A Brief Introduction to Corporate Social Responsibility

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Corporate social responsibility, or "CSR", in the United States has its roots in the sustainability movement that began in the early 1960s, when environmentalists first raised concerns about the use of chemical pesticides by the general public and large corporations. By the end of that decade, environmental awareness campaigns and conferences had placed the topic squarely on to national public and political agendas and the federal government formed regulatory bodies such as the Environmental Protection Agency and funded extensive research on the effects of chlorofluorocarbons, volatile organic compounds, nitrous oxide, carbon dioxide, and deforestation on the environment.[1] However, even as these activities were occurring the practices of environmental and social sustainability were still considered to be threats to economic sustainability until 1987, when the World Commission on Environment and Development issued a report titled *Our Common Future* that was to serve as the foundation for the argument that environmental and social health positively impacted economic health, thus encouraging sustainable development that was ultimately in the best long-term interests of businesses and all members of society.[2]

Beginning in the 1990s, a new economic theory of the firm, the "corporate community model", put stakeholders at the center of corporate strategy. Masuku explained: "... the organization is viewed as a socioeconomic system where stakeholders are recognized as partners who create value through collaborative problem solving. It is the role of the organization to integrate the economic resources, political support, and special knowledge each stakeholder offers 'not to do well', but because it provides a competitive advantage."[3] Throughout the 1990s, CSR became more international in scope, but was typically reactive in nature and often a response to negative publicity. During this time, a holistic, triple-bottom-line accounting framework of sustainability also began to emerge. Since the 2000s, CSR has grown increasingly strategic, and a broader concept of sustainability has gained ground. Public pressure to address negative corporate externalities, and pressing social, economic, and environmental issues has driven the evolution of these practices. Over time, they have blurred the lines between the public,

[1] K. Mink, The Effects of Organizational Structure on Sustainability Report Compliance (Purdue University College of Technology Masters' Thesis, 2012), available athttp://docs.lib.purdue.edu/techmasters/62, 9.
[2] Id at 9-10.
[3] C. Masuku, Corporate Social Responsibility Literature Review and Theoretical Framework, available at https://www.academia.edu/2172462/CORPORATE_SOCIAL_RESPONSIBILITY_LITERATURE_REVIEW_AND_THEORETICAL_FRAMEWORK (citing W. Halal, "Corporate community: a theory of the firm uniting profitability and responsibility", Strategy & Leadership, 28(2) (2000), 10).

private, and civil sectors, and redefined traditional roles and structures in the process.[4] In addition, as time has gone by, CSR has become recognized as "[a] business strategy to make the ultimate goals of corporations more achievable as well as more transparent, demonstrate responsibility towards communities and the environment and take the interests of groups such as employees and consumers into account when making long-term business decisions."[5] Another important driver of CSR has been the surge in interest of interest in corporate sustainability practices of their portfolio companies.[6]

The influence that businesses have within society has also led to calls for companies to be proactively involved in addressing and solving environmental and societal problems. One commentator observed that, in general, companies have taken one of three approaches to social responsibility: resistance, which has included actively fighting to eliminate, delay or significantly reduce the imposition of socially responsible duties on their operations; reactive, which means waiting for duties to be imposed and then evaluating alternative means for complying with those duties; and proactive anticipation, meaning proactive communication with interested stakeholders (i.e., those persons and entities that have an interest in or who are affected by how a business conducts its operations) before duties are imposed externally to learn and understand their needs and collaborate with them to find ways to assist them in a manner that is consistent with the business' own goals and objectives.[7]

CSR Definitions and Conceptualizations

A number of different names are commonly used during discussions of the environmental and social responsibility of businesses including corporate responsibility, corporate accountability, corporate ethics, corporate citizenship or stewardship, corporate philanthropy, corporate giving, responsible entrepreneurship, the "triple bottom line", responsible competitiveness, corporate sustainability, corporate community involvement, community relations, community affairs, community development, global citizenship and corporate societal marketing.[8] One of the most cited definitions of CSR, which goes back

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[4] J. Cramer-Montes, "Sustainability: A New Path to Corporate and NGO Collaborations", The Economist (March 24, 2017), http://www.economist.com/node/10491124

[5] M. Rahim, Legal Regulation of Corporate Social Responsibility: A Meta-Regulation Approach of Law for Raising CSR in a Weak Economy (Berlin: Springer, 2013), 13, 22 (citing A. Gill, "Corporate Governance as Social Responsibility: A Research Agenda" (2008)).

[6] https://www.unpri.org/about/what-is-responsible-investment

[7] Notes on "Chapter 9: Management Ethics and Social Responsibility", http://www2.ivcc.edu/aleksy/Fall14/Fall14Mgmt/Plunkett10Ch09.pdf [accessed July 25, 2016]

[8] P. Hohnen (Author) and J. Potts (Editor), Corporate Social Responsibility: An Implementation Guide for Business (Winnipeg CAN: International Institute for Sustainable Development, 2007), 4; and P. Kotler and N. Lee, Corporate Social Responsibility: doing the most good for your company and your cause (Hoboken, N.J.: Wiley, 2005) (discussed in F. Maon, V. Swaen and A. Lindgreen, Mainstreaming the Corporate Responsibility Agenda: A Change Model Grounded in Theory and Practice (IAG- Louvain School of Management Working Paper, 2008), 6).

to the early years of scholarly work on the subject, has been Carroll's statement in 1979 that "the social responsibility of business encompasses the economic, legal, ethical, and discretionary expectations that society has of organizations at a given point in time".[9] Carroll's model of CSR suggested that there were four primary criterion that should be used in evaluating organizational commitment and performance with regard to CSR: economic (jobs, wages, services), legal (legal compliance and playing by the rules of the game), ethical (being moral and "doing what is just, right, and fair") and discretionary (optional philanthropic contributions) responsibilities.[10]

A Green Paper published by the European Commission in 2001 defined CSR as "a concept whereby companies integrate social and environmental concerns in their business operations and in their interactions with their stakeholders on a voluntary basis"[11] and a subsequent publication supported by the European Union noted that CSR was demonstrated by companies when they voluntarily integrate behaviors and principles into their business operations in ways that meet, or even exceed, stakeholders' expectations with regard to society and the environment.[12] The World Business Council for Sustainable Development defined CSR as "the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large."[13] The ISO 26000 standard for corporate responsibility, which was developed in 2010 by the International Standards Organization, defined "social responsibility" as "the responsibility of an organization for the impacts of its decisions and activities on society and the environment, through transparent and ethical behavior that contributes to sustainable development, including health and the welfare of society, takes into account the expectations of stakeholders, is in compliance with applicable laws and with international norms of behavior, and is integrated throughout the organization and practiced in its relationships."

Rahim summed up the results of his survey of definitions and conceptions of CSR by first acknowledging that there was no conclusive definition of CSR and that it could have

[9] I. Montiel, "Corporate Social Responsibility and Corporate Sustainability: Separate Pasts, Common Features", Organization and Environment, 21(3) (September 2008), 245, 252 (citing A.B. Carroll, "A three-dimensional conceptual model of corporate performance", Academy of Management Review, 4(4) (1979), 497, 500).
[10] R. Daft and D. Marcic, Understanding Management (5th Edition) (Mason, OH: South-Western Publishing Co., 2006), 137-139 (citing A. Carroll, "A Three-Dimensional Conceptual Model of Corporate Performance," Academy of Management Review 4 (1979), 499; and "The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Corporate Stakeholders," Business Horizons 34 (July–August 1991), 42).
[11] European Commission, Green Paper: Promoting a European Framework for Corporate Social Responsibility (2001) www.europa.eu.int at 5 July 2007.
[12] Handbook on Corporate Social Responsibility (CSR) for Employers' Organizations (European Union CSR for All Project, April 2014), 6.
[13] P. Watts and Lord Holme, Corporate Social Responsibility: Meeting Changing Expectations (1999), 3.

different meanings to different people and different organizations as an ever-growing, multifaceted concept, but then going on to argue that the concept of CSR was becoming consistent and converging on two points: companies must consider the social, environmental, and economic impacts of their operations and must be responsive to the needs and expectations of their stakeholders. According to Rahim, CSR must be, and was becoming, an integral element of business strategy that provided a path for companies on how they should deliver their products or services to the market and a means for companies to maintain the legitimacy of their actions in wider society by bringing stakeholder concerns to the foreground and emphasizing concern for social needs and actions that go beyond philanthropy.[14]

CSR Drivers

Businesses can no longer afford to ignore CSR given the emphasis that various stakeholders are placing on the environmental and social impacts of a company's operations, and business gurus such as Porter have cautioned businesses that the costs of failing to pay attention to corporate citizenship are too high and that they must identify and implement ways in which they can leverage their unique capabilities to both support social causes and enhance their competitive advantage at the same time.[15] Porter, along with others such as McWilliams and Segal, has also maintained that companies should use CSR initiatives as part of their business strategies to promote competitive advantage and, in fact, a large percentage of Global 250 firms have explicitly identified issues such as climate change and material resource scarcity as opportunities for the development of new products and services.[16]

According to Willard, the spike in attention to CSR was driven during the early 2000s by a combination of "mega-issues" (e.g., climate change, pollution/health, the "energy crunch" and erosion of trust and desire for transparency) and demands from emerging stakeholder groups included "green" consumers, activist shareholders, civil society/non-governmental organizations ("NGOs"), governments and regulators and the financial sector.[17] Since then the list of critical environmental and social issues with potential

[14] M. Rahim, Legal Regulation of Corporate Social Responsibility: A Meta-Regulation Approach of Law for Raising CSR in a Weak Economy (Berlin: Springer, 2013), 13, 24 (citing A. Gill, "Corporate Governance as Social Responsibility: A Research Agenda" (2008), 464).
[15] M. Porter and M. Kramer, "Creating Shared Value", Harvard Business Review (January-February 2011) (referring to a quote from a speech delivered by Porter at the April 2005 Business and Society Conference on Corporate Citizenship sponsored by the University of Toronto's Rotman School of Management).
[16] See M. Porter and M. Kramer, "Strategy and Society: The Link between Competitive Advantage and Corporate Social Responsibility", Harvard Business Review, 78 (December 2006); and A. McWilliams and D. Siegel, "Creating and Capturing Value: Strategic Corporate Social Responsibility, Resource-Based Theory, and Sustainable Competitive Advantage", Journal of Management 37 (2011), 1480.
[17] B. Willard, The Next Sustainability Wave (Gabriola Island, British Columbia CN: New Society Publishers, 2005). A similar, albeit lengthier, list of critical environmental and social issues that businesses must confront as challenges to their own survival has been developed by the Future-Fit Foundation

impacts on businesses and society in general has expanded to include price increases and volatility, new regulations, changes in consumer preferences, resource constraints on production, cybersecurity risks, protectionist pressures, ethical challenges associated with the Fourth Industrial Revolution and a collapse in the norms and institutions towards which the world's major powers might converge in order to peacefully address geopolitical disputes.[18] At the same time, companies around the world were being motivated to engage in CSR for various competitive reasons including economic considerations, ethical considerations, innovation and learning, employee motivation, risk management or risk reduction, access to capital or increased shareholder value, reputation or brand, market position or share, strengthened supplier relationships and cost savings.[19]

Hohnen and Potts noted that CSR has been one of several responses to pressures for attention to the need for sustainable development and that interest in CSR has been driven by a variety of factors and influences including accelerated globalization, which has met greater reliance on global supply chains and accompanying concerns about working conditions in developing countries; corporate scandals, which have actually been the catalyst for the compacts, declarations, guidelines, principles and other instruments developed by intergovernmental bodies such as the United Nations, the Organisation for Economic Co-operation and Development and the International Labour Organization that have become the standards for CSR initiatives, governance and acceptable business conduct; growing recognition of corporate sector impact and the corresponding need to hold businesses accountable for the impact of their actions on stakeholders; and advances in communications technology that have both made it easier for activists and other stakeholders to track and critique corporate activities and for businesses to engage in more positive and open relationships with stakeholders.[20]

Legal and Regulatory Considerations

Regardless of the reasons for implementing a CSR initiative, there are certain legal and regulatory issues and trends that should be considered since national, state and local governments in countries all over the world have already adopted a wide range of laws

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(futurefitbusiness.org), a non-profit organization whose vision is a future in which everyone on the Earth can flourish. Future-Fit Business Framework, Part 1: Concepts, Principals and Goals (Future-Fit Foundation, Release 1, May 2016), 11, FutureFitBusiness.org.

[18] See the work of the World Economic Forum based in Geneva, which has been publishing a comprehensive and widely praised annual report on "global risks" since 2006 drawing on the unique expertise available within the Forum and its different communities and knowledge networks.

[19] KPMG International Survey of Corporate Responsibility Reporting 2005(KPMG Global Sustainability Services: Amsterdam); and B. Willard, "Introduction" in Sustainability ROI Workbook: Building Compelling Business Cases for Sustainability Initiatives (May 2017 Edition) (the Workbook, which is regularly updated, is available for download, along with other information on corporate sustainability projects, at http://sustainabilityadvantage.com/). See discussion of business benefits of CSR below.

[20] P. Hohnen (Author) and J. Potts (Editor), Corporate Social Responsibility: An Implementation Guide for Business (Winnipeg CAN: International Institute for Sustainable Development, 2007), 7-8.

and regulation relating to key stakeholders other than shareholders including workers, consumers and the environment. For example, in today's business world, all companies, regardless of their size, business model and scope of activities, are required to understand and comply with a plethora of laws and regulations relating to employment (e.g., harassment, discrimination and immigration laws); antitrust and unfair competition; consumer transactions including product health and safety standards; environmental impacts of operations and product usage; health and safety; privacy and data security; and conflicts of interest, working with government officials, lobbying and political activities (e.g., contributions). In addition, there is a noticeable rise in new laws and regulations relating to topics that are typically associated with CSR initiatives such as requiring publicly-listed companies to make public disclosures on environmental and social responsibility performance; expanding directors' fiduciary duties and corporate governance disclosure requirements to include taking into account environmental, social and governance issues; and tightening prohibitions on bribery of public officials.[21]

Beyond the Law: Voluntary CSR Standards and Initiatives

Compliance with laws and regulations is a starting point for becoming a socially responsible company, not only because the legal standards are generally instructive minimum guidelines, but also because failure to adhere to laws and regulations will bring adverse public attention to the company and undermine any other efforts that the company might be making to be perceived as a socially responsible actor. However, it should not be forgotten that laws are often at best minimum standards of socially responsible and ethical behavior and that the scope of the commitments and activities associated with any CSR initiative can be daunting and normally extend well "beyond the law" to include a wide range of emerging voluntary standards that address issues in diverse subjects such as corporate governance and ethics; environmental stewardship; human rights (including core labor rights); sustainable development; community involvement, development and investment; transparency and performance reporting; and supplier relations, for both domestic and international supply chains. The principal points of reference for companies looking to develop their own goals and principles for responsible action include the UN Global Compact and Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises, the ISO 26000 Guidance Standard on Social Responsibility, and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

Core Subjects of CSR

As should now be clear from the discussion above, CSR is a complex subject that has attracted widespread interest and generated a far-ranging array of definitions, dimensions

[21] P. Hohnen (Author) and J. Potts (Editor), Corporate Social Responsibility: An Implementation Guide for Business (Winnipeg CAN: International Institute for Sustainable Development, 2007), 15-17.

and models. In order for companies to anchor their CSR focus, they need to identify and understand the core subjects of CSR and the specific issues associated with each of those subjects. As mentioned above, ISO 26000 recommended that organizations plan on addressing seven core subjects with respect to social responsibility: organizational governance; human rights; labor practices; the environment; fair operating practices; consumer issues; and community involvement and development. For each core subject, information is provided on its scope and relationship to social responsibility. Importantly, ISO 26000 also identifies the following key issues for each core subject[22]:

- **Organizational Governance:** Sometimes identified as the most critical factor in enabling an organization to take responsibility for the environmental and social impact of its decisions and activities, organizational governance includes the formal and informal structures, processes and mechanisms for decision making and implementation based on fundamental principles of social responsibility including organizational values and culture (i.e., accountability, transparency, ethical behavior, respect for stakeholder interests, respect for the rule of law, respect for international norms of behavior and respect for human rights)
- **Human Rights:** Human rights are the basic rights to which all human beings are entitled and can be separated into civil and political rights (e.g., right to life and liberty, equality before the law and freedom of express) and economic, social and cultural rights (e.g., rights to work, food education, social security, health etc.). Issues for this subject include due diligence; human rights risk situations; avoidance of complicity; resolving grievances; discrimination and vulnerable groups; civil and political rights; economic, social and cultural rights; and adherence to fundamental principles and rights at work
- **Labor Practices:** Organizations make significant contributions to society through the jobs they create and the wages and other compensation they provide to their workers and labor practices relate to all policies and practices relating to the multiple dimensions of work performed on behalf of the organization, with specific issues including employment and employment relationships; conditions of work and social protection; social dialogue; health and safety at work; and human development and training in the workplace
- **The Environment:** Arguably CSR began with a focus on the environment and environmental responsibility is a precondition for the survival and prosperity of human beings and key issues relating to the environment include prevention of pollution; sustainable resource use; climate change mitigation and adaptation; and protection of the environment, biodiversity and restoration of natural habitats

[22] ISO 26000 Guidance on Social Responsibility: Discovering ISO 26000 (International Organization for Standardization, 2014); Handbook for Implementers of ISO 26000, Global Guidance Standard on Social Responsibility by Small and Medium Sized Businesses (Middlebury VT: ECOLOGIA, 2011); and Seven Core Subjects Covered by ISO 26000 (PECB), https://pecb.com/pdf/articles/3-pecb_seven-core-subjects-covered-by-iso-26000.pdf.

- **Fair Operating Practices:** Fair operating practices concern the way an organization uses it relationships with other organizations (e.g., government agencies, partners, suppliers, contractors, customers, competitors and associations) to promote positive outcomes and issues concern anti-corruption; responsible political involvement; fair competition; promoting social responsibility in the value chain; and respect for property rights
- **Consumer Issues:** Companies have multiple due and obligations to consumers including engaging in fair marketing practices, providing factual and unbiased information and engaging in fair contractual practices; protecting consumers' health and safety; promoting sustainable consumption; providing excellent consumer service, support and complaint and dispute resolution mechanisms; implementing and supporting consumer data protection and privacy; and providing access to essential services, education and awareness
- **Community Involvement and Development:** Organizations are citizens of their communities and thus have a duty to be good citizens and neighbors through community involvement, support of education and culture, employment creation and skills development, technology development and access, promotion of wealth and income creation, support for community health and social investment

The subjects of CSR identified in ISO 26000 are largely consistent with the views of commentators and representatives of important CSR observers and stakeholders including representatives of industry, government, labor, consumers, NGOs and academia. In fact, the working group that created ISO 26000 included 450 experts, 210 observers from 99 ISO member countries and 42 liaison organizations (e.g., OECD, the World Health Organization and the UN Global Compact). The ISO 26000 core subjects can be found among the required reporting areas in GRI sustainability reporting framework mentioned below (e.g., procurement practices; environmental matters, such as materials, energy and water; labor practices; human rights; local communities and product responsibility. The ISO 26000 subjects are the basis for most of the discussion in the separate chapter of this publication on CSR core subjects; however, consistent with choices made by various sustainability commentators, relationships with value chain partners are treated separately and financial responsibility has also been included as an additional subject. Additional activities that are certainly fundamental and essential with respect to implementation of CSR are discussed in other chapters including CSR strategy, innovation, legal and regulatory compliance, governance and management, stakeholder engagement, impact assessment and reporting and communications.[23]

Business Benefits of CSR

[23] For further information on the core subjects of CSR, see the chapter on that topic in this publication. See also, e.g., CSR Project Report Executive Summary, http://www.socsc.hku.hk/ExCEL3/wp-content/uploads/2013/11/CSR-report-executive-summary.pdf; and ISO 26000 and the Declaration of Conduct, https://www.ds-pharma.com/csr/management/iso26000_1.html

While presumably the prospect of "doing good" is a compelling reason for companies to consider implementing CSR initiatives, the reality is that managers must develop a solid business case for investing the company's resources in CSR activities, a process that calls for identification of the specific business benefits that the company expects to achieve from its CSR programs with respect to increasing value, saving costs and reducing risks. Tonello noted that the earlier arguments in the 1960s and 1970s in favor of CSR were often based primarily on ethical considerations and altruism ("doing the right thing" and "being a good corporate citizen") and that few claimed that companies that were more philanthropic would be more profitable than their less generous competitors.[24] However, researchers began what became a decades' long project to establish a positive relationship between corporate social performance and corporate financial performance, eventually reaching the point where such a relationship could credibly be identified and quantified.

Tonello reviewed several alternative views of the business case for CSR and concluded that there really was no single rationalization for how CSR improved the corporate "bottom line". Instead, he argued that businesses should build their arguments for pursuing CSR initiatives based on one or more categories of potential benefits including reduction of costs and risks; gaining and maintaining competitive advantage; developing and enhancing reputation and legitimacy; and synergistic value creation. According to the ISO, an organization's performance on social responsibility can influence, among other things, competitive advantage; reputation; the ability to attract and retain workers or members, customers, clients and users; the maintenance of employee morale, commitment and productivity; the perception of investors, owners, donors, sponsors and the financial community; and relationships with companies, governments, the media, suppliers, peers, customers and the community in which it operates.[25]

Other key potential business benefits for companies implementing CSR include better anticipation and management of an ever-expanding spectrum of risk; improved innovation, competitiveness and market positioning; improved ability to attract and build effective and efficient supply chain relationships; improved relations with regulators; enhanced ability to address change; assumption of responsibility for acting as a catalyst for responsible consumerism; reduction of the cost and enhancement of the security of

[24] M. Tonello, The Business Case for Corporate Social Responsibility, Harvard Law School Forum on Corporate Governance and Financial Regulation (June 11, 2011), https://corpgov.law.harvard.edu/2011/06/26/the-business-case-for-corporate-social-responsibility/ The post was based on a Conference Board Director Note by Archie B. Carroll and Kareem M. Shabana, and related to a paper by these authors, titled "The Business Case for Corporate Social Responsibility: A Review of Concepts, Research and Practice," published in the International Journal of Management Reviews. See the post for extensive citations on the categories of business benefits to companies from engaging in CSR that are discussed below.

[25] International Organization for Standardization, ISO 26000 Guidance on Social Responsibility: Discovering ISO 26000 (2014).

supply of critical resources; protection of critical infrastructure and services upon which the future of the business depends; and improved decision-making and strategic execution through inclusion of more diverse perspectives.[26] Making the business case for CSR has also been eased in recent years by growing empirical evidence of positive or neutral correlations between social and environmental responsibility and superior financial performance as measured by returns on assets, investment and capital.[27]

CSR around the World

Rahim surveyed steps that had been taken around the globe to integrate the core principles of CSR into the policy objectives of different economies and global companies. Global companies in Europe have been guided by the EU Commission's Green Paper on Promoting a Framework for CSR and the European Code of Conduct Regarding the Activities of Transnational Corporations Operating in Developing Economies. A number of individual countries in Europe have also taken action driven, at least in part, by a series of resolutions adopted by the European Parliament to facilitate the development of the incorporation of CSR principles in its member economies: the UK established a post of CSR Minister to encourage greater social responsibility in UK companies and the UK's Companies Act of 2006 included specific reporting requirements on environmental and social issues; Belgium passed legislation requiring pension fund managers to disclose the extent to which they consider ethical, social and environmental criteria in their investment policies; France required listed companies to disclose their impact on social and environmental issues in their annual reports and accounts; and each of the Scandinavian countries mandated environmental disclosures. There have also been a number of important quasi-legal initiatives for the promotion of CSR at the national level throughout Europe including the International Business Leaders Forum, the Ethical Trading Initiative and Partnership for Global Responsibility.[28]

[26] P. Hohnen (Author) and J. Potts (Editor), Corporate Social Responsibility: An Implementation Guide for Business (Winnipeg CAN: International Institute for Sustainable Development, 2007), 10-12. See also Future-Fit Business Framework, Part 1: Concepts, Principals and Goals (Future-Fit Foundation, Release 1, May 2016), 13, FutureFitBusiness.org.

[27] R. Daft and D. Marcic, Understanding Management (5th Edition) (Mason, OH: South-Western Publishing Co., 2006), 146-147; P. Hohnen (Author) and J. Potts (Editor), Corporate Social Responsibility: An Implementation Guide for Business (Winnipeg CAN: International Institute for Sustainable Development, 2007), 14 and Project ROI: Defining the Competitive and Financial Advantages of Corporate Responsibility and Sustainability (IO Sustainability, 2015), 3-4 and 15 (noting that sound corporate responsibility management practices seemed to influence investors in three ways: investors appeared to respond positively to firms that integrated their approach to corporate responsibility with the investment and management of the firm's intangible assets (i.e., talent, brand and reputation, and innovation); corporate responsibility was itself perceived as a valuable intangible asset that was an indicator of strong performance across good management, competitive differentiation, employee engagement, organizational culture and innovation; and investors perceive that corporate responsibility serves as "insurance-like" protection of intangible assets, thus reducing financing and other forms of risk).

[28] M. Rahim, Legal Regulation of Corporate Social Responsibility: A Meta-Regulation Approach of Law for Raising CSR in a Weak Economy (Berlin: Springer, 2013), 13, 34-38.

Rahim noted that, in contrast to Europe, the US has been slower in using formal regulation to incorporate CSR into the business strategies and operations of corporations, an approach that is consistent with the preference in the US for minimal legislative control of business. According to Rahim, the US has emphasized developing specialized organizations that set rules and standards, and provide enforcement regimes, for certain aspects of CSR including the Occupational Safety and Health Administration, Equal Employment Opportunity Commission, Consumer Product Safety Commission and the Environmental Protection Agency. A variety of industry and other non-governmental organizations have also contributed guidelines that can be referenced for the self-regulatory initiatives of individual companies including the US Model Business Principles and the work of the Center for Corporate Ethics and the Fair Labor Association. Trade associations in specific sectors, such as automobile manufacturing and paper products, have promulgated guidelines for their members on environmental management practices for themselves and their suppliers.[29]

Principles of CSR have been important in Japan since the post-war reconstruction period, during which the resolution "Awareness and Practice of the Social Responsibility of Business" was adopted and stated the fundamental principal that businesses should not simply pursue corporate profit, but must seek harmony between the economy and society, combining factors of products and services, and that social responsibility is a better way to pursue this goal.[30] Various cabinet ministries have undertaken initiatives to promote and achieve CSR including the Cabinet Office;, the Ministry of Agriculture, Forestry, and Fisheries; the Ministry of Health, Labor, and Welfare; and the Ministry of Environment. For example, the Cabinet Office issued its "Corporate Code of Conduct" in 2002 to build consumer confidence in businesses and set guidelines to promote the establishment and implementation of corporate codes of conduct.[31] The influential Ministry of Economy, Trade and Industry collaborated with the Japanese Standards Association on the creation of a working group to develop CSR standards in Japan and Japan has been an active participant in the development of intergovernmental initiatives relating to CSR. The result of all this activity has been that Japanese companies have been global leaders in disclosures of CSR activities, investment in internal resources to oversee CSR commitments and adoption of codes of conduct based on international standards.[32]

Rahim summed up his findings regarding the integration of CSR principles into corporate governance and regulation among strong economies as follows:

[29] Id. at 38-39.
[30] Id. at 40 (citing M. Kawamura, The Evolution of Corporate Social Responsibility in Japan (Part 1)—Parallels with the History of Corporate Reform (NLI Research institute, 2004), 156).
[31] Id. (citing Asian Productivity Organisation, Policies to Promote Corporate Social Responsibility (Report of the Asian Productivity Organisation Top Management Forum, 2006)).
[32] Id. at 41-42.

> ". . . CSR has attracted considerable attention. Most of the strong economies have adopted CSR principles within their corporate regulatory mechanisms. They have used different strategies and employed different actors to encourage this incorporation of CSR principles in corporate regulation. Though their regulatory strategies are not identical, their goals for relating CSR to public policies amplify their political affiliation for CSR practices in companies; the role of government in these economies is to facilitate the private sector. In these economies, laws and regulations for incorporating the ethos of this convergence are not authoritative. Rather, they are advisory and focused on bringing a broader perspective to the necessity of environmental responsibility in corporate self-regulation. Broadly speaking, incorporation of CSR notions in corporate self-regulation in these economies appears to focus on 'process-oriented regulation' where system-based strategies, enforced self-regulation, management-based strategies, meta-regulation approaches, and principle-based strategies coexist to ensure greater flexibility for the regulators where an objective needs to be incorporated in the era of deregulation."[33]

As for developing and less-strong economies, Rahim reported that several of them have made attempts to incorporate the principles of CSR within their regulatory frameworks, particularly with respect to labor issues, the environment (particularly in those countries that rely extensively on extractive industries), the community and the marketplace. In some instances, these economies have encouraged companies with respect to disclosure practices, stakeholder engagement and implementing corporate governance practices that incorporate consideration of environmental and social issues.[34] However, Rahim expressed misgiving about the pace and intensity of incorporating the ethos of CSR into the fabric of the socio-economic and environmental regulation of the weaker economies given the absence of public interest advocacy groups to oversee this convergence, the disorganization of civil groups, the lack of focus on such issue by the media in those countries and the persistently high rate of corruption within public organizations.[35]

The Current State and Future of CSR

[33] Id. at 45 (citing P. May, "Compliance Motivations: Perspectives of Farmers, Homebuilders, and Marine Facilities", Law and Policy, 27(2) (2005), 317; S. Winter and P. May, "Motivation for Compliance with Environmental Regulations", Journal of Policy Analysis and Management, 20(4) (2001), 675; B. Hutter, The Role of Non-State Actors in Regulation (Centre for Analysis of Risk and Regulation, 2006), 14; N. Gunningham, P. Grabosky and D. Sinclair, Smart Regulation: Designing Environmental Policy (1998); M. Sparrow, The Regulatory Craft: Controlling Risks, Solving Problems, and Managing Compliance (2000); and V. Nagarajan, "From 'Command-and-Control' to 'Open Method Coordination': Theorizing the Practice of Regulatory Agencies" Macquarie Law Journal, 8, 6).
[34] Id. at 42-43.
[35] Id. at 44-45.

Rangan et al. pointed out that CSR had been subject to criticism from both sides of the ideological spectrum.[36] On the left advocates from civil society have often questioned the fundamental motivations of corporations' actions under the umbrella of CSR, arguing that in most cases corporate support for environmental and social programs were nothing more than public relations campaigns designed primarily, if not solely, to boost brand reputations as another means for achieving the primary corporate objective of maximizing profits. At the other end of the spectrum CSR has been denounced as inappropriate and unnecessary in a capitalist society where the responsibility of business is to create financial returns for its shareholders and the larger economy and environmental and social issues should be left to the government and civil society. Both sides have also complained about the lack of metrics to evaluate the efficacy of CSR programs, a situation that is all the more problematic given that businesses are generally driven and managed through precise tools designed to track and analyze the performance of every investment decision.[37]

Rangan et al. noted that efforts to bridge the ideological gap regarding CSR and develop a new paradigm that would be widely accepted had become centered on the idea of creating "shared value", meaning that the role of business in society should be re-imagined as continuing to create private value for its shareholders but doing so in a way that the corporation also creates public value for society.[38] Rangan et al. used Cisco's establishment of educational and training programs for networking personnel, so-called "Cisco Academies", to ensure that there was a sufficient pool of skilled labor in each of the communities where the company operated as just one highly publicized example of shared value in action. However, they were skeptical that shared value would complete resolve the tensions between economic and social/environmental goals that businesses and their leaders must confront. For example, given that creating substantive public value requires investing corporate resources for a payoff that is both distant and uncertain, the decision to take that path can only be taken at the top of the organizational hierarchy (i.e., the CEO and the members of the board of directors). Businesses typically staff their CSR activities with specialist managers, few of whom are willing or able to make "bet the company" decisions. As for the CEO's, only a few are inclined to ignore the pressures to meet their "numbers" and champion long-term environmental and social investing; however, new expectations from institutional investors looking for companies

[36] K. Rangan, L. Chase and S. Karim, Why Every Company Needs a CSR Strategy and How to Build It (Cambridge MA: Harvard Business School Working Paper 12-088, April 5, 2012), 1.
[37] On the ideological debate over CSR, see A. Karnani, "Doing Well By Doing Good: The Grand Illusion", California Management Review (Winter 2011), 53; and D Windsor, "Corporate Social Responsibility: Cases For and Against," in M. Epstein and K. Hanson (Eds.) The Accountable Corporation: Corporate Social Responsibility (Volume 3) (Westport, CT: Praeger Publishers, 2006), 41-43.
[38] K. Rangan, L. Chase and S. Karim, Why Every Company Needs a CSR Strategy and How to Build It (Cambridge MA: Harvard Business School Working Paper 12-088, April 5, 2012), 2.

and CEOs to embrace sustainability are beginning to change the thought processes in the boardroom and corner offices.[39]

Another practical barrier to the large-scale impact of shared value promised by its proponents is that it appears to only make sense for a small group of firms that already have a dominant position in their sectors. These companies already have a relatively large treasury of financial resources, meaning that a large bet on a relatively risky environmental or social project is not as problematic, and their size makes it likely that they will harvest a disproportionate share of the benefits that ultimately come out of a project and thus further strengthen their competitive position. Smaller companies not only have resource constraints but also are unlikely to make substantial public investments only to see their competitors "free-ride" on those investments and appropriate much of the private value that might be created. As such, it can be expected that most companies will invest in environmental or social projects that are narrower and more self-directed and that the public value of those projects, while noticeable and appreciated, will be limited to third parties in the company's proprietary networks such as supply chain and distribution partners.[40]

If "shared value" is not the complete answer to the search for a definitive paradigm to justify CSR does that mean that CSR will ultimately fade away as just another fad? Rangan et al. were among many who have responded to this question with a resounding "no". Among large global companies the percentage professing to practice some form of CSR has been steadily increasing for over a decade and sustainability reporting has become the norm. Businesses of all sizes are subject to CSR drivers such as the philanthropic motivations of their employees, the personal commitments of more and more corporate leaders to contribute to their communities and society in general and the role that CSR plays in generating goodwill in the communities in which the business operates. As such, Rangan et al. argued that "CSR is here to stay" and that the challenge for companies is to find a way to forge a coherent strategy that is can accommodate the broad range of CSR activities including corporate funding of community activities, grants for nonprofits/NGOs, environmental sustainability programs to reduce energy and resource use, "cause" marketing and comprehensive system-level efforts to remake a business's entire value chain.[41]

In 2017, the MIT Sloan Management Review, in collaboration with The Boston Consulting Group, published a report compiling their observations on the then-current state of corporate sustainability based on extensive surveys and interviews conducted

[39] Id.. For more on "shared value", see M. Porter and M. Kramer, "Strategy and Society: The Link Between Competitive Advantage and Corporate Social Responsibility" Harvard Business Review (December 2006), 81; and M. Porter and M. Kramer, "Creating Shared Value", Harvard Business Review (January-February 2011), 64.
[40] Id.
[41] Id. at 3.

over the previous eight years with managers, executives and thought leaders in order to increase knowledge about business adoption of sustainable practices and to support the integration of sustainability into business strategy.[42] The report included an acknowledgement that proactive action from the private sector and tapping into its ability to innovate had become recognized as fundamental to realization of a sustainable future and that significant progress had been made relating to the levels of commitment to corporate sustainability and that a handful of standout companies were demonstrating that sustainability could be driver of innovation, efficiency and lasting business value[43]; however, the report also raised concerns about the continuing path forward, noting that corporate leaders in sustainability remained a minority (and were unevenly distributed across geographies and industries) and that populist political movements around the world threatened to set back global diplomatic progress on issues like climate change and reverse recent regulatory trends. As such, the authors of the report felt that corporate sustainability had reached a critical "crossroads".[44]

Specific issues raised by the authors of the report included a reluctance of most companies to undertake the substantial organizational changes necessary to embed sustainability in the business model (e.g., looking at the business in different ways, erecting new organizational structures, developing new expertise and processes and shifting mindsets); a lingering belief among some business leaders that major sustainability issues, such as reducing climate change, wealth inequality and poverty levels, should be addressed by governments and not private sector actors such as businesses; the reluctance of business leaders to refocus their planning efforts around long-term goals that often will take decades to achieve; and the rise of elected officials in the US and elsewhere who are pushing for deregulation, thus creating new temptations for CEOs to seek short-term profits in areas where rules have lapsed as opposed to staying the course with environmental and social practices that would ultimately contribute to a more sustainable future.[45]

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[42] D. Kiron, G. Unruh, N. Kruschwitz, M. Reeves, H. Rubel, and A.M. zum Felde, "Corporate Sustainability at a Crossroads: Progress Toward Our Common Future in Uncertain Times," MIT Sloan Management Review (May 2017), 1.
[43] Id. at 3. Indicators of progress relating to corporate sustainability included broad commitments to sustainability principles such as the UN Global Compact; more and more companies reporting on their sustainability performance; emergence of a vast network of tool makers (e.g., investors, consumer groups, organizations, coalitions, certifiers and platforms) to spur and aid sustainable business practices; increased transparency about sustainability-related activities (including activities by value chain partners); development of social media and other technology platforms leading to heightened awareness of crises and corporate misbehavior; recognition of the importance of sustainability to institutional investors and launch of environmental, social and governance reporting platforms such as the Principles for Responsible Investment, the Sustainability Accounting Standards Board and the Sustainable Stock Exchange Initiative; and the launch of new initiatives among groups of companies and nations to forge new standards and goals for sustainable business practices. Id.
[44] Id. at 1.
[45] Id. at 19-20.

This article is an excerpt from the author's book ***Responsible Business: A Guide for Sustainable Entrepreneurs***, published by the Sustainable Entrepreneurship Project. For further information, visit the following page on the author's website: https://seproject.org/topics/corporate-social-responsibility/

About the Author

This article was written by Alan S. Gutterman, the principal of Gutterman Law, whose prolific output of practical guidance and tools for legal and financial professionals, managers, entrepreneurs and investors has made him one of the best-selling individual authors in the global legal publishing marketplace. His cornerstone work, *Business Transactions Solution*, is an online-only product available and featured on Thomson Reuters' Westlaw, the world's largest legal content platform, which includes almost 200 book-length modules covering the entire lifecycle of a business. Alan has also authored or edited over 90 books on sustainable entrepreneurship, leadership and management, business law and transactions, international law and business and technology management for a number of publishers including Thomson Reuters, Practical Law, Kluwer, Aspatore, Oxford, Quorum, ABA Press, Aspen, Sweet & Maxwell, Euromoney, Business Expert Press, Harvard Business Publishing, CCH and BNA. Alan has extensive experience as a partner and senior counsel with internationally recognized law firms counseling small and large business enterprises in the areas of general corporate and securities matters, venture capital, mergers and acquisitions, international law and transactions, strategic business alliances, technology transfers and intellectual property, and has also held senior management positions with several technology-based businesses including service as the chief legal officer of a leading international distributor of IT products headquartered in Silicon Valley and as the chief operating officer of an emerging broadband media company. He has been an adjunct faculty member at several colleges and universities, including Berkeley Law, Golden Gate University, Hastings College of Law, Santa Clara University and the University of San Francisco, teaching classes on corporate finance, venture capital, corporate governance, Japanese business law and law and economic development. He has also launched and oversees projects relating to sustainable entrepreneurship and ageism. He received his A.B., M.B.A., and J.D. from the University of California at Berkeley, a D.B.A. from Golden Gate University, and a Ph. D. from the University of Cambridge. For more information about Alan and his activities, and the services he provides through Gutterman Law, please contact him directly at alangutterman@gmail.com, follow him on LinkedIn (https://www.linkedin.com/in/alangutterman/) and visit his website at alangutterman.com.

About the Project

The Sustainable Entrepreneurship Project (www.seproject.org) was launched by Alan Gutterman to teach and support individuals and companies, both startups and mature firms, seeking to create and build sustainable businesses based on purpose, innovation, shared value and respect for people and planet. The Project is a California nonprofit public benefit corporation with tax exempt status under section 501(c)(3) of the Internal Revenue Code dedicated to furthering and promoting sustainable entrepreneurship through education and awareness and supporting entrepreneurs in their efforts to launch and scale innovative sustainable enterprises that will have a material positive environmental or social impact on society as a whole.

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