Brown-nosing the rich

Steve Tombs and **David Whyte** claim that New Labour's regulatory strategy has endangered the environment, workplace safety and financial stability.

On the death of Milton Friedman in November 2006, then Chancellor Gordon Brown hailed him as 'one of the great economic theorists of the 20th century' (BBC, 2006). Yet no matter how far Brown sought to identify Friedman as an intellectual fellow traveller, their analysis of the structure of capitalism differed in one significant respect: Friedman (1970) famously asserted that 'the only responsibility of business is to increase its profits', arguing that businesses could not be socially responsible even if they tried; Brown's project to reconstruct regulatory policy in the UK was based upon the implicit assumption that government should trust business to act responsibly.
As he oversaw a bailout of the banks triggered by systematic irresponsibility, Brown issued a plea for corporate social responsibility in the financial sector:

> *Our government is pro business; I believe in markets, entrepreneurship and there are many areas of the economy that need the spur of more competition. But the events of the past months bear witness, more than anything in my lifetime, to one simple truth: markets need morals.*
> (Brown, 2008)

The long march to regulatory 'stripping'

It is worth recalling how in awe of the newly emerging business celebrities such as Ecclestone, Branson, and Sugar, and how craven to the business world Blair, Mandelson, Brown, and others were in preparation for office. Then, in power, New Labour swallowed every hyperbolic management school driven claim regarding 'globalisation' and sought to attract and retain private capital at all costs – and the rich (filthy and otherwise), with whom New Labour were perfectly comfortable, saw an open door and eventually kicked it off its hinges.

That said, the first Labour government trod somewhat warily in its remodelling as the party of business. A series of commitments to improve the accountability of business had been raised in opposition, as it sought to reconcile the competing demands of its traditional electoral and financial support bases and its soon-to-be-best friends in the business world. Once in office, in the sphere of social regulation – laws affecting business activity which seeks to provide protection for workers and the natural environment – New Labour appeared to inject some impetus into stagnating regulatory efforts. Thus, in the two key regulatory agencies in the sphere of social regulation – the Environment Agency (EA) and the Health and Safety Executive (HSE) – there was greater prosecutorial activity following the 1997 election: between 1997/98 and 1999/00, HSE prosecutions rose by 20 per cent; and between 1999 and 2002 EA prosecutions rose by 48 per cent (Freedom of Information Response, 2009).

Yet in the flush of a second landslide victory, New Labour refocused upon a sustained material and ideological assault on regulation. In 2004, Gordon Brown appointed the then Chairman of J. Sainsbury Philip Hampton to lead a wholesale review of business regulation. Hampton was not the cleanest pair of hands. He was Finance Director of Lloyds TSB during the period that the bank was embroiled in a 'stripping' scheme in which it falsified the records of New York financial institutions to mask transactions from Iranian and Sudanese banking clients in violation of the law (New York District Attorney, 2009). The company was forced to pay fines and forfeiture totalling $350,000,000 in a deferred prosecution settlement with the New York District Attorney's Office.

On announcing the Hampton review, Brown famously called for not just a 'light touch', but for a 'limited touch' in regulation. The Hampton Report – published a year later – called for greater emphasis on advice and education and for another type of stripping: the stripping of the 'burden' of inspection from most premises. Specifically, inspections should be reduced by up to a third across all regulatory agencies – effectively this would mean one million less inspections – and in their place regulators were to make much more 'use of advice' to business.

Slash and burn?

After virtually no public debate, the Hampton Report was implemented and immediately absorbed in the regulatory agencies. Between 2004/05 and 2008/09, EA inspections almost halved, falling from 198,666 to 106,803. In the HSE, inspections by the largest division, the Field Operations Directorate, more than halved between 2005/06 and 2008/09, from 54,717 to 23,488. Ninety-two thousand routine inspections by the EA were replaced by approximately 5,300 audits of targeted businesses between 2004/05 and 2008/09. Similar targeted processes have replaced routine inspections in the HSE. Connected to this shift in strategy, declines in prosecution have been dramatic. In 2004/05, the HSE prosecuted 35 per cent of all the workplace deaths it investigated. Now it prosecutes 8 per cent.

If this smacks of a slash and burn deregulatory policy, engendering an effective decriminalisation of corporate crime, it is in fact based upon a rather convoluted risk-based rationale. The key idea here – espoused consistently by Brown – is

10.1080/09627250903570013

not only that businesses must be encouraged to be 'moral' and 'responsible', but the assumption that most are 'moral' and 'responsible'. It is only the minority that need to be monitored. Thus the Hampton agenda enthusiastically endorses twin-track regulation whereby regulatory interventions are 'targeted at the worst offenders'. It is an approach underpinned by a blind faith in corporate morality that enables the majority of good corporate citizens to be left to their own devices.

Rights and responsibilities

The demand for business and for markets to be more responsible is almost a mirror image of the 'rights and responsibilities' agenda. On one hand, New Labour demands active citizenship from individuals, and on the other, it encourages good corporate citizenship. But in practice, there is no moral equivalence drawn between the principal targets of the active citizen agenda (immigrant communities, single parents, the jobless) and the corporate classes. For, as the former are targeted with an ever-intensifying paraphernalia of surveillance, stigma, and economic penalties, the latter are encouraged into their good citizenship through wining and dining, or at worst, appeals to their better conscience. Further, just as spurious as Blair's claim that 100,000 'hard core' offenders are responsible for '50 per cent of all crimes' (BBC, 2007) is the ideology that most businesses are law-abiding and responsible, so that regulatory resources need targeting only at the recalcitrant few. In fact, all evidence indicates that crime in the business world is ubiquitous – that is, routine practice amongst firms of all sizes across all sectors of the economy.

While eschewing punitive regulation for blind faith in corporate morality – a phenomenon not even Friedman, the doyen of free market liberals, would contemplate – New Labour's response to the financial crisis has been a massive bailout of the banking system, to which little or no strings were attached, and which were certainly not linked to any new regulatory framework. The continuity of a free market approach is perhaps no better encapsulated than by the figure of Philip Hampton, knighted for his services to business in 2007. Sir Philip was, in 2008 appointed as chairman of UK Financial Investments Limited, the firm set up to manage the UK government's shareholding in banks subscribing to its recapitalisation fund (Monaghan, 2008). The business man who had overseen New Labour's flagship deregulatory initiative was thus appointed to oversee the key New Labour body charged with bailing out a financial system that had been brought its knees by profiteering from the logic of deregulation and the valorisation of risk!

In for the kill?

Even this level of satire looks like being outdone by the Tories. A recent Conservative Green Paper, couched within the outrageously mendacious claim that 'the regulatory burden has shot up under Labour' (Conservatives, 2009), promises:

- *a 'powerful' new 'Star Chamber' cabinet committee to enforce a 'stringent "One In – One Out" requirement where any new law must include cuts in old laws which, together, produce a net 5 per cent reduction in the regulatory burden';*
- *a 'sunset clause' applied to all Regulators: in its first term, a Conservative government will reassess and review all duties of all regulators;*
- *the powers of inspectors being 'drastically curbed by allowing firms to arrange their own, externally audited inspections and, providing they pass, to refuse entry to official inspectors thereafter'.*

Smelling blood, the Conservatives and their friends in high places will not be satisfied with the New Labour's emasculation of social regulation; a Tory victory at the polls will see further pressure for reducing the 'burdens on business'. No matter the fate of Brown, one thing is guaranteed by the general election: the government will still be brown-nosing the rich. ■

Steve Tombs is Professor of Sociology at the School of Social Science, Liverpool John Moores University and **Dr David Whyte** is Reader in Sociology at University of Liverpool.

References

BBC (2006), 'Economist Friedman dies aged 94', BBC News, 16 November. www.news.bbc.co.uk/1/hi/business/6156106.stm

BBC (2007), 'Blair targets "career criminals"', BBC News, 27 March. www.news.bbc.co.uk/1/hi/uk/6498003.stm

Brown, G. (2008), America has embraced the values of progress, *The Observer*, 9 November. www.guardian.co.uk/commentisfree/2008/nov/09/barack-obama-gordon-brown

Conservatives (2009), *Regulation In The Post-Bureaucratic Age How To Get Rid Of Red Tape And Reform Quangos. A Policy Paper On Better Regulation*. www.conservatives.com/~/media/Files/Policy%20Documents/BetterRegulation.ashx?dl=true – 2009-10-06 (Accessed 9 December 2009).

Freedom of Information Response (2009), Figures derived from Freedom of Information responses from the Health and Safety Executive to Rory O'Neill of Hazards Magazine, 29th October 2009; and from the Environment Agency to David Whyte, 6th November 2009.

Friedman, M. (1970), 'The social responsibility of business is to increase its profits', *The New York Times Magazine*, 13 September, pp. 32-33; 122-124.

Monaghan, A. (2008), 'Government appoints Sir Philip Hampton to oversee nationalised banks', *Daily Telegraph*, 3 November. www.telegraph.co.uk/news/newstopics/politics/3374529/Government-appoints-Sir-Philip-Hampton-to-oversee-nationalised-banks.html

New York District Attorney (2009), 'News release', January 9.