Overcoming Hammurabi's Curse

The Realpolitik of Building New Organizations

John Nirenberg

John Nirenberg, Ph.D., is Chair, Leadership and Personal Development, Shinawatra University, Bangkok, Thailand. He was the founding Dean of Doctoral Studies at the University of Phoenix where he developed the world's first Doctor of Management degree program in Organizational Leadership for working professionals. He also served the American Management Association, International as its Global Best Practice Leader for Strategic Leadership. He is the author of *Global Leadership* (Capstone/Wiley, 2002); *Power Tools: A Leader's Guide to the Latest Management Thinking* (Prentice-Hall, 1997), and *The Living Organization: Transforming Teams Into Workplace Communities* (Irwin/Pfeiffer, 1993). His email is: center-for-workplace-community@att.net.

It is a tough question that has perplexed many managers for years: "Now that we know what enlightenment is and have a model of its organizational manifestation (companies that are collegial, humanistic, participative, engaging), why is it so damn hard to adopt and sustain its widespread practice?"

Oddly, insight into this fundamental problem was found deep in the windswept sands at Susa, Iran, near its south-western border with Iraq. There, French archaeologists uncovered the original stone of Hammurabi's Code in 1901. It was Hammurabi, the King of Babylon, who, almost 4,000 years ago, first established the principle that a manager was responsible for his workers; each act of a laborer or apprentice was considered the act of the contractor.

According to Hammurabi's Code, the first formal comprehensive law, "If a builder builds a house for a man and does not make its construction firm, and the house which he has built collapses and causes the death of the owner of the house, that builder shall be put to death."[1]

This attribution of responsibility solely to one person was to have a profound impact on the structure and management of human organization down to the present. To seal his laws, Hammurabi declared a curse: "If a man does not pay attention to my words which I have written upon my monument; if he forget my curse and does not fear the curse of God; if he abolish the judgments which I have formulated, overrules my words, alters my statues, effaces my name written thereon… may the great God, the father of the gods, who has ordained my reign, take from him the glory of his sovereignty, may he break his scepter and curse his fate!"[2]

Thus was born one of the first principles of management that ultimately separated the act of thinking (being responsible) from the act of doing (following orders). While Hammurabi's Code was being unearthed from the sands of Susa, Frederick Taylor, acting as if part of a cosmic replay of Hammurabi's curse, was formulating the most enduring management principle of the 20th century and beyond: management does the thinking (takes responsibility for the work) while labor carries out the plan (follows orders).

According to Taylor, writing in *The Principles of Scientific Management*: "Perhaps the most prominent single element in modern scientific management is the task idea. The work of every workman is fully planned out by the management at least one day in advance, and each man receives in most cases complete written instructions, describing in detail the task which he is to accomplish, as well as the means to be used in doing the work."

In separating the act of thinking from the act of doing we bifurcated the interests of management and labor into an adversarial relationship between what appeared to be mutually exclusive interests. Management's interest is to assume full responsibility for the work and to make as much profit as possible through the maximum use of labor.

In separating the act of thinking from the act of doing we bifurcated the interests of management and labor into an adversarial relationship.

Labor's interest was to collect the highest wage while doing as little work as possible, freed from any responsibility for the larger whole. Thus, for almost 4,000 years, from Hammurabi to Taylor to today, the vast majority of the labor force was reduced to virtual wage-slavery disempowered from making decisions regarding their work and their lives in the workplace.

The advent of the knowledge era and mass information exchange coupled with the need to act quickly — both to satisfy customers and to innovate — is ushering in a bold new era. Organizing in this new era requires a new model of management. But that's old news. Since 1961, when Rensis Likert showed through voluminous empirical research that participation and two-way communication, what he called System 4, was superior to other models in terms of both productivity and employee satisfaction, the number of voices calling for managerial change has risen. In this decade alone a crescendo of voices has reaffirmed the need for change.

Remarkably, however, with the exceptions of Ackoff's *Creating the Corporate Future* and *The Democratic Corporation*, Gates' *The Ownership Solution* and *Democracy at Risk*, and Nirenberg's *The Living Organization*, there has been a deafening silence in the United States when it comes to recommending systemic changes to the organization. The voices mainly beseech CEOs to act differently, more benevolently. And, judging from CEO accounts, some organizations are indeed serving as exemplars of the way things could be for many more of us. Read about Starbucks in *Pour Your Heart Into It* or Southwest Airlines, a perennial on *Fortune* magazine's list of the 100 best places to work, in *NUTS!* or Tom's of Maine in *The Soul of a Business* or the Body Shop in *Body and Soul* and immediately you will resonate with the hopefulness that the organization you work for will likewise turn the corner into enlightenment. Unfortunately, even the exemplars' apparent enlightenment only flickers as long as it remains the CEOs' practice and profits are plentiful. Anyone who has lived through the dot.com implosion and the current economic downturn knows this.

We have seen that between Hammurabi and Taylor the separation of management from labor and the distinctions between owners and employees has become so embedded that most people believe the separation is in fact a reflection of the natural order of things. We know better. But we have a difficult time imagining a different future and at some level are hesitant to alter the familiar, the status quo, to try something new albeit more consistent with our inner longings and spiritual well-being.

Clearly, the challenge is to invent an organizational structure that will enable enlightenment to survive beyond the beneficence of a CEO. Actually it is a two-fold challenge. First, it means creating organizations that are accountable to the employees as well as, even instead of, the stockholders. Marjorie Kelly, the editor of *Business Ethics,* recently made this point. According to her, "A powerful case can be made that employees have a property right in corporations — and that stockholders have an illegitimate right to much of the gain they're pocketing. We might prove this case in the market with a single question: What is a company worth without its employees?"

First it means creating organizations that are accountable to the employees…

Second, it means creating a new organizational DNA that will transform boss-subordinate relationships into peer relationships subordinate only to goal achievement.

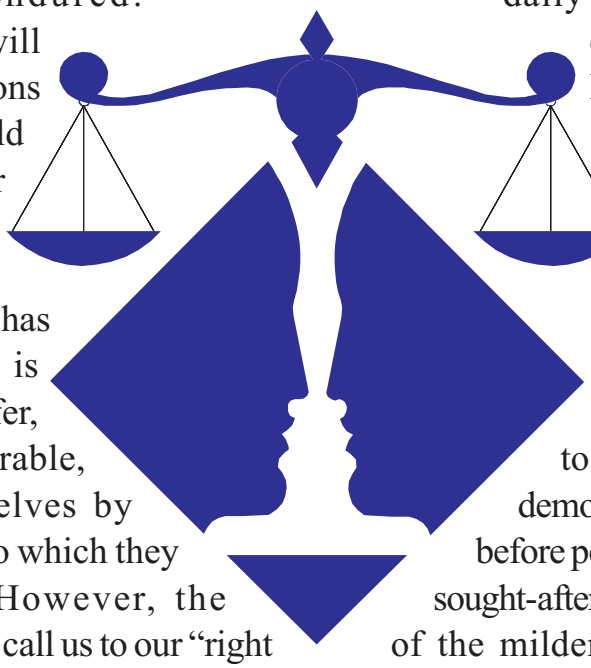
First: Accountability to Employees

In 1776 we set upon a journey that created the first intentional nation in history. Henry Steele Commager, one of America's foremost historians, pointed out that, "In the eighteenth century we were incomparably the most inventive people in the world in the realm of politics and society. We invented practically every major political institution which we have, and we have invented none since. We invented the political party and democracy and representative government. We invented the first politically independent judiciary in history…. We invented judicial review. We invented the superiority of the civil over the military power. We invented freedom of religion, freedom of speech, the bill of rights…."[3] Mark the words, "…we have invented none since." Perhaps it is now time.

Given our history, we at least know that a large scale fundamental systems change can be accomplished. Given that our largest organizations such as the U.S. Postal Service (901,000 employees), Wal-Mart, (1,244,000 employees), Daimlerchrysler (416,000) and McDonald's (364,000 employees) each have, when dependents are included, a bigger population than the 13 colonies had at the time of the revolution, perhaps it is time to consider these entities states in their own right. Certainly they influence the lives

of each of their employees and the greater public to an extent King George III would have found enviable.

By paraphrasing the *Declaration of Independence* we can see just why Hammurabi has endured: "Prudence, indeed, will dictate that Corporations long established should not be changed for light and transient causes; and accordingly all experience has shown, that mankind is more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed." However, the *Declaration* goes on to call us to our "right and our duty" when it says: "But when a long train of abuses and usurpations, pursuing invariably the same Object, evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Management, and to provide new Rules for their future security."



Perhaps it is time, if we are to take the calls for change seriously, to reconsider how our organizations are structured and how, and to whom, they are accountable. Simply answering to a privy council (board of directors) is obviously not enough — especially when these corporate behemoths now roam the earth freely as the first supranational entities.

Thomas Jefferson would probably find it sad, to say the least, that while democracy is breaking out in some of the unlikeliest places on Earth, Americans willingly subjugate themselves to unelected, virtually unaccountable bosses who can tyrannize them daily without repercussion or employee recourse. Personal psychological abuse can be present without being legally actionable. Giving onerous assignments late Friday afternoon due first thing on Monday, transferring an employee to an undesirable location, demotion without cause, ridicule before peers and persistent denial of sought-after opportunities are just a few of the milder ways in which we are reminded of our subordinate status. In doing these things, managers may be oblivious to their impact, thinking of themselves as doing the right thing for the organization. As Shorris has reminded us: "In business, [people] do not arrive at totalitarian methods because they are evil, but because they wish to do the good in what seems to them the most efficient way, or because they wish merely to survive, or with no more evil intent than the desire to prosper."[4]

Dare we break from the spell they have cast upon us that their structure is not only right, not only as effective as possible, but good for us? Dare we tamper with a system that has led to the creation of enormous wealth? Dare we risk offending our bosses and

managers and therefore our security? After all, all they really want in return for a comfortable lifestyle is our obedience. Isn't that a fair trade?

Second: Regarding The DNA of Organizations — Fundamental Relationships

The misfortune of unintentionally creating a tyrannical system is due to creating a chain of command wherein each higher link controls those below but answers only to those above. One of the consequences is the rivalry of peers to win the favor of the boss in order to earn whatever benefits are available. But peers as competitors are truly a manifestation of a day gone by when jobs were designed as distinct realms and individual performance could be observed and evaluated.

Elemental organizational DNA consists of the relationships developed between (a) the boss, (b) a subordinate, and (c) a colleague. This is the configuration of responsibility as required by Hammurabi and Taylor when the brains exclusively resided in the manager and subordinates merely followed orders.

Today our work is no longer defined by one person, carried out by another and supervised by yet a third. That is the very thing that limits creativity, decision making by the most knowledgeable and quick, and innovative action. So from the typical hierarchy of relationships such as parent-child, husband-wife, ruler-subject, owner-slave, boss-worker — a structure from time immemorial — we could reformulate the relational mix to include safeguards and reciprocity to reduce and eliminate abuse and unilateral action.

We can shift to partnerships of peers. In the workplace this means relationships could become more and more collegial among and between all levels. This is not to deny the usefulness of hierarchy but it would change the nature of the hierarchy. Power would be muted, senior people would be accountable to those they influence as well as to their bosses. Positions of responsibility would be earned through competence and be accountable to the whole, not merely to those above. The senior role would be earned based on behaviors that lead to the fulfillment of objectives all can see and identify with and not merely through the unilateral exercise of personal preferences even when they are benevolent and well meaning. The focus is on the shared task.

Elemental organizational DNA consists of the relationship between (a) the boss, (b) a subordinate, and (c) a colleague.

Each person accepts responsibility for the whole and for the effectiveness of their relationships.

This isn't unheard of. Think of the word *community* and imagine creating organizations that resemble them. The key, however, is not in the specific model of a new organization but in our knowing that it can be created. It may require the faith of a colonist and the determination of the writers of the *Declaration of Independence* and the *Constitution* but we are well equipped as a people today to do so. The tragedy of not seeing the system for what it is results in our believing that somehow we are to blame when the system doesn't work; that our discomfort with how we are treated, with mediocre results, with dysfunctional relationships at work are our fault when in fact these and myriad other problems stem from the inadequacies of the system.

Another unfortunate belief some of us hold is that, if only we find a job elsewhere, the problems we experience now will go away. If only we could work for one of the 100 Best Companies to Work for in America, all would finally be better. Unfortunately, that is not the case. All organizations are built on the same paradigm. Some are simply more benevolent or pay better. Some offer the convincing illusion that there is a difference. It just isn't so. Organizations can function differently if they restructure the nature of their relationships. To talk about a "new paradigm" is to acknowledge a new understanding of the possibilities inherent in new approaches to organizing the workplace and attending to the work. Most importantly, it is to grapple with the systemic limitations and barriers which have contributed to the dysfunctions in the old way of doing things. We recognize the problems.

Now we have in the task-centered organization of peers, one conceptual model of how a new paradigm might look. Given the widespread adoption of teams and networks

The tragedy of not seeing the system for what it is results in our believing that somehow we are to blame when the system doesn't work; that our discomfort with how we are treated, with mediocre results, with dysfunctional relationships at work are our fault when in fact these and myriad other problems stem from the inadequacies of the system.

within traditional hierarchies, it shouldn't take much of a leap to reach the partnership model of organizing and institutionalizing this change. The real question remains: *Why haven't we invented any new organizational forms since the corporation?*

Speculation on Why The System Hasn't Been Changed

There is a certain elegance to the command and control system. Surely we've become accustomed to it. And when it is fair it gives the appearance of near perfection — almost as if it were a new machine. It is only after time passes that breakdowns occur and dissatisfaction sets in — also, like a machine. This, of course suits our Cartesian model of thinking and focuses on what we value: action and engagement with our external environment.

Better to build relations with our customers than each other in the workplace because that suits our larger purpose of making the sale, making the bottom line. It is easier to spend a fortune and our time improving a brand of toilet paper than spending any time or money in dialogue discussing shared meaning or how to build an intentional organization that fulfills everyone's collective aspiration.

It is interesting to note that Kimberly Clark recently spent $100 million on the U.S. East Coast to *promote* its revamped Cottonelle brand of toilet paper. This improved toilet paper required a new plant costing $170 million and cost another $170 million when the marketing of the brand went national.[5] In our culture this makes as much sense as any investment of time and money for the purpose of making even more money. And organizational change (especially for the purpose of making life within organizations better) is just not deemed a purpose of business.

When "chainsaw" Al Dunlap took over Scott Paper, which eventually merged with Kimberly Clark, his rescue plan called for an immediate layoff of 11,000 people and, just as with the other massive layoffs of recent years, passed without a squeak. More to the point, Scott stock went through the roof as a cultural nod of approval. In the mid 1990s when Coors brewing chose a new president, one of his first acts was to eliminate the long-standing team-building effort and dismantle the organization development department since it had no apparent (according to him) link to the bottom line. Again, not a squeak — not from the stockholders, the public, the union or consumers.

Clearly the number one reason for the lack of movement toward real paradigmatic organizational change is the sheer legitimacy of the current way of doing things. The second reason the system hasn't changed must be that we harbor the notion in our heart of hearts that competing for organizational goodies is the right way of separating the best from the rest and surely we wouldn't want to question that. How else would we reward merit? Get ahead?

And it *is* getting ahead that we are talking about. Getting more money, power, prestige. *That's what it's about.* Why else would we want to revamp Cottonelle? Could Kimberly Clark really excite its workforce solely with a vision of achieving softer, cleaner backsides without the promise of more money, power or prestige?

So the most important reason we don't really change is that the values of the conventional organizational culture are simply too embedded in each of us. Like the proverbial fish not seeing the water. It's simple. Private property is sacred. Each company is private property to be disposed of as owners so choose. Competition, both in a marketplace and within organizations, assures the fittest survive. Thus, the bottom line is all that counts for the company and getting ahead is our only reward.

Getting more money, power, prestige.

That's what it's about.

It seems that a rather large number of us believe that if only we talk about being nice people and doing the right thing the system will change. Perhaps that is why we honor the few exemplars and count on them to continue doing the right thing — even to the point where they convince others to do so. Why do the Anita Roddicks, Tom Chappells, Ben & Jerrys, Herb Kellehers and Howard Schultzs get so much attention for doing the right thing? They show that change can happen through enlightenment (noblesse oblige) and all CEOs will eventually get it if we just talk about the exemplars long enough. By this way of thinking, systemic change doesn't really have to happen. We really don't have to tamper with a system that is tolerable when run by the enlightened.

What usually happens is that rather than serve as exemplars to other CEOs, however, the enlightened seem to fall off their pedestals — and usually just at the point the media frenzy hits fever pitch. Following the idolization of the heroic CEO, who is doing the right thing, is the hope that technology, competitive forces, public consciousness-raising, or a tight labor supply will *make it happen.* And, yes, all of these factors do offer an incentive to employers to do the right thing. But, alas, the incentive is no guarantee.

Speculation on Why Real Change is So Damn Hard

The real interests of capital (owners) *are* different from managers, labor, and society. Why should they change when they live in a world of their own creation? To change would be to sacrifice. Since they have won the game, to change the rules now would be the epitome of unfairness, especially when those spearheading the changes haven't played the game well enough to deserve a say about revising the rules.

If efficiency is a reason for success, indeed a goal of the current system, change represents an inefficiency; more time and more chaos would slow innovation, decision making and converting resources to output. Ultimately it all looks like designed ineffectiveness. Calling for and expecting voluntary change is like calling for criminals to turn themselves in. Large scale widespread systemic change has never occurred from within except through revolution. And in terms of our organizations it has occurred only after union efforts or through government regulation.

There is an old Chinese proverb that reminds us that there are only two problems in life: not getting what we want and getting what we want. And just as revolutions often turn nasty after victory, such as in the French, Russian and Chinese experiences, getting change may, at least at first, result in profound chaos and miserably frustrating inefficiency. It is no less a danger in organizations. When Alan Robbins set out to build Plastic Lumber in the inner city of Akron, Ohio, he was going to accomplish several socially responsible objectives. First, hire those who were unemployed and second, recycle old milk and soda bottles into fake lumber. By befriending his employees and treating them well, like family, it didn't take long before he was overwhelmed with their expectations of him. Now, "Absenteeism is a constant problem. So is the threat of lawsuits. He has faced injury claims, discrimination claims and unemployment-compensation claims, on top of other small business woes…."[6]

Here, a CEO with good intentions discovered that wasn't enough. No doubt many people conclude that "See, caring doesn't work, collegiality fails," not realizing that everyone has to be of like mind and able to take the responsibility. It is no accident that his experiment failed. Neither party was ready and only some were willing. But this, of course, is more an example of attempting a knowledge-era practice in an industrial-era context. Others have succeeded, however, even under such circumstances. One only need read about Ricardo Semler to see how it can be done.[7] In the case of Semco, his company, it took years of inclusive, open, conversation and self-determination with plenty of collective experimentation — not a decree from the benevolent dictator.

One convenient thing about command and control is that it assumed away emotions and demanded a conformity to a homogeneous mode of behavior. When we pretended to believe in the melting pot, that was possible, though not without a great deal of stress. Today in an age of diversity, as the postmodern world marches on, that kind of conformity is out of the question — especially so since owners have abandoned the paternalistic system that made it possible.

In the new organization emotions seem to seep into all endeavors and to participate is to open opportunities to grouse and to play out personal agendas that may be inappropriate. Again, that will bog down the system. But again, it is not participation that should be closed off to prevent the inefficiencies; participative systems can be

designed to limit such occurrences. It is important to remember that people brought up in and conditioned by the old exploitative command and control system where management and labor were adversaries acted precisely as they should have. They

A CEO with good intentions discovered that wasn't enough.

took advantage of the apparent (to them) weakness of the new owner. Getting everyone to agree on their new responsibilities, rewards, and expectations of others requires a consciousness raising befitting the change toward a new operational paradigm.

Perhaps the most important managerial reason for the failure of change is simply to starve it of attention. While we may huddle for months in meetings and planning sessions and secret experiments and focus groups to see if the new Cottonelle will perform as promised, we hardly give the same time and attention to ensure that social change within organizations will succeed. With social change, as we saw with our friend at Plastic Lumber, we expect immediate and flawless execution.

Why this is so in the social but not technological arena is a mystery, but it must spring in part from a refusal to appreciate individual differences and variation in motives. And to spend time on process or social issues is simply to waste time which must always be focused on the work at hand. Though, increasingly, relationship building IS the work at hand, most of us simply haven't come to appreciate that yet.

Failure to reward relationship building and social change or to involve all those affected by the change in the process of implementing it are other reasons for its iffy success. Simply put, it just isn't important enough in most places.

We also have a way of expecting perfection, no, *nirvana,* to result from social change. Democracy certainly hasn't brought it to the USA and Russia is suffering through a re-medievalization of its social structure while it lauds a free economy and struggles with democratic systems. But social change is merely to enable nirvana to grow. It is the beginning, not the end of involvement. So, in practice, change will find a lot of unsavory characters — the irascible, duplicitous, and backbiters — just as we find in the current system. A new model could be enabling and, dare I say, the respectful thing to do; but, frankly, in this day of road rage and overflowing Franklin-Covey Planners, perhaps it is easier to let the status quo prevail and not bother with change at all. Besides, real change requires a willingness to accept new responsibilities, and people may feel the need for additional compensation or fear for the future of their jobs. "After all, if the system changes, perhaps the new system won't have a need for me." Don't look now, but the system changed already with mergers and downsizings in corporate America that rivaled the realignments of the world's nations after the

great wars. In that sweeping change we, of course, were not consulted as the likes of Al Dunlap simply slashed and burned.

To change the existing organizational structures while they are sufferable, so well established, requiring so little real involvement with others, is simply to ask for even more uncertainty in an age of uncertainty. This may be too onerous a thought. I am reminded of slaves who willingly fought for the South — an incomprehensible act until you consider that there were good reasons to want the status quo. "Rather the devil I know than the devil I don't," must have been the rationale for this behavior. Many wage slaves can relate to that. It was even more incomprehensible to find in the annals of the Holocaust how the Nazis could depend on a number of concentration camp inmates to actually serve their executioners and turn on their most intimate relations in the death camps; not always because it would result in their favorable treatment, but because even in those most horrific of circumstances they sought power — even as they faced their imminent death! *Oh, how command and control makes things seem easy.*

Innovations appeal to those making them, who have something to gain by them.

Innovations appeal to those making them, who have something to gain by them. The rest and the unmotivated who are also affected by the change, indeed, whose efforts will ultimately be required to make or break the change, may just not care. And that raises another touchy issue. Just as it was in the American Revolution, it is estimated that one third of the population were for it, one third opposed it, and one third were neutral. Can our organizations afford that turmoil in pursuing systems change? Others may find more to life than helping the company or partaking in any change. However, there are some of us — a growing number of us — who are certain that Taylorism must be repudiated and Hammurabi's curse must be broken.

NOTES

[1] Harper, R.F. (1988). *The Code of Hammurabi King of Babylon,* Holmes Beach, Florida: Wm. W. Gaunt & Sons, Inc. (Reprint)

[2] Handcock, P. (1920). *The Code of Hammurabi King of Babylon,* New York: The Macmillan Company.

[3] Moyers, B. (1989). *A World of Ideas,* New York: Doubleday.

[4] Shorris, E. (1984). *Scenes From Corporate Life,* New York: Penguin.

[5] Parker-Pope, T. "The Tricky Business of Rolling Out a New Toilet Paper," *The Wall Street Journal,* January 12, 1998, p. B1.

[6] Aeppel, T. "Personnel Disorders Sap a Factory Owner of His Early Idealism" *The Wall Street Journal,* January 14, 1998, p.1.

[7] Semler, R. (1993) *Maverick: The Success Story Behind the World's Most Unusual Workplace.* New York: Warner.