

Business and Human Rights. Exploring an expanding agenda on corporate responsibility.

Anne Vestergaard¹, PhD
Center for Corporate Social Responsibility
Copenhagen Business School

Michael Etter², PhD
ETHOS Center for Responsible Enterprise
Cass Business School

Introduction

Globalization, as Stephen Kobrin points out, is still partial and incomplete. While the world economy may be global, law and politics are still largely national, only slowly emerging from bounds imposed by the international states system (Kobrin 2009). The lack of a comprehensive political and legal framework in the global arena, has confronted multinational corporations with the need to redefine their role and deal with increasing expectations regarding their involvement in the development and enforcement of global rules and standards for the global market place (Whelan 2012, Scherer & Palazzo 2011, Kobrin 2009, Matten & Crane, 2005). Recent years have seen if not exactly a surge, then at least a distinct movement towards leveraging human rights norms for such global standards of corporate responsibility.

Despite obvious common concerns, there has until recently been little overlap between public agendas (research, advocacy, legislation) on human rights and Corporate Social Responsibility (CSR) (Stohl & Stohl, forthcoming; Wettstein, 2012; Campbell, 2006; Robinson, 2003; Cragg, 2000; Whelan, Moon, & Orlitzky, 2012). From a human rights perspective,

¹ Av.ikl@cbs.dk; ² Me.ikl@cbs.dk

corporations have been seen as potential perpetrators rather than potential instruments for the protection of human rights (Wettstein, 2012). From a CSR perspective, human rights, binding by international law, have been seen as falling out of the sphere of voluntariness, which was for many years definitional to the notion of CSR (Stohl & Stohl, forthcoming; Wettstein, 2012). The last decade has, however, shown the beginning of a shift by which these agendas are increasingly coming into alignment. A key driver in this conceptual shift is recognition of the insufficiency of the governance of nation states under circumstances of globalization (Beck, 2015). Recognition of nation state's inability to deal with issues that transcend the reach of nation state legislation and issues arising in weak democracies and areas of limited statehood (Börzel & Risse, 2010) have led both sides to reconsider the possible role to be played by transnational corporations, that is, the potential of corporations taking on responsibilities previously held exclusively by states (Whelan 2012; Scherer & Palazzo, 2011; Kobrin, 2009; Matten & Crane, 2005).

Bringing the notion of human rights into conceptions of Corporate Social Responsibility, entails a shift from a conception of CSR as voluntary and philanthropic towards a conception of CSR as rights and justice-based, and thus entails a considerably larger demand and obligation on corporations. While such a more rights-oriented conception of responsibility is increasingly infusing CSR discourse in academia as well as among practitioners, it remains a topic of great controversy whether the human rights obligations of business should be limited to the passive duty to respect human rights - do no harm - or include active responsibilities and positive obligations, to take proactive steps towards protecting human rights also outside the business' most immediate sphere of influence (Wettstein 2012).

It remains clear, however, that in the past decade the social responsibility of transnational corporations is increasingly being defined by reference to established, international human rights frameworks, as manifested not least in two decades of efforts within the UN and more recently the EU. Not surprisingly, the more binding the framework, the more limited the scope of responsibility. Thus, tensions continue to exist in current debates concerning the legal status of human rights obligations as well as the nature and scope of responsibility and these two agendas could be argued to a certain extent to run counter to one another.

Motivated by these tensions in the Business and Human Rights debate and the current shortage of knowledge on how the wider public agenda is developing on the issue, this study sets out to examine the evolution of business and human rights discourse in news and CSR reports

since the launch of UN Global Compact in 2000. This is done with the aim to understand to what extent the expanded understanding of corporate responsibility, which may be associated with a human rights framing hereof, is shared by crucial stakeholders – the corporations themselves and the news media, as watch-dogs and primary sources of information on corporate conduct for the general public.

The study uses content analysis to understand how the notion of human rights is employed to frame corporate responsibility. In order to understand the nature and scope of responsibility employed, focus is on the type of human right addressed (political-civil or social-economic), the type of responsibility (negative (do no harm) or positive (pro-active)) as well as the scope of responsibility (direct or indirect). The data set comprises all news articles and CSR reports pertaining to a set of 10 top multinational corporations sampled from two chronological focus points, years 2005 and 2015.

In the following, we first review the business and human rights debate, by drawing out and describing those contentious issues around which the debate revolves. Second, we describe current UN governance on business and human rights and place these initiatives in relation to the business and human rights debate. Third, we review existing literature relating to human rights in CSR reports and news media, before proceeding to the details of our own study.

The Business and Human Rights Debate

Growing out of the field of business ethics and a quest for corporate accountability to mitigate the adverse impacts of business activity on individuals and communities, the business and human rights debate revolves around a whole range of questions which are all of critical importance to the question of the potential of human rights norms for CSR (see Brenkert 2016 for overview). What are human rights and what justifies them? Who is responsible for human rights and what justifies their extension to business? What are the general features of business's human rights responsibilities? And finally, how are the specific human rights responsibilities of business to be determined? While each of these questions is of critical importance to the potential of human rights norms as a standard for corporate responsibility, the question, with which this chapter is concerned, pertains specifically to the features of business' human rights responsibilities, that is, the status, nature and scope of business' responsibility for human rights.

While these features always occur in combinations and debates primarily revolve around a limited subset of these combinations, for the sake of ensuing analytical clarity, below we review the dimensions in isolation.

The status of business' responsibility for human rights – *voluntary or mandatory?*

At the very basis of debates around business and human rights is, of course, the question of whether or not businesses can feasibly and meaningfully be held accountable for human rights in the first place, seeing as human rights were at their inception conceived as the responsibility of nation states, treaties designed and ratified as such by states. Opposition to business' human rights responsibilities tends to be based on the argument that states are the only subjects of international law, the only entities, which possess international legal personality and the capacity to have international duties and rights. Consequently, it is the responsibility of the nation state to oversee how organizations and individuals within their boundaries impact human rights and, it follows, to ensure that transnational corporations responsibly address human rights (Weissbrodt & Kruger 2003, Brenkert 2016). Thus, although TNCs like any other social entity are required to respect basic human rights, they are accountable for this to national, not international laws. From such a point of view, business can never be legally accountable for human rights, although they may take on such responsibility voluntarily for instance in the interest of their reputation or legitimacy. The counter-position tends to be based on the argument that multinational corporations in multiple respects, including legal ones, are becoming comparable to states and thus can and should be held legally accountable by international law similarly to states (Wettstein 2010, Hoffman & McNulty 2009, Kobrin 2009, Palazzo & Scherer 2011).

The issue of mandatoriness can, however, be viewed not just from a legal vantage point, but also a moral one. It is conceivable, and indeed widely supported, that human rights responsibilities be legally voluntary but morally binding (Brenkert 2016). It is to a great extent the accountability to a set of well-established international norms, that provides BHR with the potential to lift CSR on to, so to speak, the next level, a third generation of CSR (Stohl & Stohl, forthcoming).

The nature of human rights for which businesses are responsible – *economic/social or political/civil?*

The more restrictive views on BHR hold that businesses are responsible only for a limited list of human rights as businesses have a different kind of power than states and this results in the production of lists of basic rights for which businesses are responsible, most often deriving from basic, political and civil rights (e.g. Donaldson). Proponents of a more expansive BHR position contend that businesses are (potentially) responsible for all human rights, depending on their relationship to the persons involved and/or how the actions the business takes may impinge upon their human rights (Brenkert, 2016). The subsets of rights corporations may be responsible for tend, as indicated above, to be based on distinctions between right types – political and civil rights on the one hand, and social-economic (and cultural) on rights, on the other, the former corresponding historically to first generation, the latter to second generation rights.

Political-civil rights protect the individual rights of people and include the right to a fair trial, right not to be arrested without legal cause, right to be married, right to religion, right to vote, right to a free media system, right to expression, and so forth (“United Nations General Assembly,” 1966). Economic-social rights include right to work in fair conditions, right to education, right to protect culture, right to form a union, right to access social security, right to adequate medical services, the right not to be forced into marriage, and so forth. Political-civil rights are usually achieved through the absence of an action (do not torture, for example), whereas Economic-social rights are broader and dependent on resources to be actualized (Whelan, 2014).

The relative importance and/or legitimacy of these categories is an issue of some international controversy (Whelan, 2014). For instance, China has long criticized civil-political rights for being overly individualistic and having the potential to disrupt social order (Forsythe, 2012). The U.S., conversely, hasn’t ratified the International Covenant of Economic, Social and Cultural Rights and heavily emphasizes civil and political rights (Forsythe, 2012). Most other Western countries similarly emphasize civil and political rights and studies have shown these rights (or the violation of them) to be covered more extensively in Western news media than economic-social rights (Ramos, Ron, & Thoms, 2007).

The nature of business' responsibility for human rights – *negative or positive obligations?*

The third dimension that distinguishes more restrictive positions in the BHR debate from the more expansive ones, concerns whether or not businesses are required to do more than simply *respect* human rights, that is, to merely refrain from violations. 'Respect' is a negative obligation in that it simply requires for business to 'do no harm'. Positive obligations, on the other hand, require businesses to take active measures to *protect* human rights. The distinction is most clearly exemplified with the response to human rights violations in the supply chain of a transnational corporation (for the distinction between direct and indirect, see below). A transnational corporation, which sees its responsibility as limited to respecting human rights, will (all else being equal) honor this responsibility by terminating collaborations with the perpetrating party. A transnational corporation, which sees its responsibility as extending to *protecting* human rights, will use whatever means it has at its disposal to induce the perpetrator to change its practices such as to comply with human rights norms (Wettstein 2010).

Negative and positive obligations should not be confused with negative and positive rights, although there is some overlap. Negative rights may require positive actions and resources (e.g., while the right to life is a negative right, it may require positive action to protect someone's life).

The scope of business' responsibility for human rights – *direct or indirect?*

The fourth and final dimension that distinguishes more restrictive positions in the BHR debate from the more expansive ones, concerns whether businesses are responsible only for those direct impacts produced by their business activities, or whether their responsibilities extend to indirect human rights effects. Responsibility for direct impact includes responsibility for ones own actions as they directly impact upon others. Responsibility for indirect impact extends from responsibility for ones own actions as they indirectly impact on others to responsibility for third parties' actions.

The notion of spheres of influence (or spheres of responsibility) has been put forward as a way to conceptualize the extension of businesses' responsibility beyond their immediate impact (Frankental 2002, MacDonald 2010, Brenkert 2016). The basic idea of spheres of influence relies on the moral claim that influence entails responsibility – the greater the influence, the greater the responsibility. Spheres of influence define the scope of responsibility as extending from

workplace as the center sphere, though supply chain and market place to communities and finally governments in the outermost sphere, with the assumption that responsibility decreases (but, crucially, persists) the further removed from the center a given stakeholder is. This conceptualization of responsibility has been criticized for being too broad and ambiguous, partly because it does not differentiate between impact and leverage (Ruggie 2008). The framework developed in this chapter, makes this distinction through the intersecting dimension of negative (impact) versus positive (leverage) obligation.

It is when such responsibilities are neglected that the issue of complicity arises, in the former case often termed ‘direct complicity’, in the latter ‘indirect complicity’ (Arnold 2016, Wettstein 2012, Clapham 2004). Complicity refers to instances where the corporation’s activities do not directly contribute to the violation of human rights, but rather support, in a general way, the ability of the perpetrator to carry out systematic human rights violations (e.g. when a multinational corporation’s activities generally help to maintain an unjust regime’s financial and commercial infrastructure). The concern with complicity grows out of the observation that a large part of human rights violations with business involvement is not committed by the corporation itself, but by a third party, which relies on or benefits from the direct or indirect support of the company (Wettstein 2010).

Businesses actively using (or indeed failing to use) their power of influence with respect to the human rights violations of third parties, or the issue of ‘leverage’, is arguably where the question of responsibility is the most controversial and where the potential for politicization is the greatest. The issue of leverage is closely tied to the notion of *silent complicity*, which reflects the expectation that companies raise systematic or continuous human rights abuses with the appropriate authorities, wherever they may have leverage (Clapham & Jerbi 2001, Wettstein 2010, MacDonald 2010, Hoffman & McNulty 2009). From an expansionist point of view this politicization is exactly what legitimates and indeed necessitates the introduction of human rights into CSR. Resistance, however, is based on that same argument as well as on the observation that the idea of leverage leaves responsibility boundless and thus renders true accountability impossible.

U.N. Initiatives for Businesses and Human Rights

Since the 1990s, the U.N. has produced several initiatives as an attempt to guide TNCs with respect to human rights norms and to develop a human rights framework in relation to business. Two millennial milestones in this development are the U.N. Global Compact and the UN guiding principles. Both initiatives operate on the concept of *principled pragmatism*, that is, a balancing of human rights with what is practically achievable for business enterprises (Deva & Bilchitz, 2013; Rasche, 2009).

UN Global Compact

In 2000, the establishment of the UN Global Compact institutionalized the introduction of human rights into CSR. The Global Compact is a sustainability network and platform, the purpose of which is to encourage business worldwide to adopt environmentally and socially sustainable policies. The Global Compact is based on ten principles to address human rights, labor practices, the environment, and to promote anticorruption practices (Rashe, Waddock, & McIntosh, 2012).

*Guiding Principles for U.N. Global Compact**

U.N. Global Compact Ten Guiding Principles

- Businesses should support and respect the protection of internationally proclaimed human rights.
 - Make sure they are not complicit to human rights abuses.
 - Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining.
 - Eliminate all forms of forced and compulsory labour.
 - Effectively abolish child labour.
 - Eliminate discrimination in respect of employment and occupation.
 - Businesses should support a precautionary approach to environmental challenges.
 - Undertake initiatives to promote greater environmental responsibility.
 - Encourage the development and diffusion of environmentally friendly technologies.
 - Businesses should work against corruption in all its forms, including extortion and bribery.
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*Taken from, “The Ten Principles of the U.N. Global Compact.”

As of early 2017, the Compact’s website reported 9,000 participating companies and more than 3,000 non-businesses (“Our Participants,” n.d.), making it the largest non-compulsory business enterprise initiative worldwide (Rasche et al., 2012). Nonetheless, far from all response

to the Compact has been positive. TNCs have expressed concerns about overregulation as a result of the Compact (Rasche et al., 2013; Rasche, 2009). Conversely, human rights advocates have reservations concerning business enterprises participating in a U.N. approved initiative without making substantial changes to their operations (Rasche et al., 2013; Rasche, 2009) and the general vagueness of the principles (Oshionebo, 2007). Rasche (2009) provides an analysis of these critiques and argues that the Compact is not meant to certify or regulate business enterprises but rather foster dialogue amongst participants (Rasche, 2009).

The UN Global Compact describes itself as “a call to companies to align strategies and operations with universal principles on human rights, labor, environment and anti-corruption and take actions that advance societal goals” (UN Global Compact, ND). As such the Global Compact relies explicitly on human rights and has as its pronounced goal “to transform the world through business” (UN Global Compact, ND). With this transformative aspiration, the Global Compact clearly alludes to positive obligations beyond simply ‘do no harm’, as well as explicitly mentioning indirect responsibility (complicity) in its principle 2. It is, however, a governance mechanism, which operates exclusively on the basis of voluntariness employing neither monitoring nor sanctioning of signatories’ practices.

UN Guiding Principles on Business and Human Rights

In 2003, in the attempt to fashion a new international normative regime, the ‘UN Sub-Commission on the Promotion and Protection of Human Rights’ proposed a set of norms (the Draft norms) on Business and Human Rights³, which was intended to apply to all corporations on a non-voluntary basis (Weissbrodt & Kruger, 2003). The Draft Norms understood the nature of a business’s responsibilities for these human rights in the same manner as those of states, i.e., as having a legal nature. Similar to states, all business enterprises were said to have, within their respective spheres of activity and influence, an ‘obligation to respect, ensure respect for, prevent abuses of, and promote human rights recognized in international as well as national law’. The proposal, however, failed to obtain support and was not adopted by the UN Commission. Instead, in 2005 John Ruggie was appointed Special Representative of the Secretary-General, tasked to clarify standards of responsibility and accountability for transnational corporations with regards

³ Norms on the Responsibility of Transnational Corporations and Other Business Enterprises with Regard to Human Rights

to human rights. The outcome was the “Protect, Respect and Remedy” Framework. The framework comprises three core principles: 1) the State duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication; 2) the corporate responsibility to respect human rights, which means to act with due diligence to avoid infringing on the rights of others; and 3) the need for greater access by victims to effective remedies, judicial and non-judicial (Ruggie, 2007). The ‘Guiding Principles on Business and Human Rights’ for implementing the UN “Protect, Respect and Remedy” Framework, were unanimously endorsed by the Human Rights Council in 2011, thus “providing – for the first time – a global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity” (UN Human Rights Office, ND). The guiding principles (GP) were grounded on the recognition that business are, “required to comply with all applicable laws and to respect human rights” (“Guiding Principles,” 2011, p. 1), but stressed that no additional obligations were being imposed or ratified but rather the guidelines were based on existing laws (“Guiding Principles,” 2011).

In other words, contrary to the 1999 Global Compact and the 2003 Draft Norms, Ruggie’s tripartite framework defines human rights obligations of business exclusively in negative terms as duties to respect human rights, while assigning all duties in the positive realm to the state alone.

What hopefully has emerged from this review on business and human rights, is a picture of a field which is in development, increasingly influential but also in flux and ridden with tensions and controversy. The employment of human rights norms as leverage for an expanded and intensified CSR regime, hinges on such an expansion developing into expectations of critical stakeholders, such as the news media, as well as becoming integrated into the normative aspirations of the business community itself. In the following, we review first the existing literature pertaining to corporations’ own reports on human rights and second, news media reporting on corporate responsibility and human rights.

CSR Reporting and Human Rights

With the beginning of the new millennium the public pressure on organizations to take responsibility for social and environmental issues has substantially increased. As a result, corporations have started to launch CSR reports that provide non-financial information relating to their interaction with the environment (Hackston & Milne, 1996; Eccles & Krzus, 2010). With these reports corporations communicate to a broad audience the measures, through which they approach and address various social and environmental issues. In 2005, 52 percent of the Global Fortune 250 companies published an annual CSR report, compared to 12 percent ten years earlier (KPMG, 2005).

Over the years, CSR reports have become a major instrument for corporations in their efforts to build good relationships with their stakeholders (Idowy & Pappasolomou, 2007), gain trust (Podnar & Golob, 2007), increase reputation (Bhattacharya et al., 2009; Goessling & Vocht, 2007), and maintain legitimacy (Hooghiemstra, 2000). Nevertheless, some scholars have argued that the rise in reporting went along with even more scepticism and scrutiny among stakeholders (Waddock & Googins, 2011). One central point of criticism concerns the selectivity in CSR reporting, which hampers comparability and transparency. Furthermore, CSR reports have often been criticized for being anecdotal in character (van Tulder & van der Zwart, 2005), self-laudatory (Hooghiemstra, 2000), arbitrary, low in credibility, superficial and inconsistent in quality (Kolk, 2005).

With the aim to institutionalize CSR and CSR reporting, a number of initiatives and organizations have undertaken work to develop global standards for CSR reporting (Ligteringen & Zadek, 2005). These initiatives prescribe a range of CSR topics which companies should address in their reports, and also outline a structure how to report them. The UNGC policy on communicating progress (COP) requires, at least, a statement by the CEO expressing continued support, a description of practical actions and a measurement of outcomes. To do so, UNGC members can but do not have to use process guidelines like the Global Reporting Initiative (GRI). The GRI framework offers a detailed list of performance indicators over and above requirements to report on strategy and profile.

The institutionalization through global standards has led to certain degree of harmonization among CSR reports, even though the country of origin still seems to have an

effect on the weighting of certain issues over others (e.g., Einwiller et al., 2016; Golob & Bartlett, 2007). Nevertheless, studies provide evidence for harmonization in reporting for those companies that adhere to global CSR standards, such as the UNGC (Fortanier et al., 2011). Particularly in the areas of environment and workers, similarities as a result of companies' membership in the UNGC have been found (Chen & Bouvain, 2009; Einwiller et al., 2016).

The issue of human rights finds consideration by most global CSR initiatives and in particular by the UNGC and GRI guidelines. While the UNGC addresses the issue of human rights more generally (see also paragraph above), the GRI guidelines provide a broad, yet still very general understanding of human rights: *“An organization can impact human rights directly, through its own actions and operations. It can also impact human rights indirectly, through its interactions and relationships with others, including governments, local communities and suppliers, and through its investments”*. Hence, while these guidelines advise corporations to report about business efforts in regard to human rights, they do not clearly prescribe which concrete actions corporations are supposed to take.

While in the early 1990, companies focused almost exclusively on the environmental issues in their annual reports (e.g., Cormier & Gordon, 2001; Gray et al., 1995; Stittle et al., 1997), the rise of stand-alone and integrated CSR reports has shifted the attention also to social issues (Chapple & Moon, 2005), with increased focus on community and workplace issues in the early 2000s (Idowu & Towler, 2004). Despite extensive research on CSR reporting, little is known how the issue of BHR has been approached in CSR reports (for an overview see Asif et al., 2012).

CSR in the news media

Over the last fifty years, news media have always shown a certain interest in the topic of CSR, yet this interest has fluctuated and evolved over time. Hamilton (2003) shows that, though the use of the term “corporate social responsibility” declined in both in major news media after its initial spike in the early 1970s, it remained much higher in the second half of the 21st century. Particularly, in the U.S. business news coverage there has been a significant increase of issues of ethics and corporate leadership (Hannah & Zatzick, 2008).

Because of the limited resources and space the prominence of the issue of CSR at a certain point in time can vary depending on the relative importance of the issue, as it competes with many other issues (Deephouse & Heugens 2009; McCombs & Zhu 1995). Scholars have therefore endeavored to reveal the factors that influence CSR coverage in the news. Though the determinants that produce CSR news are poorly understood, a few studies have suggested that primary claimsmakers, consisting of experts on an issue (Gan, 2006), or infomediaries—“formal organizations that provide mediated information to audiences” (Deephouse & Heugens 2009, p. 542)—can encourage the professional news media to report on CSR dimensions. In addition, events such as corporate scandal or corporate misdeeds can trigger the public’s attention to focus on business ethics (Hannah & Zatzick 2008).

When reporting on CSR, news media have proven to frame the responsibilities of business towards society as broad obligations that exceed the legal and economic expectations (Zhang & Swanson, 2006, Guthey & Morsing, 2014), even though at times journalists adopt cynical attitudes towards CSR (Tench, Rowd, Jones, 2007).

Media reporting on CSR issues can be critical in shaping the public’s perception of the corporation. Furthermore, news media reporting about a firm’s issues may influence the firm’s strategies (Dickson & Eckman 2008; Gan 2006). For instance, if the media are more willing to cover CSR dimensions and value what corporations do to fulfill CSR, corporations may be more likely to participate in such activities. By examining the philanthropic behavior of 40 Fortune 500 companies over 7 years, Gan (2006) demonstrated that corporations participated in corporate giving not only for altruistic reasons but also from strategic motives, responding to external pressures such as lawsuits and media attention. When there was more news coverage, corporations tended to donate more.

Having thus reviewed the business and human rights debate as well as the literature on corporate responsibility and human rights in CSR reports and news, below we turn to our empirical study. We lay out a conceptual-analytical framework which will function as coding frame for the content analysis and then account for our method. Subsequently, under ‘results’ we present the quantitative results of the analysis, which we unfold in greater detail under ‘findings’. Finally we discuss the implication of findings and conclude.

Analytical framework & coding frame

Based on the literature reviewed above, an analytical matrix framework was developed, as shown in Figure 1. The intention with this framework was to resolve some of the ambiguities of existing ways of using these concepts, to make clear the interrelations between concepts and finally to provide a framework that makes it possible to talk about the issue of business and human rights also in positive terms, that is, without an exclusive focus on violations. The framework involves four binary dimensions/oppositions.

1. *Appraisal*: Positive vs. negative framing of the corporation's role in the human rights issue described (in the matrix leading to four categories: respect/protect –violate/neglect)
2. *Impact scope*: Direct vs. indirect human rights impact of corporate activities
3. *Responsibility type*: Negative (passive responsibility) vs. positive obligation (active)
4. *Right type*: Political-civil rights vs. Social-economic rights (incl. specific focus on labor rights)

	Direct impact	Indirect impact
Negative obligation (passive responsibility) The duty to avoid depriving people of rights		
Respect	Corporation is not in its direct actions in violation of human rights	Corporation does not have dealings with governments, suppliers or contractors who violate human rights
Violate	Corporation is directly contributing to a human rights violation	Corporation aids and abets human rights abuse committed by third parties (<i>direct complicity</i>)
Positive obligation (active responsibility) The duty to take action to protect and further human rights		
Protect	Corporation is taking active steps to protect human rights	Corporation is putting pressure or otherwise uses its leverage for third parties to not violate
Neglect	Corporation is failing to take direct action to protect human rights	Corporation is failing to use its leverage as above within its sphere of influence (<i>indirect complicity</i>)

Figure 1: Conceptual and analytical framework for BHR to be used as coding frame

Method

To analyze and compare how human rights are portrayed by businesses and news media over time, we conducted quantitative content analyses (Schreier 2014, Kripendorff 2013;

Neuendorf 2002) of the CSR reports of 10 transnational corporations as well as major news media’s coverage of human rights issues in relation to these companies. In order to select the companies with the greatest potential for influence, the 10 TNCs were chosen based on consistent top performance on the *Financial Times Global 500* (FT.com) list over a 10 year period.

Name:	Industry:	Headquarters:	U.N. Global Compact member since:	No. of news articles:	No. of coded articles:
Microsoft	Software & Computers	U.S.A.	Nov 2006	85	43
British Petroleum	Oil & Gas	U.K.	Jul 2000	157	72
Coca-Cola	Beverages	U.S.A.	Mar 2007	74	37
Toyota	Automobiles & Parts	Japan	Mar 2013	16	16
IBM	Software & Computers	U.S.A.	N/A	13	13
Walmart	General Retailer		N/A	87	44
General Electric	General Industries	U.S.A.	Dec 2008	9	9
Royal Dutch Shell	Oil & Gas	Netherlands	Jul 2000	108	54
Nestlé	Food & drink	Switzerland	Feb 2001	27	26
HSBC	Financial services	U.S.A.	Nov 2000	25	25

Table 1: Top Transnational Corporations from 2000-2016 (According to the *Financial Times Global 500*)

The years 2005 and 2015 were used as chronological focus points from which data were collected. Year 2005 was chosen as this was the first year, when all 10 case corporations had established a CSR report.

To collect relevant *news articles*, individual searches for each company in Factiva during the allotted time periods were conducted, including all major regional and national English language publications. Search words consisted simply of “name of company” AND “human rights.” A total of 339 articles were collected for all 10 companies. For companies with less than 25 news articles, all were analyzed. When the amount of articles exceeded 25, every second article was analyzed. The unit of analysis for the news sources was the news article.

CSR reports from each of the ten companies were collected from company websites. Since the average report ranged between 100-200 pages, each report was coded per section if it contained content related to human rights. The total number of sections coded was 239.

The data were analyzed using qualitative content analysis (Schreier 2014, Krippendorff 2013; Neuendorf 2002) with a deductive approach, applying the BHR framework developed above as coding frame. As mentioned earlier, data selection was based on the occurrence of an explicit theme, the surface string “human rights”. Further analysis was manual, as it is concerned

with latent themes, which require deeper text comprehension to draw out. In the first stage of analysis, CSR reports and news articles were coded manually in Nvivo using the coding frame described above. Each article and relevant section of CSR reports was annotated with a value from each of the four analytical dimensions listed above.

In the second stage of analysis, data were examined for patterns and co-occurrences. Occurrence and co-occurrence frequencies corresponding to the matrix of the coding frame were calculated in order to enable comparisons between the first (year 2005) and second (2015) focus points. As it is not the aim of this paper to test hypotheses, and is this type of qualitative approach has inherent subjective properties, we have not conducted statistical analyses of significance.

Results

Figure 2 and 3 below show the frequency of each category, as a percentage of the total frequency of the dimension to which it belongs. In other words, direct impact for instance, makes out 56% of references to impact scope in the CSR reports of 2005, but 27% in 2015. The two categories for each dimension rarely make up 100% because of lack of specificity. A substantial part of references to human rights, especially in the CSR reports, are of a rather generic nature.

It is clear from Figure 2 that distinct shifts take place in the CSR reports between 2005 and 2015. Mentions of indirect impact increases from only 13% to 49%. Positive duties increase from 22 to 31% and references to civil-political rights rises from 14% to 25%.

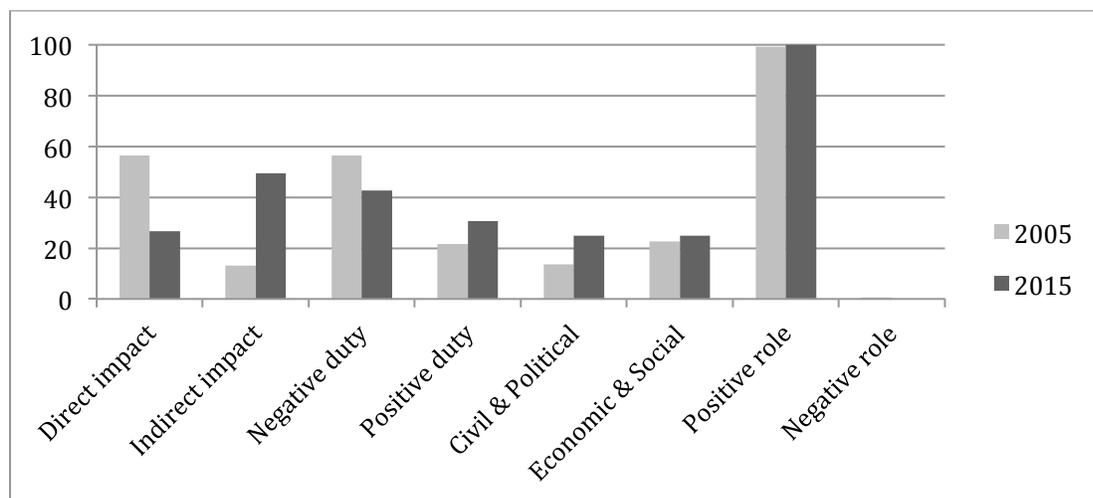


Figure 2: CSR reports. Category frequencies in % relative to dimension

Figure 3, conversely, shows the same frequencies for news articles, showing a somewhat different pattern. An increase in positive duties from 17 to 40% can be observed and a similar increase in positive stories about business and human rights. Contrary to CSR reports, however, the concern with civil-political rights decreases in the news and indirect impact is unchanged.

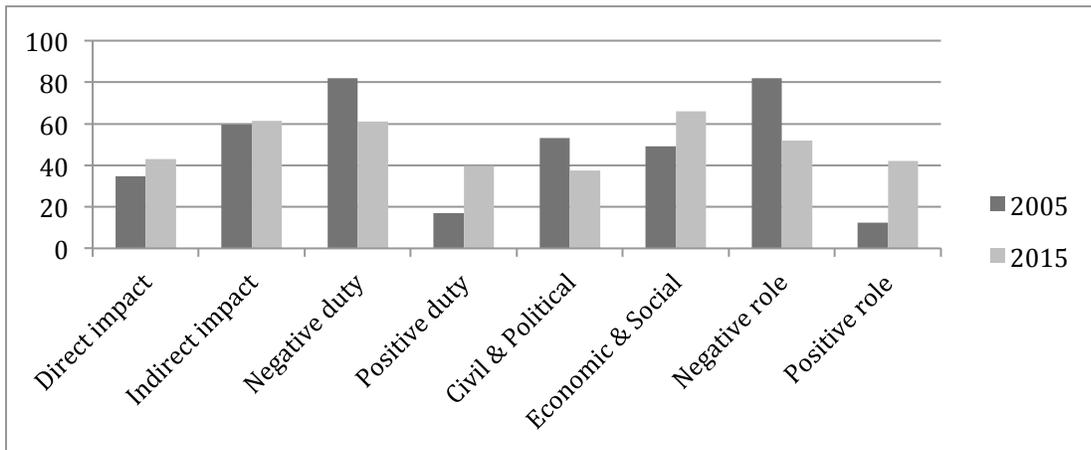


Figure 3: News articles. Category frequencies (in %) relative to dimensions

Figure 4-7 show the category co-occurrence matrices. Each cell shows the co-occurrence frequency of two categories as a percentage of the total number of coded texts/text-fragments. The matrices show percentages of total number of texts (as opposed to percentages of dimensions in Figure 1-2) in order to show which combinations dominate in the data sets. Note however, that all categories overlap.

	Direct	Indirect	Positive duty	Negative duty	Civil & Political	Economic & Social	Positive role	Negative role
Direct	57	4	13	43	9	17	57	0
Indirect	4	13	4	4	4	4	13	0
Positive duty	13	4	22	0	0	0	22	0
Negative duty	43	4	0	57	9	17	57	0
Civil & Political	9	4	0	9	13	4	13	0
Economic & Social	17	4	0	17	4	22	22	0
Positive role	57	13	22	57	13	22	96	0
Negative role	0	0	0	0	0	0	0	4

Figure 2: CSR reports 2005. Frequency matrix (percentages of total)

	Direct	Indirect	Positive duty	Negative duty	Civil & Political	Economic & Social	Positive role	Negative role
Direct	26	11	8	9	8	12	26	0
Indirect	11	49	12	21	8	13	49	0
Positive duty	8	12	31	4	13	7	30	0
Negative duty	9	21	4	42	9	9	42	0
Civil & Political	8	8	13	9	24	5	24	0
Economic & Social	12	13	7	9	5	49	24	0
Positive role	26	49	30	42	24	24	49	0
Negative role	0	0	0	0	0	0	0	0

Figure 5: CSR reports 2015. Frequency matrix (percentages of total)

Figures 4-5 show matrices for CSR reports in 2005 and 2015 respectively. The matrices are dense with information and as such are difficult to read. I will draw out and discuss the most important differences in the findings section below. For the time being, it is worth noting that whereas in 2005, 45% of CSR report mentions of human right pertain to negative obligations concerning direct impact. In 2015, this has decreased to as little as 9%.

Figure 6-7 show matrices for news articles in 2005 and 2015 respectively. Contrary to CSR reports, in 2005 negative obligation for indirect impact dominates (44%). In 2015, positive obligations for indirect impact has increased from 16 to 28%, and positive obligation for economic and social rights has increased from 5% in 2005 to 22% in 2015.

In the findings section below, the results will be described in further detail. In some cases, the findings section refers to findings pertaining to the co-occurrence of three categories. For the sake of simplicity, three-dimensional matrices are not shown here. *(this may be confusing and should perhaps be changed in the final version of the text)*

	Direct	Indirect	Positive duty	Negative duty	Civil & Political	Economic & Social	Positive role	Negative role
Direct	35	0	1	32	10	27	6	29
Indirect	0	60	16	44	43	21	5	49
Positive duty	1	16	17	0	12	5	5	9
Negative duty	32	44	0	81	41	42	6	71
Civil & Political	10	43	12	41	53	6	6	42
Economic & Social	27	21	5	42	6	49	5	41
Positive role	6	5	5	6	6	5	21	0
Negative role	29	49	9	71	42	41	0	81

Figure 6: News 2005. Frequency matrix (percentages of total)

	Direct	Indirect	Positive duty	Negative duty	Civil & Political	Economic & Social	Positive role	Negative role
Direct	40	1	8	31	4	37	7	30
Indirect	1	57	28	29	31	30	31	23
Positive duty	8	28	36	0	15	22	32	3
Negative duty	31	29	0	55	20	38	7	43
Civil & Political	4	31	15	20	34	5	19	12
Economic & Social	37	30	22	38	5	60	19	39
Positive role	7	31	32	7	19	19	38	0
Negative role	30	23	3	43	12	39	0	47

Figure 7: News 2015. Frequency matrix (percentages of total)

Findings

As indicated above, the purpose of the analysis is to investigate to whether an expansion can be detected in the way human rights are used as yard sticks for corporate responsibility in the period between the launch of the Global Compact and today and to identify the characteristics of such a possible expansion, based on the dimensions in the business and human rights debate described above.

CSR reports:

Overall, use of the phrase “human rights” in CSR reports tripled in the ten-year period, from a total of 23 mentions in 2005 to 76 mentions in 2015. This increase owes more or less equally to commitments to political-civic rights and social-economic rights, with the latter pertaining specifically to labor rights in almost all instances.

The analysis shows a distinct increase in CSR reports’ commitment to positive obligations between 2005 and 2015. In the CSR reports of 2005, positive obligations are mentioned only 5 times as compared to a total of 23 times in 2015 (from 22% of total to 31%). In general, references to human rights in CSR reports tend to be quite generic. In 2005 all instances of commitment to *positive* obligations are generic. In 2015, however, while positive obligations are still predominantly of a generic sort (60%), those that are described with greater specificity pertain mostly to political and civil rights. Labor rights make out only 12% of commitments to positive obligation. There is a clear discrepancy with news here, given that news coverage associates active responsibility with labor rights in 60% of the instances.

Finally, when it comes to the scope of responsibility, a distinct increase can be observed in commitments to indirect responsibility (from 13% in 2005 to 49% in 2015). Whereas none of the commitments to indirect responsibility in 2005 pertained to labor rights, in 2015 32% of them do, suggesting that this is indeed where the upsurge in indirect responsibility derives from, i.e. from corporations making commitments to respect and protect labor rights in their supply chains.

In sum, from 2005 and 2015 there is a clearly detectable change not only as regards the extent to which human rights language is used in these influential TNC's CSR reports, but also in how encompassing and specific the commitments made are. In 2015, human rights commitments are to a significantly larger extent both indirect and positive, involving commitments to take responsibility for indirect impact on labor rights and positive, proactive responsibility for political and civil rights.

News

Contrary to what was the case in CSR reports, the frequency of references to human rights in the news, did in fact *not* go up between 2005 and 2015. Nor can a greater focus on indirect responsibility be observed. Nonetheless, the nature of responsibility which human rights were employed to frame, did change markedly in the period.

First, a shift in terms of the rights dealt with can be observed. In 2005, news focus was equally on political-civil rights and social-economic rights, but in 2015 a much greater interest in social-economic rights is apparent, with an increased concern for labor rights accounting for some, but far from all of this shift.

Secondly, references to positive duties doubled between 2005 and 2015. In addition, positive duties shifted from primarily pertaining to political-civil rights to being predominantly about labor rights. Overall, it seems fair to say that the increase in active responsibility (positive obligations) can be ascribed to an expansion of responsibility for labor rights as positive duties, that is, as rights that businesses should take active steps to protect.

Thirdly, a remarkable change can be observed in terms of the value of the role played by corporations in relation to human rights. In 2015, almost half of the articles portrayed corporations as playing a positive role in terms of protecting human rights (as opposed to 12% in 2005). This is interesting in the light of the fact that, as described above, human rights advocates as well as the business and human rights literature has traditionally dealt with the relationship

between human rights and business as an antagonistic one, ie with businesses as perpetrators against human rights. Indeed this has as argued above been an important factor in keeping CSR and BHR agendas apart.

The positive stories predominantly describe corporations taking on positive duties. Criticism, the negative stories, pertains only to negative duties, that is, when corporations are outright violating human rights. In addition, contrary to negative news stories in 2005, in 2015 negative stories are overwhelmingly on social-economic rights. Whereas the majority of negative stories in 2005 are stories on violation of civil and political rights, in 2015 very few are (only a quarter of the amount in 2005).

In sum, the analysis indicates that news journalists show substantially greater attention to businesses' positive obligations now than 10 years ago, but that this new attention is mostly restricted to labor rights. In addition, and surprisingly perhaps, stories on positive obligations are to a great extent stories about businesses actually taking this responsibility on, rather than stories reporting on neglect. Negative stories on business and human rights do in fact never critically address the lack of responsibility on the part of TNCs for indirect complicity, for failing to take on active responsibility for their indirect impacts. So while there seems to be news-worthiness in corporations taking active measures to protect human rights, the expectation for them to do so, seems not sufficiently strong for news to report on corporations neglecting such a responsibility.

Discussion

The analyses show a distinct development in the use of human rights to frame corporate responsibility from 2005 to 2015. Large corporations are, at least discursively, accepting responsibility for human rights also beyond the minimal responsibility of respecting human rights in their immediate practices. While negative duties and responsibility for direct impact still dominate CSR reports, the greater inclusion of more expansive notions of responsibility is unquestionable. Companies, which are members of the Global Compact, are required to report in accordance with its 10 principles and thus it is not unlikely that this development can be ascribed to the Global Compact. Two factors point to such causality being overly simplistic, however. First, it is worth noting that the same development toward an expansive notion of BHR can be observed for companies, which are not members of the Compact (see table 1). Second, whereas

the Global Compact puts most emphasis on labor rights, this emphasis is not mirrored in CSR reports, where concern with labor rights is rather limited. Thus, membership of the Global Compact is neither a necessary nor sufficient condition for the employment of an expanded BHR discourse. The Global Compact does not exist in a discursive vacuum. The principles of the Global Compact circulate in public discourses among other conceptions, narratives and technologies of corporate responsibility, mutually influencing one another. Thus, although standards defined by the UN are no doubt highly influential, there is no ground for making claims about a unidirectional relationship between governance initiatives and corporate reporting.

Analysis of news articles similarly show a clear expansion of their use of human rights terminology. News media's concern with positive responsibility has intensified markedly over the past decade. In 2015, almost a third of all news articles mentioning human rights in relation to the largest TNCs did so with the most expansive understanding of human rights, that is, as positive obligation in relation to indirect impact. In other words, a substantial part of BHR reporting is about business' responsibility to use their leverage to influence third parties, that is, to play an active role as political actors.

This result must, however, be seen in the light of the parallel increase in positive news attention regarding the human rights role corporations may potentially play. The positive stories overwhelmingly concern corporations using their leverage politically, whereas the neglect to do so virtually never leads to critical news stories. This indicates a clear acknowledgment that there is a political role to be played by business, but no strong expectation. In other words, this responsibility is treated by news as (morally) voluntary.

To a large extent, then, both CSR reports and news coverage resemble the picture in UN governance, where a more expansive understanding of human rights is recommended, but voluntary. The question remains whether positive attention is sufficient to drive an expansive BHR understanding forward and encourage TNCs to use their leverage to protect human rights. Or whether further development in this direction requires intensified societal expectation and risk of negative exposure.

Conclusion

This chapter reports on a study, which uses qualitative content analysis to compare the business and human rights discourse in 2005 and 2015, looking at both news coverage and CSR reports. These analyses indicate that both businesses and news journalists have in the past ten years been moving towards an expanded view of business' responsibilities for human rights. Contrary to a restrictive view, which would require no more of business than to respect a small subset of political and civil rights, and to protect, possibly, an even smaller subset of the same rights, both CSR reports and news articles indicate that in these environments, the expectation to businesses is considerably more encompassing. It is still early days, though. Business actually contributing positively to human rights is a news-worthy story and thus far from taken for granted. The expectation that businesses will take on a role as political actors, actively using their influence to leverage human rights advancements, is still too weak to warrant any substantial amount of news coverage of this type of neglect. It is, in other words, still treated as a morally voluntary responsibility. Nonetheless, the results of this study do point towards a relatively fertile ground for greater expectations.

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