# Corporate Social Responsibility for the Marginalized: Incorporating Human Rights and Civic Engagement in Business Activities

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*Abstract: Corporations often perform in states with low or nonexistent regulatory control concerning human rights or the environment. In these spaces, there is a profitable place for good and bad actors. To break with the inherent structural violence and exploitation of the global economy, corporations must take a leadership role in human rights protection. This role involves the enlightened use of Corporate Social Responsibility and human rights discourse to strengthen positive business activity, the role of the state, and society's realization of human rights and individual development. By exploring practical corporate measures to reach this end, this paper looks to the corporation as a progressive actor in human rights enforcement and protection.*

## Introduction

Since its inception, the corporation has taken advantage of the environment and society producing both benefits and disadvantages. To be sure, the public exalts and discredits the corporation, with equal fervor, like no other non-religious entity in existence. Through historical and modern conditions of globalization, deregulation, power politics, and outcomes of (post)colonial arrangements, the corporation continues to develop its influence and power. The inherent exploitation in capital accumulation is filled with miserable tales of sweatshops, child labor, low pay, dangerous work, opposition to unions, forced and slave labor, environmental degradation, crimes against humanity, and genocide – with the corporation starring as the main villain. Those of us on the losing end continue suffering due to manifestations of transnational structural violence and inequity legitimized through legal constructs and social exclusion – business as usual in the global economy.

This violence, and opportunities for peace, becomes substantial depending on differing scales and geography. Corporations acting within sites of conflict, totalitarianism, colonial or neocolonial mandates, or spaces where the rule of law is low or corruption is high, reveals this violence in all its brutality. In these states substantial gaps in human rights protection exist. These gaps carve out spaces of exception where state and non-state actors may abuse human rights with impunity. Struggling against this troubling reality requires mobilizing diverse modalities of human rights protection to ensure a comprehensive procedure to close the human rights gap. In international law, the state bears the responsibility to protect its citizens from non-state human rights abuses. Nevertheless, the state can be unable or unwilling to protect its citizens. Amid these dark circumstances, supplementary state and non-state actors are indispensable. Here, corporations can play a pivotal role.

Circumventing the pressing analysis concerning charges of neocolonialism, cultural imperialism, exploitation, and corporate malfeasance, this article turns its attention to the ways in which the corporation can provide positive outcomes in human rights controversies. I argue that corporations can make great strides in human rights protection through substantive changes in corporate social responsibility (CSR) initiatives and integration of human rights principles and due diligence into business activities. The article begins by exploring the modern corporation and fundamental CSR theories and practices. This section cites CSR's strengths and weaknesses and asserts an invaluable area for improvement concerns methodologies aimed at strengthening state and civic involvement. The second section maintains that human rights principles should inform each aspect of business activity. In particular, corporations must maintain human rights principles, due diligence, and impact assessments in project development, management, and execution. Throughout these two sections, I critically examine the corporations' role in human rights disputes and controversies maintaining that effective activist and advocate strategies should incorporate corporations as an essential ingredient in combating human rights abuses.

## The Corporation and Roots of Corporate Social Responsibility

The corporation maneuvers between highly regulated and unregulated spaces by traversing transnationally in the continued pursuit of profit and power. As the corporation's societal footprint grew, so too did its social responsibility and pressure. In response to ongoing corporate misbehavior, social movements, government regulation, and evolving societal norms transformed the corporation's production, labor, and environmental practices to more socially responsible outcomes. These movements, however, come against economic norms "designed to encourage free trade and commercial activity, certainly not to restrict it in the name of human rights" (Schutter 2006, 223). Neoliberalism and postcolonial geopolitics brought about the

retreat of government control in matters important to the regulation of corporations, society, and the environment - effectively leaving wide governance gaps. Globalization compounded these affects by complicating relationships between "the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences" (Ruggie 2008, 3). This time-space compression[1] initiated new possibilities for corporations to capitalize and exploit newly opened and emerging markets often resulting in negative societal impacts.

Many governments were more responsive to business and political elites than to the general public and socially excluded individuals (Crouch 2010, 42), thereby failing in their responsibility to protect against non-state human rights abuses (including corporations). The transition of regulatory control from the state to the corporation, concerning matters of economic governance, created an era of corporate/state partnerships exerting control over the general populace effectively excluding marginalized citizens from the public benefits created by corporate/state agreements (Kurian 2007, 441). Certainly, in the modern capitalist economy, there are winners and losers. Creating a fair and just global system, then, requires significant attention to methods of bridging the gaps between corporation, state, and equality.

Because of historical and contemporary occasions of corporate malfeasance publicized in media, legal actions, social movements, and social networks, corporations understand the necessity of self-regulatory practices that protect its intangible assets and produce a responsible corporate image. The majority of these practices fall under the popular banner of Corporate Social Responsibility (CSR). As one author notes, "CSR might be seen as a replacement for a state that is retreating from its engagement with economy and, also, society" (Crouch 2010, 41). CSR is a voluntary corporate strategy that assumes self-regulation as appropriate in

[1] Defined in *Spaces of Work: Global Capitalism and Geographies of Labor* as – "the increase in the number of events happening in any given moment of real time and the reduction in the relative distance between places due to enhanced transport and communications technologies."

circumstances, amongst many others, of weak state control, environmental degradation, and human rights abuses.

Coming to terms with the power and influence corporate activities have upon society and the environment, many corporations have turned to CSR as a means to transform its relationship with society and the environment into a net positive agreement. In its broadest sense, CSR "aims both to examine the role of business in society, and to maximize the positive societal outcomes of business activity" (Ward 2008, 9). As the standard of CSR practice, corporations implement procedures including, but not limited to, "codes of conduct, declarations, environmental reporting, social auditing, standard setting and eco-labeling activity" (Tully 2007, 139). The goal of CSR is to discover, implement, and improve business practices that support social causes by improving social well-being and the environment (Kotler and Lee 2005, 208). The variety of definitions, and the elasticity of the one provided above, allows companies to "proclaim their adherence to [CSR] while failing to adopt appropriate principles for the conduct of their core business" (Chandler 2006, 65). One researcher found that many corporations' public relations department runs their CSR programs (Dine 2005, 229). Therefore, beyond the definitional complexity is the notion of hard and soft CSR - the latter exemplifying CSR in image only. Beyond this, we see two general underlying themes – the "business case" and voluntarism.

The "business case" promotes CSR as a corporate strategy to increase positive outcomes for the corporation, society, and the environment. The World Bank enumerates several foreseeable value creating outcomes available to corporations implementing CSR initiatives –

> (1) builds political capital; (2)ensures government support; (3)avoiding crisis due to CSR misconduct; (4)cooperation with local communities; (5)attracting and retaining quality investors and business partners; (6)creating new business opportunities; and, sustainable competitiveness (ECRC N/A).

The "business case" for CSR represents a shift from a defensive posture, reacting to social and

governmental pressure, to a proactive posture that exploits areas of mutual positive benefits (Bullis 2007, 325). For example, technical improvements in production, consumption, and labor practices can benefit both the environment and society while increasing profits for the corporation through increased efficiency. Instead of a singular focus on the "bottom line" – profit maximization and shareholder responsibility – corporations can cultivate the "triple bottom line" – "economic, social and environmental responsibility, including responsibility in relation to human rights" (Mcbarnet 2004, 63) – as a legitimate business strategy. To be clear, investment in CSR initiatives does not and should not equate with accountability or responsibility. On the contrary, CSR should be seen as yet another investment in business strategy similar to any other methodologies corporations use to increase profit (Vogel 2005, 13). Thus, the business case for CSR incorporates the notion that shareholder wealth maximization and social responsibility can occur simultaneously, but this is not always the case. A CSR initiative with a necessary requirement of corporate benefit should be necessarily viewed with a critical eye.

The second theme of CSR centers on voluntarism in the absence of government regulation. US and UK Governments are especially hesitant to regulate the activities of their corporations for fear of reducing international competitiveness (Zerk 2006, 7-8). Other states don't have the infrastructure or expertise to regulate corporate activity or choose not to because of corruption. In a sense, CSR is a corporate preemptive measure to forestall governmental regulators. One scholar argues that CSR is a –

> key element in corporate strategies to stave off direct government regulation and public criticism by projecting an image of corporate responsibility and fairness in a world where inequality and social injustice are growing" (Ireland 2010, 90).

This self-regulating activity, occurring outside the purview of regulatory bodies, is the corporate attempt to improve the experiences of the many stakeholders (employees, consumers, suppliers, distributors, and other partners) while retaining control of the CSR program's reach and efficacy.

Voluntary CSR provides corporations with the flexibility to develop and implement social and environmental initiatives geared specifically to the affected site, arguably more affective than the usual "one size fits all" procedural approach. However, The UN Secretary-Generals Special Representative for Business and Human Rights, John Ruggie points to their possible ineffectiveness –

> Companies do not necessarily recognize those rights on which they may have the greatest impact. And while the rights they do recognize typically draw on international instruments, the language is rarely identical. Some interpretations are so elastic that the standards lose meaning, making it difficult for the company itself, let alone the public, to assess performance against commitments (Ruggie 2007, 22).

While a corporation may voluntarily commit itself to a CSR initiative, the initiative itself can be ineffective and unaccountable. CSR involves self-enforcement and public accountability, and as Ruggie points out, the corporation can deflect any public progress for accountability. Florian Wettstein, a business ethics scholar, argues that corporations will "seriously engage only with those stakeholders that are powerful enough to be a potential danger for the corporation's reputation and image" (Wettstein 2009, 279). With voluntarism, and CSR in general, we see varying levels of engagement dependent on the corporation's commitment or fear of social reprisal. Moreover, the voluntary nature of CSR preempts state regulation through codes of conduct allowing the corporation to maintain business as usual practices while claiming to be socially and environmentally responsible (Ireland 2010, 90). Thus, voluntarism reflects a corporation's commitment to CSR and how its commitments fluctuate depending on the circumstances.

Clarifying the general boundaries and themes of CSR sheds light on its potential, but it also uncovers some of the shortcomings experienced by corporations, shareholders, and stakeholders. The "business case" and voluntarism explain why corporations would implement CSR initiatives, but also demonstrates why we must remain critical of the global CSR project.

CSR is neither our saving grace nor a transformative occurrence in corporate behavior – it is an ameliorative change in corporate practice. As one author notes, the underlying CSR objective is "the much more modest one of trying to ensure that maximization of shareholder value is not pursued by corporations without their having some regard to the impact of their activities on society at large" (Ireland 2010, 89). However, common sense seems to suggest CSR practices points to a modest improvement in corporate personification. The evolving nature of corporate executives' awareness in sustainability, social responsibility, and environmental issues promises a brighter future. For one scholar, the best case scenario we should expect is when a corporation "exercises its social responsibility in a committed manner and, with that, demonstrates not only that it considers itself responsible, but also that it recognizes the importance of the others around it" (Chavarria 2007, 141). How deep this involvement and how sincere the compassion is questionable as we witness the continued escalation of global conflict and inequality.

**CSR, the State, and Civic Engagement**

The majority of corporations are complicit in the international capitalist system that consistently derails human rights and environmental protection. To combat this, CSR initiatives require a fundamental and systemic shift towards human rights discourse. Without significant change in corporate governance and practices, inequality and violence will continue unabated. As one scholar notes –

> [a]ny account of [CSR] that fails adequately to address the most fundamental moral responsibilities, that is, genuine obligations of justice, is systematically incomplete. Unfortunately, this is the case for almost all current interpretations (Wettstein 2009, 276).

A corporation that pollutes or exploits workers cannot justifiably mobilize philanthropic projects or superficial CSR initiatives. In other words, when a corporation exploits nature and labor to

maximize profits, should we consider its generosity to social and environmental programs justice? Justice would entail a fundamental shift in how a corporation honors society and nature. For the majority of corporations, “the realm of justice is reduced to legal laws, while everything else is a matter of (voluntary) beneficence and is up to the goodwill and discretion of the corporation” (Wettstein 2009, 273). Justice can no more be relegated to legal laws, voluntary codes, weak legislation, and shallow philanthropic projects, justice requires much more.

CSR practice must be broadened to include the corporations' responsibilities to strengthen civil society and create/support public policies that establish minimum standards for other "less virtuous" competitors. This would not only create a level playing field, it would realize the underlying goals of CSR – the improvement of social and environmental existence (Vogel 2005, 172). The corporate/state partnership, mentioned earlier, indicates a constant relationship between the interests of governments and corporations. A deficit in accountability and responsibility in struggling nation-states means a corporation's CSR initiative can be the sole regulator of social, environmental, and corporate conduct. This can no longer be the case. As one author notes, "[e]ffective CSR should ensure that companies conduct their business in settings that allow states to fulfill their role of providing social, cultural, and political safety and sustenance to all their citizens" (Kurian 2007, 441). A mutual agreement between states and corporations to improve human existence should be an essential component to business activities and CSR initiatives.

Requiring a greater role of the nation-state through corporate regulation and human rights protection, in tandem with CSR initiatives, is mutually beneficial. One author notes that governments can "legally embed industry expectations of appropriate corporate behavior… [thereby] acting as a de facto barrier to market entry" (Tully 2007, 139). Improving standards of conduct, both voluntary and enforced, sends a clear message to corporate and state actors.

Implementing barriers to market entry ensures minimum protections from corporate malfeasance and a greater role for the state.

Increasing government support is an indispensable component to create a corporate environment that holds human rights above profit. Wettstein believes –

> [a]s long as socially irresponsible behavior and the disregard of human rights are rewarded with an immediate economic benefit in the form of a competitive advantage, there will always be corporations ready and willing to exploit such opportunities" (Wettstein 2009, 343).

There is always the bottom line. Companies must make a profit to stay in business. If one company exploits individuals because of their cheap labor, a competing company would be hard pressed to use unionized labor (Schutter 2006, 226). For surely, "[t]here is a place in the market economy for responsible firms. But there is also a large place for their less responsible competitors" (Vogel 2005, 3). Creating a national and international market that rewards higher standards of business practice, through governmental regulation, would influence corporations to adopt meaningful CSR initiatives with positive public benefits. Therefore, the corporation must actively promote and partner with the state to build and sustain public policies and programs for the benefit of the populace.

These public-private partnerships have gained increasing importance for improving living conditions and health outcomes in developing countries. Joint enterprises between governments and corporations can bring about conditions conducive to individual and communal realization of human rights. As one author notes, "[i]f universal access to essential services is to be guaranteed, governments cannot abdicate their right and duty to regulate. Alternatively, more proactive commercial practices could realize fundamental rights and freedoms" (Tully 2007, 106). Tully acknowledges the necessity for government involvement in the regulation of corporations and the corporations' necessary role. Involving the government in corporate public

projects, such as development, has multiple benefits. Public-private partnerships must aspire to a positive form of development that looks beyond basic economic growth – market expansion or individual wealth – and instead centers on individual development. Individual development, promoted by Amartya Sen, ties development to people's capabilities – the capability to enjoy real freedom, the capability to enjoy opportunities and achievements, the capability to enjoy their society (Alkire 2009, 193). This type of development brings everyone up. Public-private partnerships can assist in making strides towards this goal.

Even without the support of the state, corporations should assume a leadership role in public programs. A central component of CSR in developing countries should "contribute to outcomes that empower people, enhance accountability, provide avenues for participation, promote non-discrimination and engage in business conduct that is ethical" (Kimathi 2011, 139). A corporation implementing these meaningful principles, without reservation, impacts the public in constructive ways. A problem exists, however, with CSR emerging from the global north's values, which can be seen as another form of neocolonialism, elitism, or ideological imposition. One author notes –

> [t]he term "responsibility" has strong undertones of the civilizing mission of the colonial era when imperialists sought to colonize territories as part of their responsibility to civilize the "savage natives" but concealed their real motive of political, social, cultural, and, most important, economic domination" (Kurian 2007, 443).

A long and painful relationship between (neo)colonizers, their corporations, and (de)colonized peoples exacerbates an already distrustful relationship. Furthermore, CSR development projects can undermine state interests in their own culturally appropriate form of development, as opposed to the corporate led development schemes often critiqued by scholars and activists in the global south. Perhaps CSR only provides the image to assuage consumers, shareholders, and stakeholders' guilt over corporate social and environmental exploitation in developing countries.

Ultimately, CSR practitioners and corporations must "must move away from an emphasis on image to an emphasis on substance" (Porter 2006, 14) and develop a compassionate and developed sense of civic engagement by finding a prominent place for the marginalized within the development of CSR programs.

In the end, we will measure corporations by how much of their power and influence were devoted to society and the protection of human rights. Through public-private partnerships and other civic programs, the corporation and state can competently provide and assist suitable development and social projects capable of ensuring the realization of individuals' human rights.

## Incorporating Human Rights into Corporate Activity

The importance of CSR cannot be understated, but it also cannot be singularly responsible for improving the social and environmental externalities of corporations. Integrating the human rights framework within CSR would bring cross-disciplinary agreement on the underlying ethical principles and their applicability to corporations. Voluntary CSR codes and unenforceable declarations are not what victims of corporate malfeasance need. Victims need genuine action. One author argues –

> although human rights law may traditionally have been devised to protect individuals from abuses by states, international law must now respond to shifts in power in the international system away from states and in favour of large corporations (Zerk 2006, 77-8).

The human rights framework carries great ethical weight and far-reaching mechanisms to deter, punish, and influence corporate behavior especially in developing countries (Kimathi 2011, 140). Human rights are the meta-discourse specifying obligations and responsibilities while "aspects of consumer law, criminal law, environmental law or corporate law all help companies decide what they should do and not do" (Avery 2006, 72). Human rights principles include key actors for

effective action – the state, business and society (Kimathi 2011, 140). Thus, human rights discourse provides benefits for the various individuals and collectives affected by corporate activities.

Such as one might expect from corporations, companies must be convinced that integrating human rights norms into their business activities is in their best interest. One author notes the negative consequences, "[c]ompanies that fail to respect human rights expose themselves to a wide range of risks, including legal action, negative media coverage, protests, shareholder action and boycotts" (Avery 2006, 75). A corporation's commitment to human rights safeguards itself from these and similar negative outcomes. More than the damage that human rights abuses expose corporations to, corporate respect for human rights can contribute to positive community relations, risk reduction, build corporate reputation, access to greater human resources, encourage employee development, and improve working conditions conducive to labor productivity (Cragg 2004, 125-6). However, the “business case” for human rights can be less than pragmatic and entirely superficial. To truly respect human rights, corporations must reach beyond their financial bottom line. As one author notes --

> it is difficult to argue that rights such as the right to life, to health and to freedom from discrimination and abuse should only be respected when it pays. Companies are obliged to respect human rights at all times, not just when it suits them (Avery 2006, 77).

Legal enforcement can be extremely low for corporate malfeasance revealing why the corporation should instill and integrate human rights principles into their own CSR practice. In situations where human rights are fragmented, unenforced or disposed of, the corporation can protect itself from litigation and other forms of "naming and shaming" by having a strong CSR practice. Therefore, integrating human rights into corporate policy and CSR initiatives is in the corporation’s best interest.

Awareness and principled action concerning the human rights landscape in countries

where the corporation does business is a necessary practice. One author highlights the importance of this practice –

> Many corporate human rights issues arise because companies fail to consider the potential implications of their activities before they begin. Companies must take proactive steps to understand how existing and proposed activities may affect human rights" (Anton and Shelton 2011, 896).

In other words, corporations must make due diligence in their business decisions and activities. John Ruggie believes that due diligence and human rights impact assessments are the single most effective measure to yield positive results in the human rights performance of corporations (Ruggie 2007, 22). Ruggie notes three important factors of due diligence -

> The first is the country contexts in which their business activities take place, to highlight any specific human rights challenges they may pose. The second is what human rights impacts their own activities may have within that context - for example, in their capacity as producers, service providers, employers, and neighbours. The third is whether they might contribute to abuse through the relationships connected to their activities, such as with business partners, suppliers, State agencies, and other non-State actors. How far or how deep this process must go will depend on circumstances (Ruggie 2008, 17).

Depending on the corporation's societal footprint, the business project, and the country of concern, the corporation's responsibilities fluctuate. However, Ruggie points out the bare minimum to be "assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed" (Ruggie 2011,16). Beyond Ruggie's minimum requirements, these findings and reports should be published and available on corporate websites. Through this procedure, the corporation increases its public accountability by documenting the human rights impacts of their business decisions. Ruggie goes on –

> Where a business enterprise contributes or may contribute to an adverse human rights impact, it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible (Ruggie 2011, 18).

That is to say, if a corporate project will incur human rights abuses, then the corporation must examine other possibilities and pathways of doing business in that area. This self-examination provides assessment opportunities for corporations to improve their own business ethics, but also areas where corporations can improve human rights outcomes in locales it considers doing business in. Due diligence in human rights impact assessment is a necessary function for contemporary corporate practice, but these practices may not be warmly welcomed.

Incorporating human rights discourses and due diligence into corporate strategies and decisions can be difficult if socially conservative management practices continue to influence investor and management decisions. Despite attempts to transform corporate behavior, the corporate ethos principally remains the same. This ethos, in Anglo society, shows a single-mindedness for profit maximization in the interest of shareholders, competitive success and advantage, and career advancement. These values largely ignore the negative consequences of ecological and social externalities by shifting the burden to those less fortunate (Waddock 2007, 82). One author notes, "if profit maximisation requires respect for human rights, there is no problem. If it does not, as frequently it would seem not to, then corporations have an obligation to their shareholders not to allow human rights concerns to impede with their profit maximizing" (Cragg 2004, 106). Profit maximization and shareholder accountability are the significant barriers for implementing powerful CSR initiatives and integrating human rights into the corporate ethos. Thus, renegotiating corporate values is essential. Corporate leaders must exemplify and incorporate human rights principles as the basis for corporate activity. Ruggie rightly notes, 'leadership from the top is essential to embed respect for human rights throughout a company, as is training to ensure consistency, as well as capacity to respond appropriately when unforeseen situations arise" (Ruggie 2008, 18). The corporate vanguards can no longer orchestrate human rights practices on the sidelines. Corporations must admit the necessity of

change and that business as usual may end up costing us everything.

Multiple stakeholders, including the corporation, would profit from human rights integration in its business activities and ethos. Fervent due diligence and impact assessments ensures positive outcomes for human rights controversies in what could be complex legal and political nation-states. A corporation's attention to its affects on the ground is essential for the effective incorporation of human rights principles, so too is leadership stressing the importance of positive change.

## Conclusion

Once you turn on the news you quickly see the results of structural violence in the global system – social conflicts, children dead or dying, broken families and broken lives. These negative manifestations of the current global economic and political order reveal that many of our daily activities, and those of the corporation, are morally unacceptable. Wettstein argues that the main obligation falls onto those with the power to transform society and that further engagement with the economic and political structures negatively affecting millions of individuals makes those actors complicit in the suffering of millions (Wettstein 2009, 304). To transform this experience requires a fundamental shift in ideas, beliefs, and practices. Corporations, along with the rest of us, have the duty and opportunity to manifest a better world. By improving CSR practices, strengthening state involvement, creating positive private-public partnerships, and incorporating human rights into business activities, corporations can produce more significant positive changes than any one person could. The corporation has the power and opportunity to write its own story – a story where it is no longer stars as the villain, but the hero.

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