

THE LOGIC: THE MULTIFACETED NOTION OF CORPORATE RESPONSIBILITY pdf

1: Hegel and Capitalism

Discussing and contextualizing contemporary debates on international corporate social responsibility, globalization and the impact of reputation, this key text integrates them into a new and coherent framework: Societal Interface Management.

Both the retrospective and prospective uses also raise the relation between legal and moral responsibility. Many important theories of responsibility relate to legal concerns, which will be discussed in a later section. As we pursue these topics, there is also the difficulty of seeing how they interrelate, so that it makes sense that we use the same word to raise each issue. The discussion begins with the topics which philosophers have most often discussed: Moral Agency Normal human adults represent our paradigm case of responsible agents. What is distinctive about them, that we accord them this status? Thinking of retrospective responsibility in particular, why can be held accountable for their actions – justly praised or blamed, deservedly punished or rewarded? The philosophical literature has explored three broad approaches to moral agency: Human beings have free will, that is, distinctive causal powers or a special metaphysical status, that separate them from everything else in the universe; Human beings can act on the basis of reasons; Human beings have a certain set of moral or proto-moral feelings. The first approach, although historically important, has largely been discredited by the success of modern science. Science provides, or promises, naturalistic explanations of such phenomena as the evolution of the human species and the workings of the brain. Almost all modern philosophers approach responsibility as compatibilists – that is, they assume that moral responsibility must be compatible with causal or naturalistic explanation of human thought and action, and therefore reject the metaphysical idea of free will. There can be terminological confusion here. Among modern compatibilists, a contest remains, however, between the second and third approaches – positions that are essentially Kantian and Humean in inspiration. It is indisputable, however, that our rationality is at the centre of his picture of moral agency. Kant himself does not speak of responsibility – the word was only just coming into the language of his day – but he does have much to say about imputation *Zurechnung*, that is, the basis on which actions are imputed to a person. Kant was principally concerned with evaluation of the self. Although he occasionally mentions blame mutual accountability, his moral theory is really about the basis on which a person treats herself as responsible. The core of his answer is that a rational agent chooses to act in the light of principles – that is, we deliberate among reasons. Therefore standards of rationality apply to us, and when we fail to act rationally this is, simply and crudely, a Bad Thing. It is important to be aware that Kant sees reason as having moral content, so that there is a failure of rationality involved when we do something immoral – for instance, by pursuing our self-interest at the expense of others. Even if we sometimes feel no inclination to take account of others, reason still tells us that we should, and can motivate us to do so. David Hume denied that reason can provide us with moral guidance, or the motivation to act morally. He is famous for his claim that "Reason is wholly inactive, and can never be the source of so active a principle as conscience, or a sense of morals" *A Treatise of Human Nature*, book 3, part 1, sect. If we are moral agents, this is because we are equipped with certain tendencies to feel or desire, dispositions that make it seem rational to us to act and think morally. Hume himself stressed our tendency to feel sympathy for others and our tendency to approve of actions that lead to social benefits and to disapprove of those contrary to the social good. Another important class of feelings concern our tendencies to feel shame or guilt, or more broadly, to be concerned with how others see our actions and character. A Humean analysis of responsibility will investigate how these emotions lead us to be responsive to one another, in ways that support moral conduct and provide social penalties for immoral conduct. This classic essay underlined the role of "reactive sentiments" or "reactive attitudes" – that is, emotional responses such as resentment or shame – in practices of responsibility. The basic criticisms that each position makes of the other are simple. Kantians are vulnerable to the charge that they do not give a proper account of the role of feeling and emotion in the moral life. Humeans

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are vulnerable to the charge that they cannot give any account of the validity of reasoning beyond the boundaries of what we might feel inclined to endorse or reject: Can the Humean really hold that moral reasoning has any validity for people who do not feel concern for others? So far as responsibility is concerned, Wallace is a well-regarded attempt to mediate between the two approaches. Rather differently, Pettit uses our susceptibility to reasons as the basis for an essentially interactive account of moral agency. For our purposes, perhaps the most important point is that both positions highlight a series of factors important to responsibility and mutual accountability. Two further thoughts should be added which apply regardless of which side of this debate one inclines toward. One possible implication of this is that some other animals might have a degree of moral agency; another implication is that human beings may vary in the extent of their agency. This seems clearly true of children as opposed to adults. Second, none of these factors has an obvious connection to free will, in the metaphysical sense that opposes free will to determinism. As we shall see, however, whether we emphasize the rational or the affective basis for responsible agency tends to generate characteristically different accounts of retrospective responsibility, where the issue of free will tends to recur.

Retrospective Responsibility In assigning responsibility for an outcome or event, we may simply be telling a causal story. This might or might not involve human actions. Such usages do not imply any assignment of blame or desert, and philosophers often distinguish them by referring to "causal responsibility. Among the many different causes that led to an outcome, that action is identified as the morally salient one. If we say the captain was responsible for the shipwreck, we do not deny that all sorts of other causes were in play. But we do single out the person who we think ought to be held responsible for the outcome. Philosophers sometimes distinguish this usage, by speaking of "liability responsibility. This judgment typically pictures the person as liable to various consequences: This topic is an old concern of philosophers, predating the term "responsibility" by at least two millennia. The classic analysis of the issues goes back to Aristotle in the *Nicomachean Ethics*, where he investigates the conditions that exculpate us from blame and the circumstances where blame is appropriate. Among conditions that excuse the actor, he mentions intoxication, force of circumstances, and coercion: We can be blamed for what we do when threatened by others, but not as we would be if coercion were absent. In each case, the issue seems to be whether or not we are able to control what we do: However, although Aristotle thinks that our capacities for deliberation and choice are important to responsible agency, he lacks the Kantian emphasis on rational control discussed in the last section. Aristotle grants considerable importance to habituation and stable character traits – the virtues and vices. On the other hand, how we respond to coercion does reveal much about our virtues and vices; the point is that the meaning of such acts is very different from the meaning they would have in the absence of coercion. Why should this be so? The person who acts badly does not: Since blame, guilt and punishment are of great practical importance, it is clearly desirable that our account of responsibility justify them. Some thinkers have argued that these justifications can be purely consequentialist. For instance, Smart argues that blame, guilt and punishment are only merited insofar as they can encourage people to do better in the future. However, most philosophers have been dissatisfied with such accounts. For most people, the intuitive justification for the sort of desert involved in retrospective responsibility lies in individual choice or control. You chose to act selfishly: You chose not to take precautions: You chose to break the law: The question of legal responsibility is considered separately, below. This way of putting matters clearly gives pride of place to our capacity to control our conduct in the light of reasons, moral and otherwise. It will also emphasize the intentions underlying an action rather than its actual outcomes. This is because intentions are subject to rational choice in a way that outcomes often are not. It can be argued that our intentions and choices are conditioned by our characters, and our characters by the circumstances of our upbringing. Clearly these are not matters of choice. This is why a concern with retrospective responsibility raises the family of issues around moral luck and continues to lead back to the issue of free will: In other words, although the Humean analysis can be understood in terms of individual psychology, it also points to the question: What is it about human interaction that leads us to hold one another responsible? Kantians, on the other hand, tend to think of retrospective responsibility, not as a matter of

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influencing others, but rather as our respecting individual capacities for rational choice. This respect may still have harsh consequences, as it involves granting people their just deserts, including blame and punishment.

Prospective Responsibility A different use of "responsibility" is as a synonym for "duty. Sometimes we use the term to describe duties that everyone has – for example, "Everyone is responsible for looking after his own health. He is responsible for sorting the garbage; she is responsible for looking after her baby; the Environmental Protection Agency is responsible for monitoring air pollution; and so on. In these cases, the term singles out the duties, or "area of responsibility," that somebody has by virtue of their role. This usage bears at least one straightforward relation to the question of retrospective responsibility. We will tend to hold someone responsible when she fails to perform her duties. A captain is responsible for the safety of the ship; hence he will be held responsible if there is a shipwreck. The usual justification for this lies in the thought that if he had taken his responsibility more seriously, then his actions might have averted the shipwreck. In some cases, though, when we are entrusted with responsibility for something, we will be held responsible if harm occurs, regardless of whether we might have averted it. This might be true if one hires that is, rents a car, for instance: In order to hire rent the car in the first place, one must accept – take responsibility for – certain risks. We may think that everybody has a duty that is, a prospective responsibility to make recompense when certain sorts of risks materialize from their actions. Consider a standard example: Yet we usually think that people have a duty to make some recompense when damage results from their actions, however accidental. From the point of view of our interacting with one another, the issue is not really whether a person could have avoided a particular, unfortunate outcome, so much as the fact that all our actions create risks; and when those risks materialize, someone suffers. The question is then – as Arthur Ripstein has put it – whether the losses should "lie where they fall. But we often think that losses should be redistributed. For that to happen, someone else has to make some sort of amends – in this case, the person who caused the accident will have to accept responsibility. In terms of prospective responsibility, then, we may think that everyone has a duty to make certain amends when certain risks of action actually materialize – just because all our actions impose risks on others as well as ourselves. In this case, retrospective responsibility is justified, not by whether the person controlled the outcome or could have chosen to do otherwise, but by reference to these prospective responsibilities. Notice, however, that we might want to distinguish the duty to make amends from the issue of blameworthiness.

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2: Table of contents for International business-society management

Table of Contents for International business-society management: linking corporate responsibility and globalization / Rob van Tulder and Alex van der Zwart, available from the Library of Congress.

An initial data gathering phase from was followed by a second framework development phase from Many of the companies in our sample were signatories to the Global Compact. BASF for example is a founding member. Dow, Bayer, AkzoNobel, and Vale, explicitly disclosed their status as signatories, while two-thirds of the corporations explicitly referenced the GRI as being influential in framing their CSR disclosure practices [xv] , [xvi]. Our content analysis protocol collected all references to the GRI and the associated human rights disclosure requirements in their G3 guidelines. We report on the impact of the publication of the framework and the Guiding principles in a separate article however, we summarise the results here as context for the focus of this particular article. Firstly, over the two periods there was a significant increase in the number of companies reporting on human rights requirements outlined in GRI, G3. Half of the companies in our sample reported on more of the G3 human rights indicators in than they did in Secondly, while there appeared to be no noticeable increase in human rights reporting amongst European companies as a group, there did seem to be a significant increase amongst both American and Asian companies. Finally, there appeared to be only a marginal increase in human rights reporting across sectors. While we cannot draw any substantive conclusions, the results are indicative of the growing general relevance of human rights norms. This article focuses on the second part of our protocol which collected all disclosures related to the Protect, Respect, Remedy framework and the operational principles outlined in the GPs, specifically human rights due diligence and access to remedy. The data was collected by an experienced research assistant. The research assistant pilot tested the content analysis protocol and the corresponding data and classifications were independently checked by both co-authors. We analyse the text itself, focusing specifically on how the internal relations of the text, as expressed through the operation of semiotics, grammar, semantic relationships and categorisation both reflects and shapes changing external social, political relationships Fairclough We explore how this emerging discourse articulates with elements of existing business discourses as the corporate responsibility for human rights begins to take on meaning. We explore what respect means; the scope of respect and how respect is beginning to be operationalized. Analysis Our analysis is organized around the structure of the GPs. Firstly, we analyze the emergent relationship between business and the state as outlined in the Protect Respect Remedy framework to begin to understand what business respect for human rights means and the scope of rights to which this duty applies. Secondly, we explore the beginnings of the operationalization of the business and human rights discourse Fairclough, ; ; Chouliaraki and Fairclough, We study the procedural recommendations that the GPs set out for corporations, specifically human rights due diligence and access to remedy. Drawing on Fairclough we explore how the internal relations of the text reflect changing external relations. First, states are seen to have an unequivocal responsibility to ensure that corporations do not violate human rights, whether these violations are perpetrated within its borders or beyond. The first two assertions are based on a long established international legal framework with a clear set of accountability relationships [xviii]. Within this framework the realization of rights is the responsibility of states, not corporations. States are seen to have a responsibility to regulate on socially important matters and corporations have a responsibility to abide by the law Muchlinski ; Indeed, it is the ability of states to protect and realize rights that increasingly is seen to constitute their legitimacy as sovereign entities. Corporations on the other hand have historically been construed as beneficiaries of rights such as the right of property, freedom of speech, fair trial and privacy that can be protected from intrusion Muchlinski The first two principles are significant for the levels of responsibility they place on the state to monitor and account for both their relationships with corporations and the foreign activities of companies domiciled within their borders. The final assertion, however, decentres this established human rights discourse. First, while rights have traditionally been

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constituted in terms of membership of a territorially defined community, the GPs elevate rights above the territorial sovereignty of the state. The idea of citizenship shifts from membership of a national community which bestows rights, to an alternative principle in which all persons have equal rights as part of a global citizenship Held This premise challenges the established supremacy of states in determining the laws that shall apply to its citizens and their legitimacy to do so Backer [xx]. The GPs therefore create a number of significant questions in relation to the state as the traditional constitutional and procedural democratic mechanism for realizing the conditions of life associated with democratic political systems della Porta The GPs focus on international social norms is reflected in the corporate discourse in our sample. But what does this mean? Corporate responsibility to respect is still being ordered. Drawing on Fairclough we explore three questions. What is the scope of human rights? And, finally, how is respect being practiced? In addressing these questions Fairclough encourages us to reflect on how power operates through linguistic structures to influence what respect for rights can and cannot mean Fairclough ; ; Chouliaraki and Fairclough Lexically [xxi] , the GPs use the noun respect exclusively in relation to corporate responsibility for human rights while the verb protect is used almost entirely in relation to the accountability of nation states. Syntactically [xxii] , this relationship between rights and protection partially reflects the historical focus on the responsibilities of the state. The obligation to respect reflects a concern that corporations should do no harm and that positive attempts to promote rights should not be offset against rights violations. Whatever the reason, however, the distinction is not sustained in the micro discourse of corporate accountability. Within our sample, a number of terms emerge as synonymous with respect. Some companies use the language of upholding, promoting and understanding rights. DuPont, for example, say: At the micro level of public corporate narrative, signs that have been fixed in the GPs take on different textures in the micro-discourse of corporate disclosure. Respecting rights takes on a number of different significations. In some narratives it involves recognizing, upholding, promoting, advancing and understanding while in other instances it also involves protecting them. The GPs provide the broader inter-textuality against which this network of signification makes sense; however, as a meta-level translation mechanism, there is some circulatory, ambiguity and slippage here as the lexicon of state responsibility to protect, and corporate responsibility to respect, blur and become indistinguishable. Yet despite the lexical muddle, and regardless of any normative theoretical analysis on whether or not they should be responsible for rights, the emerging discourse does seem to signify a sense of corporations operating as a mechanism for building human rights capacity within systems of global governance. This inference hints towards quite a fundamental shift in the order of discourse and the social relations it represents. The GPs are part of a new regime of global governance that displaces traditional conceptions of state power as the exclusive form of public power. They represent a challenge to established conventions and codes that have structured meaningful discourse on human rights, the state and corporate responsibility Fairclough On the one hand, the GPs open up new ways for corporations to talk about their responsibilities and for communities to talk about the legitimate role of corporations in the realization of human rights and the proper scope of democracy in this process Held ; Beitz, ; Pogge, ; della Porta On the other hand, however, the possibilities of these new discourses are delimited by the powerful grammar of existing conversations. In the following section we explore further the idea of corporations as mechanisms of global governance and through further discourse analysis consider further inferences relating to this process. The Grammar of Respect Moving from the lexicon of corporate responsibility for rights we further explore the meaning of respect by studying the grammar of the sentences used by the corporations in our sample. We use the term grammar in the loose sense of how the words combine to form sentences, however, drawing on Mashaw we also use the term to refer to a grammar of accountability that conveys the sense of who is responsible for what. We agree with Mashaw that the answer to these questions are associated with different institutional designs and forms of governance. The grammar of state compliance The grammar of supra-state standards The grammar of enlightened engagement The grammar of realization Each grammar has associated with it a different idea of what respect for human rights means, and consequently implies a different kind of

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global governance function for corporations. In relation to the grammar of compliance, respecting human rights means respecting the sovereignty of governments. For example, in the following quote, Dow appears to accept some responsibility but limit this duty to a compliance function. We respect the sovereignty of governments around the world and the responsibility of governments to protect the human rights of its citizens. Dow also has a significant role to play by ensuring compliance to local laws, regulations and customs. Abbott articulates this compliance function in terms of supporting government. While governments have the primary responsibility to respect, protect, promote and fulfil the human rights of their citizens, Abbott recognizes that companies play a supporting role in promoting human rights within their spheres of influence. However, some disclosures seem to articulate a more active responsibility beyond ensuring compliance with national laws, through a grammar of Supra-State Standards. The language here is of a responsibility to something beyond state law and an international consensus that trumps local legislation. Some companies explicitly express a commitment to standards that extend beyond local laws. Rio Tinto, for example, comment: In implementing our policies, we are subject to the local laws of the many countries in which we operate. We build on compliance with local laws and where our policy and procedures are more stringent, we operate to these standards. Johnson and Johnson provide an explicit list of the countries where they believe laws might be non-existent or insufficient in relation to their labour rights policies, for example. The implication is that corporations can and should seek to mitigate against any form of state governance that is inconsistent with the states obligation to respect human rights Backer [xxiii]. Merc seem to recognise the potential conflict in this practice when they say that they will apply higher standards, but only where this does not contravene national laws. When local protection is insufficient or non-existent, we observe even more demanding standards consistent with our human rights policy to the extent that these standards do not violate local laws and regulations. The implication is that in India, Pakistan and Russia, for example, corporations, rather than the State, may in some instances be the source of the conditions of life that we have traditionally associated with the legitimacy of state political regimes. This is a responsibility that extends far beyond the political economy of the corporation as it has been traditionally construed. The radical implication is that the corporation helps to establish the political legitimacy and sovereignty of the nation state. While the grammar of supra-state compliance infers a process of applying the super-norms of human rights standards in a way that does not overtly jar against national legislation, the grammar of enlightened engagement indicates an overt involvement in the process of government. BHP talk about their responsibility for human rights in terms of moving beyond adherence to national laws to engagement with government on human rights issues. While recognising the national sovereignty of host governments, we have a responsibility to promote human rights by contributing to public debate, supporting international agreements and commitments, and identifying opportunities to constructively engage government on human rights issues relevant to our business in the host country. Xstrata similarly articulate their responsibilities in terms of engaging with government. We engage with government, public security providers and communities to improve security in higher risk regions and to raise awareness of the UN Voluntary Principles on Security and Human Rights and human rights training. Novartis use the language of an enlightened presence to talk about how they see their responsibilities in relation to sovereign states. As a responsible corporate citizen, we aim to exert an enlightened presence wherever we operate. Their role is construed as regulating not only the conditions of life for individuals within sovereign states, but the deliberative processes of government themselves della Porta Xstrata and BHP say that they have a responsibility to promote human rights beyond the nation state and that they do this through public debate and constructively engaging government, while Novartis talk about their responsibility to be an enlightened presence. Yet this engagement raises questions about how we are to construe this activity, and on what basis accountability relating to their engagement with government on human rights issues should be discharged? In terms of process the inference is that the corporation, by virtue of its human rights responsibilities, becomes a representative of the interests of the global public [xxiv]! This kind of logic inverts the traditional relationship between business and the state Cohen and nullifies an assumption that has provided the basis for almost

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everything taught in business schools. Finally, we identified evidence of an emerging grammar of realization. Here the nomenclature of respect is recontextualized into a grammar of realization that is tied to a core function of the business Nonaka, Toyama and Nagata This form of recontextualization seems particularly the case in the pharmaceutical industry and in relation to the right to health [xxv]. There seemed to be significantly more discussion of the right to health within the pharmaceutical companies in our sample in the second tranche of data collection. Merck, for example, comment:

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3: Alternative means for stimulating corporate social responsibility

corporate responsibility, corporate governance and strategy, public policy, and the media. It bridges theory and practice, builds leadership skills, and supports constructive dialogue and collaboration among different sectors.

Messenger When it comes to corporate social or environmental responsibility CSR , self-regulation has a fairly bad reputation. But should we really give up on having any trust in companies? Perhaps not quite yet. I would like to defend the notion that allowing businesses to manage themselves is not as crazy as it seems, provided the correct organisation and incentives are in place. Take an idyllic garden. Let everyone go and enjoy this communal space however and whenever they please. Very quickly, individual selfishness spoils the fragrant flowers and green lawn and this charming garden turns into no more than a dusty lot and everyone is upset. Economists are beginning to understand how groups of individuals, no wiser than you and I, can intelligently share a garden, a fishery or any number of other collective resources. All this without any official instructions raining down from a high throne or issued by a legislature. Elinor Ostrom showed how these collective resources can, under certain conditions, engender surprisingly virtuous behaviour. The concern of economists is specifying the types of collective organisation that would prevent trampling of the lawn and flowers: But this is not the question that concerns us. Let us invert the question: I thus propose that we should consider these commons not as an end, but as a means of inducing this virtuous behaviour. This should be similarly applicable to other situations, for instance CSR. The logic of sharing Organise a party. Put a large cake on the table and invite the guests in to share it. You would expect the cake to be divided equally among them. A greedy guest who would like to take a larger slice knows what he risks: So he refrains from trying to get a bigger slice and resigns himself to getting a fair and equal share of the cake. Experimental economics reinforces the idea that rejection of injustice often outweighs material interests we would rather not have any cake at all than have an unfairly a slice. We provide the criteria for measuring philanthropy, we specify that the cake can only be shared once everyone has agreed on how to share it, and then we let them do as they may those who no longer want to participate can leave " with no cake, of course. We could still expect them to share the cake fairly, and the most philanthropic among them to get larger slices. Otherwise, they would refuse to tolerate this injustice, and no one would get any cake at all. Suppose we now say that the cake is there to reward philanthropy. Not the most philanthropic among them, just philanthropy. And no criteria are given. What can we expect? Once again, there is good reason to believe that the guests will eventually agree upon philanthropy criteria that are neither absurd nor unfair. And that they would agree upon how to share the cake in the fairest possible way, proportionately rewarding the most philanthropic individuals. There is reason to believe that, following the same logic, virtuous behaviours can be rewarded, and thus encouraged. And one can hope, elicited. Naturally there are a lot of complications to consider, but the idea is there. In practical terms, what should be done to start to put this idea into practice? The creation of artificial commons Artificial commons could be created in many ways. One way would be to entrust companies with the task of redistributing a proportion of their taxes among themselves. This would be a type of horizontal taxation. Naturally, this potential redistribution would only be offered to companies who agree to following this logic of sharing. This would most likely suit companies, but public authorities might frown on the prospect of having to sacrifice some of their revenues. But perhaps there is another way that would suit everyone: This has been actually considered by respected policymakers. This demonstrates, however, that it is legally and economically feasible for money created by the central banks to go elsewhere than to banks. In that case, why not put it into artificial commons, at the request of corporate collectives? I propose that we give companies the novel freedom of creating artificial commons. This article was originally published in French.

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4: Corporate Respect for Human Rights: meaning, scope and the shifting order of discourse

--Managing rivalry: the international bargaining society --Managing rivalry: the challenge of societal interface management --International corporate responsibility --The logic: the multifaceted notion of corporate responsibility --The occasion: issues and issues management --The stakes: firms part of the problem or part of the solution?

Just before World War II, German industrialist Walter Rathenau claimed that business corporations had become very large and that they had grown to be a significant part of the society. Further, philosophers John Dewey and James H. Tufts, in their book *Ethics*, raised the concept that it is not sufficient to view companies as purely economic machines and that companies should be involved in public duty as well. Council on International Business. According to Kennedy, there is no solid definition of CSR; however, it is not a replacement for the governmental role and responsibility in meeting challenges of sustainable development. Sustainable development within business promotion is expanding rapidly in several directions. Some interpret corporate responsibility to mean what companies should do above the call of law; others think it should be legally mandated at the national or international level; others, again, take the position that it is already here and we are already doing it, said Kennedy. The scope of corporate responsibility varies country by country, region by region, interest group by interest group. At a minimum, it includes environmental issues but it also takes on social, ethical, governance, health, and other issues. Potentially, it is a very broad concept to cover, and it is a challenge for the business community. Millennium Development Goals As a follow-up from the world summit on sustainable development in Johannesburg in , the United Nations developed Millennium Development Goals MDGs with the implications for corporate responsibility, environmental, and health issues. One hundred ninety-one UN member states endorsed the Millennium Declaration. There are 18 MDGs grouped around eight goals, most of them having 15-20 objectives. The main notion of MDGs is that it is not just governments, but also other interest groups in society that are expected now to carry out the commitments. It is clear in the international arena that companies are increasingly expected and, in some cases, required to take on roles and responsibilities that are traditionally those of governments. What happens internationally matters to companies in the United States. Finally, under the heading of a global partnership for development, there are two points: Another CSR incentive called the World Summit on Sustainable Development focuses on implementation and execution that is synchronous with the finance and trade negotiations of Monterey and Doha. According to the WTO, the November declaration of the Fourth Ministerial Conference in Doha, Qatar, provides the mandate for negotiations on a range of subjects, and other work including issues concerning the implementation of the present agreements WTO, At the Summit on Financing for Development in Monterey, Mexico, delegates from participating nations pledged new resources for development and to adopt the policies needed to ensure that these resources are well used. In Monterey, President Bush underscored the link between good governance, good policies, and human well-being when he put forward his concept of the millennium challenge account, noted Kennedy. This new type of assistance will go only to developing nations that are governed wisely and fairly, are strongly committed to investing in health and education, and that follow sound economic policies that encourage entrepreneurs and spur growth. Therefore businesses now have the opportunity to be more engaged in UN discussions and bring forward business experts and practitioners who are involved in partnerships, noted Kennedy. It is also a challenge to businesses how to measure and report business performance in corporate responsibility and other areas where they have been active as members of the business community. The World Summit on Sustainable Development work program refers to corporate responsibility in the following four places: The OECD has a very distinctive way, a consensus-based way, of promoting better governments' governance among its member countries. A consensus development at the OECD is based on soft law instruments, meaning nonbinding statements of values and principles. To make these soft law instruments meaningful, OECD engages in consensus-based peer reviews about how these values and principles are implemented in different

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national policy contexts. The instruments provide guidance for both government and corporate responsibilities in the investment area. On the government responsibility side, the instruments express the core investment values of transparency, nondiscrimination between foreign and domestic investors, and investment protection. It is a comprehensive code of conduct that covers such areas as environmental management, human rights, anticorruption, and supply chain management. The OECD guidelines implementation procedures involve a distinctive and unique combination of voluntary and binding elements. Observance by business of the guidelines is voluntary, but the OECD governments assign a binding commitment to promote the principles of the guidelines among multinational enterprises operating in, or from, their territories. At a minimum, corporate social responsibility includes environmental issues, but it also takes on social, ethical, governance, health, and other issues. Businesses have to keep up with the new initiatives on a wide range of fronts such as voluntary, regulatory, stakeholders, partnerships, and others. Credible and meaningful indicators of how companies are contributing to the quality of life and how they are implementing corporate responsibility can be challenging, said Kennedy. These challenges are occurring at the same time the concept of corporate responsibility is evolving in several different directions. She noted that one single approach or definition is not going to meet the various needs; given the number of contexts in which businesses work, it is appropriate and healthy to have different approaches. Businesses need to watch very carefully the codes of conduct and guidelines of the MDGs and the World Summit for Sustainable Development, to come forward to talk about what has to be done and how it is going to be delivered, and to continue to argue for the enabling frameworks for corporate responsibility at the international level, noted Kennedy. Some discussion participants noted that CSR functions effectively when there is committed leadership in corporations. They noted that corporate leaders need to transform into leaders who will move corporate responsibility efforts forward. Business schools, where those leaders are educated, are in a position to influence the transformation. Additionally, society, shareholders, and employees need to become more vocal about what they are expecting from business leadership, thus becoming a determining factor about what corporations are focusing on and what their objectives are, noted some participants. Many people in society at large, and especially the business community, do not believe that CSR is a good idea. For example, Orts noted that Milton Friedman is famous for saying that we should not have CSR because the constraints should be given by the government, so a company should maximize profits as much as it can, and the law should provide it with constraint. Friedman, the proponents of this view of CSR dispute that there is a tension between economic arguments about the need for businesses, especially public corporations, to focus on the bottom line, namely, shareholder value. On the other hand, there are ethical arguments, and every particular company needs to identify its ethical obligations that are either going to be constraining or a part of its definition as a business. Orts noted that the American Law Institute in its principles of corporate governance suggested that the primary objective of a company is to make profits for shareholders, but it still has to follow the law even if it is not cost effective. American Law Institute, According to Orts, Stanford University professor David Baron clarified the ethical argument for social responsibility by distinguishing between what he called CSR and corporate social performance. Strategic CSR or mere corporate social performance involves actions that appear to be motivated by higher social purposes and are, in fact, motivated by profits, noted Orts. Many companies today realize that they are responsible for the future of the world, and they no longer accept the maxim that the business of business is business only, noted Orts. Their new premise is: Corporations are the dominant institutions on the planet today; therefore they have to help address social environmental issues that affect humankind. This premise is increasingly becoming the ethically driven view of many large multinational companies. According to Orts, corporations are citizens of a global society and therefore owe a duty to participate in that general society. Corporations are the dominant institutions on the planet today. Therefore, they have to help address social environmental issues that affect humankind. Global problems such as global climate change, ozone layer depletion, biodiversity loss, depletion of fisheries and forests, hazardous waste, transportation disposal, migrating microbes, and invasive species, as well as local air and water pollution are global issues, and have a

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health component. Often it is not possible for individual governments to address them. Legal Reform Strategies to Enhance Corporate Social Responsibility We live in a very complex society in which the government is not going to be able to answer all the questions about what the standard rules are. Therefore, companies have to take a bigger role in this process and establish creative legal strategies, so called reflexive law, that go beyond the command-and-control approach, asserted Orts. Informational regulation in the form of mandatory disclosure of information similar to the toxic release inventory could also be used to enhance CSR. Environmental contracts are among other strategies that may help improve CSR. The idea of environmental contracts is that companies can have partnerships and work independently with NGOs or with other governments on specific issues. Laws could be passed to help promote this strategy. If a company made a contract about a specific issue, it might create more progressive and creative solutions to these problems than if it relied solely on the Environmental Protection Agency or the U. Corporations may chose to be socially responsible and get involved in addressing certain social or health issues with precision and competence. However, these choices have to be made without losing sight of the fact that the primary interest for a company is an economic one, concluded Orts. Globalization increased movement of people, goods, ideas, and corporate activity across borders. In a globalized marketplace, the underlying premise is that organizations should behave with equal respect to people and the environment wherever they are. Advances in telecommunications e. Because governments do not have the ability to fully address environmental and social problems on their own particularly in developing countries , the idea that corporations should take on some of this responsibility has gained currency. In effect, CSR is largely a response to state incapacity, stated Webb. The result is growing expectation that firms should be economically, environmentally, and socially responsible wherever they operate, even if government regulations are inadequate or poorly enforced. These expectations apply to small, medium-size, and large firms, and all sectors: Efforts by many organizations are underway to develop flexible, practical, standardized CSR approaches for a global economy. Individual governments such as the United Kingdom are taking lead roles, as well. Other initiatives include investment, standards, industry, and those that are NGO-driven or faith-based. Although the initiatives indicate considerable engagement on this issue of CSR, there is considerable variability from one to the other in terms of the actual content, scope, comprehensiveness, interoperability, and take-up, said Webb As a result, even efforts made in good faith may suffer in the confusing abundance of initiatives. The lack of standardization can discourage business from good behavior and it can also discourage consumers, investors, and governments from rewarding good behavior. Competing initiatives can slow down the momentum of the CSR movement, cautioned Webb. Corporate Social Responsibility Initiatives and Law Even though laws and international conventions have limitations, they will remain the foundation for environmental and social protections in our society, said Webb. In part, as a response to these limitations, the private sector and NGOs have developed CSR-oriented voluntary codes and standards as supplements. For optimal effectiveness, governments need to stimulate and structure these various initiatives. There are strengths and limitations to laws. The strengths are that command-and-control regulatory approaches articulate societal positions on important issues and are the products of democratically elected legislatures in democratic countries. The laws are enforced by specialized government agencies and backed up by the courts. Command-and-control approaches have made considerable progress in improving the lives of people around the world. However, they have expensive, protracted development and enforcement processes, as well as jurisdictional constraints on subject matter, approach, and scope, noted Webb. Developing countries are particularly vulnerable to inconsistent and inadequate implementation and enforcement, in large part because of the inadequate budgets in place to fund such activities. This tendency can impede the development of optimal solutions to particular public policy problems, said Webb. Further, with technologies moving so quickly, the law system is frequently put in a situation where it is one or two steps behind, no matter how hard governments try to stay on top of issues, said Webb. If limitations at the domestic level are challenging, they are considerably more problematic at the international level. Even though international laws have contributed to a lot of progress and provide the

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international regime of human rights, environmental protection, worker protection, and commercial activity, issues such as national sovereignty and the reluctance of states to agree to participate in, ratify, or implement international laws, slows down greatly the effectiveness of international laws to address social and environmental problems. Also, the divide between developing and developed countries is a particularly intransigent challenge for the international community because there is very little enforcement capacity at the international level and within developing countries, said Webb. There are many possible ways to address the aforesaid issues and challenges. The International Organization for Standardization ISO "a nongovernmental body, although governments and private sector and others participate in it" generated the ISO series of standards, in particular, , an environmental management standard. The ISO approach is intended to supplement legal regimes. It does not work as well when there is no effective legal regime because a management system works optimally in conjunction with a set of legislative or regulatory obligations, said Webb.

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5: Corporate Social Responsibility: 12 Undeniable Benefits

To understand the notion of corporate responsibility, there must be a clear understanding of its legal, moral, social and theological dimensions. The legal dimension stems from corporate law, but also from constitutional law as it relates to the type of "person" (though that term is a metaphor and metaphysical fiction) that a corporation is.

Become a Matching Gift Expert! What more could an organization want? Truthfully, matching gifts are a bit more complicated than that. However, the opportunity to receive twice as many donations still hangs in the air for organizations looking to benefit from corporate social responsibility programs. There are also pay-per-hour grants that many corporations offer that pay a certain amount per hour volunteered. This kind of socially responsible program is a win-win for every party involved. Volunteer grant programs are a crucial component of CSR that bring in more revenue and volunteer time for nonprofits. Forging Corporate Partnerships Yet another positive impact corporate social responsibility has on nonprofit organizations is the possibility of corporate partnerships. These partnerships are vital to the work a corporation can do in the local community and important to a nonprofit that may not have the resources for major marketing campaigns. For a nonprofit organization, a partnership with a local or national corporation puts its name on tons of marketing materials that otherwise could not have been afforded on tight budgets. CSR brings nonprofits and companies together, creating strong partnerships between the two. Varied Sources of Revenue Nonprofits cannot solely rely on individual donations for support. In fact, companies with strong corporate social responsibility programs are looking for nonprofits to be the recipient of grants, matching gift programs, and volunteer grant programs. Corporate social responsibility programs can be another source of revenue for nonprofits. Positive Workplace Environment When corporations exhibit philanthropic behavior, they are more likely to provide employees with a positive workplace. Consequently, employees feel engaged and productive when they walk into work each day. Instilling a strong culture of corporate social responsibility within every employee from the top down will help to create a positive and productive environment where employees can thrive. Corporations that care about the lives of people outside the walls of their businesses are more likely to create a positive environment. Business environments are more enjoyable when companies engage in corporate social responsibility. Increase in Creativity Employees who know that their employer is committed to bettering the local and global communities feel a stronger connection to the company. Because of this close relationship that employees share with their company, workers feel more inclined to be productive and creative. Employers have identified creativity as one of the most important leadership qualities that an employee can possess. Creative employees enjoy working for companies that they can believe in and stand behind. By incorporating comprehensive philanthropic programs, companies can help employees become more productive and creative. Companies that maximize their social responsibility potential foster innovative and creative employees. When employees contribute their time and money to worthy causes, they develop professionally and personally. By helping those in need and volunteering as teams, employees learn to work better together on important projects. Employees also experience a sense of pride when they know that they work for a company that cares about the community and encourages them to be passionate about worthy causes. Employees are able to professionally and personally develop as a result of corporate social responsibility. Promotes Individual Philanthropy When employees notice that the company they work for is involved in charitable endeavors, they play follow the leader and begin to engage in their own philanthropic activities. If a company encourages group volunteerism and matches donations to nonprofits with a matching gift program, an employee is more likely to take advantage of those programs and become more individually philanthropically minded. Employees become more philanthropically aware when they work for companies that are socially responsible. If your company is looking to boost its environmental sustainability initiatives, the people at Anthesis are the perfect fit. Realized Worth Realized Worth works side-by-side with companies that want to implement great corporate giving and volunteer programs. Realized Worth has been working since to help companies across

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the globe develop their corporate social responsibility through comprehensive giving programs. Realized Worth helps with program design and implementation, as well as policy development, toolkit design, research, and more! Cause Consulting Cause Consulting is a strategy and communications firms that helps companies grow their business and impact society. They have worked with local, national, and even global businesses, strengthening reputations and building brands along the way. It can be tempting to support a wide variety of nonprofits, but it is more powerful to pick a few core focus areas in which to make a significant impact. Ask them what they want the company to take on to give back to the community. The business case for engaging in corporate social responsibility is clear and unmistakable. Do you know what percentage of companies offer matching gift programs? If not, head on over to our article about corporate philanthropy statistics to learn the answers to these questions and find more info about corporate philanthropy! Companies like Apple, Expedia, Google, and Pepsi all have reputations as leaders in the corporate philanthropy world. Learn what makes them such pioneers! Check out the leaders in corporate philanthropy Guide to Corporate Philanthropy There are so many different types of corporate philanthropy out there. Various programs and initiatives ensure that companies donate to nonprofits. If you want to learn more about the different types of corporate philanthropy programs that your nonprofit could benefit from, head over to our corporate philanthropy guide!

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6: Notion of Communications - A PR AGENCY.

Drawing on 5-year panel data on the reporting of corporate environmental responsibility from listed firms, we unpack how the multifaceted manifestation of the state logic exert institutional pressures on organizations.

Under deontology, an act may be considered right even if the act produces a bad consequence, [35] if it follows the rule or moral law. According to the deontological view, people have a duty to act in a way that does those things that are inherently good as acts "truth-telling" for example, or follow an objectively obligatory rule as in rule utilitarianism. Kant then argues that those things that are usually thought to be good, such as intelligence, perseverance and pleasure, fail to be either intrinsically good or good without qualification. Pleasure, for example, appears to not be good without qualification, because when people take pleasure in watching someone suffer, they make the situation ethically worse. He concludes that there is only one thing that is truly good: Nothing in the world—indeed nothing even beyond the world—can possibly be conceived which could be called good without qualification except a good will. Pragmatic ethics Associated with the pragmatists, Charles Sanders Peirce, William James, and especially John Dewey, pragmatic ethics holds that moral correctness evolves similarly to scientific knowledge: Thus, we should prioritize social reform over attempts to account for consequences, individual virtue or duty although these may be worthwhile attempts, if social reform is provided for. Ethics of care Care ethics contrasts with more well-known ethical models, such as consequentialist theories. These values include the importance of empathetic relationships and compassion. Care-focused feminism is a branch of feminist thought, informed primarily by ethics of care as developed by Carol Gilligan and Nel Noddings. Noddings proposes that ethical caring has the potential to be a more concrete evaluative model of moral dilemma than an ethic of justice. Role ethics Role ethics is an ethical theory based on family roles. Confucian roles are not rational, and originate through the xin, or human emotions. Anarchism Anarchist ethics is an ethical theory based on the studies of anarchist thinkers. The biggest contributor to the anarchist ethics is the Russian zoologist, geographer, economist, and political activist Peter Kropotkin. Kropotkin argues that ethics itself is evolutionary, and is inherited as a sort of a social instinct through cultural history, and by so, he rejects any religious and transcendental explanation of morality. The origin of ethical feeling in both animals and humans can be found, he claims, in the natural fact of "sociality" mutualistic symbiosis, which humans can then combine with the instinct for justice. This principle of treating others as one wishes to be treated oneself, what is it but the very same principle as equality, the fundamental principle of anarchism? And how can any one manage to believe himself an anarchist unless he practices it? We do not wish to be ruled. And by this very fact, do we not declare that we ourselves wish to rule nobody? We do not wish to be deceived, we wish always to be told nothing but the truth. And by this very fact, do we not declare that we ourselves do not wish to deceive anybody, that we promise to always tell the truth, nothing but the truth, the whole truth? We do not wish to have the fruits of our labor stolen from us. By what right indeed can we demand that we should be treated in one fashion, reserving it to ourselves to treat others in a fashion entirely different? Our sense of equality revolts at such an idea. Postmodernism This article or section possibly contains synthesis of material which does not verifiably mention or relate to the main topic. Relevant discussion may be found on the talk page. July Learn how and when to remove this template message The 20th century saw a remarkable expansion and evolution of critical theory, following on earlier Marxist Theory efforts to locate individuals within larger structural frameworks of ideology and action. This was on the basis that personal identity was, at least in part, a social construction. Post-structuralism and postmodernism argue that ethics must study the complex and relational conditions of actions. A simple alignment of ideas of right and particular acts is not possible. There will always be an ethical remainder that cannot be taken into account or often even recognized. Such theorists find narrative or, following Nietzsche and Foucault, genealogy to be a helpful tool for understanding ethics because narrative is always about particular lived experiences in all their complexity rather than the assignment of an idea or norm

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to separate and individual actions. Zygmunt Bauman says postmodernity is best described as modernity without illusion, the illusion being the belief that humanity can be repaired by some ethic principle. Postmodernity can be seen in this light as accepting the messy nature of humanity as unchangeable. Hoy describes post-critique ethics as the "obligations that present themselves as necessarily to be fulfilled but are neither forced on one or are enforceable" , p. Hoy concludes that The ethical resistance of the powerless others to our capacity to exert power over them is therefore what imposes unenforceable obligations on us. That actions are at once obligatory and at the same time unenforceable is what put them in the category of the ethical. Obligations that were enforced would, by the virtue of the force behind them, not be freely undertaken and would not be in the realm of the ethical. Applied ethics Applied ethics is a discipline of philosophy that attempts to apply ethical theory to real-life situations. The discipline has many specialized fields, such as engineering ethics , bioethics , geoethics , public service ethics and business ethics. Specific questions[edit] Applied ethics is used in some aspects of determining public policy, as well as by individuals facing difficult decisions. The sort of questions addressed by applied ethics include: But not all questions studied in applied ethics concern public policy. For example, making ethical judgments regarding questions such as, "Is lying always wrong? People, in general, are more comfortable with dichotomies two opposites. However, in ethics, the issues are most often multifaceted and the best-proposed actions address many different areas concurrently. In ethical decisions, the answer is almost never a "yes or no", "right or wrong" statement. Many buttons are pushed so that the overall condition is improved and not to the benefit of any particular faction. Particular fields of application[edit].

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7: What Theology Teaches About Corporate Responsibility - Catholic Stand

Stakeholder engagement is traditionally seen as corporate responsibility in action. Indeed, in some literatures there exists an assumption that the more an organisation engages with its stakeholders, the more it is responsible.

Without question, individual business persons are moral agents. However, based upon the accepted conception of the corporation, there is often a lack of consistency in the view of the moral agency of the business entity itself. To understand the notion of corporate responsibility, there must be a clear understanding of its legal, moral, social and theological dimensions. The moral dimension stems from the approach taken to conceptualize what it means to be a corporation, as well as what criteria is used to assess moral responsibility. And, the social responsibility is derived from an understanding of the collective action of man. For people of faith, the most fundamental aspect of corporate responsibility rests squarely in what St. The Legal Responsibility of Corporations In considering the legal responsibilities of corporations, it is simple just to say that corporations should abide by the law. This is true for corporations, as it is true for each of us. These are the demands of a civilized society governed by the rule of law. This theory holds that the corporation exists because a state says it exists. Christopher Stone in his book *Where the Law Ends*: This theory dates back to the s and draws the focus of the conceptualization of the corporation based upon being a product of a free, private agreement. Under this theory, the corporation begins to look like a collection of smaller basic units—namely, human beings. Again, like the concession theory, this conceptualization still does not get around the issue that the corporation is not a physical entity and does constitute a unique and rational entity. The aggregate theory clearly acknowledges legal corporate existence; however, it challenges the conferring of an ontological status to corporations. Mark Schwartz in the book *Corporate Social Responsibility: An Ethical Approach* identifies seven common frameworks found in the corporate social responsibility literature: Core Ethical Values Paradigm. This framework is most closely aligned to classical Aristotelian ethics. Schwartz identifies the prominence of the values of trustworthiness, caring, responsibility and citizenship. Cases where these values manifest include situations where corporations lack full disclosure of potential harmful effects of products. Others include not avoiding harm by failing to disclose dangers of products. Relating to responsibility, examples include situations where corporations fail to accept fault or blame other actors. Finally with regard to citizenship, this is the idea that corporations should engage in providing community assistance, demand fair trade parameters, and be mindful of their environmental impacts. This paradigm allows for the acceptance of behavior be it normatively established or not that is acceptable to the reference group. In some cases, this approach could run contrary to such efforts as the promotion of worker health and safety or even the responsible and equitable use of the shared resources of the environment. An example of such a scenario would be the development of the international surrogacy industry in India. The surrogacy worker often endures unbearable circumstances and limitations on individual freedom; however, often the families procuring these services are able to do only because India provides a low-cost alternative to procuring this service elsewhere, and the surrogacy worker herself is willing to accept what can be considered third-world rates for this labor, only because of its relative attractiveness of other work alternatives. In a sense this means that if everyone is doing it, it must be alright. Using this approach, corporations are given the leeway of being able to potentially ignore the consequences of their actions. Fairness or Justice Paradigm. Each of these paradigms offers a basis and benchmark. However, the question remains: Phillips offers an elegant formula for moral agency that can be helpful as a basic parameter to discern where the collective moral responsibility does or does not reside in a corporation or with an individual corporate actor. Corporations have responsibilities beyond production. Corporations have responsibilities to help solve societal problems—particularly problems caused by those same corporations. Corporations have a broader constituency than merely stockholders. Corporations impact society beyond just in the marketplace. Corporations serve a wider range of human values than can be captured by a sole focus on economic values.

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The environmental aspect relates to how corporations interact with and sustain the environment. The social aspects relate to how corporations contribute time, talent, and treasure to the communities in which they belong. And the governance aspect of CSR theory relates to how corporations govern themselves in a responsible, transparent and prudent wayâ€”to the benefit of their shareholdersâ€”and all other stakeholders employees, customers, suppliers, regulators, etc. Opponents of CSR theory typically subscribe to the concession theory of corporate conceptualization and rely heavily on the individual business person to do his part to act morally and responsibly. This is good, but CSR proponents argue that given the reality of what corporations are in our modern society, putting the responsibility and burden on the individual is not enough. The Spiritual Responsibility of Corporations St. Our actions in this life have consequences. However, by employing the notion of the Mystical Body of Christ we begin to understand how this notion unfolds. All of us are connected by our humanity, and we are called individually and collectively to maintain the health and well-functioning of mankind, with Christ as our head. Modern society and culture have slowly divorced the spiritual and temporal understanding of how we engage in the world. As such, it is indeed counter-cultural to think in these terms. But, as people of faith, we rely again on St. Not only do they provide a mechanism for work and human self-sufficiency, but they also provide a mechanism for society to make enduring, multi-generational investments that are not reliant on government policy or investment or dependent upon the sole investment decisions of patriarchal elites. The way that corporations interact with society depends upon many factors and is rooted in the rights and responsibilities afforded to it by those entities governing its incorporation and affirming its perpetuation in society. As business people of faith, we are all called to find opportunities to give witness to our highest aspirations, not only through our own efforts but also through the collective efforts of the business associations with which we contribute our time, talent and treasure. In this way, corporations are truly responsible.

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8: Ethics - Wikipedia

corporate social responsibility in the context of regulation According to Orts, CSR is an orientation to business enterprise that claims a company has more than just an economic duty to shareholders and owners of the company; it is also a social entity that entails moral obligations and imperatives that go beyond legal requirements and compliance.

Advanced Search Abstract Contrary to what many believe, a generally accepted definition of terrorism as an international crime in time of peace does exist. This definition has evolved in the international community at the level of customary law. As a consequence of disagreement on terrorism in armed conflict, states have so far been unable to lay down a general definition of the whole phenomenon of terrorism in a general treaty. The fact, however, remains that under current customary international rules terrorism occurring in a time of peace and which is international in nature i. In time of armed conflict, terrorism i. In time of armed conflict, terrorist acts may also amount to crimes against humanity if part of a widespread or systematic attack on the civilian population. The objective and subjective elements of each of these three classes of criminal conduct are set out in the article on the basis of existing international law. In this contentious area three divergent political trends are emerging in the world community: Each state, in passing legislation on the matter, may and does of course define terrorism as it pleases. However, terrorism is a phenomenon that very often affects multiple states, which are all compelled to cooperate to repress it. Hence, however imperfect and incomplete, a common working definition is necessary so that all states concerned may agree on the target of their repressive action: In particular, if some states assert that certain categories of persons who engage in conduct that normally would fall under the definition of terrorism must nevertheless not be classified as terrorists on some ideological or political grounds, how can cooperation be smoothly carried out between these states and others taking a different legal view? The legally binding Framework Decision on the European Arrest Warrant that the Council of the European Union EU passed on 13 June and which entered into force on 1 January is a telling instance of this need for cooperation. The Decision provides that terrorism is one of the offences for which arrest warrants can be issued in one of the Member States of the EU and expeditiously executed in another Member State see Article 2 2. Clearly, as far as terrorism is concerned, the Decision can be easily implemented as among Member States of the EU only because on the very same day the EU Council also adopted a legally binding Framework Decision on Combating Terrorism, 1 which in Article 1 contained a detailed definition of terrorist offences. The bone of contention was two-fold: Should the working out of international rules on terrorism be made contingent upon delving into the root causes of this phenomenon? As a consequence, treaty rules laying down a comprehensive definition have not yet been agreed upon. However, over the years, under the strong pressure of public opinion and also in order to come to grips with the spreading of terrorism everywhere, in fact widespread consensus on a generally acceptable definition of terrorism has evolved in the world community, so much so that the contention can be made “based on the arguments I shall set forth subsequently” that indeed a customary rule on the objective and subjective elements of the crime of international terrorism in time of peace has evolved. The requisite practice *usus* lies in, or results from, the converging adoption of national laws, the handing down of judgments by national courts, the passing of UN General Assembly resolutions, as well as the ratification of international conventions by a great number of states such ratifications showing the attitude of states on the matter. In contrast, disagreement continues to exist on a possible exception to such definition: Factors Pointing to a Generally Agreed Definition of International or Transnational Terrorism in Time of Peace As emphasized above, many factors point to the formation of substantial consensus on a definition of terrorism in time of peace. First, the Conventions on terrorism adopted by the Arab League, the Organization of African Union OAU and the Conference of Islamic States, while providing in terms for the aforementioned exception, nevertheless lay down a definition that is to a large extent in line with that enshrined in other international instruments. They are as follows: These are the rough elements of a generally accepted definition. Let us

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consider how they can be translated into a rigorous articulation within international law. Thereafter, it will be appropriate briefly to look at the contentious exception. The Objective Element A first element of international terrorism as distinguished from, i. The terrorist act must lie in conduct that is already criminalized under any national body of criminal law: This conduct may, however, be in some exceptional instances, lawful per se: It becomes criminal if the conduct has the requisite connection to terrorism, for example, if the organization to which money is provided or channelled, or on whose behalf it is collected, is terrorist in nature. In that case, the character of the organization makes the otherwise lawful action tainted with criminality. Furthermore, the conduct must be transnational in nature, that is, not limited to the territory of one state with no foreign elements or links whatsoever in which case it would exclusively fall under the domestic criminal system of that state. As for the victims of criminal conduct, they may embrace both private individuals or the civilian population at large and also state officials including members of state enforcement agencies. The Subjective Element A second element characterizing terrorism concerns the purpose of the act. A number of international instruments and national laws provide that the objective pursued by terrorists may be either to spread terror among the population or to compel a government or an international organization to perform or abstain from performing an act. In addition, expressly contemplating various alternative purposes pursued by terrorists may prove useful to prosecutors and other enforcement agencies when the demands of terrorist groups are not clear or are not made with regard to a specific terrorist attack; in these cases, in order to classify the conduct as terrorist, it may suffice to determine that at least the immediate aim of terrorists was to spread panic among the population. This, indeed, may greatly facilitate the action of prosecutors in applying national laws against terrorism. However, close scrutiny and legal logic demonstrate that, in fact, the primary goal of terrorists is always that of coercing a public or private institution to take a certain course of action. The spreading of deep fear or anxiety is only a means for compelling a government or another institution to do or not to do something; it is never an end in itself. Also the destabilization of the political structure of a state is a means of making the incumbent government take a certain course of action. For instance, the 11 September attack on the Twin Towers and the Pentagon was not accompanied by demands of the terrorist organization that had planned the attack. Yet, even in these cases, the murder, bombing or kidnapping are not made for their own sake; it is instrumental in inducing a public or private authority to do or refrain from doing something. Hence, it can be said that ultimately terrorism always pursues one primary and essential purpose, that of coercing a public authority a government or an international organization or a transnational private organization for instance, a multinational corporation to take or refrain from taking a specific action or a certain policy. This is the hallmark of any terrorist action. The purpose in question can be attained through two possible modalities. First, by spreading fear or anxiety among civilians for instance, by blowing up a theatre, kidnapping civilians or planting a bomb in a train, in a bus or in a public place such as a school, a museum or a bank. Clearly, the aim of terrorists is to induce the scared population to put pressure on the government authorities. Secondly, the purpose may be achieved by engaging in criminal conduct against a public institution e. Another element unique to terrorism regards motive. The criminal conduct must not be taken for a personal end for instance, gain, revenge or personal hatred. It must be based on political, ideological or religious motivations. Motive is important because it serves to differentiate terrorism as a manifestation of collective criminality from criminal offences murder, kidnapping and so on that are instead indicative of individual criminality. Terrorist acts are normally performed by groups or organizations, or by individuals acting on their behalf or somehow linked to them. A terrorist act, for instance the blowing up of a disco, may surely be performed by a single individual not belonging to any group or organization. However, that act is terrorist if the agent was moved by a collective set of ideas or tenets a political platform, an ideology or a body of religious principles, thereby subjectively identifying himself with a group or organization intent on taking similar actions. It is this factor that transforms the murderous action of an individual into a terrorist act. Let us now translate the above into rigorous legal language. It can be said that for terrorism to materialize two subjective elements mens rea are required. First, the subjective element intent proper to any underlying criminal offence: Second, the specific

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intent of compelling a public or a prominent private authority to take, or refrain from taking, an action *dolus specialis*. Hence, if it is proved that a criminal action for instance, blowing up a building has been motivated by non-ideological or non-political or non-religious considerations, the act can no longer be defined as international terrorism, although it may of course fall under a broader notion of terrorism upheld in the state where the act has been accomplished. This, for instance, holds true for cases similar to an American criminal act that lacks, however, the transnational element proper to international terrorism: Reportedly that action was carried out in revenge for the killing, by the FBI, of members of a religious sect at Waco, Texas. Similarly, if bandits break into a bank, kill some clients and take others hostage for the purpose of escaping unharmed with the loot, this action cannot be classified as terrorism, although the killing and hostage-taking are also intended to spark terror among civilians and compel the authorities to do or not to do something. Here the essential element of ideological or political motive is lacking. Consequently, the offence is one of armed robbery aggravated by murder and hostage-taking, not terrorism. Let us take another example, namely the episode at the Los Angeles International airport where on 4 July an Egyptian fired at and killed some tourists who were about to take a plane bound for Israel, and was eventually shot down by enforcement officers. To determine whether this was a terrorist act or simply murder, one ought to inquire into the possible motives of the killer; in that case, these motives could have been inferred from his life, his possible statements, his criminal record, any links he might have had with terrorist groups and so on. Let me add that of course, motive by itself may not suffice for the classification of a criminal act as terrorist. To clarify this point I shall give an example although it again relates to terrorist groups that were not involved in transnational terrorism, it may nevertheless be useful for illustration purposes. Yet, the action was not terrorist in nature, but an ordinary criminal offence, because another crucial element proper to terrorism was lacking the purpose of compelling through criminal conduct an authority to take a certain stand. This conclusion does not exclude however that individual national criminal systems may consider that, since the aforementioned acts were performed to support a terrorist organization, the crimes involved must be characterized as terrorist at least for such purposes as jurisdiction, the use of special investigative methods and so on. The legal relevance of motive for determining whether one is faced with a terrorist offence does undoubtedly pose serious problems for any prosecutorial agency or criminal court. It may admittedly prove hard to find the reasons that inspired the agent, and to disentangle the specific basis for his action from the intricacies of his possible motivations. In particular, it may be laborious to establish whether he acted out of political, ideological or religious motivations. In addition to this factual difficulty, it may also be difficult to decide in a particular instance whether a set of ideas or aspirations make up a political credo, an ideology or a religion. One easy way out could consist of ascertaining whether the agent only acted out of strictly personal reasons, in which case one could rule out that his acts be termed terrorist. Admittedly, the question is complicated and may give rise to much controversy. The fact remains, however, that the nature of motive is taken into account by international rules as one of the discriminating factors in this matter.

Specific Sub-categories of International Terrorism as a Discrete International Crime

It is common knowledge that at the time when ideological clashes mired the international discussion on terrorism, preventing the achievement of general consensus on the matter, in order to break the deadlock states opted for the passing of international conventions on specific categories of conduct. They thus agreed upon a string of conventions through which they imposed on contracting parties the obligation to make punishable and to prosecute in their domestic legal orders certain classes of actions. These actions were defined in each convention by indicating the principal outward elements of the offence. The conventions refrained from terming the conduct terrorist and did not point to the purpose of the conduct or motive of the perpetrators either. Instead, they confined themselves to setting out the objective elements of prohibited conduct. This holds true for the Montreal Convention against the Taking of Hostages, as well as the Convention for the Suppression of the Financing of Terrorism. Both Conventions characterize the terrorist actions they deal with as intended to compel a state or an international organization to do or to abstain from doing any act; in addition the latter Convention contemplates the purpose of intimidating a population. Indeed,

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the primary purpose of those conventions was to put a stop to terrorist conduct belonging to each category of action banned by the conventions and increasingly ubiquitous when the conventions were drafted. Nevertheless, as the classes of actions prohibited by the aforementioned first 10 conventions are very broad, one cannot exclude from the scope of such conventions conduct that, although clearly banned by them, does not fall under the category of terrorism for lack of the requisite elements. For instance, the hijacking of a plane by a robber that aims at obtaining a huge sum of money as a ransom or the release of some fellow criminals in exchange for saving the passengers, plainly falls under the Hague Convention, without however constituting an act of international terrorism proper. International Terrorism in Armed Conflict: One question with which we should deal at the outset is that of so-called state terrorism. It is claimed that in time of war attacks carried out by a belligerent against the enemy civilian population may amount to state terrorism. This is primarily a political or ideological catchword without legal value except when referring to possible instances of state responsibility for serious violations of international law, as we shall soon see. In legal terms those attacks, if they are deliberate and only target civilians, amount to a grave breach of international humanitarian law; if they target instead the enemy combatant but cause incidental damage to civilians, they may be regarded as unlawful if the damage to civilians is disproportionate. Let us now move to the crucial question of terrorist acts performed by combatants be they members of the armed forces of a state, or rebels or guerrillas, or members of the armed forces of a non-state entity. International rules indisputably ban terrorism in time of armed conflict. Although the provision was primarily calculated to forestall terrorism by Occupying Powers or, more generally, by belligerents, 27 terrorist acts are also prohibited if perpetrated by civilians or organized groups in occupied territories or in the territory of a party to the conflict. Thus Article 33 1 is a provision of general purport, applicable in any situation whether terrorism is resorted to in the territory of one of the belligerents, in the combat area or in an occupied territory.

9: Corporate Social Responsibility

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