Expanding Responsibilities:

Human Rights and Corporate Social Responsibility

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Introduction

The last few decades have witnessed unparalleled accelerations in the processes of globalization, simultaneously increasing the potential efficacy of past models of social activism and social justice and creating new opportunities for actors engaged in the struggle for communities and sustainable development. In this paper we explore the growing corporate social responsibility movement, and the evolving interrelationships and expectations of states, non-governmental organizations (NGOs), and corporations. We focus specifically on the development of new conceptions of corporate social responsibility (CSR) as an expansion of the concept of human rights. Although what comprises corporate social responsibility has evolved over time (see Stohl, Stohl, & Townsley, 2009 for a detailed discussion of three generations of CSR) it still remains a highly contested concept (May, Cheney, & Roper, 2007). Today, CSR generally references the expectations and responsibilities of business to society to contribute to the well-being of stockholders, internal and external stakeholder and the sustainability of our global environment.

In this context, we argue there are strong parallels between the growth of the global human rights regime since the end of the Second World War and the burgeoning international interest in issues of CSR. In the opening years of the current millennium it was still unusual, when addressing the power of national, multinational and transnational corporations to suggest that corporate social responsibility and human rights were not only connected but also were legitimate concerns for human rights and business scholars as well as national and international governments. For example, as late as 2003 Scott Pegg 2003:11) argued that “most of the academic work on transnational corporations ignored the subject of human rights….This neglect was been reciprocal: most of the academic work on human rights has tended to overlook the role that TNCs can play in promoting or violating human rights.”

We make four central arguments. First, attention to the dynamic processes associated with the development of the international human rights regime provides important insights for the future development of a global CSR regime. Second, because of the ever-increasing rate of social connectedness associated with globalization and emerging technologies, the continuing development of the CSR regime is likely to occur at a faster pace than that which was witnessed in the development of the human rights regime. Third, the connection between CSR and human rights is not just about material working conditions under which workers’ human rights are constrained (e.g. anti-sweat shop legislation) or enabled (e.g. fair wages and reasonable working hours, safe working conditions, but also about the communicative conditions within which organizational and interorganizational interactions take place. Finally, we argue that as with the development of the human rights regime, this growth and development of a CSR/human rights regime will be characterized by periods of threats to rollback advances and that these threats will come from both within states that have been historical proponents as well as historical opponents of the expansion of rights.

Global regimes are defined as “sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors’ expectations converge in a given area of international relations” (Krasner, 1983, p. 2). They embody the rules and conventions adopted by states to structure their relations (Rittberger, 1993). Regimes also “constitute frames of reference to new processes of rule formation and rule making” (Arts, 2000, p. 516). These norms, rules, and decision-making procedures are of course, not as dramatic as the wars, terrorist attacks, or natural and man-made disasters that feature on the front pages of our daily newspapers or the lead story on the television news, but they are at the heart of the billions of everyday interactions that in fact compose global relations and corporate behavior on a daily basis.

The Foundation of the Human Rights Regime

To place the development of a CSR regime in context, we first briefly rehearse the establishment of the human rights regime. Since 1648 and the peace of Westphalia ending the 30 Years War, the overarching regime governing international relations known as the Westphalian system of states has made the state the primary actor in international affairs and the state’s ruler the representative of the state empowered to speak on its behalf and engage in treaty making and agreements. It did so through the phrase in the treaty, “whose the region, his the religion,” signifying that the kings and princes of the time had the authority to determine the rules within their own states and were free from external interference. The “state” is thus also responsible for the protection and provision of rights to its citizens (that it may itself be denying to its constituents) while protecting the state from external interference in its internal affairs. In this context, human rights standards emanating from the enlightenment philosophers and brought into practice through the English Bill of Rights of 1689, the American and French Revolutions developed first within states, establishing freedoms from the sovereign state and led to the constitutional monarchies and republics that followed. These standards were eventually extended beyond state borders, often through international organizations which had developed for other purposes.

Three hundred fifty years later most scholars of human rights would argue that the establishment of the United Nations (UNs) and the adoption of the Universal Declaration of Human Rights on December 10, 1948 have been the two most significant contemporary events for the provision, protection, and promotion of human rights within and among states and the creation of a global human rights regime as they provide the foundation upon which all subsequent human rights activity has been based (Donnelly, 1993; Farer, 1992; Forsythe, 2000). Within the charter, there are two contending themes (Alger, 2002). First, the charter is anchored in the clearest language in the protection of Westphalian sovereignty. Article 7 states that:

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require Members to submit such matters to settlement under the present Charter.

Second, in the second paragraph of the Charter’s preamble members “reaffirm [their] faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women.” The subsequent adoption of the Universal Declaration of Human Rights established the standards upon which human rights performance was subsequently judged and further legitimated the importance of human rights as a concern both within and across state boundaries.

Since the adoption of the Charter 68 years ago, the world community has come far in the development of both a comprehensive body of law and institutions to protect and promote human rights and importantly, a discourse that supports those rights. The emergent set of rules, resources, norms, standards, protocols, institutional frameworks, and communication practices that now constitute the “structure” of the human rights regime and thereby facilitate and constrain state action, has become far more extensive and detailed.

The evolutionary process of legitimation of the human rights regime sheds light on several features that we argue are necessary for a CSR regime to develop. First, the unfolding narrative shows the ways in which the formal articulation of norms and expectations is a necessary, although insufficient, condition for the establishment of an international regime. Second, we see the increasing role that NGOs can play when rights or sustainability discourse becomes an accepted frame of discussion. Third, the process illustrates how power relations among NGOs, governments, and other international actors (including corporations) can shift over time. Fourth, as power relations shift, networks are reconfigured, giving space to new voices and processes. And finally, as more actors gain legitimacy in the conversations, sectors blur and new possibilities, both positive and negative, emerge.

Connecting structure, discourse, and action

Previous work has demonstrated that the initial organizational network that developed as a direct result of the adoption of the Universal Declaration of Human rights was a network with substantial structural holes that limited its effectiveness (Stohl and Stohl, 2005). Specifically, structural holes are disconnections within a network. Burt (1992) argues that either side of a structural hole embeds different types of information, such that if a person or organization bridges the hole, their power is increased because they are privy to all unique information and know who can use it (access) they have information earlier than others (timing), and gain advantage because they are known by many others and are given legitimacy based on these contacts and information (referral).

After the adoption of the Declaration of Human Rights, NGOs were in a position to fill the bureaucratic as well as ideological structural holes that were created out of the new UN mandate. NGOs played the role of information brokers whose activities were both mediated by, and productive of, the emerging structures. The NGOs provided watchdogs, expertise, information, and basic work for a UN organization which was often immobilized by its inherent organizational contradictions and the resultant under-funding (Farer, 1992). Moreover, NGOs gave legitimacy and integrity to the global human rights project providing pathways for alternative and competing interpretations of the data and what they meant. NGOs could not implement policy on behalf of the UN but they could identify violations and inform the world. As outsiders “on the inside” they could pressure individual nation states to respond in some way by calling for sanctions, boycotts, embargos, and other forms of public pressures (Apodaca et al., 1998). NGOs provided information and helped establish supportive relational links between the established network and the public. Scholars of human rights have noted how the insinuation of NGOs into international institutional apparatus was not always welcome but the information, efficiency, and legitimacy they brought to the enterprise were often crucial for its success. International governmental organizations (IGOs) and states came to realize that “partnership with NGOs contribute to more efficient implementation and a lower rate of failure; a better public image and more political support” (Edwards, 2000, p. 11).

As the values of the human rights regime became more accepted, NGOs became even more valued members of the network. For example, over time, the standard-setting function of the Universal Declaration required greater attention to monitoring for compliance and thus prompted the creation of institutional mechanisms, the most prominent of which was the UN Commission on Human Rights, a highly bureaucratic and inefficient monitoring and communication system. Under pressure from the NGO community, however, which was dissatisfied with, among other things, the scope of the Commission’s activities, Economic and Social Council (i.e. the ECOSOC which establishes which NGOs have consultative status within the UN system across a variety of contexts) established what, in the obtuse jargon associated with the UN, are known as the “1235” and “1503” procedures to handle many complaints of human rights violations which fell outside the traditional mechanisms outlined in the Political and Economic Covenants. The scope of the UN Commission on Human Rights was thus expanded and in light of the nature and number of nations where gross violations of human rights were taking place, the commission began to rely rather heavily on the work and connections of the NGOs to provide reliable information about violations and to give support in interpreting and disseminating the data (Forsythe, 2000). NGOs were thus able to fill structural holes by serving as the bridge and information broker between the commission and the victims of human rights violations.

Significantly, as NGOs formed to fill the gaps created by the political tensions and/or organizational paralysis of the UN, the NGOs continued to attempt to strengthen the UN’s organizational capacity. This brief history illustrates the ways in which the establishment of a global human rights regime can be traced through three phases: standard setting (conventions and declarations); promotion (advisory services, broad studies, and an incipient reporting system); and protection (establishment of procedures for assessing information, reporting, fact-finding and efforts to mitigate or terminate violations) (Farer, 1992,

p. 235). Recently, we see parallel processes at work in the developing CSR regime.

An emerging CSR regime

Most contemporary accounts of the development of CSR begin with a discussion of the early 20th century ideas of business magnates like Andrew Carnegie that for capitalism to thrive organizations must behave in ways that are consistent with a charity principle (helping the unfortunate) and a stewardship principle (take care of the local environment in which the corporation is situated) (see Carrrol &Shabana, 2010). As Jennifer Bair (2015) reminds us, discussions about corporate codes of conduct and their connection to human rights emerged out of the discussions of the G77 for a New International Economic Order (NIEO) in the 1970s and discussions were formally initiated in 1975. Those discussions were concluded in 1992 without a formal positive result. But at the same time that the UN talks commenced the OECD issued a Ministerial Declaration on International Investment and Multinational Enterprises which was designed to promote standards for MNCs within the member states. “Multinationals were advised to comply with national laws, encouraged to make a positive contribution to economic and social progress in their countries of operation, contribute to technology transfer, and not harm the environment (Ruggie and Nelson,2015:5).” The issues that gave rise to the UN discussions, the overwhelming power wielded by MNCs against weak states and the need for international organizations to protect the exploited states, did not of course disappear. During the next decade, global discussions of the need for corporate ethical guidelines and standard setting intensified as newly formed states joined the UNs and the European Union (EU) expanded. While promoting the use of voluntary actions, paralleling the formal articulation of rights and human values within the Declaration of Human Rights, Kofi Annan announced the Global Compact in January 1999 at the World Economic Forum in Davos, Switzerland and appealed to corporations to help save the open market (www.un.org/News/Press/docs/1999/19990201.sgsm6881.html):

Specifically, I call on you – individually through your firms, and collectively through your business associations – to embrace, support and enact a set of core values in the areas of human rights, labour standards, and environmental practices.

Setting voluntary standards was the cornerstone of Annan’s proposal. He contrasted two ways of promoting CSR, one through the international policy arena in which states ceded authority to multinational institutions or two, through promoting the values through action within the corporate sphere. He noted:

Many of you are big investors, employers and producers in dozens of different countries across the world. That power brings with it great opportunities – and great responsibilities. You can uphold human rights and decent labour and environmental standards directly, by your own conduct of your own business.

Moreover, given the scope and connectedness of global problems to organizational action, international policies, treaties, and conventions began to address corporations and ethical issues (Schwartz, 2002). IGOs such as the International Labor Organization and NGO including the Global Reporting Initiative established broad initiatives to encourage and promote the development of, and compliance with, ethical codes. The UN urged corporations and nations to embrace The Global Compact:

[.. .] a voluntary international corporate citizenship network initiated to support the participation of both the private sector and other social actors to advance responsible corporate citizenship and universal social and environmental principles to meet the challenges of globalization (www.un.org/Depts/ptd/global.htm).

The ten principles of the Global Compact are drawn from the Universal Declaration of Human Rights (1948) and represent all three generations of CSR (Stohl et al., 2007), rights which closely parallel the development of the first three generations of human rights development. First generation human rights began with the Magna Carta and extend through the English Bill of Rights in 1689, the Declaration of Independence, and the Declaration of the Rights of Man in 1789. They first arose to protect the individual from the power of the state and generally were conceived as negative rights, freedoms from interference. First generation rights are seen as belonging to the individual and often favor the abstention from, rather than the intervention of, governments and institutions. These include, for example, the freedom from arbitrary execution, the freedom from unreasonable detention, the prohibition against torture and inhumane treatment, and the right to freedoms of thought and expression. The parallel first generation rights of the CSR movement are captured in the words of the economist Milton Friedman (1970):

The social responsibility of business is to increase its profits [.. .] to make the most money as possible while conforming to the basic rules of the society, both those embodied in law and those embodied in ethical culture.

In the 1970s, the definition of what is or is not responsible corporate behavior was conceptualized through a narrow definition of the law and its associated coercive mechanisms. The Lockheed Scandals of 1976 in which high-ranking Japanese political and business officials including the then Prime Minister Tanaka’s office were paid more than $3 million in bribes and Prince Bernhard (husband of the queen of The Netherlands) was charged with receiving bribes to ensure that Lockheed would win a contract over a French firm, led directly to the 1977 passage of the Foreign Corrupt Practices Act (FCPA) by the US Congress. The act explicitly forbids US firms from paying bribes anywhere, even if they are legal in the external jurisdiction in which they may be operating.

Over the next 40 years first generation corporate responsibility was extended through parallel treaties, agreements, and legislation around the globe modeled upon the FCPA principles (e.g. the 1996 Inter-American Convention Against Corruption, the Organization for Economic Cooperation and Development (OECD) convention of 1997, and further Council of Europe, EU and African Union treaties, as well as 2003 United Nations Convention against Transnational Organized Crime and the 2003 United Nations Convention against Corruption). Significantly this first generation approach to CSR has led to the establishment of organizations to help monitor corporate activity, a crucial role NGOs also played in the establishment of the human rights regime. Monitoring and protecting first generation responsibilities have also resulted in changing the relationships among NGOs, corporations, and governments. Thus, Transparency International publishes, a yearly report on the state of corruption within societies, which includes adherence to the FCPA. The index also spotlights government’s role in CSR.

The case of former Saudi Ambassador to the USA Prince Bandar illustrates the changing role of NGOs in the network of corporate responsibility. Bandar was reportedly paid $30 million a year for at least ten years to secure the continuation of an arms deal first brokered by Margaret Thatcher on behalf of BAE systems, the UK’s largest arms manufacturer. The disclosure that Britain had shut down its probe of BAE, and would thus not prosecute, led Transparency International to request that Justice Department fraud prosecutors investigate BAE and pressure London into reopening its review and further that US concerns were then discussed at two subsequent OECD meetings. (Meyer, 2007).

The second generation of rights developed in the context of the nineteenth century development of capitalism, industrialization, and class struggle in which workers demanded more humane conditions of employment and compensation. Whereas first generation rights emphasize restraint and legal foundations, second generation rights demand state intervention on behalf of claimants. These rights include the right to fair and equitable wages; the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay; the right to basic health care; and the right to a safe working environment. The parallel second generation CSR rights are captured in the words of Nigel Griffiths, the UK Minister for Corporate and Social Responsibility, a position that in and of itself, signifies the institutionalization of CSR beyond first generation thinking:

CR is not new. When Robert Owen joined David Dale in 1800 at his spinning mill in New Lanark he created a school and workers’ housing and he provided medical services. In short, he ploughed business profits into improving the lives of employees and their families. And over the course of the next century the Cadburys, Frys, Rowantrees [sic ], William Lever and others followed suit. And so it has continued to the present day.

Principles 3-6 of the Global Compact also represent the development and instantiation of second-generation corporate responsibility in the global arena. Principle 5, for example, addresses the abolition of child labor, and Principle 6 is concerned with the elimination of discrimination in respect of employment and occupation. The interventionist role of the state in assuring CSR is clearly articulated.

The Global Compact also represents the evolution of the international human rights regime to what is described as the “third generation.” The third generation focuses on the rights of “humankind,” or our collective humanity. These rights are markedly different from those addressed in the first two generations insofar as they are collective rather than individual rights, and can only be realized through global participation, cooperation, and agreement. Unlike the rights of the first and second generation, third generation rights are positive rather than zero sum rights. The right to live in peace and the right to share a healthy and balanced environment through responsible management are examples of third generation rights. Sir Geoffrey Chandler, Founder-Chair, Amnesty International UK Business Group 1991-2001 and former senior executive Royal Dutch/Shell Group argues:

At its best, CSR is defined as the responsibility of a company for the totality of its impact, with a need to embed society’s values into its core operations as well as into its treatment of its social and physical environment. Responsibility is accepted as encompassing a spectrum – from the running of a profitable business to the health and safety of staff and the impact on the societies in which a company operates.

The third generation represents the dynamics of globalization and a dramatic shift in the expectations for the global corporation (Stohl et al., 2007). Within the Global Compact Articles 7-9 specifically address issues related to the environment, issues that were raised at The Rio Earth Summit in 1992. At that time, a diverse set of stakeholders across industrial and corporate sectors, governments, and NGOs came together to discuss a comprehensive list of communal concerns associated with globalization such as patterns of industrialization, population growth, and social inequality around the world. As with the case of the emerging human rights regime, governmental and corporate entities found that NGOs could fill structural holes by contributing critical resources, knowledge, information, and perspectives on the problems they were trying to address.

For example, a number of NGOs (e.g. Human Rights Watch and Corporate Watch) were (and remain) critical of the lack of institutionalized monitoring systems established by the compact and they along with others have focused on the corporate sector to monitor compliance. Thus, Corporate Watch presents bimonthly “Greenwash Awards” to corporations that put more resources into their public relations (PRs) campaigns promoting eco-friendly images than they invest in efforts to protect the environment. Earthworks, Mining Watch Canada, and the Mineral Policy Institute Australia all monitor mining activities of their home country corporations at home and where they extract. The Extractive Industries Transparency Initiative, an organization

composed of NGOs, governments, and corporate nominees, monitors and publishes records of company payments and government revenues from oil, gas, and mining and seeks particularly to strengthen the capacity of developing country governments to provide accountability vis-a` -vis the corporate sector in these resources rich but government capacity poor parts of the world.

In summary, like the evolution of a human rights regime, a new generation of corporate ethics has expanded beyond simple support for local communities in which firms operate to a greater consideration of the totality of a firm’s impact globally (Townsley and Stohl, 2003). From a first generation perspective, corporate ethical behavior represents protection of individuals from organizational wrongdoing by virtue of the corporation not violating the legal mandates of the particular country in which it is headquartered. Second generation thinking is more proactive, but it too instantiates organizational and national boundaries, locating ethical responsibility within groups directly associated with the corporation and stable forms of place and identity. Third generation embodies the social and material conditions as well as the reflexivity associated with globalization, ethical behavior grounded in the larger interconnected environment within which an organization functions.

It is important to recognize, of course, that just as with the protection of human rights, motives for compliance to CSR initiatives may vary. For example, guitar manufacturers Martin, Taylor, Fender, and Gibson worried that the distinctive woods from old growth forests of mahogany, ebony, and rosewood; woods necessary to create the electric guitars on which their businesses depend, were at risk. With motives that probably included corporate profit and viability, they joined together to support the sustainable forests initiative. To publicize their efforts and stimulate public concern they enlisted some of their most famous clients (e.g. Sting, Paul Simon, Jimmy Buffett, and John Mayer) to literally lend their voices to and thus legitimate the effort and extend the alliances and interests involved in CSR (Rifkin, 2007). Significantly, no matter what the motive, the third generation of corporate responsibility has become part of the standards, norms, and discourse of global corporations. Jeffrey Swartz, CEO of Timberland Corporation, placed a full-page ad in the November 13, 2006 Time Magazine European edition (p. 11) that represents this discourse:

Twenty years ago it was legitimate to question whether business had a role in building civic society. Business was clearly defined as a legal construct, with thought leaders like Nobel Prize winning economist Milton Friedman declaring its sole purpose to be creating a return for shareholders. Now thanks to pioneers who passionately believe Friedman’s thinking is flawed, many corporations have stopped viewing corporate social responsibility as a means of compliance and started embracing it.

Thus, just as with the UN Declaration of Human Rights, the UN’s Global Compact stimulated increasing pressure from both activist groups involved in “the anti- globalization movement” and NGOs dissatisfied with the lack of monitoring and enforcement mechanisms in the compact’s organizational structure. New NGOs formed to assist the corporate, government, and public sectors in monitoring inputs (responsible behaviors) and outputs (responsible results and impacts). NGO web pages provide consumers interested in an organization’s policies and procedures a simple and powerful monitoring tool. Corporations across many business sectors know that their actions are being monitored in ways never before possible. For example, since 1996 the web page of Academics Studying Nike, Reebok, Adidas & Athletic & Campus Apparel Industry (http://business.nmsu.edu/, dboje/nike.html) has provided the opportunity to monitor employment practices, environmental impact, and working conditions of the factories with which these footwear and apparel corporations contract. Employee blogs posted on the web open another path for monitoring corporate behaviors (Edelman and Intelliseek, 2005).

The creation of Climate Counts provides a new extension of monitoring and encouraging public involvement. This NGO was created to encourage consumers to focus upon corporations’ records on climate change before making purchasing decision. It posts a scorecard which ranks 56 consumer companies, grouped by industry, on how they measure greenhouse gas emissions, their plans to reduce them, their support or opposition to regulation and how fully they disclose those activities (Deutsch, 2007).

Following a comprehensive review of the Global Compact’s governance during 2004-2005, a new governance framework was adopted in August 2005. Consistent with the Global Compact’s voluntary and network-based character, the governance framework was designed to encourage increased participation by the various stakeholders. However, much to the dismay of many NGOs, formal monitoring and enforcement mechanisms were not added. Also in 2005, the Global Compact added an academic network. This organizational structure joins the hundreds of already existing NGOs, such as Nike Watch, Coke Watch and the sectoral campaigns against sweat shops, extractive industries, and weapons. The goal of the network is to monitor and stimulate greater and more effective CSR behavior by corporations and compliance demands by the state and global organizations that have authority over them.

All these efforts resulted in “a flood of company Codes of Conduct [.. .] particularly from corporations involved in the garment, footwear, and textile industries (often singled out for criticism by activists)” (Wong et al., 2006). Relatedly, new technological developments and new forms of media enable the international community to better monitor corporate communication and behavior and hence highlight the presence or absence of a company’s Code of Ethics. As the development of the human rights regime shows us, the increasing numbers of Codes of Ethics are important for several reasons. First, the formal creation and declaration of values has long-term and often unintended consequences. Despite the mixed evidence of a positive association between the adoption of Codes of Ethics and greater ethical and/or responsible behavior and a related concern of activists and critical theorists that Codes of Ethics are a means of corporate obfuscation taking the focus away from questionable activities and practices (Kuhn and Deetz, 2008), Codes of Ethics are tangible evidence that an organization has recognized a need for, and has made a public commitment toward, ethical behavior. Codes tend to make employees feel better about and more secure in their organizations and customers have greater faith in the company (Wood, 2000). Thus, “It is not only the stakeholders who expect companies to pay greater attention to norms, values, and principles: companies themselves are acknowledging the importance of responsible business practice” (Waddock et al., as cited in Kaptein, 2004).

Within the corporate sector, new businesses have developed which seek to capitalize

on the growing interest and response to CSR. For example, the Calvert Investment Group created socially responsible investing (SRI) a strategy that integrates social or environmental criteria into financial analysis. Calvert has been extraordinarily successful in attracting investments. Calvert, as would be expected, argues that it is not only responsible behavior but also more profitable. Indices are now being generated and scholars are now testing the propositions to determine if over time SRI can be shown to also be more profitable behavior.

Calvert was one of the first, but now most major US Investment Houses, such as Citi, Goldman Sachs, UBS, and Merrill Lynch also have CSR funds (Greenbiz News, 2005). Corporate advisors, firms ranging from PR to accountancy also tout their services in making corporations either appear or actually be more socially responsible. As with the development of the human rights regime, over time the hypocrisy that is uncovered by the various monitoring groups should stimulate further activism, and demands upon state entities for the enforcement of three generation of rights to which the corporations in the Global Compact have committed. This will drive the CSR movement forward but not without serious challenges. The emergence of these three generations of CSR in the context of complex and interdependent globalizing processes which push organizations, states, and cultures in both convergent and divergent directions (Stohl and Stohl, 2005) implies that not all developments will be linear and positive. Global social capital is created, maintained, and dissolved in new types of organizational affiliations, public spaces, and loosely coupled networks and new forms of organization and models of leadership are constantly emerging. One major effect of these changes is that CSR efforts will confront hybrid organizational forms creating new opportunities but many pitfalls.

The global trend toward privatization has resulted not only in corporations assuming responsibility for heretofore public goods such as national security, but also new challenges for NGOs and the state in encouraging, monitoring, and enforcing CSR. For example, Packer (2007) charged that San Diego’s Titan Corporation, a defense contractor providing translators for US forces under contract with the Army’s Intelligence and Security Command has sustained the highest number of casualties of 119 US companies operating in Iraq. The company is notorious among the Iraqis for mistreating its foreign staff as well as refusing compensation for interpreters recovering from injuries sustained in roadside explosions while performing translation duties accompanying soldiers. Titan also disavows corporate responsibility to interpreters (or their families) whom come under threat from Iraqi insurgents as a result of their assistance to the US military. Titan’s interpreters were also implicated in the Abu Ghraib prison scandal and Titan (along with CACI) is currently being sued under the Alien Tort Claims Act (ATCA) by one of the victims of the torture. Saleh v. Titan Corp. is the latest in a recent line of cases that have tested the bounds of ATCA litigation in US federal courts since Filártiga v. Peña-Irala was decided thirty-seven years ago. The interesting legal question germane to this discussion is whether or not foreign plaintiffs alleging human rights violations by corporate defendants operating directly under state authority will be able to seek justice.

As corporations take on more of the roles previously considered “state” functions and thus create new forms of corporate irresponsibility, new forms of challenges to corporations will continue to emerge. We suggest that the Global Compact, through the participation of major corporations and IGOs, regardless of its compliance monitoring flaws and enforcement deficiencies as noted by the NGOs, also legitimates challenges to corporate behaviors. As CSR becomes a legitimate norm by which to evaluate global behavior more options are available for monitoring and sanctioning. Further, and most intriguingly, as with the development of the human rights regime, the structural relations amongst the key organizational actors, the nations and NGOs and, in the case of the CSR regime, the corporations, become more complex, transcending traditional boundaries associated with sovereignty. New partnerships, new relationships, and new motives for collaboration and compliance with respect to corporate responsibility will emerge. For example, in the wake of a series of food scandals related to the production of both tainted human and pet food within Chinese factories which were then sold in US products Chinese officials, worried about the threat that tainted food posed for the future exports of Chinese corporations, called upon US companies to assist in the policing of Chinese companies and to share responsibility for the appropriate behaviors of Chinese firms by demanding more than a good price on a product (MacLeod, 2007). Despite the many limitations associated with current monitoring and enforcement mechanisms, and numerous NGO complaints about the Global Compact, the examples throughout this paper provide evidence that all three generations of CSR are becoming important considerations in the evaluations of corporate activities.

Stohl, Stohl and Popova (2009) investigated how corporate codes of ethics reflected corporate interest in presenting their commitment to first, second and third generation rights. The study explored the degree to which the Codes of Ethics of 157 corporations on the Global 500 and/or Fortune 50resented first, second and third generation CSR. The authors examined 4,083 discrete thematic statements of which 3,384 (83%) were first generation, 395 (9.9%) were second generation, and 304 (7.5%) were third generation. The study illustrated the continuing dominance of the first generation thinking.as the majority of statements reflected conventional concerns related to stockholders, profits, and the legal constraints affecting business practices. There were some interesting geographic differences. Western Europe had both a larger proportion of companies that included second generation thinking in their Codes (91.7%) and, on an average, a greater presence of second generation thinking within Codes of Ethics. European companies were also more likely to have third generation statements in their codes. European companies had third generation thinking in European companies analyzed, 87.5% had third generation thinking in their Codes of Ethics, while for the US companies, only 74.6% had sections containing third generation items. When compared directly, these differences were not statistically significant.

Changes in communication technologies have also played a role in the development of CSR. The development of new information media makes the boundaries between the private and corporate spheres porous. The affordances of social media, for example, not only make corporate behavior more visible and knowable to civil society, but organizational communication and activity actions are less bounded to the workplace or even the community in which it is embedded. Stohl et al (2015:1) argue that social media policies themselves are material manifestations of a company’s CSR repertoire, culture, strategy, and underlying organizational belief systems which provide a powerful text for understanding the tensions and dynamics embedded in contemporary notions of CSR. To determine to what extent organizations’ social media policies embody the sensibilities and communicative values associated with second and third generation CSR (i.e. employee rights and dialogic processes) or represent first-generation CSR ideas (i.e., adherence to laws to facilitate profit-making) they examined the social media policies of major corporations. They identify five central communicative tenets embedded in contemporary notions of CSR: (a) freedom of speech; (b) collective information sharing; (c) respecting differences; (d) engagement and stakeholder dialogue; and (e) transparency Stohl, et al 2015:5). Table 1 from the study presents foundational principles, sources, and examples of these five communicative tenets.



Their findings suggest that social media use is most often conceived within a business or risk frame, not a rights frame and that more than two-thirds of companies’ policies violate internationally agreed upon CSR communicative norms to some degree. However, the picture is not completely bleak. The findings also suggest that almost a third of social media guidelines embrace—at least to some extent—the affordances of social media from a third-generation CSR perspective. In these cases, employees are explicitly encouraged to express their own opinions and to engage and share information with various internal and external stakeholders. Moreover, social media legislation in its early stage of development throughout the globe, and some legal rulings have protected the communication rights of workers while others however have expanded the rights of employees to constrain speech (Stohl et. al, 2015). Clearly, the CSR regime has not yet been fully developed. What is still unclear at this point is 1) whether the business risk frame will overpower CSR considerations across the globe, 2) what international regulations and mechanisms will become institutionalized and 3) who will provide the protections necessary to maintain these rights and the dialogue necessary to promote CSR from within as well as without the corporation.

Conclusion

As with the emergence of the global human rights regime, the communicative processes associated with the UN Global Compact have produced much greater attention to, and consideration of, CSR as a norm of global behavior. The interactions of corporations, states, NGOs, and an engaged citizenry are compelling significant changes in the expectations of and CSR through the development of networks that embrace multiple segments of society. CSR in now firmly embedded within evolving patterns of global relations which help communicatively constitute a new global CSR regime. The UN Guiding Principles on business and Human Rights was endorsed by the **Human Rights** Council in its resolution 17/4 of 16 June **2011.** The Framework rests on three pillars (Ruggie and Nelson, 2015:3)

1. The state duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication;

2. An independent corporate responsibility to respect human rights, which means that business enterprises should act with due diligence to avoid infringing on the rights of others and to address adverse impacts with which they are involved;

3. Greater access by victims to effective remedy, judicial and non-judicial.

It is still too early to determine if the protect, respect, remedy framework authored by Ruggie will dramatically alter the development of the CSR regime but it is clear that it has boosted the standard setting, promotion and protection mechanisms that foster successful regimes and that another step has been taken on the path to securing the legitimacy and institutionalization of the CSR regime.

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