I. Ethics and Economic Success

Waiting for the Mountain to Move: The Role of Multinational Corporations in the Quest for Global Justice

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Abstract: The significance of multinationals in shaping globalization is largely undisputed. This paper argues that any agent of substantial change should, at the same time, be an agent of justice. However, while multinational companies have played instrumental roles in shaping the world in the past, they have done so with seemingly little genuine concern for the systematic advancement of global justice. Granted that the corporate social responsibility movement is still making strides, but it arguably only scratches the surface of a more holistic understanding of corporations as agents of justice. An understanding of corporations as agents of justice crystallizes around their impact on the structure of society. In other words, a perspective on justice addresses the political role and stature of multinational companies. It is, fundamentally, about corporate power and influence – and about the political responsibilities that are inevitably connected to it.

Keywords: Corporate responsibility, Global justice, Agents of justice, Political responsibility, Multinational companies.

Introduction: From “Agents of Change” to “Agents of Justice”?

Multinational companies have been at the forefront of driving global markets. Concordantly, they have been labeled, for example, as “engines of growth” (UNCTAD 1992) or “central organizers” (UNCTAD 1992: 1, 6) of economic activity and thus as “agents of change” (Story 2000: 26; Wilkins 1998: 104) in the past. While this role of multinationals in shaping globalization and thus in bringing about a new world is largely undisputed and such seemingly value-neutral labels for them rarely opposed, the explicitly normative call for them to become “agents of justice” commonly raises more concern.

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This seems peculiar; after all, any substantial change in the structure of society should arguably be a change for the better, that is, a change toward more, rather than less, justice in society. Thus, any agent who is instrumental in bringing about such substantial change, that is, any “agent of change” should, at the same time, be an agent of justice.

However, while multinational companies have played instrumental roles in shaping the world in the past three decades, they have done so with seemingly little genuine interest in and concern for the systematic advancement of global justice. Granted that the corporate social responsibility (CSR) movement is still making strides among large companies, but, as I will argue, it only scratches the surface of a more holistic understanding of corporations as agents of justice. Such an understanding of corporations as agents of justice crystallizes around corporations’ impact on the structure of society. In other words, a perspective on justice, rather than “merely” on social responsibility, addresses the political role and stature of multinational companies. It is, fundamentally, about corporate power and influence – and about the political responsibilities that are inevitably connected to it.

My argument will proceed in five steps. I will start off with some brief elaborations on the justice perspective in general. In a second step, I will explore the idea of global justice in equally brief terms. Some definitional elaborations on agents of justice will conclude the first, general part of the paper. The second, more extensive part of the paper will deal specifically with the role and responsibility of multinational corporations in the quest for global justice. Specifically, in section four of the paper, I will deal with the question whether corporations ought to be agents of justice. Answering this question in an affirmative way, I will then explore whether they are, in fact, fulfilling this role today and point out both positive as well as negative developments in this regard.

It is not the aim of this paper to present a holistic theory of multinational corporations’ role in advancing global justice (see, e.g., Wettstein 2009 for such a theory). Rather, it deals with one specific aspect of the intersection between corporate activity and global justice. That is, it deals specifically with the realm of corporate political responsibility, which I perceive as of key importance both for a normative understanding of the role of corporations as agents of justice as well as for the practical concern of advancing justice in a global society.

Justice: Domestic and Global

For John Stuart Mill, justice was the “chief part and incomparably the most sacred and binding part of all morality”. Justice is not merely nice to have; it is not about wishes, preferences or priorities, but about what people owe to each other (e.g. Scanlon 1998), that is, what they have moral rights to. As such, the realm of justice is commonly distinguished from that of virtue and of supererogation (see, e.g., O’Neill 1996). Alluding to this overarching moral importance of the justice perspective, Adam Smith rightly warned that “If it is removed, the great, the immense fabric of human society,
that fabric which to raise and support seems in this world, if I may say so, to have been the peculiar and darling care of Nature, must in a moment crumble into atoms” (Smith 2002: 101).

Arguably the most influential contemporary work on justice is John Rawls’s *A Theory of Justice* (2003). In it, he describes the primary subject of justice is a society’s “basic structure” (Rawls 2003: 6ff.). This claim, which he confirmed also in *Political Liberalism* (2005) has become a widely shared paradigm among contemporary scholars concerned with theories and issues of justice (e.g. Barry 1989; Miller 1999).

The basic structure of society, as Rawls argued, is to be understood as “[…] as the way in which the major social institutions fit together into one system, and how they assign fundamental rights and duties and shape the division of advantages that arises through social cooperation” (Rawls 2005: 258). More generally, the basic structure consists of those institutions that account for a society’s “political constitution and the principal economic and social arrangements” (Rawls 2003: 7). These institutions, as Rawls noted, “define men’s rights and duties and influence their life-prospects, what they can expect to be and how well they can hope to do” (Rawls 2003: 7).

Rawls and the overwhelming majority of works about justice have formulated their theories predominantly with a focus on domestic structures. Today, however, the basic structures of our societies, or at least some elements of them, increasingly cut across the political boundaries of states and the cultural boundaries of nations. Many of the structures which together determine our life styles and life prospects transcend the territorial separation of states. However, if basic structures are globalizing, it seems, so must the scope of justice. This was partly acknowledged also by Rawls himself, who followed up his theory of justice with an account of the *Law of Peoples* (1999), which extends his theory into the international realm.

The argument for global justice, which derives from the globalization of structures, is conditional or hypothetical; it holds only to the extent that basic structures indeed take global shape. As such, it is, of course, contestable; if one denies the globalization of basic structures, one would also refute the value of global justice as a consequence. Thus, the hypothetical argument for global justice must be followed up by an unconditional or categorical one. Such an argument can be formulated both in a positive or affirmative as well as in a negative way. That is, we can make both an argument in favor of global justice (positive, affirmative) or against the limitation of the justice perspective to the domestic realm (negative). Such domestic accounts often are presented as nationalist or statist accounts of justice and thus are based on the assumption of justified favoritism toward compatriots.

A positive argument holds that all human beings are of inherent moral worth and therefore share a distinct dignity which defines all of us in our humanity. Based on this, we cannot but assume that as equals all human beings must enjoy the same basic right to be respected and protected in this basic human quality. Neither the factual existence of cultural (nationalism) nor of political (statism) boundaries, then, can plausibly negate this normative claim. To regard people as moral equals, as Martha Nussbaum (1996: 133) stated, “is to treat nationality, ethnicity, religion, class, race and gender as ‘morally irrelevant’ – as irrelevant to that equal standing”. From such
a perspective, any systematic and blatant disregard of this human dignity, no matter where it occurs, must be interpreted as an assault on the very foundations of humanity as such. Those who deny the human quality of some, logically deny the human quality of all of their equals at the same time. It is against this background that Martin Luther King Jr. famously stated that “injustice anywhere is a threat to justice everywhere.” This is the basic assumption of a cosmopolitan, that is, a people-centered instead of state-centered account of justice (on cosmopolitanism see, e.g., Jones 2001).

Does cosmopolitanism mean that we have the same obligations of justice toward distant strangers than we do toward our compatriots? Not everyone believes so. Favoritism toward compatriots over distant strangers, or “compatriot favoritism” (see, e.g., Jones 2001: 111ff.; 1999), as it is often called, is advanced on different argumentative grounds. While compatriot favoritism is not per se an argument against the existence of universal ethical principles rooted in the inherent equality of human beings and may thus be reconcilable with weak forms of cosmopolitanism (on weak vs. strong cosmopolitanism, see Miller 1998; Cabrera 2004), it does object to strong accounts of cosmopolitanism, which are based on the proposition that such principles give rise to transnational obligations. Compatriot favoritism can be interpreted as nationalism or as statism.

The argument commonly advanced for nationalism is that shared national identity gives rise to special obligations which frequently trump the responsibility toward distant strangers. The question that is largely left unanswered in such accounts, however, is why our national identity should categorically trump all other identities which together define our various allegiances. Why, in other words, does my belonging to a nation and the identity I derive from that belonging trump my belonging, for example, to an international community of scholars and my transnational obligations to them (on this point, see, e.g., Shue 1980: 138)? Furthermore, nations too, often cut across the political boundaries of states; that is, fellow nationals are not always also compatriots at the same time. This is where statism comes in as the second form of compatriot favoritism.

Statist accounts of justice argue that it is not national identity, but citizenship, which determines our obligations toward compatriots. Now, it is undeniable that our belonging to certain historically and politically grown processes and structures as members of particular political communities links us to the other members of that community in morally significant ways – think of social security mechanism or unemployment insurance etc. However, our belonging to such processes and the responsibility deriving from them are not the justification, but the result of previously established political boundaries. Thus, at a more fundamental level our shared citizenship cannot serve as an argument against global justice; if anything, the discourse on global justice is a critique of the institution of citizenship.

A final argument in support of compatriot favoritism refers to our limited capacity of loyalty, trust, and sympathy. The capacity of human beings to sympathize, such is the argument, is naturally limited, which renders a global scope of justice utopian (see, e.g., Fletcher 1993: 21; Miller R. 1998: 215). While the argument regarding our psychological limitations is certainly correct, it seems that considerations of justice are important precisely because of such emotional limits. Precisely because
we may not be able to emotionally sympathize with distant strangers, it is key that we rationally recognize their equal worth and thus their claim for equal moral concern and respect. This is why morality consists both of moral sentiments as well as of ethical reason. Furthermore, the idea that our psychological limits coincide precisely with the boundaries of the state or the nation is nothing short of absurd, especially if we consider the massive differences between countries in size and population.

Overall, it seems that plausible arguments can be made both in favor of principles as well as obligations of global justice. If we therefore assume that global justice as an ideal is desirable and that obligations of global justice can be derived from it, then the question we face is who has such obligations of global justice. In other words, who are the agents of global justice?

**Agents of Justice**

Before dealing with the more specific question whether corporations can and should operate as agents of global justice, we must develop an account of agents of justice in general. At least three general elements, I believe, are defining in this regard.

First, the term agent of justice is connoted positively. One does not become an agent of justice simply by avoiding causing injustice. An agent of justice is an agent acting in favor of justice, that is, someone who works toward the advancement and improvement of justice in an active and deliberate manner. Thus, agents of justice are guided not merely by the desire not to cause harm, but aspire to proactively make a positive contribution to the promotion and advancement of justice. We could call this the *aspirational element* of the definition.

Second, agents of justice seek a lasting structural impact or change toward more justice. With reference to Rawls we have argued above that the primary subject of justice is the institutional structure of society. Thus, the primary target of agents of justice must be the transformation of unjust structures into just ones. Isolated acts of beneficence with little structural impact can make for an agent of benefit in a wider moral sense, but they do not suffice to make agents of justice in a strict sense. It is this structural element, as we will see shortly, that distinguishes much of the current CSR activities of companies from those of true agents of justice. This could be called the *impact-based element* of the definition.

Third, agents of justice do not advance justice randomly or coincidentally and as a mere side-effect of their pursuit of other goals. Rather, they do so deliberately and for the sake of justice itself. Thus, they are driven not (or not solely) by self-interested objectives but (also) by a sense of responsibility and obligation toward others and their commitment to the idea of justice. That is, agents of justice pursue their endeavors in a publicly spirited way. This corresponds to the Kantian idea that the morality of our actions is dependent not primarily on their consequences but on our “good will” that is, on us acting based on a sense of obligation (see Kant 1997: 7-18). Evidently, motives are seldom entirely pure and oftentimes altruistic motivations can be supported by the prospect also of personal gain. Thus, self-interest as a supporting motive is
fully reconcilable with this definition. However, agents who are driven solely and exclusively by self-interest cannot be considered agents of justice under this definition even if they do contribute to the advancement of justice. Their engagement for justice, under such circumstances, would be entirely instrumental and purely coincidental; in other words, the very element of agency in favor of justice would be missing. This can be called the duty-based or altruistic element of the definition.

Based on these three constitutive elements we can distinguish between agents of justice in a narrow and in a wide sense. This distinction largely corresponds to what Onora O’Neill (2001) has called primary and secondary agents of justice, although with the difference that O’Neill (2001: 189) deliberately puts little emphasis on the supposed motives of such agents.

Agents of justice in a wide sense show their commitment to the idea of justice by actively supporting and upholding existing just institutional structures. Also for agents of justice in a wide sense it takes more than merely not undermining such structures or complying with them indifferently. What is needed is an active commitment to uphold and thus to strengthen such institutional settings. Thus, the definition of agents of justice in a wide sense advanced here is slightly more demanding than O’Neill’s definition of secondary agents of justice, which, as she points out, typically “are thought to contribute to justice mainly by meeting the demands of primary agents, most evidently by conforming to any legal requirement they establish.” Thus, in O’Neill’s account an agent, who indifferently complies with given legal requirements can qualify as an agent of justice. However, neither mere compliance, nor indifference as a “motive” would meet the criteria advanced in this paper.

Agents of justice in a narrow sense, on the other hand, show their commitment to the idea of justice by actively working toward the transformation of unjust structures and the promotion of just ones. That is, they are not merely supporting well-functioning institutions, but are engaged in the advancement and promotion of new institutional settings, which are aimed at furthering justice with a lasting impact. This definition of agents of justice in a narrow sense largely corresponds to O’Neill’s account of primary agents of justice:

Primary agents of justice may construct other agents or agencies with specific competencies: they may assign powers to and build capacities in individual agents, or they may build institutions – agencies – with certain powers and capacities to act. Sometimes they may build from scratch; more often they reassign or adjust tasks and responsibilities among existing agents and agencies, and control and limit the ways in which they may act without incurring sanctions. Primary agents of justice typically have some means of coercion, by which they at least partially control the action of other agents or agencies, which can therefore at most be secondary agents of justice (O’Neill 2001: 181).

The role of agents of justice in a narrow sense has traditionally been assigned predominantly to the state. However, such a view may be too limited to adequately deal with the new problems and challenges that our age of globalization comes with. There is a whole variety of non-state institutions in the international arena, which increasingly fulfill the roles of agents of justice in a narrow, rather than merely in
a wide, sense. Thus, the question is whether a case can be made for multinational corporations to assume the role of agents of justice in a narrow sense and, if so, whether they are, in fact, already doing so.

**Should Multinational Corporations Be Agents of Global Justice?**

It seems of little controversy that multinational corporations have a responsibility to support and uphold just institutional structures where such structures exist. Thus there is little doubt that they should meet the requirement of agents of justice in a wide sense. At the very least, we expect them not to subvert and undermine such institutional settings. The more controversial proposition, perhaps, is that multinational corporations have a responsibility to actively promote and work toward just structures or toward the abolition or transformation of unjust ones and, as such, to become agents of justice in a narrow sense.

There is widespread skepticism toward such propositions not merely among management scholars and economists, but also within the business ethics and corporate responsibility community (see, e.g., Arnold 2010; Bishop 2012). However, despite this skepticism, there are plausible arguments in support of this proposition.

First, the neat distinction between states as primary agents of justice and non-state actors as secondary agents (at best) hinges on a somewhat outdated assumption of omni-potent states and subordinate and largely compliant non-state actors. This traditional distribution of roles, however, seems to correspond less and less to reality. The globalization of social, economic, and political processes has transformed the way such different institutions and agents interact and relate to each other and, accordingly, it has reshuffled the distribution of powers and capabilities between such institutions. This does not mean that states are in demise and corporations now “rule the world” (Korten 2001). Rather, it implies that the way these different institutions interact and relate is always complex and messy, rather than linear. It is undeniable that the globalization of markets has provided multinational corporations with more extensive room for autonomous action. Therefore, especially in circumstances in which such corporations meet weak governments, the distinction between primary and secondary agents may ultimately collapse. This argument was advanced also by Onora O’Neill, who argues that particularly in the context of weak states “any simple division between primary and secondary agents of justice blurs” (O’Neill 2001: 194).

The second argument is that multinational corporations have not only increased their room of autonomous action, but made use of it with large structural implications. At least since the mid-1990s, therefore, multinational corporations have been key drivers of globalization whose activities had a profound impact on the shape and structure of the emerging global society. If this assessment is correct, then arguing for a role of multinationals as agents of justice is not very far off. As argued in the introduction to this article, it seems obvious that any profound change in the structure of society ought to be a transformation in the direction of more, rather than less, justice. Thus, if we accept their role as agents of change as legitimate de facto, it seems that
we must follow it up normatively with the requirement that such change must advance just, rather than unjust, structures. Concordantly, any agent who is instrumental in bringing about such substantial change, that is, any agent of profound change should, at the same time, be an agent of justice.

Against this background, it is not surprising that amidst the skepticism the idea of corporations having such responsibilities to advance justice has gained traction in recent years. Such arguments have been advanced based on various foundations. Most influential among such foundational work may be Iris Marion Young’s (2003; 2004) social connection model to responsibility and global justice. Young argues that in order to address structural injustices adequately, we must adjust our traditional perspective on responsibility. Thus, instead of asking who was responsible for bringing such problems about, we must allocate responsibility based on who is best positioned to contribute to lasting solutions. Hence, Young advocates for a notion of responsibility, which is not rooted in causal involvement, but in an agent’s social connection to a problem. Such social connection derives from an agent’s belonging to structures which reproduce injustices. Such responsibility for the transformation of unjust structures, as she argued, is inherently political in nature:

By politics or the political I am referring to the activity in which people organize collectively to regulate or transform some aspect of their shared social condition, along with the communicative activities in which they try to persuade one another to join such collective action or decide what direction they wish to take it (Young 2004: 377).

Young’s account has served as a foundation for a whole new stream of research in corporate responsibility, which, under the banner of “political CSR” has advanced arguments for a more proactive role of businesses in the democratization of the global governance infrastructure as well as a more engaged involvement of companies in the search for solutions for the most pressing global problems (see, e.g., Scherer and Palazzo 2007; 2011).

More recently, Hsieh (2009) has advanced an argument for a corporate responsibility to promote just institutions in contexts in which they are lacking. Among the broad array of corporate activities which Hsieh identifies for the promotion of just institutions, some are inherently political (see Hsieh 2009: 260-264) and, in some cases, even addressed to formal political, that is, governmental institutions. Thus, not surprisingly, Hsieh (2009: 252) too, understands his argument and position as being a part of the “paradigm shift” of political CSR. Hsieh’s account, then, clearly points in the direction of an understanding of corporations as agents of global justice. He has advanced such an understanding even more pronouncedly in an early article, in which he used Rawls’s theory of justice to derive a corporate duty to assist poor countries (see Hsieh 2004).

However, ideal and reality look quite differently when it comes to the role of corporations as agents of justice. Granted that the corporate social responsibility (CSR) movement is still making strides among large companies, but, as we will see shortly, it does little more than scratch the surface of such more extensive accounts of corporations as agents of justice. In the following section, I will have a closer look at this relation between CSR and the idea of companies as agents of justice.
Failed expectations: CSR from a justice perspective

The adoption of CSR by a great many companies can generally be seen as a positive development and there is little doubt that many companies have made real and significant progress in reducing their social and environmental footprint by adopting such policies and practices. Nevertheless, we should not equate this development with the idea of companies as agents of justice. There are significant conceptual differences between the two, as well as caveats in regard to the structural impact of CSR.

Conceptually, the focus at least of more conventional conceptions of CSR differs substantially from the perspective on companies as agents of justice. This holds both for more traditional and for more recent conceptions of CSR. Traditionally, a company’s CSR has been seen as something predominantly optional, that is, as the responsibility that companies adopt on a voluntary basis beyond their compliance with the law. CSR, from that perspective, is desirable, but it is not morally required. The justice perspective, on the other hand, deals with what is owed to people and thus with the most fundamental ethical imperatives. Thus, there is a fundamental conceptual difference between the focus of CSR and the focus of justice. The EU commission’s definition of CSR has come to be representative both for the voluntarism that has informed traditional CSR conceptions (see European Commission 2001) as well as for the more recent turn against it (see European Commission 2011). Up until 2011 the EU commission viewed CSR as “fundamentally” voluntary (Commission of the European Communities 2006: 2) business behavior and scores of scholars, companies, and other institutions shared this perception. In 2011 the commission put forth a new definition which abandoned this discretionary understanding of CSR (see European Commission 2011: 6). Along with the commission’s new definition also the focus of the broader debate on CSR shifted away from merely philanthropic activities to the impact of a company’s core business activities:

CSR means improving what companies’ core activities do to people and planet throughout their operations, and stopping them from causing harm. It is not sending employees in matching t-shirts out to paint a wall for five hours a year, or using philanthropic checks as a fig leaf to hide wrongdoing (Bader 2012).

Granted that this recent push to tie CSR closer to a company’s core business is a welcome improvement in comparison to earlier predominantly philanthropic approaches to corporate social responsibility and granted that it may indeed bring us closer to a role of corporations as agents of justice, but it also threatens to push the political dimension of corporate responsibility even further to the periphery. That is, the preoccupation with core business processes, while important, tends to turn a blind eye precisely on the political activities and responsibilities, which we identified as of key importance to an understanding of corporations as agents of (in-)justice.

It is perhaps symptomatic that even the ideas of social enterprise or so-called bottom of the pyramid approaches face this crucial limitation. While the basic concern of such approaches of harnessing business capabilities for tackling social problems and challenges is both important and promising, they too hardly take aim at unjust
institutional structures, which are at the roots of such problems. This may explain why they have appeal not only to business ethicists or scholars in CSR-related fields, but also to management scholars and (mainstream) economists: focusing squarely on the individual business of companies, rather than on the structural context in which such business takes place, such approaches are largely unthreatening to the dominant economic paradigms of contemporary capitalism. In fact, their very success may even help legitimize the status quo.

Empirically, the structural impact of CSR is difficult to measure. At least intuitively, it would be a function of the cumulative success of the governing function of the most prominent global CSR initiatives. However, it seems that those policy initiatives currently lack the overwhelming business support that would imply a large scale structural impact. Take the UN Global Compact: with some 8000 corporate members, who have voluntarily signed up to its ten principles, it is by far the most “successful” soft law initiative at the global level. Of those 8000 companies a Third is more or less inactive and thus non-compliant. Even if we assume that the remaining roughly 6,000 companies take their commitment to the Global Compact seriously, they are still dwarfed by some 80,000 transnational companies in total and millions of small and medium companies out there, which may not even know of the Global Compact. Even if we add up all companies which have signed up to any of the main global standards, the numbers would still be relatively low. After all, of the 4900 members of the Global Reporting Initiative, for example, a large part are also members of the Global Compact. Thus, there is significant overlap between the member companies of many of those standards, which keeps the total sample of companies rather modest. While this overlap implies that there might indeed be some truly committed CSR leaders and champions out there, unfortunately, it also means that they are outnumbered massively by companies without any clear and committed CSR agenda. Jennifer Zerk advances a similar argument:

While soft law standards and ‘corporate codes of conduct’ may have improved the CSR performance of some multinationals, pressures on production costs, as well as fierce competition between countries for inward investment, mean that workers and communities, particularly in developing countries, will continue to suffer (Zerk 2006: 284).

Now, considering that the real structural impact of corporate activity unfolds within and through their influence on and over public policy (see, e.g., Vogel 2005: 171) and that their influence on public policy often runs counter the very ideals promoted in such CSR initiatives, they appear as little more than a fig leave to cover up the real deal, that is corporate influence on formal economic and social policy making.

**Global CSR Standards: Little Guidance for Political Influence**

Considering the growing influence of corporations on public policy, it is striking that hardly any of the most important CSR standards and policy initiatives at the global level address the political activity and impact of companies. For example, they rarely provide substantive guidance regarding adequate and responsible lobbying by
corporations. In a similar vein, they provide little guidance on corporate responsibility in regard to negotiation processes with host governments. Finally, the question of leverage and its exercise over other actors – including host governments – is commonly not addressed. Thus, they neither provide sufficient guidance regarding the illegitimate use of political influence by corporations nor regarding the more difficult and tricky question about when and how companies should, in fact, make use of their leverage and influence to promote justice. However, if corporations indeed have a responsibility to promote just institutions and this responsibility includes political activity at some level (see Hsieh 2009), then it would be of key importance that global soft laws on CSR provide appropriate guidance for this process.

There are a handful of notable exceptions, which do provide some insight regarding an extended (political) role of corporations beyond conventional interpretations of CSR. Three of them, one historic and two current, shall be addressed briefly at this point. Those three standards are the Sullivan Principles of 1977 (or 1984, respectively), the Global Network Initiative, and the UN Guiding Principles on Business and Human Rights.

The Sullivan Principles are perhaps the most notable example of a global CSR standard, which not only addresses but indeed harnesses corporate political power for the promotion of justice. The Sullivan Principles were established in the year 1977 by Reverend Leon Sullivan, who was a Baptist Minister in Philadelphia and a member of the board of directors of General Motors at that time. The Sullivan Principles addressed the role of American multinationals doing business under the apartheid regime in South Africa. Sullivan perceived the role of businesses in the context of systematic oppression as highly problematic and believed that such companies had a responsibility to proactively work toward a lasting improvement of the situation. Therefore, through the Sullivan Principles he called on companies to refuse compliance with discriminatory apartheid laws and thus to engage in civil disobedience against the South African apartheid regime. In 1984 Sullivan even went a step beyond “mere” disobedience and called on companies to use their power and influence to help undermine and ultimately dismantle the apartheid regime altogether. Principle 7, which was added in that year, called on companies to work “to eliminate laws and customs that impede social, economic, and political justice”. Thus, for Sullivan, as Richard DeGeorge writes,

[s]imply refusing to follow the apartheid laws was not sufficient justification for remaining in South Africa....To offset the indirect support the companies gave the government, they had to take active steps to undermine the government’s unethical practices and laws. Passive resistance was not enough; they had to be proactive in their approach, including promoting actions opposed to apartheid, pressuring the government to change its practices, publicizing their opposition to it, and supporting sanctions and other external attempts to influence the government to change (DeGeorge 2010: 420).

Sullivan’s own account of his position at the time confirms DeGeorge’s elaborations:

Starting with the work place, I tightened the screws step by step and raised the bar step by step. Eventually I got to the point where I said that companies must practice
corporate civil disobedience against the laws and I threatened South Africa and said in
two years Mandela must be freed, apartheid must end, and blacks must vote or else I’ll
bring every American company I can out of South Africa (Leon Sullivan)\(^1\).

For ten years following the inception of the Sullivan Principles, Leon Sullivan
pushed American companies to take up the cause and make use of their influence
to help end apartheid in South Africa. In 1987 he followed through with his threat
and called on all American companies to withdraw from South Africa. His call was
followed by numerous companies. Seven years later, in 1994, the apartheid regime fell.

Granted that it is, of course, debatable to what extent corporate influence helped
bringing down the regime, but it remains a piece of the puzzle at least of some significance
(Santoro 2012: 177). At the very least, what seems evident today is that those companies
which chose to comply with the apartheid rules rather than with the Sullivan Principles
are now widely perceived to have supported the apartheid regime by their presence in
South Africa. Thus, Sullivan understood that navigating the hostile context of apartheid
in South Africa required businesses to assume a proactive and essentially a political role.
He understood that in order to remain in South Africa, silence and “neutrality” was not
enough; CSR was not enough either; instead, companies would have to address directly
the structural injustices of which they were a part. Thus, they had to assume the role of
agents of justice in in order to justify their presence in the country.

The second example is the Global Network Initiative. The Global Network Initiative
is, in its own words, a multi-stakeholder initiative consisting of ICT companies, civil
society organizations, investors and academics aiming at “a collaborative approach
to protect and advance freedom of expression and privacy in the ICT sector” It was
established as a response to the ICT sector being faced with “increasing government
pressure to comply with domestic laws and policies in ways that may conflict with
the internationally recognized human rights of freedom of expression and privacy”\(^2\).
Four ICT companies are currently members of the initiative, namely Google, Yahoo!,
Microsoft and most recently Facebook. The Global Network Initiative outlines its
core commitments in form of six principles which are meant to provide guidance and
direction to the ICT industry. Of particular relevance to the argument advanced in
this paper is principle 5 of the initiative, which calls on the signatory companies both
individually and collectively to “engage governments and international institutions to
promote the rule of law and the adoption of laws, policies and practices that protect,
respect and fulfill freedom of expression and privacy”\(^3\). Thus, the Global Network
Initiative decidedly embraces a more proactive role of corporations in advancing just
institutions through political involvement. The Implementation Guidelines\(^4\), which
accompany the principles, provide more specific recommendations of how such
engagement of governments and international institutions ought to be conducted.

Google’s confrontation with the Chinese government in 2009 was, in a way, a
litmus test of principle 5 of the Global Network Initiative. It seems that Google’s way
of handling the situation was closely aligned with what principle 5 of the Initiative
would call for. According to the Implementation Guidelines for principle 5, signatory
companies ought to “engage government officials to promote rule of law and the
reform of laws, policies and practices that infringe on freedom of expression and privacy”5. It seems that this is precisely what Google intended to do. If so, however, one may wonder why the other two signatory companies (Facebook has joined the initiative only in 2013), that is, Microsoft and Yahoo! did not support Google in its endeavor. A collaborative approach would certainly have allowed for the creation of more leverage to achieve meaningful results. Even without the support of the other two corporate members, however, Google’s temporary withdrawal from China mainland led the Chinese government to agree to a compromise, which for some observers would have been inconceivable just a few years ago. For example, for Xiao Qiang, director of the China Internet Project at the University of California, Berkeley, “it is unprecedented for a private company to challenge Chinese Internet censorship…. In the past, there would have been no doubt that the Chinese government would have punished Google” (Quoted in Barboza & Helft, 2010).

The UN Guiding Principles on Business and Human Rights are the third and most recent example. The Guiding Principles’ approach is more cautious than that of the Global Network Initiative and most certainly also of the Sullivan Principles; they focus squarely on the avoidance of harm and are hesitant to assign any proactive role for corporations in the protection and promotion of human rights. As such, the Guiding Principles may not be reconcilable with an image of corporations as agents of justice in a narrow sense. Therefore, for Santoro (2012: 177), the Guiding Principles denote a clear step backward from the higher standard established by the Sullivan Principles.

Nevertheless, in contrast to many other global standards, the Guiding Principles do provide some guidance regarding the political dimension of corporate responsibility and particularly on the use of leverage by businesses for the mitigation of adverse human rights impacts. Specifically, Art. 13 calls on companies to “[s]eek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts”. Article 19, then, asserts that “appropriate action taken by companies to prevent and mitigate adverse human rights impacts will vary, first, according to whether a business causally contributes or is ‘merely’ directly linked to those impacts and, secondly, according to the extent of its leverage in addressing them”. The commentary to Article 19 provides more specific guidance: “[I]f the business enterprise has leverage to prevent or mitigate the adverse impact, it should exercise it. And if it lacks leverage there may be ways for the enterprise to increase it”. Thus, the Guiding Principles are fairly specific about the circumstances and conditions under which the use of leverage is considered not only legitimate but warranted. However, it remains unclear whether the “entities” over which leverage ought to be exerted include political institutions representing, for example, host governments, as it was the case for the Sullivan Principles.

In sum, global CSR standards are ambiguous not only regarding their empirical impact, as pointed out in the previous section; also their content generally defines the role of signatory companies in rather narrow and essentially apolitical terms. Thus, if we take the bulk of global CSR standards as representative for the state of corporate responsibility, we could hardly conclude that companies are currently assuming a role of agents of global justice.
Corporations as Advocates for Global Justice?

Google’s move to confront the Chinese government over their censorship laws in 2009 was controversial. While there are prominent voices, such as the blind Chinese Dissident Chen Guangcheng, who have called on companies to take a more active role in objecting to unjust laws (see Forden and Satariano 2012), not everyone may perceive pressure of private companies on governments as legitimate. The controversy is not new. What is new is the frequency with which such issues come up in a more interconnected world. Nevertheless, the demands of the Sullivan Principles, for example, were discussed similarly controversially at the time. Today, as pointed out above, hardly anyone would argue that the corporate attempts to undermine the apartheid regime were to be considered illegitimate interference with a host government.

Granted that the exertion of influence and leverage by companies is hardly legitimate per se and across the board, but the South African experience shows that there seem to be circumstances under which it can be justified. As pointed out above with reference to Iris Young, legitimacy requires a social connection between the company and the injustice taking place. Based on this connection, four general criteria stake out the space for a company’s legitimate use of leverage for the furthering of justice (see in more detail Wettstein 2012):

- **Scale and egregiousness of the injustice at stake**: we do not want corporations to turn into “the moral arbiters of the world”, as Sir Geoffrey Chandler (2000: 5) once put it. Therefore, we may want to limit them in using their political influence to cases of severe, systematic, and ongoing injustices, that is, to injustices which are widely and internationally condemned. The less visible and direct a company’s connection to the injustice, the more important becomes this crucial limitation to corporate political responsibility.

- **Responsiveness**: similar to the above claim, we want corporations to take action only when action is really warranted, that is, when there is a widely shared and expressed view that in a particular context such corporate action is desirable. Thus, corporations should be responsive to the global public and its institutions as well as particularly to the people who are suffering from injustices.

- **Collaboration**: if corporations lack influence, they may be able to increase their leverage through collaboration with likeminded institutions. However, not only leverage, but also legitimacy favors collaborative approaches. Sensible responses to thorny moral issues can only be expected when corporations collaborate with other institutions representing a variety of points of views. Such institutions may include, for example, NGOs, activist groups, government agencies, as well as international and supranational organizations.

- **Publicness and transparency**: Corporate political activity, whether it is for the good or for the bad, should be transparent in order to ensure accountability. While publicness and transparency is a matter of degrees rather than absolute, the public should at least know about the goals and underlying intentions of companies.

It is evident that all these criteria were met in the example of companies in apartheid South Africa, which may explain why corporate political action against apartheid laws
are largely perceived as justified today. The South African example provides a glimpse of what is possible if, under the “right” circumstances, companies act in concert for the promotion and advancement of justice. Against this background, as Richard DeGeorge (2010: 420) notes, “the South African experience was one of the clearest examples of the importance and possibility of joint corporate action”.

**Conclusion**

Traditionally, we have looked to the state as the primary facilitator or agent of justice. While this might still be the case today, the transformations at the global level during the past two decades have put other agents in positions alongside governments to fulfill such roles at least in some situations. Multinational corporations are certainly among such agents. Their impact on the global institutional structure has been nothing short of profound. If we accept their role as agents of institutional change, however, we can only hope that such change is advancing rather than undermining global justice.

Granted that many corporations have made strides in adopting and implementing CSR programs, but such efforts arguably only scratch the surface of a more profound role of agents of justice. Besides the conceptual differences between conventional CSR perspectives and the focus of justice, also the empirical impact as well as the content of most prominent CSR standards today fall short of such a role. Most importantly, the approaches to CSR, which are reflected in such standards, tend to put little emphasis on the political dimension of corporate responsibility. It is precisely this political dimension, however, which is at the core of an understanding of corporations as agents of justice.

Nevertheless, there is a light at the end of each tunnel. There are some companies which have started to interpret their role more progressively beyond what conventional CSR approaches commonly entail. They have realized that there may be a role for them to play when it comes to putting their political influence and leverage to good use for the promotion of (global) justice. Here are a couple of examples:

A communiqué by Levi Strauss, Pepsi and Coca-Cola, issued in the context of the recent Rio +20 summit, calls on governments to adopt specific policy proposals in order to achieve meaningful progress on water issues. Similarly, but at a much larger scale, the Copenhagen Communiqué, which has been signed by some 900 companies worldwide and issued ahead of the UN Climate Change Conference in Copenhagen in 2009, called on world leaders to reach “an ambitious, robust and equitable global deal on climate change that responds credibly to the scale and urgency of the crises facing the world today”5. This deal ought to include, among other things, a long-term global emissions reduction pathway as well as credible measurement, reporting and verification of emissions.

The Global Business Coalition Health is a coalition of more than 200 companies and allied organization, whose mission it is to “leverage the resources of the business community for positive impact on global health challenges”7. Among other things, advocacy is one of the designated focus areas of the coalition: “Companies have
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powerful built-in platforms to advocate for action on global health issues. When they join together, top-level executives can make a difference in global priorities, particularly when their advocacy is in partnership with other business leaders and the public health community”. Making use of its collaborative clout, the coalition was instrumental in bringing down the discriminatory and outdated US HIV travel ban and is now targeting 45 countries worldwide with similar travel restrictions based on HIV status.

These are examples of companies taking a much more proactive, political stance on issues concerning the institutional structure within which they operate. Those who argue that such issues are none of those companies’ business should think twice. In both examples, the connection to corporate interest and values has been pointed out very explicitly by the respective companies. In addition to the moral argument supporting such action, there is a clear business rationale to promote both a comprehensive climate change framework as well as the abolishment of discriminatory travel bans for HIV patients.

However, such examples are still the exception, rather than the rule. Generally, corporations still engage in political activity first and foremost to advance their own narrow financial interests, rather than out of a genuine concern for the public good. Under such circumstances, their political activity is at best entirely separate from their CSR commitments. In the worst case, it runs counter and undermines their CSR policies. The awareness that there is an inherent connection between a company’s CSR activities and its influence on public policy is still lacking among companies today. Without this awareness, however, CSR will remain a small drop in a large bucket of perpetuating injustices. Paradoxically the very effectiveness of conventional CSR programs depends on corporations to assume a role beyond CSR. We are still waiting for this realization to take hold in the corporate world. Once it does, perhaps the mountain will move at last.

Notes

2 http://www.globalnetworkinitiative.org/.
7 http://www.gbchealth.org/.

References


