now extinct. The gyrovagues were unpopular with the church, banned by the council of Chalcedon in the Fifth Century, then again by the second council of Nicaea about three hundred years later. In the West, Saint Benedict of Nurcia, their greatest detractor, favored a more institutional brand of monasticism and ended up prevailing with his rules that codified the activity, with a hierarchy and strong supervision by an abbot. For instance, Benedict's rules[i], put together in a sort of instruction manual, stipulate that a monk's possessions should be in the hands of the abbot (Rule 33) and Rule 70 bans angry monks from hitting other monks.

Why were they banned? They were, simply, totally free. They were financially free, and secure, not because of their means but because of their wants. Ironically by being beggars, they had the equivalent of *f*** you money,* the one can get more easily by being at the lowest rung than by being member of the income dependent class.

Complete freedom is the last thing you would want if you have an organized religion to run. Total freedom is also a very, very bad thing for you if you have a firm to run, so this chapter is about the question of employees and the nature of the firm and other institutions.[3]

Benedict's instruction manual aims explicitly at removing any hint of freedom in the monks under the principles of: *stabilitate sua et conversatione morum suorum et oboedientia* -- "stability, conversion of manners, and obedience". And of course monks are put through a probation period of one year to see if they are effectively obedient.

In short, every organization wants a certain number of people associated with it to be deprived of a certain share of their freedom. How do you own these people? First, by conditioning and psychological manipulation; second by tweaking them to have some skin in the game, forcing them to have something significant to lose if they were to disobey authority. In the orders of the mafia, things are simple: *made men* (that is, ordained) can be *wacked* if the capo suspects lack of allegiance, with a transitory stay in the trunk of a car –and a guaranteed presence of the boss at their funerals. For others professions, skin in the game come in more subtle form.

Ironically, you do better having an employee than a slave –and this held even in ancient times when slavery was present.

To Own a Pilot

Let us say that you own a small airline company. You are a very modern person, having attended many conferences and spoken to consultants, you believe the company is a thing of the past: everything can be organized through a web of contractors. It is more *efficient* to do so, you are certain.

Bob is a pilot with whom you have entered a specific contract, in a well defined drawn-out legal agreement, for precise flights, commitments made long time in advance, which includes a penalty for non-performance. Bob supplies the copilot and an alternative pilot in case someone is sick. Tomorrow evening you will be operating a scheduled flight to Munich as part

[3] John Mast-Finn equated them to *flâneurs*.

of an Oktoberfest special and Bob is the contracted pilot. The flight is full; with motivated budget passengers –some of whom went on a preparatory diet; they have been waiting a whole year for this Gargantuan episode of beer, pretzels, and sausage in laughter-filled hangars.

Bob calls you at 5 P.M. to let you know that he and the copilot, well, they love you... but, *you know*, they will not fly the plane tomorrow. *You know*, they had an offer from a Saudi Arabia Sheikh, a devout man who wants to take a special party to Las Vegas, and needs Bob *and* his team to run the flight. The Sheikh and his retinue fell in love with Bob's manners, the fact that Bob never had a drop of alcohol in his life, and told him that money was no object. The offer is so generous that it covers whatever penalty there is for a breach of a competing contract by Bob.

You kick yourself. There are plenty of lawyers on these Oktoberfest flights, and, worse, retired lawyers without hobbies who love to sue as a way to kill time, regardless of outcome. Consider the chain reaction: if your plane doesn't take off, you will not have the equipment to bring the beer-fattened passengers back from Munich –and you will most certainly miss many round trips. Rerouting passengers is costly and not guaranteed.

You make a few phone calls and it turns out that it is easier to find an academic economist with common sense and ability to understand what's going on than find another pilot, that is, an event of probability zero. You have all this equity in a firm that is now under severe financial threat. You are certain that you will go bust.

You start thinking: well, *you know*, if Bob were a slave, someone you own, you know, these kind of things would not be possible. Slave? But wait... what Bob just did isn't something that employees who are in the business of being employees do! People who are employees for a living don't have such opportunistic behavior. Contractors are too free; they fear only the law. But employees have a reputation to protect. And they can be fired. People who like employment like it for a reason. They like the paycheck!

People you find in employment love the regularity of the payroll, with the special envelop on their desk the last day of the month, and without which they would act as a baby deprived of mother's milk. Then you realize that had Bob been an employee rather than what appeared to be cheaper, that contractor thing, then you wouldn't be having so much trouble.

But employees are expensive... You got to pay them even when you've got nothing to do for them. You lose your flexibility. Talent for talent, they cost a lot more. Lovers of paychecks are lazy ... but they would never let you down at times like these.

So employees exist because they have significant skin in the game –and the risk is shared with them, enough risk for it to be a deterrent and a penalty for acts of undependability, such as failing to show up on time. You are buying dependability.

And dependability is a driver behind many transactions. People of some means have a country house, which is inefficient compared to hotels or rentals, because they want to make sure it is available if they decide they wanted to use it at a whim. There is an expression "never buy when you can rent the three "Fs": what you Float, what you Fly, and what you ...that something else". Yet many people own boats, planes, and end up with that something else.

True, a contractor has downside, a financial penalty that can be built-into the contract, in addition to reputational costs. But consider that an employee will always have more risk. And conditional on someone being an employee such a person will be risk averse. By having been employees they signal a certain type of domestication. Someone who has been employed is giving you the evidence of submission, from having gone through years of the ritual of depriving himself of his personal freedom for nine hours every day, punctual arrival at an office, denying himself his own schedule, and not having beaten up anyone. You have an obedient, housebroken dog.

> *Employees are more risk averse, they fear being fired more than contractors do being sued.*

Even when the employees ceases to be an employee, they will remain diligent. The longer the person stays with a company, the more emotional investment they will have in staying and, when leaving, are guaranteed in doing an "honorable exit".

FROM THE COMPANY MAN TO THE COMPANIES PERSON

So if employees lower your tail risk, so do you lower theirs as well. Or at least, that's what they think you do.

At the time of writing, firms stay in the top league by size (the so-called SP500) only about between ten and fifteen years. Companies exit the SP500 through mergers or by shrinking their business, both conditions leading to layoffs. Throughout the twentieth Century, however, expected duration was more than sixty years. Longevity for large firms was greater; people stayed with a large firm for their entire life. There was such a thing as a company man (restricting the gender here is appropriate as company men were almost all men).

The company man –which dominated the twentieth Century –is best defined as someone whose identity is impregnated with the stamp the firm wants to give him. He dresses the part, even uses the language the company expects him to have. His social life is so invested in the company that leaving it inflicts a huge penalty, like banishment from Athens under the Ostrakon. Saturday nights, he goes out with other company men and spouses sharing company jokes. In return, the firm has a pact to keep him on the books as long as feasible, that is, until mandatory retirement after which he would go play golf with a comfortable pension, with as partners former co-workers. The system worked when large corporations survived a long time and were perceived to be longer lasting than nation-states.

About in the 1990s, people suddenly realized that working as a company man was safe… provided the company stayed around. But the technological revolution that took place in Silicon valley put traditional companies under financial threat. For instance, after the rise of Microsoft and the personal computer, IBM which was the main farm for company men, had to lay off a proportion of its "lifers", who then realized that the low-risk profile of the position wasn't so much low risk. These people couldn't find a job elsewhere; they were of no use to anyone outside IBM. Even their sense of humor failed outside of the corporate culture.

Up until that period, IBM required its employees to wear white shirts –not light blue, not with discreet stripes, but plain white. And a dark blue suit. Nothing was allowed to be fancy, or invested with the tiniest amount of idiosyncratic attribute. You were a part of IBM.

Our definition:

> *A company man is someone who feels that he has something huge to lose if he doesn't behave as a company man –that is, he has skin in the game*

If the company man is, sort of, gone, he has been replaced by the companies person, thanks to both an expansion of the gender and a generalization of the function. For the person is no longer owned by a company but by something worse: the idea that he needs to be *employable*.

> *A companies person is someone who feels that he has something huge to lose if he loses his employability –that is, he or she have skin in the game*

The employable person is embedded in an industry, with fear of upsetting not just their employer, but *other* potential employers.

Perhaps by definition an employable person is the one that you will never find in a history book because these people are designed to never leave their mark on the course of events. They are, by design, uninteresting to historians.

COASE'S THEORY OF THE FIRM

Ronald Coase is a remarkable modern economist in the sense that he is independent thinking, rigorous, creative, with ideas that are applicable and explain the world around us –in other words, the real thing. His style is so rigorous that he is known for the Coase Theorem, an idea that he posited without a single word of mathematics but that is as fundamental as many things written in mathematics.

Aside from his "theorem", Coase was the first to shed lights on why firms exist. For him contracts can be too costly to negotiate, they entail some amount of transaction costs, so you incorporate your business and hire employees with clear job description because you don't feel like running legal and organizational bills every transaction. A free market is a place where forces act to determine specialization and information travels via price point; but *within* a firm these market forces are lifted because they cost more to run than the benefits they bring. So the firm will be at the optimal ratio of employees and outside contractors, where having a certain number of employees, even when directly inefficient, is better than having to spend much resources negotiating contracts.

As we can see, Coase stopped one or two inches short of the notion of skin in the game. He never thought in risk terms to realize that an employee is a risk management strategy.

Had economists, Coase and Shmoase, had any interest in the ancients, they would have discovered the risk management strategy relied upon by Roman families who customarily had a slave for treasurer, the person responsible for the finances of the household and the estate. Why? Because you can inflict a much higher punishment on a slave than a free person or a freedman –and you do not need to rely on the mechanism of the law for that. You can be bankrupted by an irresponsible or dishonest steward who can divert your estate's funds to Bithynia. A slave has more downside, and you run a lower financial risk by having the steward function fulfilled by a slave.[4]

Complexity

Now, enters complexity and the modern world. In a world in which products are increasingly made by subcontractors with increasing degrees of specialization, employees are even more needed than before for special tasks. If you miss on a step in a process, often the entire business shuts down –which explains why today, in a supposedly more efficient world with lower inventories and more subcontractors, things appear to run smoothly and efficiently, but errors are costlier and delays are considerably longer than in the past. One single delay in the chain can stop the entire process.

A Curious Form of Slave Ownership

Slave ownership by companies has traditionally taken very curious forms. The best slave is someone you overpay and who know it, terrified of losing his status. Multinational companies created the *expat* category, a sort of diplomat with a higher standard of living representing the firm far away and running its business there. A bank in New York sends a married employee with his family to a foreign location, say a tropical county with cheap labor, with perks and privileges such as country club membership, a driver, a nice company villa with a gardener, a yearly trip back home with the family in first class, and keep him there for a few years, enough to be addicted. He earns much more than the "locals", in a hierarchy reminiscent of colonial days. He builds a social life with other expats. He progressively wants to stay in the location much longer but he is far from headquarters and has no idea of his minute-to-minute standing in the firm except through signals. Eventually, like a diplomat, he begs for another location when time comes for a reshuffle. Returning to the home office means loss of perks, having to revert to the unchanged base salary, and the person is now a total slave –a return to lower middle class life in the suburbs of New York City taking the commuter train, perhaps, god forbid, a bus, and eating a sandwich for lunch! The person is terrified when the big boss snubs him. Ninety five percent of the employee's mind will be on company politics... which is exactly what the company wants. The big boss in the board room will have a supporter in the event of some intrigue.

All large corporations had employees with *expat* status and, in spite of its costs, it was an extremely effective strategy. Why? Because the further from headquarters an employee is located, the more autonomous his unit, the more you want him to be a slave so he does nothing strange on his own.

Nonslave Employees

There is a category of employees who aren't slaves, but these represent a very small proportion. You can identify them at the following: they don't give a *f**** about their reputation, at least not their corporate reputation.

After business school, I spent a year in a banking training program –by some accident as the bank was confused about my background and aims and wanted me to become an international banker. There, I was surrounded with the corporate highly employable persons (my most unpleasant experience in life), until I switched to trading (with another firm) and discovered that there was some people in a company who weren't slaves.

One type is the salesperson whose resignation would cause the loss of business, and, what's worse, by going to another firm, he can take some of the firm's client to a competitor. Salespeople had a tension with the firm as the firm tried to dissociate accounts from them by depersonalizing the relationship with the client, usually unsuccessfully: people like people and they drop the business when they get some generic and polite person trying to get on the phone in place of the warm and often exuberant salesperson-friend. The other one was the trader about whom only one thing mattered: the profits and losses, or P/L. Firms had a love-hate with these two types as they were unruly –traders and salespeople were only manageable when they were unprofitable, in which case they weren't wanted.

[4] Stanislav Yurin.

Traders who made money, I realized, could get so disruptive that they needed to be kept away from the rest of the employees. That's the price you pay by associating people to a specific P/L, turning individuals into profit centers, meaning no other criterion mattered. I recall once threatening a trader who was abusing the terrified accountant with impunity, telling him such things as "I am busy earning money to pay your salary" (intimating that the accounting did not add to the bottom line of the firm). But no problem; the people you meet when riding high are also those you meet when riding low and I saw the fellow getting some (more subtle) abuse from the same accountant before he got fired, as he eventually ran out of luck. You are free —but only as good as your last trade. I said earlier that I switched firms away from the proto-company man and I was explicitly told that my employment would terminate the minute I ceased to meet the P/L target. I had my back to the wall, but I took the gamble which forced me to engage in "arbitrage", low risk transactions with small downside that were possible at the time because the sophistication of operators in the financial markets was very low.

I recall being asked why I didn't wear a tie, which at the time was the equivalent of walking down Fifth avenue naked. "One part arrogance, one part aesthetics, one part convenience" was my usual answer. If you were profitable you could give managers all the crap you wanted and they ate it because they were afraid of losing their jobs.

Risk takers can be socially unpredictable people. Freedom is always associated with risk taking, whether it led to it or came from it. You take risks, you feel part of history. And risk takers take risks because it is in their nature to be wild animals.

Note the linguistic dimension –and why, in addition to sartorial considerations, traders needed to be put away from the rest of nonfree, nonrisktaking people. My days, nobody cursed in public except for gang members and those who wanted to signal that they were not slaves: traders cursed like sailors and I have kept the habit of strategic foul language, used only outside of my writings and family life.[5] Those who use foul language on social networks (such as Twitter) are sending an expensive signal that they are free –and, ironically, competent. You don't signal competence if you don't take risks for it –there are few such low risk strategies. So cursing today is a status symbol, just as oligarchs in Moscow wear blue jeans at special events to signal their power. Even in banks, traders were shown to customers on tours of the firm as you would with animals in a zoo and the site of a trader cursing on a phone while in a shouting match with a broker is something that was part of the scenery.

So while cursing and bad language can be a sign of dog-like status and total ignorance –the "canaille" which etymologically relates these people to dogs; ironically the highest status, that of free-man, is usually indicated by voluntarily adopting the mores of the lowest class[6]. Consider that the English "manners" isn't something that applies to the aristocracy; it is a middle class thing and the entire manners of the English are meant for the domestication of those who need to be domesticated.

Loss Aversion

Take for now the following:

> *What matters isn't what a person has or doesn't have; it is what he or she are afraid of losing*

So those who have more to lose are more fragile. Ironically, in my debates, I've seen numerous winners of the so-called Nobel in Economics (the Riksbank Prize in Honor of Alfred Nobel) concerned about losing an argument. I noticed years ago that four of them were actually concerned when me, a nonperson and trader, called them publicly a fraud. Why did they care? Well, the higher you go in that business, the more insecure you get as losing an argument to a lesser person exposes you more than other people.

Higher up in life only works under some conditions. You would think that the head of the CIA would be the most powerful person in America, but it turned out that he was more vulnerable than a truck driver... The fellow couldn't even have an extramarital relationship. You can risk people's lives

[5] I can't resist this story. I once received a letter from someone with a request: "Dear Mr Taleb, I am a close follower of your work, but I feel compelled to give you a piece of advice. An intellectual like you would greatly gain in influence if he avoided using foul language."

My answer was very short: "F*** off."

[6] My friend Rory Sutherland (the same Rory) explained that some more intelligent company people had the strategy of cursing while talking to journalists in a way to signal that they were conveying the truth, not reciting some company mantra".

but you remain a slave. The entire structure of the civil service is organized that way.

NEXT