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Rearticulating Regulatory Approaches: Private–Public Authority and Corporate Social Responsibility

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Introduction

The significant changes in state–market relations that have characterized the contemporary era of globalization and economic liberalization are particularly evident in the arena of corporate social responsibility (CSR).¹ Here we see ‘softer’, voluntary approaches to business regulation being promoted in an attempt to improve aspects of company performance that relate to social and sustainable development and human rights. Such approaches are often designed by business interests and non-governmental organizations (NGOs), and couched in a discourse that proclaims their superiority in relation to legalistic, ‘harder’ approaches involving state actors.

It would be wrong, however, to regard this apparent transfer of regulatory authority from state to non-state actors as simply part of a broader trend of ‘deregulation’ promoted by neoliberalism. What has occurred is a more complex process of ‘re-regulation’ where the rolling back of the state in certain areas of the economy and the freeing-up of markets have gone hand in hand with the strengthening of governmental and inter-governmental rules to protect, for example, certain types of property rights, international trade and investment, and the environment (Braithwaite and Drahos 2000). Important differences in the trajectory and content of regulatory reform and approach are also apparent in different varieties or models of capitalism, North and South (Huber 2002), as well as in specific country and industry contexts. Furthermore, ‘deregulation’ at the national level is sometimes accompanied by new or strengthened forms of regulation at local and regional levels.

In the field of CSR, re-regulation is associated with the changing character of institutional forms that have characterized the rise of private authority in recent decades (Cutler et al. 1999; Haufler 2001). Since the late 1990s, in particular, there has been a gradual scaling-up, and ratcheting-up, of standards and implementation procedures related to CSR, with regulatory authority being assumed to a greater extent by non-governmental organizations and multistakeholder institutions or public–private partnerships, practising

so-called 'civil regulation' and 'co-regulation' (Murphy and Bendell 1997; Hanks 2002; Utting 2002a). These 'collective' or more 'socialized' forms of private authority (O'Rourke 2003) are increasingly supported by governments and inter-governmental organizations. More recently still, civil society and public authorities are demanding corporate accountability through regulatory arrangements that go beyond conventional voluntary approaches by, *inter alia*, placing greater emphasis on corporate obligations, legalistic approaches and some form of punishment in cases of non-compliance (Bendell 2004; Broad and Cavanagh 1999; Newell 2002).

This chapter examines the theory, practice and prospects of re-regulation associated with corporate accountability and the ratcheting-up of CSR. Section one examines the shift towards non-governmental regulatory systems and multistakeholder initiatives, identifying some of their achievements and limitations. Section two describes the emerging corporate accountability agenda, highlighting its distinctive features and specific initiatives. Section three introduces the notion of 'articulated regulation', which refers to the coming together of different regulatory approaches in ways that are complementary and synergistic, and suggests that a potentially fruitful area for policy intervention lies at the interface between soft and hard, voluntary and legalistic, approaches. Articulated regulation also refers to the dual presence of forms of activism involving confrontation and collaboration, as well as greater policy coherence at both the micro level of the firm and the macro level of government and international policy. As a basis for understanding the potential and limitations of the ratcheting-up and scaling-up of CSR and corporate accountability, section four looks at the theory and dynamics of progressive institutional reform. The discussion focuses on the way in which different elements related to crisis, agency, ideas, institutions and structure intervene and interact to explain processes of institutional change; how these aspects have shaped the CSR and corporate accountability agendas; and what they tell us about the possibilities for transforming the canvas of fragmented, experimental and fledgling initiatives into a more generalized feature or variant of stakeholder capitalism.

A rapidly evolving agenda

Private regulation related to CSR has evolved considerably over the past two decades. When the contemporary CSR agenda took off, particularly in the build-up to and aftermath of the 1992 'Earth Summit' in Rio de Janeiro, it centred very much on a limited range of environmental and social initiatives; a small group of global brand name corporations, often reacting defensively to activist pressures; and a few management tools, innovations and concepts. These included, for example, selected improvements in environmental

management systems, eco-efficiency, and self-prescribed and self-monitored company or industry-based codes of conduct.

Today we see more companies and industries involved, more issues on the agenda, and some transnational corporations (TNCs) and organized business interests not simply reacting to pressure but being more proactive, and attempting to apply CSR principles, policies and practices more systematically throughout corporate structures. The range of CSR interventions has broadened to include stakeholder dialogues, external monitoring and verification, 'triple-bottom line' reporting and accounting, certification and labelling, and public-private partnerships. And CSR policies and practices are reaching deeper into TNC supply chains.

The CSR agenda has also incorporated a growing number of elements associated with the international rights-based agenda, notably labour rights. Particular issues of global concern such as HIV/AIDS and violent conflict are also being addressed. More recently still, CSR is being linked explicitly to the global poverty reduction agenda, as attention focuses on how TNCs and other companies can alleviate poverty at the so-called 'bottom of the pyramid'.² Also evident are new institutional arrangements involving various forms of non-governmental regulatory action where civil society organizations not only attempt to exert pressures on business through confrontational activism but work collaboratively with companies, business associations, and governmental and inter-governmental organizations through various types of partnerships and service delivery activities. NGOs are participating in, and increasingly taking the lead in organizing, multistakeholder initiatives associated with standard-setting, company reporting, monitoring, certification and learning about good practice (Utting 2002a, 2004).

Such initiatives include:

- certification schemes, for example, ISO 14001 (environmental management standards); the Fair Labour Association and SA8000 (labour standards), and the Forest Stewardship Council (sustainable forest management);
- Global Framework Agreements where international trade union organizations negotiate accords with global corporations that agree to apply certain standards throughout their global structure (for example, agreements between the International Union of Food and Allied Workers (IUF) and Chiquita and Danone);
- standard-setting, reporting and monitoring schemes such as the Clean Clothes Campaign (CCC), the Worker Rights Consortium (WRC), the Global Reporting Initiative, the AA1000 Series (accountability standards), and the Extractive Industries Transparency Initiative (EITI);
- initiatives that emphasize stakeholder dialogues and learning about good practice, such as the United Nations Global Compact (promoting ten principles derived from international labour, environmental, human rights

and anti-corruption law); and the Ethical Trading Initiative (promoting social standards throughout supply chains).

Many of these initiatives have addressed some of the more obvious limitations inherent in corporate self-regulation. To some extent, certain schemes are conducive to democratic governance by engaging a broader range of actors or stakeholders in consultative and decision-making processes. They have also contributed to harmonizing standards and implementation procedures, and to imposing some order on what was becoming a confusing array of codes of conduct. And they have tried to encourage companies to internalize social and environmental standards more systematically throughout their corporate structures. As a result, CSR initiatives are penetrating deeper into TNC supply chains rather than remaining at the level of parent firms and affiliates. Multistakeholder initiatives have also played a key role in the evolution of the CSR agenda, as described above, where an increasing number of issues are being placed on the CSR table (see Haufler in this volume). The early focus on working conditions, for example, has been complemented by greater attention to labour rights such as freedom of association and collective bargaining. Procedural aspects have also been improved with companies having to accept independent monitoring as opposed to relying exclusively on internal monitoring or no monitoring at all; and they are having to measure concrete changes in performance.

To some extent, therefore, multistakeholder initiatives involve a ratcheting-up of standards and a slight hardening of the soft voluntarism that characterized the early experience of CSR that centred on corporate self-regulation. Indeed, some see company participation in such initiatives as indicative of a particular stage of an evolutionary learning and implementation curve. According to Zadek, CSR companies tend to move through various stages, described as 'defensive', in which they deny they are part of the problem; 'compliance', in which they adopt a policy which is seen as a cost; 'managerial', in which the issue is embedded in their core management processes; 'strategic', where addressing the issue is seen as good for business; and 'civil', where they encourage their peers to also address the issue. One of the ways they operationalize this latter stage is by participating in multistakeholder initiatives (Zadek 2004).

More generally, multistakeholder initiatives can be seen as important elements in new institutionalism and the drive for 'good governance' that are core features of the post-Washington Consensus, where it is increasingly recognized that there is a need for institutions that can minimize the perverse social, environmental and developmental effects of open markets, economic liberalization and corporate globalization.

In practice, some multistakeholder initiatives are more effective than others in relation to different regulatory functions. O'Rourke has placed non-governmental systems of labour regulation on a spectrum, 'from

purely “privatized” regulation ... to more “collaborative” regulation, to more “socialized” regulation’ (O’Rourke 2003). The ‘privatized’ variant, for example, is likely to facilitate easy access to the factory floor and to managers in order to obtain and disseminate information. The ‘collaborative’ system may be more effective at supply chain monitoring and in convincing global corporations of the need to gradually raise the bar in terms of standards and compliance. The ‘socialized’ system may have easier access to workers and local stakeholders, be more transparent in terms of public disclosure, and be freer to expose malpractice.

Whilst addressing some of the limitations that characterize company self-regulation, multistakeholder initiatives yield, in fact, a very mixed scorecard, reflected in the following traits. First, they involve only a small fraction of the world’s 70,000 TNCs, 700,000 affiliates and millions of suppliers. For example, by December 2005, 2,323 companies had joined the world’s largest CSR initiative, the United Nations Global Compact, while participation in schemes such as the Fair Labour Association and the Ethical Trading Initiative, which are associated with specific sectors, involved 15 and 39 corporations, respectively. The largest environmental certification scheme, ISO 14001, had certified some 90,000 entities (mainly companies) by December 2004.³

Many of the companies involved in the high profile multistakeholder initiatives are among the largest. The Global Compact, for example, has enlisted the support of approximately 100 of the Global Fortune 500 companies. But the participation of a global player in a multistakeholder initiative or its engagement with the CSR agenda should not be taken to mean that CSR practices have been internalized throughout the corporate structure, or indeed that participation will prompt any major change in corporate performance related to social, environmental and human rights aspects. In reality, CSR practices often remain limited to specific ad hoc interventions. This is apparent in the case of the Global Reporting Initiative where by December 2005, 751 companies claimed to be using one or some of the reporting guidelines but only 120 were using them systematically. It is also apparent in relation to the reporting on CSR best practices by companies involved with the United Nations Global Compact. Indeed a 2004 evaluation of the Global Compact carried out by McKinsey & Company found that membership of the Compact stimulated only 9 per cent of the participating companies to take actions that they would not otherwise had taken had they remained outside the initiative.⁴ In the vast majority of cases (91%), companies were doing things they would have done anyway (51%), albeit more efficiently or quickly, or had remained largely inactive (40%). So while some CSR commentators like to describe CSR as a stool with three legs that symbolize financial, social and environmental objectives, in reality the legs are fairly uneven, rendering the stool somewhat less effective than it may appear at first sight.

Second, the procedures adopted by certain schemes to encourage compliance with the standards they promote often remain weak. Others may be stronger on aspects to do with monitoring and verification but tend to engage very few companies. The Global Compact and the Global Reporting Initiative, for example, rely heavily on dialogue and best practice learning, and do not monitor compliance. ISO 14001 certification indicates whether or not a company has in place elements of an environmental management system, not whether it has actually improved in its impact on the environment (Krut and Gleckman 1998). Schemes, such as the Worker Rights Consortium and the Clean Clothes Campaign adopt more rigorous verification procedures but directly engage far fewer companies.

Third, some schemes tend to be exclusionary, top-down and technocratic. The voluntary approaches they promote are often packaged in a discourse that proclaims their superiority in relation to legalistic or state-based approaches, which are deemed unworkable, too slow or out-moded, and labelled pejoratively 'command and control' regulation. In contrast, voluntary approaches tend to be portrayed as innovative, pragmatic, consensual and modern. In a similar vein, various forms of protest and confrontational activism, which have played a crucial role in improving corporate social and environmental performance are deemed to be somewhat ideological or outmoded (Sustain Ability 2003).

This tendency to marginalize public policy and ignore certain aspects of the political and institutional context that drives and facilitates CSR also extends to the minimalist role often assigned to local and national institutions in developing countries in the design and implementation of CSR standards. While some multistakeholder approaches have governance structures that are genuinely participatory, others have not. Key actors or stakeholders such as workers or trade unions, and interest groups and organizations in developing countries, are sometimes poorly represented and relatively voiceless in the northern-based consultation and decision-making processes that tend to characterize multistakeholder initiatives.

Fourth, some schemes have not seriously addressed the question of what impact CSR is having on developing countries and the possible tensions and contradictions between CSR and development. It is often assumed that anything that involves improved social and environmental standards in TNC supply chains or small and medium-sized enterprises must be good for development. But this 'do-gooding' or 'win-win' approach often ignores key development issues, priorities and realities in developing countries; as well as the fact that raising social and environmental standards can imply costs that may constrain enterprise development, and that CSR supply chain management can be a way for TNCs to pass costs on to suppliers. It also tends to ignore more fundamental structural issues associated with corporate power and certain competitive and fiscal practices of TNCs that are implicated in the broader problem of underdevelopment.

Corporate accountability

The process of ratcheting-up voluntary initiatives, or the gradual hardening of softer approaches, has recently entered a new phase. This involves an approach to regulation that emphasizes not only more effective codes of conduct, monitoring, reporting and certification systems but also recourse to public policy and law. This new approach is summed up by the term 'corporate accountability'. The concept of corporate accountability is quite different to the conventional notion of CSR where the keywords are self-regulation, voluntarism and responsibility. Corporate accountability implies 'answerability' or an obligation to answer to different stakeholders, and some element of 'enforceability', where non-compliance results in some sort of penalty or costs incurred (Newell 2002; Bendell 2004). It also implies 'applicability' or 'universality', in the sense that standards apply to a far broader range of companies, rather than to those individual companies that choose to adopt voluntary initiatives.⁵ Some strands of the corporate accountability movement are concerned with mechanisms that not only hold corporations to account but also curb the concentration of corporate power.⁶

In recent years there has been a wave of international agreements, proposals and campaigns associated with corporate accountability. They include the following:

- Friends of the Earth International proposed that the 2002 World Summit on Sustainable Development consider a Corporate Accountability Convention that would establish and enforce minimum environmental and social standards, encourage effective reporting and provide incentives for TNCs taking steps to avoid negative impacts.
- Several trade union and non-governmental organizations in the United States (US) have launched the International Right to Know campaign to demand legislation that would oblige US companies or foreign companies traded on the US stock exchanges to disclose information on the operations of their overseas affiliates and major contractors.
- The International Forum on Globalization has advocated the creation of a United Nations (UN) Organization for Corporate Accountability that would provide information on corporate practices as a basis for legal actions and consumer boycotts. Christian Aid has proposed the establishment of a Global Regulation Authority that would establish norms for TNC conduct, monitor compliance and deal with breaches. Others have called for the reactivation of the defunct United Nations Centre on Transnational Corporations, some of whose activities were transferred to the United Nations Conference on Trade and Development (UNCTAD) a decade ago.
- Groups, particularly in the United States, have called for the 're-chartering' of corporations, to revive a system whereby states granted corporations

a charter. This licence to operate stipulated certain responsibilities and obligations and, periodically, had to be renewed.

- A large network of trade unions and NGOs that make up the Clean Clothes Campaign (CCC) actively supported the European Union (EU) parliamentary resolution of 1999 for a code of conduct for European TNCs operating in developing countries.
- The United Nations Sub-Commission on the Promotion and Protection of Human Rights adopted, in 2003, the draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regards to Human Rights. While failing to obtain approval by the Commission on Human Rights in order to become international law the draft Norms prompted the appointment of a United Nations Special Representative on Business and Human Rights, and are being tested by a group of TNCs that form part of the Business Leaders Initiative on Human Rights.
- Various NGOs and lawyers have called not only for extending international legal obligations to TNCs in the field of human rights, but also for bringing corporations under the jurisdiction of the International Criminal Court.
- For many years trade unions and others have urged the International Labour Organization (ILO) to strengthen its follow-up activities and procedures for examining disputes related to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. In 2000, the Organization for Economic Cooperation and Development (OECD) strengthened its Guidelines on Multinational Enterprises and national complaints procedures.
- In 2002, a coalition of civil society organizations and the financier, George Soros, launched the Publish What You Pay Campaign, which calls for a regulatory approach to ensure that extractive companies in the oil and mining industries disclose the net amount of payments made to national governments.
- In 2003 the Tax Justice Network was formed to address trends in global taxation that have negative development impacts, notably tax evasion and avoidance through transfer pricing and off-shore tax havens, and tax competition between states that reduces their ability to tax the major beneficiaries of globalization.

Corporate accountability implies that the rights and freedoms of companies must be balanced not just by responsibilities and voluntary initiatives but also obligations. In this sense, the concept has affinities with that of citizenship and is useful for rectifying narrow interpretations of the concept of corporate citizenship, used by many in the CSR community either as a synonym for CSR or to refer to the balancing of corporate rights and (voluntary) responsibilities, rather than the balancing of rights and (legal) obligations. While standard-setting and other regulatory action related to

CSR are often undertaken by self-appointed entities whose accountability to external agents may be very limited, the theory and practice of corporate accountability highlights issues of legitimacy and democratic governance, including the question of who decides, and who speaks for whom. It also focuses attention on complaints procedures or complaints-based systems of regulation that facilitate the task of identifying, investigating, publicizing and seeking redress for specific instances of corporate malpractice. As discussed below, this is an alternative or complementary approach to regulatory systems that involve broad but relatively superficial systems of reporting, monitoring, auditing and certification.

Corporate accountability also suggests that if CSR is to be meaningful and really work for both development and democratic governance, then it is not enough for companies to improve only selected aspects of working conditions or environmental management systems, and to engage in community projects and corporate giving. Structural and macro-policy issues also need to be addressed, including, for example, perverse patterns of labour market flexibilization and sub-contracting that can result in the deterioration of labour standards and rights; corporate taxation and transfer pricing practices that deprive developing country governments and economies of essential resources; corporate economic power and competitive advantage over small enterprises and infant industries; and the political influence of TNCs and business-interest lobbies.

Rearticulating regulatory approaches

An important contribution of some of the analysis, activism and policy proposals associated with co-regulation and corporate accountability is that they go beyond the conventional polarized debate about the virtues and limitations of voluntary versus mandatory approaches. This debate has been useful for demystifying the somewhat utopian and feel-good discourse of 'win-win' scenarios and 'partnerships' that embellishes CSR and fails to problematize the role of TNCs in global governance and development. It has also been useful in highlighting the tensions and trade-offs between different regulatory approaches, and in reminding the critics of corporate globalization of the regulatory limitations – past and present – of both state and multilateral institutions. But the polarized nature of the debate has diverted attention away from the interface of so-called soft and hard or voluntary and legalistic approaches, which is potentially a fruitful area for regulatory intervention. If 'co-regulation' refers to the coming together, through multistakeholder initiatives, participatory decision-making processes and partnerships, of different actors to facilitate the design and implementation of standards, what might be called 'articulated regulation' refers to the coming together of different regulatory approaches in ways that are complementary, mutually reinforcing and synergistic, or at least less contradictory. Some of the

discussion and proposals related to corporate accountability centre on more complex or pluralistic institutional arrangements that occupy this terrain.

This section discusses four forms of articulated regulation. The first three relate to regulatory approaches that explicitly aim to promote CSR and corporate accountability. They involve complementarity between different non-governmental regulatory systems, the interface between confrontational and collaborationist forms of civil society activism, and linkages between voluntary and legalistic approaches or public policy. The fourth aspect relates to the question of policy coherence, and the need to minimize the contradictions between regulatory approaches associated with very different reform agendas.

This discussion is not meant to suggest that other regulatory approaches are inconsequential or unnecessary. It merely suggests the need to think beyond the voluntary versus binding, soft versus hard dichotomy and to expand, in a sense, the notion of co-regulation, which has focused primarily on the articulation of actors – e.g. business interests, NGOs and multilateral organizations – usually for the purpose of designing and implementing voluntary initiatives or public–private partnerships.

Articulating non-governmental systems of regulation

The first type of articulated regulation involves complementarities between different forms of private and non-governmental authority. O'Rourke and others have examined the need and scope for building complementarity between the different emerging systems of non-governmental labour regulation (O'Rourke 2003; Sabel et al. 2000). As noted above, some multi-stakeholder initiatives are more effective than others in relation to different regulatory functions. The notion of articulated regulation, then, relates partly to 'connecting these initiatives in some inter-operable way [that] might help to overcome the challenges of access, scope and credibility' (O'Rourke 2003).

Complementarity within non-governmental systems is particularly important in relation to trade unions and NGOs. Despite some progress in terms of dialogue and collaboration via certain multistakeholder and other initiatives, there is still considerable tension between some trade union organizations on the one side and NGOs that are working with companies and multi-stakeholder initiatives to promote labour standards and rights on the other. Much of this tension revolves around trade union concerns that many NGOs are largely unaccountable, are not legitimate representatives of workers, and that the CSR initiatives and processes they propose are largely detached from democratic processes and public policy, or deflect attention from fundamental issues such as the denial of labour rights in China and other countries (UNRISD 2004). Some NGOs, for their part, tend to regard trade union structures as ossified, corrupt and patriarchal. Certain multistakeholder initiatives such as the Worker Rights Consortium and the Clean Clothes Campaign have promoted more collaborative relationships and forms of participation.

One particular area where the complementarity and inter-operability of non-governmental systems needs to be strengthened relates to complaints procedures. In the debate about CSR and its capacity to regulate corporate behaviour, considerable attention has focused on developing standards and systems related to monitoring, verification and reporting. While this focus has played an important role in highlighting the limits of internal monitoring and the need for hard data, more systemic approaches and independent verification, the NGOs and companies involved face the somewhat daunting task of gathering information and checking on the implementation of numerous standards contained in codes of conduct and certification guidelines throughout vast corporate structures and ever-lengthening global supply chains. Given the scale and international reach of TNC activities, the costs involved, and the reliance on commercial auditing techniques and analytical frameworks that often ignore the root causes of non-compliance and fail to obtain reliable information from workers and managers, mainstream monitoring and reporting often simply scratches the surface (Maquila Solidarity Network 2005; O'Rourke 2000; Clean Clothes Campaign 2005). The cost and complexity of such 'extensive' approaches seriously compromise their feasibility and scaling-up.

A complementary regulatory arrangement involves strengthening more 'intensive' approaches involving various forms of complaints procedures or complaints-based systems of regulation. Rather than trying to span a broad spectrum of TNC activities, complaints procedures enable different types of stakeholders and entities to identify specific abuses or instances of malpractice. Numerous types of institutions can and do function on the basis of complaints procedures. Trades unions, for example, often take action when a company is in breach of a specific component of a collective bargaining agreement. Watchdog NGOs, ombudsman-type institutions, the judicial process, and the investigative media, also function on the basis of complaints procedures. In 2000, the OECD strengthened its Guidelines for Multinational Enterprises and national complaints procedures. Some of the non-governmental regulatory institutions, such as the Worker Rights Consortium and the Clean Clothes Campaign function wholly or partly on the basis of complaints procedures, and other multistakeholder initiatives, such as the Fair Labour Association, have adopted such processes. This approach is also envisaged in the draft UN Norms on the responsibilities of TNCs referred to above.

The methods, procedures and types of informants used may vary considerably. Whereas the Fair Labour Association (FLA), for example, works mainly with commercial auditing firms and managers, the WRC engages workers and local organizations. As noted above, each approach has its advantages and limitations, but they can be complementary. An evaluation of the involvement of both these schemes in investigating complaints at a Honduran factory owned by the Canadian company, Gildan Activewear, led

the Maquila Solidarity Network to conclude that rather than seeing these two approaches as incompatible, they can be complementary and mutually reinforcing: 'This is not meant to suggest, however, that the best elements of each initiative should be incorporated into one institution, since it is the interaction between the two initiatives that often produces the positive outcomes' (Maquila Solidarity Network 2005: 12). It is this philosophy that to some extent lies behind the Joint Initiative on Corporate Accountability and Worker Rights, an initiative that aims to test a variety of approaches to the implementation of codes of conduct (Maquila Solidarity Network 2005).⁷

The confrontation–collaboration nexus

The notion of articulating different forms of non-governmental regulation can also be extended to the interface between formal non-governmental regulatory systems involving standard-setting and related operational activities, and the informal realm of social activism or 'street regulation'. The dynamism and effectiveness of particular CSR initiatives is often linked to this dual presence of 'collaboration' and 'confrontation' (Bendell and Murphy 2002; Utting 2005b). Whereas collaboration can serve to construct a roadmap for reform and institutionalize the reform process, confrontation is often crucial for generating the political will needed to change the status quo and keep the reform process 'honest'. Confrontational activism, including various types of protest, campaigns, watch-dog activities and so-called 'naming and shaming', remains a key driver of voluntary initiatives, despite the tendency of some CSR leaders and practitioners to argue that social militancy is a thing of the past and that stakeholder dialogue and partnerships are the key for advancing the CSR agenda. It is the co-existence of these two forms of civil society regulatory action that often accounts for the ratcheting-up and scaling-up of particular multistakeholder initiatives. Sustained 'anti-' movements, such as the anti-sweatshop and anti-logging campaigns, are particularly important in this regard, and partly explain the dynamism and uptake of schemes associated with the Fair Labour Association and the Forest Stewardship Council (Conroy 2002).

Voluntary and legalistic approaches

A third form of 'articulated regulation' refers to the arena where voluntary and legalistic approaches or public policy interact in a complementary or synergistic way (Gunningham and Sinclair 2002; UNRISD 2004; Utting 2002a; Ward 2003). Over and above the fact that CSR should, by definition, imply compliance with existing environmental, labour and human rights law, and involve going 'beyond compliance', articulation can manifest itself in numerous ways.

- So-called international soft law, which is the basis of many CSR standards, may be non-binding but it nevertheless carries moral authority, is

applicable to a broad universe of agents (for example, all governments or corporations), and may encourage or require national governments to incorporate its provisions in legislation at the national level. This has occurred to some extent, for example, in the case of the international code of conduct related to the marketing of breastmilk substitutes.

- Hard law can oblige companies to adopt 'voluntary' approaches, for example, by requiring them to be more transparent and to report on their social or environmental performance, but not specifying what that performance should be. If performance standards are found to be low, then it is up to others such as civil society organizations, the media and public opinion to expose, 'name and shame' or otherwise bring pressure to bear on a company to improve its performance. Pollutant Release and Transfer Registers (PRTRs), which impose reporting obligations on companies producing toxic substances, now exist in certain countries, as well as internationally through the PRTR Protocol signed in 2003.
- Other laws, related, for example, to freedom of association and freedom of information, pave the way for CSR by creating an enabling institutional environment, which safeguards and facilitates the role of actors and organizations that can exert pressures on companies, such as trade unions, NGOs and the media. And laws on misrepresentation and false advertising frame voluntary reporting by companies (Ward 2003: 5).
- Forms of 'negotiated agreements', which are sometimes used in the field of waste management and others areas of environmental protection, establish legally grounded objectives or targets, and involve some element of sanction in cases of non-compliance, but they grant the companies involved the flexibility to decide how to comply in the most cost-effective way (Hanks 2002).
- The mere threat of mandatory regulation, at both national and international levels, has long been a crucial driver of voluntary CSR action and soft law. The voluntary guidelines for transnational corporations and international codes of conduct that were established in the 1970s emerged in a context where several developing country governments were calling for binding regulations on TNCs. More recently, the considerable impetus behind voluntary company triple-bottom-line reporting and revenue transparency in the United Kingdom, has occurred in a context where a broad-based coalition of actors has called for mandatory reporting.
- Litigation has important implications for CSR. Cases of 'foreign direct liability', for example, where parent companies are held legally accountable in their home countries for malpractice abroad, aim 'to generate legal precedents at the boundaries of CSR' (Ward 2003: 7).
- Public policy can promote voluntary initiatives through market-based incentives associated, for example, with taxation, subsidies and credit (Welford 2002). Indeed, the so-called corporate social welfare model that

emerged in East Asia in the decades that followed the Second World War – where many large corporations assumed limited but important welfare functions – was premised on a compromise where selected corporations received tangible economic benefits in return for corporate welfare provisioning.

- Stock market regulations can require all listed companies to adopt CSR standards. The listing of certain South African companies, for example, on the New York Stock Exchange appears to have prompted some improvements in corporate social and environmental performance in South Africa. Within the country itself, the Johannesburg Stock Exchange now requires listed companies to adhere to the King Report's Code of Corporate Practice and Conduct (Fig et al. 2003; ILO Socio-Economic Security Programme 2004).
- CSR standards may be incorporated into contracts of different types, for example, agreements related to international investment and trade (UNCTAD 2003) or contracts with CEOs, which specify the use of CSR indicators in performance reviews and the calculation of bonuses.⁸
- Voluntary initiatives that are derived from international law or are adopted by democratically-elected governments or inter-governmental processes are often considered to have greater legitimacy and carry more legal weight (see Bernstein and Cashore in this volume). This point is often emphasized by those in the legal community, as well as by some trade union organizations that are concerned about the increasing role of NGOs, which are considered to be largely unaccountable, in designing labour standards (UNRISD 2004).
- Voluntary schemes like the Global Compact may be weak in terms of compliance mechanisms and have sometimes been used to fend off legalistic approaches. On one level, however, they can be said to articulate voluntary and legalistic approaches given the fact that they not only promote principles derived from international law but also reinforce the notion that international human rights law applies not only to states but also to corporations.
- Articulation may be sequential, with voluntary initiatives paving the way for harder or legalistic initiatives once a particular standard gains broader 'cultural' acceptance, is internalized by business and other actors, and when coalitions of organizations and actors backing the ratcheting-up of standards or legalistic approaches expand, sometimes with the support of certain business interests. This is evident, for example, in the case of the Publish What You Pay Campaign and the emergence of a group of companies and business-interest organizations supporting the proposed UN Norms on the Responsibilities of TNCs and other Business Enterprises with Regard to Human Rights.
- Articulation applies more generally to the interface between CSR and public governance, and the need to recognize that voluntary approaches often

work best 'where government and the public sector is effective, predictable and clear, ... where citizens and workers are empowered and human rights are respected; and where principles and institutions of justice ... public participation and access to information are all recognized' (Halina Ward quoted in UNRISD 2004).

Policy coherence

The above forms of articulated regulation relate to approaches concerned explicitly with improving social, environmental and human rights aspects of company performance. The need to articulate regulatory systems is also apparent in another sense. Companies attempting to engage with the CSR agenda are typically enmeshed in two very different regulatory environments, one involving norms, rules and institutions that promote social and environmental protection; and another associated with a variety of incentives and pressures aimed at enhancing or securing conditions for profitability and growth through cost-reduction, de-regulation, and flexibilization. These two environments are in constant tension and, in some respects, are contradictory. This, of course, reflects the age-old tension between commodification, accumulation and efficiency, on the one hand, and social protection and equity, on the other hand, that has characterized development under capitalism. In certain historical contexts, however, as argued in the final section of this chapter, such contradictions have been managed through forms of articulated regulation that enable social and economic policies to be mutually reinforcing or at least less contradictory.

A fourth arena of articulated regulation, then, relates to the need for policies to work in tandem rather than against each other, or to constitute enabling rather than disabling environments for institutional reforms associated with the ratcheting-up and scaling up of CSR and corporate accountability. Such 'policy coherence' is required both at the micro level of the firm and the macro level of government and international policies. The ratcheting-up and scaling-up of CSR and corporate accountability policies and practices currently confront two fundamental contradictions. Firstly, TNC affiliates and suppliers in global value chains are often confronted by seemingly contradictory policies of parent companies or large buyers, which insist on higher environmental and labour standards and compliance with codes of conduct, on the one hand, but simultaneously impose tough contract conditions that squeeze margins and delivery schedules, which increase the intensity of labour and overtime, on the other hand. Secondly, government and international policy often talks the talk of social and sustainable development but walks the walk of macro-economic and other deregulatory policies that may inhibit growth, small enterprise development and infant industries, and result in the deterioration of labour standards and the environment, particularly in developing countries. While such contradictions are, to some extent,

features of certain patterns of capitalist development, they can be modified and managed in ways that are less contradictory. In relation to the firm-level contradictions it is important, for example, for companies a) to get CSR out of the ghetto of an individual office or unit, or even the mindset of a particular CEO, and mainstream or internalize CSR culture and policies throughout the corporate structure; b) to introduce CSR criteria into incentive systems; and c) not simply to impose tougher CSR conditions on suppliers but share responsibility for the costs involved, and ensure that CSR initiatives translate into productivity gains (Zadek 2004). In relation to the macro contradictions, particularly important are policies, campaigns and laws related to rights-based approaches to development, social justice, tax justice, greater 'policy space' for developing countries, more equitable North–South trade relations, and the democratization of international institutions.

Understanding the potential and limits of progressive institutional reform

Why are we seeing an apparent ratcheting-up of standards, and regulatory authority being increasingly assumed by civil society organizations and multistakeholder entities? Are the limitations that characterize multistakeholder approaches and non-governmental regulatory systems likely to be overcome? And should we expect to see any significant progress on the CSR and corporate accountability fronts, in terms of these ad hoc initiatives and fledgling approaches becoming a more generalized feature or variant of stakeholder capitalism?

To answer these questions it is necessary to say something about the theory of institutional change and to weigh up the different factors and forces that shape institutional outcomes and trajectories of change. Of particular importance are elements and contexts associated with injustice or crisis, the role of 'agency' and organized interests, the influence of ideas and institutions, and the spaces and constraints associated with structural conditions.

Crisis and agency

A useful starting point is Polanyi's notion of the need for markets to be embedded in institutions that mitigate their negative social and environmental impacts, and his analysis of the 'double movement'. This suggested that the crude liberalization and excessive reliance on the self-regulating market that characterized late nineteenth century globalization, generated perverse social conditions and a social and political reaction that resulted in the re-embedding of markets in various institutional and political arrangements (Polanyi 1957). From this perspective, voluntary initiatives, corporate self-regulation and certain forms of non-governmental regulatory action can be seen as part and parcel of broader efforts to promote 'embedded liberalism'

(Ruggie 2003), or as important elements of a new social compact adapted to contemporary globalization (Hopkins 1999), where openness of markets is secured on the basis of a compromise involving CSR.

In fact CSR responds to a dual crisis. First it relates to a crisis of the dominant model of accumulation and social protection that characterized early and mid-twentieth century industrial capitalism, which is often referred to as Fordism (Jessop 1999; Lipietz 1992). Second it relates to the crisis of development that affects the global South, elements of which have been exacerbated or projected onto the world stage in the contemporary era of globalization.

In the 1980s and 1990s, a series of events and conditions contributed to the reality or perception that contemporary patterns of capitalist development and economic liberalization were fuelling crises of various sorts. These included signs of environmental crisis related to deforestation, pollution, global warming and ozone depletion; the human and developmental costs of structural adjustment programmes and 'the race to the bottom'; persistent mass poverty and the growing gap between rich and poor; the explicit character of corporate greed and conspicuous consumption; the growing imbalance between corporate rights and obligations; and a series of high profile cases involving corporate crime or abusive practices.⁹

New social movements and transnational activism focused the spotlight on global corporations and demanded institutional reforms. NGOs proliferated during these decades and an increasing number began to engage with CSR issues and companies themselves. These agents of change, however, assumed certain characteristics that shaped their approaches and the nature of their demands and proposals. Compared to corporatist entities such as trade unions, which had been one of the principal change agents of previous decades, NGOs were relatively weak and fragmented. Neither were they empowered through their relations with political parties, as the labour movement had been. In addition, the types of demands they put forward and their tactics were conditioned by the tendency for many NGOs to become more involved in service delivery, and consultative and commodified activities. There was, in fact, a blurring of the distinction between an important strand of 'civil society' and 'business'.

Certain strands of governance theory help to explain the evolving nature of attempts to bring big business under social control. Not only the perverse effects of commodification and economic liberalization but also the perceived or real limitations of government and intergovernmental regulation fuelled the search for 'third way' alternatives. Furthermore, globalization, ever-expanding value chains, increasing complexity, uncertainty and risk require institutions at multiple levels that can enhance systemic coordination and stability. Forms of multiplayered and multilayered governance, where different actors (private, civil society, governmental and inter-governmental) come together both on an organizational basis in networks, and on an ideological and ethical basis through shared values and agreed norms (Keohane

and Nye 2002), appear to offer considerable potential in this regard. The political underpinnings of this approach have to do not only with the reality or threat of pressure 'from below' but also new configurations of power involving multiple actors at different levels (Held 2003).

The role of agency in shaping the CSR agenda relates, of course, as much to the political strategies of corporations and business organizations as it does to civil society actors. It was the large global brand name companies that were particularly susceptible to the above pressures, and they mobilized effectively to influence, if not lead, the CSR 'movement' (Utting 2005b) and to shape the agenda on their terms. This leadership role – and the shift from reactive or defensive posturing to proactive engagement, noted above – can be usefully explained in Gramscian terms (Levy and Newell 2002). Throughout much of the history of capitalism elites have attempted to rule through consensus or 'hegemony'. This involves not only accommodating certain oppositional demands but also exercising 'moral, cultural and intellectual leadership' (Utting 2002b). Such an approach is particularly obvious in the field of CSR and in relation to big business engagement with multistakeholder approaches and public–private partnerships. Through such arrangements big business has skillfully opened up or accessed another arena for shaping the public policy process (Richter 2001, 2003).

French regulation theory provides further insights into the capacity of capitalist elites and relations to adapt in socially-sensitive ways in order to secure conditions for ongoing and long-term accumulation. Crucial in this regard is the role of extra-economic factors (of the type typically associated with CSR), namely institutions, shared visions, agreed standards, networks, partnerships and new modes of calculation (Jessop 1999). Some argue that the inherent tendency for self-preservation or self-reproduction through adaptation is even more ingrained. So-called 'autopoietic' systems are said to adapt through a self-regulating mechanism, which ensures that they change largely on their own terms and resist external intervention (Jessop 1999).

Indeed, a major challenge to the corporate accountability agenda comes from certain organized business interests that have proved quite adept at mobilizing to resist certain efforts to strengthen the regulatory environment. This can be seen, for example, in the political backlash in the United States against attempts to reapply the Alien Torts Claims Act (ACTA)¹⁰ (Taylor 2004). Or it can take the form of attempts to reassert the model of softer voluntary approaches and corporate self-regulation, albeit with some fine-tuning and compromises. In the realm of international policy making related to corporate regulation, the discourse and practice of voluntary initiatives is often used as a means of crowding out the consideration or adoption of other regulatory approaches.

There is nothing new about this situation. Voluntary approaches have long been a compromise solution for accommodating demands for tougher international regulation of business. During the 1970s, for example, there were

increasing calls for a New International Economic Order (NIEO) and binding regulations on TNCs. Against this backdrop, the United Nations began drafting a comprehensive code of conduct for TNCs. The drafting process itself ran into opposition and was eventually scuppered but what did emerge was a series of international agreements in the shape and form of non-binding principles and guidelines for TNCs. These were adopted, for example, by the OECD in 1976 and the ILO in 1977, as well as in the 1980s, by United Nations agencies concerned with the marketing and use of specific products such as breast-milk substitutes, medicinal drugs and pesticides. More recently, the use of the soft to displace the hard was seen clearly at the World Summit for Sustainable Development in Johannesburg when business interests rallied against certain proposals for 'corporate accountability', arguing that their involvement in company reporting and public-private partnerships obviated the need for harder regulatory action. And even many of the partnership proposals that were announced at the Summit failed to materialize once the spotlight was lifted (Commission on Sustainable Development 2004).

The use of the 'soft' to fend off or dilute the 'hard' is evident not only in relation to legalistic approaches but even within the spectrum of voluntary initiatives. To the extent that 'multistakeholder initiatives' (MSIs) represent a hardening of approaches such as corporate self-regulation, business often opposes MSIs, arguing that self-regulation is sufficient to meet the challenge of improving company social and environmental performance. This tactic was apparent in consultations organized by the World Health Organization (WHO) and the International Business Leaders Forum, which attempted to convince leading food and beverage TNCs that multistakeholder approaches could be useful for addressing some of the serious health and nutrition problems linked to the mass consumption of many of their products.¹¹ The response of some of the business representatives was to argue against such approaches on the basis that they could deal with problems of concern to the WHO through self-regulatory approaches.¹² A paradoxical situation existed where even self-regulation was regarded by some participants as a fundamentally progressive step forward, given that the initial position of business had been to deny that their companies were implicated in the problematique of poor health and nutrition. By agreeing to self-regulation, companies were accepting some degree of responsibility.

A similar response is playing out in relation to the draft UN Norms on the Responsibilities of TNCs and Other Business Enterprises with Regard to Human Rights, referred to in section two.¹³ The Norms attempt to address some of the weaknesses that characterize the Global Compact and voluntary initiatives more generally, namely picking and choosing among standards, weak compliance with agreed standards, and free-riders. The Norms pull together a wide range of standards that are derived from international law that applies to states, but which are commonly found in multistakeholder

initiatives. The Norms state that all TNCs and related companies have an obligation to uphold such standards, and propose an implementation and monitoring mechanism. They push the envelope even further by stipulating 'adequate reparation' in cases of stakeholders affected by non-compliance.

These harder aspects were anathema to some business interests and governments, and the 2004 session of the UN Commission on Human Rights, which considered the Norms, not only reminded the Sub-Commission that the Norms had no legal status and that it was not to perform any monitoring function, but also that it had never been asked to draft any such norms in the first place.¹⁴ One of the reasons put forward by opponents was that they were essentially unnecessary since voluntary instruments such as the Global Compact and the OECD Guidelines on Multinational Corporations already exist. This was the position, for example, of the International Chamber of Commerce. Other business actors within the CSR community have adopted more nuanced positions. At a multi-stakeholder consultation on the Norms, organized by the Office of the High Commissioner for Human Rights in 2004,¹⁵ several representatives of TNCs and business-interest organizations accepted that there was a need for a 'Global Compact Plus', i.e. for some ratcheting-up of standards and compliance mechanisms through voluntary approaches, but that the 'harder' aspects of the Norms related to monitoring and redress were unacceptable or politically a non-starter. In 2005, the Commission on Human Rights passed a resolution calling on the UN Secretary-General to appoint a Special Representative on Business and Human Rights in order to identify and clarify standards, examine regulatory approaches and methodologies for impact assessment, and compile a compendium of best practices. The Special Representative's interim report of 2006, suggested that the way forward lay not with the Norms, which were dismissed as 'a distraction' but with 'principled pragmatism'. Such an approach would essentially continue the process of scaling-up and ratcheting-up existing voluntary initiatives, and expanding forms of 'collaborative governance' involving co-regulatory or multistakeholder initiatives, as well as some of the regulatory initiatives referred to above that operate at the interface of voluntary and legalistic approaches. Specific reference was made to such aspects as extending the extraterritorial application of some home countries' jurisdiction for the extreme human rights abuses committed by their firms abroad; best practice learning and capacity-building in developing countries; the development of effective impact assessment tools; and extending CSR and monitoring initiatives to state-owned enterprises.

Ideas and knowledge

Crisis, interest group conflicts and political manoeuvring do not in themselves necessarily explain why particular agendas and processes of

institutional reform emerge. This depends also on other conditions and contexts related to the role of ideas, how knowledge becomes embedded, and the ways in which pre-existing institutions and structures shape the substance, scope and pace of reform.¹⁶

Concerning the role of ideas, certain terms, concepts and schools of thought have been up for grabs and have been quickly assimilated and disseminated by key actors that are shaping the CSR agenda. The speed and force with which these ideas have informed global discourse may say more about the consolidated and globalizing nature of so-called epistemic communities, i.e. the formal and informal networks through which ideas are disseminated and learning takes place, than it does about the inherent worth of the ideas themselves.

Particularly influential have been ideas and thinking associated with ecological modernization, new institutional economics (NIE) and innovative approaches to management. Ecological modernization highlighted the role of technological and managerial innovations in improving the efficiency of resource use; 'win-win', as opposed to zero-sum, scenarios; systems-based approaches, and the capacity of existing institutions to internalize care for the environment, without fundamental restructuring (Hajer 1995). NIE emphasized the need for institutions that can minimize transaction costs (Toye 1995). These include risks to corporate reputation and sales posed by activists and 'ethical consumers', or risks and uncertainty that derive from the rapidly changing geography and structures of production and exchange in the context of globalization. Formal and informal institutions are needed to minimize such risks and to reinforce corporate control over suppliers and other stakeholders associated with global value chains. Thinking related to the concept of social capital, which emphasizes the economic benefits derived from collaborative relations and trust, reinforced this approach. CSR, multistakeholder initiatives and public-private partnerships are particularly relevant in this regard (Utting 2000, 2002b).

From the field of management studies emerged various concepts that have influenced CSR policy and practice. The type of systems-based management approaches and the notion of responsiveness to selected stakeholders (e.g. customers) that underpinned the concept of total quality management¹⁷ resonated with stakeholder theory. The latter questioned the notion that the social responsibility of an enterprise consisted solely of making money for its owners or shareholders. The critique that developed in the 1970s and 1980s emphasized the multiple responsibilities of companies beyond the purely economic, and the fact that sound or strategic management required responsiveness and accountability to a variety of stakeholders who affect, or are affected by, the operations of a company (Freeman 1984). Since the notion of 'responsibility' relates to the realm of ethics and principles, attention soon turned to the nuts and bolts of how to improve the quality of CSR actions or 'corporate social performance', which includes motivating

principles, processes and observable outcomes (Hopkins 1999). Engagement with stakeholders was crucial not just for ethical reasons but for key aspects of management associated with organizational learning, knowledge management and various advantages that derive from networking (Ruggie 2001; Zadek 2001). The so-called business case for CSR was reinforced further with the theorization and popularization of 'win-win'. Applied initially to the arena of corporate environmental responsibility, the notion of win-win suggested that practices involving recycling, pollution control and the production of environmental goods and services could make sound business sense from the perspective of cost reduction and competitive advantage (Porter and van der Linde 1995).

While these ideas challenged some aspects of neoliberal and management orthodoxy that had disregarded the reality of market failure and the complex determinants of successful enterprise, they did not really question fundamentals to do with labour market flexibilization, structural adjustment, free trade and investment, state downsizing, and corporate-driven globalization. Indeed, many of the interests that support CSR – including not only business but also governments, international organizations and the growing number of NGO service providers, take as given several of the basic tenets or features of neoliberalism. The original statement by the Secretary-General of the United Nations at the World Economic Forum that established the Global Compact (Annan 1999), for example, called for a compact in which the United Nations would support the idea of an international trade and investment regime largely free of restrictions, in return for company action to adopt voluntary improvements in relation to labour, human rights and environmental standards. More recently, this vision has been reinforced by the United Nations Commission on the Private Sector and Development, which also calls on corporations to engage far more proactively with local communities and enterprises (UNDP Commission on the Private Sector and Development 2004).

The ideas taken up by the corporate accountability movement, however, were somewhat different. Two strands of thinking were particularly influential: rights-based approaches to development and anti- or alternative globalization. The former not only emphasized the recognition of human rights as an objective of development, but emphasized the key role of legal instruments at international, regional and national levels (ODI 1999). For some, rights-based approaches also included a strong political element, namely that of 'empowerment', or the notion that the recognition and realization of rights depended crucially on increasing the capacity of disadvantaged groups in society to exert claims on the powerful. Other challenges were posed by activists and scholars who were highly critical of dominant patterns of globalization and adhered to the slogan of the World Social Forum that 'A Better World is Possible'. Those calling for a more fundamental reshaping or rolling-back of globalization emphasized the need to reassert

social control over corporations via civil society, social movements and the state; the downsizing or breakup of corporations; halting altogether certain economic activities that have perverse social and environmental impacts; redirecting state resources and creating a policy environment conducive to local development and small enterprises; subsidiarity; and collective property rights (Broad 2002).

Structural constraints and spaces

Civil society pressures, corporate political strategies and the role of ideas explain to a considerable extent the content and dynamics of the CSR and corporate accountability agendas and movements. Corporate engagement with the CSR agenda was relatively easy since it posed no fundamental threat to corporate interests or the dominant 'neoliberal' macro-economic regime. This agenda assumes that capitalism can largely reform itself through relatively minor adjustments to existing institutions.

Indeed, the pattern of institutional reform related to CSR is very much conditioned by a range of structural factors and contexts that work for and against CSR. The pressures on companies to prioritize 'business-as-usual' practices and shareholder interests over other stakeholder interests are extremely powerful (see Cutler in this volume), and they are institutionalized in legal and incentive structures, as well as in corporate or management culture. As noted above, this often results in onerous contract conditions and pressures on suppliers. Structural conditions associated with 'cheap consumerism' à la Walmart also restrict the scope for expanding so-called ethical consumer markets for socially- and environmentally produced products, and partly explain the stubbornness of fair trade and ethical investment markets to break out of their very niche status. Such structural constraints go some way to explaining the relatively weak uptake and implementation of many CSR initiatives, as well as the litany of cases or exposés of 'greenwash', 'bluewash' and malpractice involving so-called CSR companies, leaders and organizations.¹⁸

The problem, however, is not just that structural conditions impose limits on CSR, or that perversity and do-gooding coexist; it is also that the scaling-up of the CSR agenda or the process of embedding liberalism seems to be dwarfed by ongoing economic liberalization or 'disembedding' of the type exposed by Joseph Stiglitz in *The Roaring Nineties* (2004), theorized by Blyth in *Great Transformations* (Blyth 2002) and documented empirically by the ILO (ILO Socio-Economic Security Programme 2004). Yet the scale of this disembedding tends to be downplayed or wished away in mainstream CSR discourse, or it is assumed that the CSR snowball, as it gathers momentum, will eventually outstrip and overtake any disembedding process.

In practice, as noted above, we do see some ratcheting-up and scaling-up of voluntary CSR standards and implementation procedures. The question that needs to be asked, however, is how does this process fare in relation to counter-trends involving ratcheting-down, that is, with policies and

processes associated with economic liberalization or 'disembedding' that can have perverse social, environmental and other developmental impacts. If one considers the pace and scale of certain policies and processes that characterize neoliberal reform, then one might be excused from concluding that any scaling-up or ratcheting-up of CSR pales in comparison. These include 'flexibilization' of labour markets and sub-contracting that often undermine labour standards and labour rights; permissive fiscal 'reform' and tax avoidance or evasion that reduce corporate taxation; the downsizing of state institutions and capacity; the so-called race to the bottom associated with certain patterns of FDI, and the cut and run tactics that accompanied the termination of the Multi-Fibre Arrangement in January 2005.

It would be wrong to assume, however, that basic structural contexts and trends associated with capitalism and corporate globalization make a nonsense of CSR, i.e. that the profit motive and shareholder interests are totally at odds with forms of 'do-gooding' that may detract from short-term shareholder returns, contradict the tendency to externalize costs, or actually increase costs. Whilst often overstated, there is some validity to the assertion, continually emphasized by CSR exponents and business leaders, that there is a business case for CSR and scope for 'win-win' opportunities related to improved social, labour and environmental performance, on the one hand, and competitive advantage, risk and reputation management, productivity gains related, for example, to employee motivation and reduced staff turnover, and even cost reduction through aspects such as eco-efficiency, on the other hand (Porter and van der Linde 1995; Holliday et al. 2002).

Just as important, is the fact that structural change partly explains the emergence and dynamism of CSR. Far from simply contradicting or constraining CSR, certain structural conditions that characterize contemporary capitalism and patterns of industrial organization actually suggest the need for institutional and management reforms of the type associated with CSR (Utting 2000). This is apparent in relation to intangible assets, global value chains, flexibilization, and the increasing number of factors and institutions that impact economic coordination systems.

Intangible assets such as brand names have increased dramatically in value. CSR is a crucial weapon to defend such brands against risks and to enhance brand value through improved company and product reputation and image (Jenkins 2002). Global value chains have lengthened and deepened through foreign direct investment, networking and sub-contracting. This expansion of relations with a broader range of enterprises is partly driven by the need for greater flexibility of production systems as companies seek to adjust quickly to rapid changes in consumer demand and new market opportunities. CSR institutions such as codes of conduct, certification and labelling can play an important role in the development of collaborative relations between the firms that make up a network or commodity chain. CSR has also become a key means of ensuring that the corporate centre in these systems controls

the chain and links on the periphery of that chain, through, for example, the introduction of codes of conduct, certification and other requirements in supply chain management, or acquiring additional eyes and ears, not only through NGOs and auditing firms engaged in monitoring and certification, but also through the type of global framework agreements entered into with international trade union organizations (Utting 2002a).

Given the scale and complexity of those systems, TNCs, as central players, and other organized business interests must preoccupy themselves not only with the more immediate aspects of production, marketing, costs of production, prices and profits, but also with a multiplicity of other institutions that facilitate the coordination and smooth functioning of economic systems (Shafaeddin 2004) and reduce transaction costs. Such institutions include, for example, networking, various types of alliances, partnerships, trust, multi-stakeholder dialogue and so forth, i.e. precisely the types of institutions and relations that characterize and are promoted by CSR.

While structural arguments are often used to explain or refute the possibility of CSR, the above discussion suggests that the structural context and its relationship with CSR is far more complex, and is likely to vary in different industry and societal settings. While it does not constitute the straitjacket that some critics portray, it does constrain the room for manoeuvre, but it can also facilitate some types of progressive institutional reform.

Future directions

Let us now return to the question of what we can expect in terms of any significant advance on the CSR and corporate accountability fronts, and the institutionalization of these approaches as core components of a more generalized model of 'stakeholder capitalism'. The analysis above suggests that their substance and trajectory are likely to vary depending on the company, sector, country and region, reflecting the specificities of structural, political and institutional conditions and contexts.

In general terms, however, despite some signs of a reaction to CSR,¹⁹ we can probably expect more of the same in terms of gradual scaling-up and incremental ratcheting-up. Corporate bankruptcy scandals and more exposés of 'greenwash' and 'bluewash' have kept the perception and reality of crisis and the abuse of corporate power very much alive. This has served to sustain the pressures on global corporations to engage with the CSR agenda and for some hardening of softer approaches. Furthermore, the CSR service industry, which includes NGOs and multistakeholder initiatives, is expanding, and a growing body of governmental, regional and inter-governmental organizations are supporting such initiatives and approaches. Indeed, CSR has become an important feature of the 'good governance' and poverty reduction agendas associated with the so-called post-Washington Consensus. The

learning processes and 'path dependency' that characterize the CSR experience also reinforce the tendency for incremental change, as does the fact that the ratcheting-up of CSR may be part and parcel of a political strategy to fend off harder approaches related to corporate accountability and law.

But it seems clear that any major advance would require a more conducive structural and political environment. This is apparent if we look at the conditions under which more socially-sensitive models of capitalism emerged historically. In the case of post-Second World War social democracy in Europe, the East Asian corporate social welfare model, and early twentieth century Fordism in the United States²⁰ different combinations of structural and political elements played a key role in improving corporate social performance, at least in relation to selected groups or stakeholders. Such elements included, for example, changes in patterns of industrial organization that required new labour relations; a 'proactive' state or bureaucracy; strong labour or other social movements, or periods of militant activism; organic links between social movements, citizens and political parties; corporatist and class compromises; and relatively high rates of economic growth. Also apparent is the degree of policy coherence, in the sense referred to above, where, to some extent, the macro policy environment reinforced, rather than contradicted, both state and corporate strategy concerned with social protection (Mkandawire 2004; Perret 2004). Such factors and contexts resulted in significant improvements in certain aspects of corporate social policy and performance.²¹

The contemporary structural, political and institutional backdrop to CSR and corporate accountability appears quite different. Dynamic nationalist development projects and visions, in which the state plays a leading role, are few and far between; in many countries levels of economic growth remain persistently low; and the balance of forces has shifted significantly in favour of big business, due in part to the weakening of labour movements. Civil society activism, including that connected with CSR, is often fragmented, short-lived and disconnected from political parties. Indeed, as mentioned above, mainstream CSR discourse, practice and activism can have the effect of marginalizing and undermining the role of key social actors and institutions, such as trades unions, political parties, governments and Southern-based interests, in relevant decision-making, consultative and implementation processes. And instead of being mutually reinforcing and synergistic, there are major tensions and contradictions between macro-economic policy and social and sustainable development, or between CSR and dominant consumption patterns and corporate strategies which are often more conducive to a 'race to the bottom' than to raising social and environmental standards.

The piecemeal nature of many CSR initiatives, and the focus on social and environmental protection, contrast with the emphasis on redistribution and a somewhat more equitable and systematic sharing of the benefits

of growth and productivity that characterized earlier models of stakeholder capitalism. The experimental, ad hoc, and, often rhetorical nature of many CSR initiatives belies another important difference: under previous models, there emerged institutions that could sustain redistributive commitments (Mackintosh and Tibandebage 2004; Mkandawire 2004).

Globalization has clearly changed some of the rules of the game that govern institutional change, in particular the scope for regulating markets through national level interventions and politics, and the possibility that liberalism could be embedded on the basis of a narrow class compromise involving factions of capital and organized labour. Other levels of intervention (international, regional and local), players and relationships have become more important, and the range of issues that need to be addressed is broader (Jessop 1999, 2001). But some of the features that explain the emergence of more socially-sensitive models of capitalism in previous historical periods remain as relevant today as they did in the past.

The challenge confronting the ratcheting-up and scaling-up of CSR is perhaps more substantive than political. Indeed, the strength of CSR, and the reason why it has been catapulted onto the world stage and into mainstream discourse and policy agendas, lies in the fact that it is being promoted by a broad coalition of social forces. It has brought together the reformist wings of two of the most significant 'movements' of modern times, namely certain actors associated with neoliberalism and a looser mélange of social forces and ideologies associated with 'sustainable development'. Politically, therefore, the CSR 'movement' is rather strong. The inherent weakness of CSR resides in the fact that it is not only swimming against the strong current of neoliberal reform, but it attempts to modify relatively minor aspects of that reform project without seriously questioning its fundamentals. In this regard, the key challenge confronting the CSR agenda from the perspective of progressive institutional reform, relates to contradictions associated with this situation.

At best, CSR can contribute to raising awareness of certain social and environmental problems and serve to caution against blind faith in market forces. It can also reinforce some aspects of the normative culture and culture of compliance associated with rights-based approaches to development and governance. And by getting the ball rolling or pushing the envelope in terms of new issues, new business practices and institutions, it can create conditions related to organizational learning and path dependency that are conducive to the gradual scaling-up of CSR initiatives and the incremental hardening of softer regulatory approaches. At worst, CSR involves a transfer of regulatory authority to largely unaccountable agents and renders more stable and palatable a model of capitalism that generates or reinforces widespread social exclusion, inequality and environmental degradation. The likelihood that this worst case scenario will materialize increases in contexts where the CSR agenda marginalizes issues of empowerment, redistribution, and the crucial

role of public policy and trade unions in social protection and embedded liberalism. Such a scenario will also likely gain ground where neoliberal reform projects are being actively pursued, and where the proponents of CSR disregard the contradictory or perverse implications for economic and equitable development associated with certain approaches to CSR, not least the way it can reinforce the economic power and political influence in TNCs.

The corporate accountability movement generally pays more attention to these aspects and is, therefore, quite different. Indeed, one way of characterizing and distinguishing the CSR and corporate accountability agendas is in terms of how they relate to three of the principal reform agendas of the contemporary era, namely neoliberalism, embedded liberalism and progressive variants of 'alternative globalization'. The CSR agenda straddles both the neoliberal and embedded liberalism camps, and so is more palliative than transformative. The corporate accountability agenda also has one leg in the embedded liberalism camp, as is evident in the case of initiatives involving standard setting, code implementation, monitoring and certification – or ratcheted-up variants of CSR. But it has another leg grounded in the anti- or alternative globalization camp where issues of rights, redistribution, empowerment, compliance and redress assume centre stage. The key challenge confronting the corporate accountability movement may be more political than substantive. It will inevitably face considerable opposition and resistance from the powers that be and confront the difficult task of building the type of broad-based coalitions required to promote progressive institutional change. This requires not only forging links between campaigns and different types of activism – involving trade unions and NGOs, as well as Northern and Southern activists – but also reconnecting activism with democratic party politics and processes. It also requires confronting the difficult question of alliances and compromises involving business interests, and exploring more systematically the potential for complementary, synergistic and pluralistic approaches to regulation.

Notes

1. A slightly modified version of this paper has been published by the United Nations Research Institute for Social Development (UNRISD) (Utting 2005a). Peter Utting is Deputy Director and CSR Research Coordinator, UNRISD. The author would like to thank Kate Ives and Anita Tombez for research and editorial assistance, and Dara O'Rourke, Shahra Razavi, Jem Bendell, Thandika Mkandawire, Naren Prasad, Gabriele Köhler and Ann Zammit for their comments on an earlier draft, as well as Volker Rittberger, Lothar Reith and various other participants at the 2004 Tübingen conference, where some of these ideas were originally presented.

2. See Prahalad 2005; United Nations Commission on the Private Sector and Development 2004; World Commission on the Social Dimension of Globalization 2004; United Nations Millennium Project 2005.
3. While ISO 14001 certification continues to expand at a healthy rate, the rate of expansion is far less than that achieved for quality management certification under the ISO 9000 series. Whereas 66,000 entities obtained ISO 14001 certification during the scheme's first nine years of existence, the corresponding figure for ISO 9000 certification of approximately 340,000 facilities was five times greater (see ISO 2004).
4. Of this 9 per cent, two-thirds (6%) replied that 'change would have been difficult to implement without being a participant' while one-third (3%) replied that 'the change would not have happened without being a participant'.
5. This point was raised by Dwight Justice, ICFTU, at the UNRISD conference, 'Corporate Social Responsibility and Development: Towards a New Agenda?', 17–18 November 2003, Geneva.
6. See, for example, International Forum on Globalization (2002) and Broad (2002).
7. A pilot project is being implemented in Turkey, involving the CCC, the Ethical Trading Initiative (ETI), FLA, WRC, the Fair Wear Foundation (FWF) and Social Accountability International (SAI).
8. See, for example, the commentary on the Norwegian company, Statoil, in ILO Socio-Economic Security Programme 2004: 357.
9. These included, for example, the Union Carbide gas leak in Bhopal, India in 1984; the Exxon-Valdez oil tanker disaster in 1989; deforestation or forest degradation associated with farming and forestry systems linked to McDonalds, Mitsubishi and Aracruz; environmental and social impacts, and human rights abuses, linked to mining and oil companies like Rio Tinto and Shell; and sweatshop conditions in supply chains of Nike and other companies.
10. Through this law, that was passed in 1789, foreign nationals can bring a case to a US court for a civil wrong committed in violation of international law (Abrahams 2004).
11. For an analysis of such linkages, see WHO 2003.
12. The author participated in one of these consultations in 2003.
13. The 'Norms' were drafted by a working group of experts established in 1999 by the United Nations Sub-Commission on the Promotion and Protection of Human Rights, adopted in their draft form by the Sub-Commission in August 2003.
14. United Nations Economic and Social Council. 2004. Report to the Economic and Social Council of the Sixtieth Session of the Commission. UN Doc. E/CN.4/2004/L.11/Add.7, 22 April. United Nations, New York.
15. The meeting was attended by the author.
16. For an analysis of how modern capitalism has been shaped by the interplay of ideas, interests and institutions see Mark Blyth 2002. For a similar analysis related to corporate environmental responsibility see the work of David Levy et al., including Levy and Newell 2002; Levy and Kolk 2002.
17. For a discussion on the links and parallels between total quality management and CSR or 'total responsibility management', see Waddock and Bodwell 2002.
18. 'Greenwash' is defined in the Oxford dictionary as 'Disinformation disseminated by an organization so as to present an environmentally responsible image.' The term 'bluewash' was coined to refer to the process of image enhancement that

takes place when companies associate themselves with the United Nations (symbolized by its blue flag) (Bruno and Karliner 2000; CorpWatch 2000). In both cases, as Bruno and others point out, image enhancement often takes place against a backdrop where companies are doing little, if anything, to significantly change their relationship to society and the environment (Greer and Bruno 1996). Various types of award schemes, such as the Greenwash Awards, organized by CorpWatch, and the Public Eye Awards in Davos, organized by Swiss-based NGOs, identify the Global Compact and other companies that continue to act irresponsibly in relation to labour, environmental, human rights and fiscal practices (www.corpwatch.org, www.evb.ch).

19. Some suggest the need to jettison the CSR project, partly because of what are considered to be its flawed assumptions and negative impacts for individual firms in terms of cost, market access and competitiveness (Henderson 2001; *The Economist*, 22 January 2005), as well as the fact that the privatization of regulatory authority transfers responsibility to largely undemocratic or unaccountable private and non-governmental institutions. From a developmental perspective there are also concerns that CSR throws up barriers to trade and employment, and ultimately enhances the competitive advantage of big business.
20. The 'social sensitivity' of these models was, of course, restricted in terms of geography, sectors, firms and the types of social benefits involved. Typically, the environment (and future generations) were excluded and some of the costs of any social compromise were externalized or displaced to the developing world or unregulated arenas including the household and unpaid labour (Jessop 1999).
21. It should be noted that the social benefits that characterized these models were limited not only in type but also in terms of the groups that benefited. The so-called 'grand compromise' that characterized Fordism (Lipietz 1992), particularly in the United States, was a fairly narrow pact between specific sectors of business and labour. In the case of East Asia, such gains were primarily related to a small group of large corporations that needed to attract and retain skilled labour (Pempel 2002). Other groups or stakeholders, including those associated with the supply chain in developing countries, were often excluded.

References

- Abrahams, D. (2004): *Regulating Corporations: a Resource Guide*. Geneva: UNRISD.
- Annan, K. (1999): Secretary General Proposes Global Compact on Human Rights, Labour, Environment. UN Press Release No. SG/SM/6881/Rev.1*.
- Bendell, J. (2004): Barricades and Boardrooms: a Contemporary History of the Corporate Accountability Movement. Programme on Technology, Business and Society, Paper No. 13. Geneva: UNRISD.
- Bendell, J. and D. F. Murphy. (2002): Towards Civil Regulation: NGOs and the Politics of Corporate Environmentalism. In: Utting P. (ed.), *The Greening of Business in Developing Countries: Rhetoric, Reality and Prospects*. London: Zed Books.
- Blyth, M. (2002): *Great Transformations: Economic Ideas and Institutional Change in the Twentieth Century*. Cambridge: Cambridge University Press.
- Braithwaite, J. and P. Drahos. (2000): *Global Business Regulation*. Cambridge: Cambridge University Press.

- Broad, R. (ed.). (2002): *Global Backlash: Citizen Initiatives for a Just World Economy*. New York: Rowman & Littlefield.
- Broad, R. and J. Cavanagh. (1999): The Corporate Accountability Movement: Lessons and Opportunities. *The Fletcher Forum of World Affairs* 23(2): 151–69.
- Bruno, K. and J. Karliner. (2000): *Tangled up in Blue: Corporate Partnerships at the United Nations*. Transnational Resource & Action Center (TRAC), San Francisco.
- Clean Clothes Campaign. (2005): *Looking for a Quick Fix: How Weak Social Auditing is Keeping Workers in Sweatshops*. Amsterdam: Clean Clothes Campaign.
- Commission on Sustainable Development. (2004): *Partnerships for Sustainable Development: Report of the Secretary-General*. New York: United Nations.
- Conroy, M. (2002): Can Advocacy-led Certification Systems Transform Global Corporate Practices? In: Broad (ed.), op cit.
- Corpwatch. (2000): Letters to Kofi Annan Blasting the Global Compact Corporations. www.corpwatch.org.
- Cutler, A. C., V. Haufler and T. Porter (eds.). (1999): *Private Authority and International Affairs*. Albany, NY: SUNY Series in Global Politics. State University of New York.
- The Economist* (Special Edition) (2005): A Survey of Corporate Social Responsibility, 22 January: 3–18.
- Fig, D., A. Bezuidenhout, R. Hamman and R. Omar. (2003): Reflections on Corporate Social and Environmental Responsibility in South Africa: an Overview. Presented to UNRISD Conference on Corporate Social Responsibility and Development: Towards a New Agenda? Geneva, 17–18 November 2003. Sociology of Work Unit, University of the Witwatersrand, Johannesburg.
- Freeman, R. E. (1984): *Strategic Management: a Stakeholder Approach*. Boston: Pitman.
- Greer, J. and K. Bruno. (1996): *Greenwash: the Reality behind Corporate Environmentalism*. Penang, Malaysia: Third World Network.
- Gunningham, N. and D. Sinclair. (2002): *Leaders and Laggards: Next Generation Environmental Regulation*. Sheffield: Greenleaf.
- Hajer, M. (1995): *The Politics of Environmental Discourse: Ecological Modernization and the Policy Process*. Oxford: Clarendon Press.
- Hanks, J. (2002): Promoting Corporate Environmental Responsibility: What Role for 'Self-Regulatory' and 'Co-Regulatory' Policy Instruments in South Africa? In: Utting P. (ed.), *The Greening of Business in Developing Countries: Rhetoric, Reality and Prospects*. London: Zed Books.
- Haufler, V. (2001): A Public Role for the Private Sector: Industry Self-Regulation in a Global Economy. Washington, DC: Carnegie Endowment for International Peace.
- Held, D. (2003): From Executive to Cosmopolitan Multilateralism. In: Held D. and M. Koenig-Archibugi (eds.), *Taming Globalization: Frontiers of Governance*. Cambridge: Polity.
- Henderson, D. (2001): *Misguided Virtue: False Notions of Corporate Social Responsibility*. London: Institute for Economic Affairs.
- Holliday, C., S. Schmidheiny and P. Watts. (2002): *Walking the Talk: the Business Case for Sustainable Development*. Sheffield: Greenleaf Publishing.
- Hopkins, M. (1999): *The Planetary Bargain: Corporate Social Responsibility Comes of Age*. London: Macmillan.
- Huber, E. (2002): *Models of Capitalism: Lessons for Latin America*. University Park, PA: Pennsylvania State University Press.
- ILO Socio-Economic Security Programme. (2004): *Economic Security for a Better World*. Geneva: ILO.

- International Forum on Globalization. (2002): *Alternatives to Economic Globalization: a Better World is Possible*. San Francisco: Berrett-Koehler.
- International Labour Office (ILO) (1999): *Multinational Enterprises and Social Policy: Reflections on Twenty Years of the Tripartite Declaration*. Geneva: ILO.
- International Organization for Standardization (ISO) (2004): *The ISO Survey of ISO 9001 and ISO 14001 Certificates – 2003*. www.iso.org.
- Jenkins, R. (2002): *Corporate Codes of Conduct: Self-Regulation in a Global Economy*. In: NGLS/UNRISD (eds.), *Voluntary Approaches to Corporate Responsibility: Readings and a Resource Guide*. NGLS Development Dossier. Geneva: United Nations.
- Jessop, B. (1999): *The Social Embeddedness of the Economy and Its Implications for Economic Governance* (draft). Department of Sociology, Lancaster University. www.comp.lancaster.ac.uk/sociology/soc016rj.html, accessed on 25 February 2005.
- Jessop, B. (2001): *Capitalism, the Regulation Approach and Critical Realism*. In: Brown A., S. Fleetwood and J. Roberts (eds.), *Critical Realism and Marxism*. London: Routledge. www.lancs.ac.uk/fss/sociology/papers/jessop-capitalism-regulation-realism.pdf, accessed on 25 February 2005.
- Keohane, R. (2002): *Power and Governance in a Partially Globalized World*. London: Routledge.
- Keohane, R. and J. Nye Jr. (2002): *Governance in a Globalizing World*. In: Keohane, op. cit.
- Krut, R. and H. Gleckman. (1998): *ISO14001: a Missed Opportunity for Global Sustainable Industrial Development*. London: Earthscan.
- Levy, D. and A. Kolk. (2002): *Strategic Responses to Global Climate Change: Conflicting Pressures on Multinationals in the Oil Industry*. *Business and Politics*, (4)3: 275–300.
- Levy, D. and P. Newell. (2002): *Business Strategy and International Environmental Governance: Toward a Neo-Gramscian Synthesis*. *Global Environmental Politics*, 2(4), November: 84–101.
- Lipietz, A. (1992): *Towards a New Economic Order: Postfordism, Ecology and Democracy*. Cambridge: Polity.
- Mackintosh, M. and P. Tibandebage. (2004): *Inequality and Redistribution in Health Care: Analytical Issues for Developmental Social Policy*. In: Mkandawire T. (ed.), *Social Policy in a Development Context*. Basingstoke: Palgrave Macmillan.
- Mkandawire, T. (2004): *Social Policy in a Development Context: Introduction*. In: Mkandawire T. (ed.), *Social Policy in a Development Context*. Basingstoke: Palgrave Macmillan.
- Maquila Solidarity Network (MSN) (2005): *Codes Memo, No. 18, Dec 2004/Jan 2005*.
- Murphy, D. F. and J. Bendell. (1997): *In the Company of Partners: Business, Environmental Groups and Sustainable Development Post-Rio*. Bristol: Policy Press.
- Newell, P. (2002): *From Responsibility to Citizenship: Corporate Accountability for Development*. *IDS Bulletin* 33(2): 91–100.
- O'Rourke, D. (2000): *Monitoring the Monitors: a Critique of Pricewaterhouse Coopers (PwC) Labor Monitoring*. web.mit.edu/dorourke/www/index.html, accessed on 25 February 2005.
- O'Rourke, D. (2003): *Outsourcing Regulation: Analyzing Nongovernmental Systems of Labour Standards and Monitoring*. *Policy Studies Journal* 31(1): 1–29.
- Overseas Development Institute (ODI) (1999): *What Can We Do with a Rights-Based Approach to Development?* Briefing Paper, September. London: ODI.

- Pempel, T. J. (2002): Labor Exclusion and Privatized Welfare: Two Keys to Asian Capitalist Development. In: Huber (ed.), *Models of Capitalism: Lessons for Latin America*. Pennsylvania State University Press.
- Perret, B. (2004): Which French Third Way? Administrative and Social Empowerment: Lessons from the Second Left in Power. wanadoo.fr/bernard.perret/New-York%20Liberalism2004.htm, accessed on 7 February 2005.
- Polanyi, K. (1957): *The Great Transformation: the Political and Economic Origins of Our Time*. Boston, MA: Beacon Press.
- Porter, M. E. and C. van der Linde. (1995): Green and Competitive: Ending the Stalemate. *Harvard Business Review* September–October: 120–34.
- Prahalad, C. K. (2005): *The Fortune at the Bottom of the Pyramid: Eradicating Poverty Through Profits*. Upper Saddle River, NJ: Wharton School Publishing.
- Richter, J. (2001): *Holding Corporations Accountable: Corporate Conduct, International Codes, and Citizen Action*. London/New York: Zed Books.
- Richter, J. (2003): Building on Quicksand: the Global Compact, Democratic Governance, and Nestlé. CETIM/IBFAN-GIFA/Berne Declaration, Geneva/Zurich.
- Ruggie, J. G. (2001): global_governance.net: the Global Compact as Learning Network. *Global Governance* 7(4), October–December: 371–8.
- Ruggie, J. (2003): Taking Embedded Liberalism Global: the Corporate Connection. In: Held D. and M. Koenig-Archibugi (eds.), *Taming Globalization: Frontiers of Governance*. Cambridge: Polity.
- Sabel, C., D. O'Rourke and A. Fung. (2000): Ratcheting Labor Standards: Regulation for Continuous Improvement in the Global Workplace. Social Protection Discussion Paper No. 0011. Washington DC: World Bank.
- Shafaeddin, S. M. (2004): *Who is the Master? Who is the Servant? Market or Government? An Alternative Approach: Towards a Coordination System*. Geneva: UNCTAD.
- Stiglitz, J. E. (2004): *The Roaring Nineties: Why We're Paying the Price for the Greediest Decade in History*. London: Penguin.
- SustainAbility. (2003): *The 21st Century NGO: in the Market for Change*. London: SustainAbility.
- Taylor, M. (2004): Corporate Fallout Detectors and Fifth Amendment Capitalists: Corporate Complicity in Human Rights Abuse. In: UN Global Compact and Office of the High Commissioner for Human Rights, *Embedding Human Rights in Business Practice*. New York: UN Global Compact Office.
- Toye, J. (1995): The New Institutional Economics and its Implications for Development Theory. In: Harris J., J. Hunter and C. M. Lewis (eds.), *The New Institutional Economics and Third World Development*. London: Routledge.
- United Nations Economic and Social Council. (2004): Report to the Economic and Social Council of the Sixtieth Session of the Commission. UN Doc. E/CN.4/2004/L.11/Add.7, 22 April. New York: United Nations.
- United Nations Commission on the Private Sector and Development. (2004): *Unleashing Entrepreneurship: Making Business Work for the Poor*. New York: United Nations Development Programme.
- United Nations Conference on Trade and Development (UNCTAD) (2003): *FDI Policies for Development: National and International Perspectives*. Geneva: UNCTAD.
- United Nations Millennium Project. (2005): *Investing in Development: a Practical Plan to Achieve the Millennium Development Goals*. New York: Earthscan/Millennium Project.
- United Nations Research Institute for Social Development (UNRISD) (2004): *Corporate Social Responsibility and Development: Towards a New Agenda?* Conference

- News, Report of the UNRISD Conference (Geneva, 17–18 November 2003). Geneva: UNRISD.
- Utting, P. (2000): Business Responsibility for Sustainable Development. Occasional Paper No. 2. Geneva: UNRISD.
- Utting, P. (2002a): Regulating Business through Multistakeholder Initiatives: a Preliminary Assessment. In: NGLS/UNRISD (eds.), *Voluntary Approaches to Corporate Responsibility: Readings and a Resource Guide*. NGLS Development Dossier. Geneva: United Nations.
- Utting, P. (ed.) (2002b): *The Greening of Business in Developing Countries: Rhetoric, Reality and Prospects*. London: Zed Books.
- Utting, P. (2004): Neue Ansätze zur Regulierung Transnationaler Unternehmen. Potenzial und Grenzen von Multistakeholder-Initiativen. In: Brühl T., H. Feldt, B. Hamm, H. Hummel, J. Martens (eds.), *Unternehmen in der Weltpolitik: Politiknetzwerke, Unternehmensregeln und die Zukunft des Multilateralismus*. Bonn: J. H. W. Dietz.
- Utting, P. (2005a): Rethinking Business Regulation: From Self-regulation to Social Control. Programme Paper TBS 15. Geneva: UNRISD.
- Utting, P. (2005b): Corporate Responsibility and the Movement of Business. *Development in Practice*, 15(3 and 4), June.
- Waddock, S. and C. Bodwell. (2002): From TQM to TRM: Total Responsibility Management Approaches. *Journal of Corporate Citizenship* 7(Autumn): 113–26.
- Ward, H. (2003): *Legal Issues in Corporate Citizenship*. Stockholm/London: Swedish Partnership for Global Responsibility/IIED.
- Welford, R. (2002): Disturbing Development: Conflicts between Corporate Environmentalism, the International Economic Order and Sustainability. In: Utting P. (ed.), op. cit.
- World Commission on the Social Dimension of Globalization (WCSDG) (2004): *A Fair Globalization: Creating Opportunities for All*. Geneva: International Labour Organization.
- World Health Organization (WHO) (2003): *Diet, Nutrition and the Prevention of Chronic Diseases*. Report of a Joint WHO/FAO Expert Consultation. WHO Technical Report Series 916. Geneva: WHO.
- Zadek, S. (2001): *The Civil Corporation: the New Economy of Corporate Citizenship*. London: Earthscan.
- Zadek, S. (2004): The Path to Corporate Responsibility. *Harvard Business Review* December.

Abbreviations and acronyms

AA	AccountAbility
ACTA	Alien Torts Claims Act
AIDS	acquired immunodeficiency syndrome
CCC	Clean Clothes Campaign
CSR	corporate social responsibility
EITI	Extractive Industries Transparency Initiative
ETI	Ethical Trading Initiative
EU	European Union
FLA	Fair Labour Association

FWF	Fair Wear Foundation
HIV	human immunodeficiency virus
ICFTU	International Confederation of Free Trade Unions
ILO	International Labour Organization
IUF	International Union of Food and Allied Workers
ISO	International Organization for Standardization
MSIs	multistakeholder initiatives
NGOs	non-governmental organizations
NIE	new institutional economics
NIEO	New International Economic Order
OECD	Organization for Economic Cooperation and Development
PRTR	Pollutant Release and Transfer Register
SA	Social Accountability
SAI	Social Accountability International
TNCs	transnational corporations
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNRISD	United Nations Research Institute for Social Development
US	United States
WHO	World Health Organization
WRC	Worker Rights Consortium