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Rights and Corporate Social Responsibility: Competing or Complementary Approaches to Poverty Reduction and Socioeconomic Rights?

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Abstract Following the situation of poverty in the rights paradigm, this paper explores the links between the rights-based and corporate social responsibility (CSR) approaches to the realization of socioeconomic rights in the broader context of an emerging recognition of CSR as private regulation of business behaviour. It examines complex theoretical and practical dimensions of responsibility and potential contributions of businesses to poverty alleviation and clarifies the apparent paradox of legal compulsion of essentially voluntary CSR activities. Rather than treat rights and CSR as parallel approaches to protecting socioeconomic rights, it is argued that CSR can be part of a coherent framework of laws and policies for legally translating broad human rights commitments to poverty reduction into concrete programmes. The paper demonstrates how legally propped CSR arrangements can support poverty reduction and appropriate task-specific contextualised definitions and boundaries of CSR that complement the rights-based approach. It is argued that human rights principles have normative dimensions to guide and help formulate policies, programmes and practices, which in turn allow for a creative use of and legal prop to CSR. The conceptualization of human rights is not restricted to one implementation method, and CSR can partly satisfy states' human rights obligations and transcend the narrow conventional human rights discourse on obligations of non-state actors.

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Introduction

In the broader context of an emerging recognition of corporate social responsibility (CSR) as private regulation of business behaviour (Brammer et al. 2012; Gond et al. 2011; Sheehy 2012, 2014; Steurer 2010; Vogel 2010), this paper explores the links between the rights and CSR approaches to the realization of socioeconomic rights and demonstrates how legally propped CSR arrangements can support poverty reduction which some have situated in the rights paradigm. Although law can actually be "the institutionalisation of political and ethical decisions" (Sheehy 2014), existing literature appears to consider rights and CSR as parallel approaches to poverty reduction. On the one hand, poverty is seen as a symptom or consequence of lack of socioeconomic rights, suggesting such rights' instrumental and intrinsic values to poverty reduction. Socioeconomic rights are intrinsically relevant to the characterization of poverty, while the instrumental value focuses on realization of such rights as a means to poverty reduction (McKay and Vizard 2006, p. 41–48). Following the "law in development" approach (Lawan 2011), this "rights-based" approach creates legal obligations and assumes that socioeconomic rights can be justiciable. On the other hand, the orthodox view of CSR is a set of beyond (legal) compliance obligations (Berliner and Prakash 2014, p. 291) businesses voluntarily commit to. Similarly, most poverty reduction initiatives such as such as the Millennium Development Goals (MDGs) are more or less political commitments by governments that are not legally binding. This has led to criticisms of the

"superficiality and grandiosity" and "wishful thinking of lofty promises of a better world" represented by voluntary CSR initiatives (Sethi 2014, p. 362).

Behind the parallel rights and CSR approaches are the twin questions of the nature of CSR and the role of law and regulations in what many regard as an area of corporate discretion. A key controversy is ''How can companies imposing [human costs] are to be held to account?" (Ruggie 2007, p. xvi). This is exemplified by a recent *Journal of Business Ethics*' debate on the role of the UN Global Compact (Voegtlin and Pless 2014). One school praises the Global Compact for its voluntary approach in the absence of supranational regulatory structures in providing principles for business commitment and public scrutiny, differentiation and social approval competition (Haack and Scherer 2014; Rasche 2009; Rasche and Waddock 2014; Ruggie 2007; Williams, 2014). However, the Global Compact has been criticised as ineffective for lacking compliance, monitoring and enforcement provisions, particularly in relation to the quality and veracity of information its signatories provide (Berliner and Prakash, 2014; Sethi and Schepers, 2014).

The rights-CSR divide is apparent in human rights, management and business ethics scholarship. For example, it is reflected in the reports of John Ruggie as the Special Representative to the United Nations Secretary-General (SRSG) on business and human rights (Ruggie, 2007; UN 2008a, b) and the descriptive and normative legal, management and business ethics commentaries the reports have generated (Arnold 2010; Cragg 2012; Fasterling and Demuijnck 2013; Mayer 2009; McCorquodale 2009; Muchlinski 2012; Nolan and Taylor 2009; Whelan and Orlitzky 2009; Wood 2012). The SRSG's Framework (UN 2008b) and Guiding Principles on Business and Human Rights (UN 2011) adopted a "protect, respect and remedy" framework essentially stipulating respective state and corporate obligations to "protect and fulfill" and "respect" human rights. The "respect" obligation is "not to infringe on the rights of others-put simply, to do no harm" (UN 2008b) and requires corporate policy commitments, due diligence and remedial actions for human rights (UN 2011, Principle 15). Critics question this dichotomy, firstly, for not reflecting the reality of corporate power and influence (Cragg 2012; McCorquodale 2009; Mena et al. 2010; Murphy and Vives 2013; Nolan and Taylor 2009; Seppala 2009; Wood 2012). Secondly, the SRSG focused on the legal and political aspects whereas human rights have both legal and political and moral dimensions. Thirdly, the SRSG's reports lack adequate attention to the role of CSR in human rights, particularly the moral dimensions (Arnold 2010, pp. 372–379; Cragg 2012; Wettstein 2012, pp. 744–745).

Poverty alleviation is a prominent area of the rights-CSR debate, leading to criticisms of the UN Global Compact for not expressly addressing poverty, inequality and other development concerns (Fox 2004; Jenkins 2005). As highlighted by the MDGs, a major challenge remains "a world with less poverty, hunger and disease" (UN 2006, p. 3). Poverty is closely linked to the denial of socioeconomic rights as such rights potentially aid a legal framework for tackling deprivation (Bilchitz 2008, p. 133) by ushering "in a new social order, where socioeconomic justice will inform all institutions of public life so that the preconditions of fundamental liberties for all be secured".[1] Socioeconomic rights create entitlements to material conditions for human welfare and include the rights to food, water, health care services and shelter, the realization of which ensures access to resources, opportunities and services necessary for an adequate standard of living. The underlying idea of a human rights approach is that policies and institutions for poverty reduction are based explicitly on the norms and values of international human rights law (OHCHR 2002), while non-incorporation of human rights principles in policies, social norms, legislation and judicial decisions can perpetuate poverty (FAO 2002, para. 3). The 1986 UN Declaration on the right to development[2] encapsulates the rights-based approach which is grounded on explicit statements of formal rights in international and national human rights instruments.

India's unprecedented incorporation of poverty as part of a prescriptive CSR in the Companies' Act 2013 reinforces the importance of investigating the questions of "what should be the role of government, and what should be the role of markets in proving desirable outcomes" (Fransen 2013, p. 224). In CSR scholarship, the debate is generally between instrumental (business case), political (power-based) and ethical (moral obligation) accounts of CSR (Arnold 2013; Hudon and Sandberg 2013). Some scholars argue that socially responsible business activities can generate "more inclusive, equitable and poverty reducing" growth (DFID 2004, p. 2), while others insist that corporate provision of public services and infrastructure (Moon et al. 2005; Scherer and Palazzo 2011) challenges state power, sovereignty and democracy (Banerjee 2010). Nevertheless, CSR has been described as "a completely inadequate response" (Jenkins 2005, p. 528) and lacking explicit solutions to poverty and other social problems (Fox 2004). One possible reason is that existing literature on CSR and poverty reduction (Blowfield and Frynas 2005; Fox 2004; Prieto-Carron et al. 2006) does not consider whether CSR rivals or complements the rights-based approach. Some authors (DFID 2004, p. 2; Ite 2005; Kolk and Tulder 2006) in fact regard poverty-reducing CSR as philanthropy and reiterate its "voluntary" character

[1] *Minerva Mills v Union of India* AIR 1980 SC 1789 at 1846 (Justice P.N Bhagwati of Indian Supreme Court).

[2] UN Resolution 41/128 1986.

in making a "business case" for poverty reduction. The business case, however, does not prove that poverty reduction can improve corporate financial performance (Jenkins 2005, p. 540) and has not made any real difference (Christian Aid 2004).

This paper therefore builds on relevant human rights and CSR literature to argue that a prescriptively legislated CSR masks complex issues in the socioeconomic rights-CSR discourse. Key questions include whether an exclusive rights-based approach can address poverty, whether CSR can displace legal rights as a mechanism for poverty reduction and whether the two approaches compete or complement each other? The paper critically examines the challenges to a rights-based approach to poverty reduction within the framework of the protection of socioeconomic rights and demonstrates that human rights principles are not a technocratic checklist for addressing operational challenges involved in their practical application to complex communities. Socioeconomic rights cannot prescribe the method for reducing poverty but only lay down the normative framework for international, national and community actions toward poverty reduction (Andreassen and Banik 2010, pp. 7, 11). We argue that human rights principles have normative dimensions to guide and help formulate policies, programmes and practices, which in turn allow for a creative use of and legal prop to CSR notwithstanding its "voluntary" character.

The paper proceeds as follows. Firstly, the paper links poverty to socioeconomic rights. It explores the rights-based approach to socioeconomic rights and poverty reduction and identifies justiciability, enforceability, institutional and other challenges. The paper then investigates the alternative CSR model and its state "duties" and corporate "obligations". The prescriptive part highlights areas a law-facilitated CSR can complement the rights-based approach to poverty alleviation. Suggestions include inclusive CSR models beyond the business case and incorporating poverty reduction, credible social reporting, and stakeholder and enforcement rights.

Human Rights, Socioeconomic Rights and Poverty

Rights are titles that ground claims of a special force (Donnelly 1989, p. 5). A right to something specially entitles one to have and enjoy it. For example, the human rights agenda provides a framework of reference to the normal course of ideological, cultural or political domestic politics and foreign policy. The international human rights regime protects certain fundamental entitlements even in countries that offer no protection for violations of human rights. The tension between the idea of universal rights and national sovereignty suggests that it is critical for human rights standards to be acknowledged as the product of international agreements. National protection of human rights without the recognition of relevant international obligations can lead to the denial of some rights in the name of upholding the democratic principle of majority rule (An-Na'im 2004, pp. 8–9).

Within the international human rights regime is the controversial class of socioeconomic rights. The development of socioeconomic rights can be traced to the establishment of the International Labour Organisation and the recognition of certain rights by articles 387–399 of the 1919 Treaty of Versailles. Part XIII Section 1 of the treaty contains provisions for labour-related rights, including the rights to employment and livelihood, adequate living wage, regulated hours and maximum working day and week, education, freedom of association with other workers, safety and protection from harm, and to work under just, peaceful, harmonious and humane conditions. However, the International Covenant on Economic, Social and Cultural Rights (ICESCR) is arguably the primary and most comprehensive international rights-based treaty for the protection and promotion of socioeconomic rights such as the rights to self-determination (Article 1); equal treatment of men and women (Article 3); work (Article 6); just and favourable conditions of work (Article 7); form and join trade unions (Article 8); social security (Article 9); family life (Article 10); adequate standard of living (Article 11); physical and mental health (Article 12); education (Articles 13 and 14); and cultural life (Article 15). These provisions for substantive rights are supported by a monitoring framework to ensure states' observance and implementation of the rights. Although Part IV of the ICESCR confers the monitoring responsibilities on the UN Economic and Social Council, the Council through its Resolution 1985/17 of 28 May 1985 established a body of independent experts known as the Committee on Economic, Social and Cultural Rights to perform its functions. The Committee receives regular reports from states and issues authoritative interpretations of the ICESCR provisions through its General Comments. General Comment 3, for example, confirms the rights-based approach in relation to the roles of states under the ICESCR by declaring that "[s]uch steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant [and the] means which should be used in order to satisfy the obligation to take steps are stated in article 2 (1) to be all appropriate means, including particularly the adoption of legislative measures" (OHCHR 1990, paras. 2, 3).

Socioeconomic rights have important economic and social dimensions by reflecting specific areas of basic needs, particularly in developing countries. For example, socioeconomic rights under the African Charter on Human and Peoples' Rights include rights to property (Article 14);

work under equitable and satisfactory conditions (Article 15); equal pay for equal work (Article 15); enjoy best attainable state of physical and mental health including medical care (Article 16); education (Article 17); freely take part in one's community cultural life (Article 17(2); and of women, children, the aged and the disabled to special measures for protecting their physical or moral needs (Article 18). There are also provisions for socio-economic rights in the 1990 African Charter on the Rights and Welfare of the Child and the 2003 Protocol to the African Charter on the Rights of Women in Africa.

Although national constitutions and international treaties now include provisions for socioeconomic rights and thereby recognize socioeconomic rights as legal rights, the content, priorities and legitimate scope of human rights and the ability of socioeconomic rights to create legal entitlements or enforceable claims are subject of debates. Arguments against such socioeconomic rights include non-justiciability, lack of clarity of their normative nature, attached obligations and scope of enforcement and ineffective remedies, making some to regard them as ideals to be realised progressively depending on the availability of resources (Arambulo 1999, pp. 16–18, 55–57). The debates led to the notion of three generation of rights: the first generation of civil and political rights; the second generation of socioeconomic rights; and the third generation of collective rights such as the rights to development, peace, safe environment and humanitarian relief. However, the classification of human rights into categories does not serve any conceptual clarity and is detrimental to the human rights quality of socioeconomic rights. The classification undermines the universality and practical implementation of human rights when judicial enforcement of each specific human right should be on its own terms (An-Na'im 2004, p. 7).

Except in respect of non-derogable rights, nothing in the Universal Declaration of Human Rights 1948 (UDHR) implies the inferiority of any set of human rights. In fact, indivisibility and interdependence of human rights seem a prominent principle. The preamble of the International Covenant on Civil and Political Rights (ICCPR) affirms that "[i]n accordance with the [UDHR], the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights as well as his economic, social and cultural rights".[3] The preamble to the ICESCR recognizes that "in accordance with the [UDHR], the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights as well as his civil and political rights".[4] Other United Nations conventions, resolutions and declarations confirm the interdependence and indivisibility of human rights. In Resolution 32/130,[5] the General Assembly declared that all human rights and fundamental freedoms are indivisible and interdependent, and civil and political rights and socioeconomic rights require equal attention. Article 1 of the Declaration of the Right to Development insists that "[t]he right to development is an inalienable human right by virtue of which every human being and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political developments, in which all human rights and fundamental freedoms can be realized". Article 5 of the Vienna Declaration and Programme of Action[6] argues that "[a]ll human rights are universal, indivisible and interrelated…the international community must treat human rights globally in a fair and equal manner on the same footing and same emphasis". Similarly, the preamble to the African Charter argues that "the satisfaction of economic [and] social….rights is a guarantee for the enjoyment of civil and political rights". Express references to the need to protect socioeconomic rights under the African Charter emerged from the 1978 Butare Colloquium (Hannum 1979) and Dakar Colloquium (Mbazira 2006, p. 337) on human rights and development.

Several civil and political rights contain socioeconomic implications, and the rights' interrelationship and indivisibility have led to the protection of elements of socioeconomic rights by provisions on civil and political rights. This integrationist approach reinforces the fact that all human rights ultimately exist to promote human dignity and give human life a meaningful existence. It is, for example, an acknowledgement that "starving people may find it difficult to exercise their freedom of speech while a restriction of freedom of speech may make it difficult for individuals to enforce their rights of access to housing" (De Vos 1997). Consequently, India's Supreme Court held in *Olga Tellis v Bombay Municipal Corporation*[7] that if a right to livelihood is not regarded as part of the constitutional right to life, then the easiest way of depriving one's right to life is to deprive one of the means of livelihood to the point of abrogation. A right to life therefore includes a right to a means of livelihood and other rights that make its

[3] International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171.

[4] International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3.

[5] Resolution 32/130 of 16th December 1977 (Alternative Approaches and ways and means within the United Nations System for improving the Effective Enjoyment of Human rights and fundamental freedoms).

[6] UN Doc A/CONF 157/23 at 20, 1993.

[7] AIR 1986 SC 180.

enjoyment meaningful. In *Francis Coralie v Union Territory of Delhi,*[8] the court held that the constitutional right to life includes the right to live with human dignity and the bare necessities of life such as adequate nutrition, clothing and shelter. In *Shehla Zia v WAPDA* involving exposure to magnetic fields from a power station, Pakistan's Supreme Court held that actions encroaching on one's health also infringe on one's right to life.[9] These cases show that the concept of the right to life has overgrown its narrow confines and now extends to economic and social security.

Poverty as Human Rights Violation

Socioeconomic rights can serve as powerful tools for reducing and eliminating poverty. For example, education entails the acquisition of literacy and other skills for earning an income, and empowers and enables people to make informed decisions. It impacts on the enjoyment of other rights such as political participation and primary healthcare and can assist people to get out of poverty. The right to work similarly plays a direct role in poverty reduction as it requires the interdependent elements of availability, accessibility, acceptability and quality (UNCESCR 2006). Consequently, the African Commission inferred the rights to food and shelter from the rights to life, health, property, protection of family and economic, social and cultural development.[10] The decision is similar to the position of the Committee on Economic, Social and Cultural Rights (UNCESCR 2000), which regards poverty as a social justice issue for limiting people's options to realizing their full potential.

Given the extreme poverty of millions in developing countries, it is necessary to determine if poverty amounts to a violation of human rights. On the one hand, Haug and Ruan (2002) observed that poverty, particularly its extreme forms, amounts to a violation of virtually all socioeconomic rights as well as the marginalisation of civil and political rights. Howse and Mutua (2000, p.17) argued that human rights to the extent they are obligations *erga omnes*, customs or general principles of law normally prevail over specific, conflicting provisions of treaties such as trade agreements which must be interpreted to advance human rights, transparency, accountability and representivity. On the other hand, Sajo (2002, pp. 223–224) questioned the inclusion of socioeconomic rights in customary international law, arguing that although the status of human rights in the international law system may be undisputed, "undisputed" is not necessarily *jus cogens*.

Nonetheless, defining poverty as the "lack of secure access to sufficient quantities of basic necessities, such as food, clothing, shelter and minimum medical care or insufficient income or purchasing power to have a command over basic needs would be the first step towards the recognition of such lack as a violation of human rights" (Sengupta 2008, p. 13). The availability of these necessities would not on its own fulfil human rights, because it is the access to them in a manner consistent with equity, nondiscrimination, participation, accountability and transparency, which satisfies human rights obligations. Poverty can therefore be defined not just as the lack of sufficient quantities of basic necessities, but as the lack or violation of the rights to basic necessities such as food, health and education. These rights, which are recognized in international law through the ICESCR, include civil and political rights essential to ensuring poverty eradication as a fulfilment of human rights. Poverty can then be described as the violation of the right to basic necessities and some basic freedoms (Sengupta 2008, pp. 13–14). This could mean that socioeconomic rights are the legal basis for claiming rights, while poverty reduction strategies are the operational policy instruments for action (Kapindu 2006).

Critics suggest that a right is plausible only if the correlative duty is plausible as well and a duty to supply basic necessities to human beings in need is not plausible. However, this argument contains two interrelated mistakes (Pogge 2007, p. 3). The first is the assumption that what the right in question is a right to is already known. The "right to basic necessities" does not specify what claims the rightholder has on the conduct of others, a lack of specificity shared by other human rights. For example, a brief description of an uncontroversial human right, such as the right to freedom from torture, does not indicate what this right binds other agents to do or refrain from doing. Presumably, it obligates agents to avoid torture, prevent torture by others (domestically and worldwide), or work toward making torture illegal (under domestic and/or international law). The second is a false inference that a human right to basic necessities, or *some* interpretations of it, entails implausible duties and therefore suggests the rejection of a human right to basic necessities *so understood*. The argument draws a stronger unwarranted conclusion, namely *no* plausible interpretation of a human right to basic necessities exists, when there may be other interpretations which do not entail the duties shown to be implausible. For example, one can interpret a human right to basic necessities as forbidding agents to act in ways that foreseeably and avoidably deprive human beings of access to basic necessities.

Despite its varied understandings (Hudon and Sandberg 2013, p. 563), poverty can be regarded as the denial of a right to a range of basic capabilities. Although a degree of

[8] AIR 1981 SC 746.

[9] PLD 1994 SC 693.

[10] *SERAC v Nigeria* Communication No. 55 of 1996.

relativity in the concept of poverty exists from community to community, there are certain common basic capabilities including adequate nutrition, health, clothing and housing (OHCHR 2003, p. 7; OHCHR 2006, p. 2). This sees a direct cause and effect link between poverty and human rights violations. An example of poverty as a cause of human rights violations is where low income prevents people from accessing education (a socioeconomic right), which prevents them from participating in public life and limits their ability to influence policies that affect them (civil and political rights). Poverty as a product of human rights violation includes discrimination and unequal access to resources. Thus, the capability approach provides theoretical frameworks for the human development paradigm and conceptualising and evaluating poverty, inequality and well-being (Kalfagianni 2014; Nussbaum 2011; Robeyns 2005). The capability approach views poverty as a deprivation of valuable freedoms and evaluates multidimensional poverty according to capabilities (Alkire 2007, p. 2). Since poverty denotes an extreme form of deprivation, only those capability failures deemed to be basic in order of priority would count as poverty (OHCHR 2003, p. 7). The implications of the capability approach include a broad concept of human rights that takes account of global poverty; rejection of absolutism and the view that resource constraints represent a theoretical obstacle to international legal obligations in human rights; recognition of positive obligations of protection and promotion; recognition of general (and specific) goals as the object of human rights; assessment of the reasonableness of state actions; recognition of collective international obligations of cooperation and assistance; and recognition of the importance of outcomes to evaluation of human rights (Vizard 2006, p. 14).

Different versions of the capability approach show poverty as capability-deprivation. Sen (1999, 2004), for example, argued that the goal of human development ought to expand the capacity that people have to enjoy "valuable being and doing" by having access to positive resources they need to have the capabilities and be able to make important choices. Pogge (2007) emphasised ways in which it is possible to establish severe poverty as a human rights violation under an acceptable "minimalist normative position". This implies that human rights and justice involve fundamental principles of negative duty ("specific minimal constraints") on harm people may inflict on others. The underlying rationale is a theory of severe poverty as a human rights violation on the basis that human rights impose not a fundamental positive duty to protect the vulnerable or to remedy urgent needs, but rather a fundamental negative constraint on conduct (prohibiting conduct that causes severe poverty). Human rights-based claims arising from severe poverty are then characterized in terms of rectification for harm done by past and present conduct rather than on the basis of fundamental positive duties of aid (Alkire 2007, p. 2). In contrast, Vizard (2006, pp. 3–4) argued that the capability approach provides support for positive and negative freedoms elucidating a class of fundamental freedoms and human rights focusing on valuable things that people can do and be. For example, if a person (X) values a life without hunger and would choose such a life, then the capability of X to achieve adequate nutrition is directly relevant to X's real opportunity to promote X's objectives and expansive of X's freedom. Conversely, deprivation of the capability to achieve adequate nutrition restricts X's real opportunity to promote X's objectives, and is a "freedom restricting" condition. This idea of "capability-freedom" is associated with a class of "capability-rights" and obligations having as their object the protection and promotion of valuable states of being and doing. In this way, minimal demands of well-being (basic functioning, e.g. not to be hungry), and of well-being freedom (minimal capabilities, e.g. having the means of avoiding hunger) are conceptualized as rights that "command attention and call for support".

Rights Approach and Poverty Reduction

Accountability mechanisms often required from state parties to international human rights instruments are integral to the rights-based approach in the formal rights-based international human rights law. Formal rights are written statements in domesticated treaties, constitutional provisions, domestic statutes or judicial decisions which incorporate normative claims (OHCHR 2003, p. 1). Framing poverty as a violation of socioeconomic rights transforms the understanding of poverty as a product of human decisions and imposes a burden on the government to justify or change policies and laws impacting negatively on socioeconomic rights. By ensuring that everyone (including the poor) benefits from socioeconomic rights, the implementation and enforcement of such rights through constitutional and legislative means and judicial and quasi-judicial institutions are theoretically mechanisms for reducing poverty (Mubangizi and Mubangizi 2005, p. 285). This framework empowers vulnerable people by providing entitlements that give rise to legal obligations on others (OHCHR 2002, p. 14) and capable of triggering complaints before the courts and other institutions. It transforms socioeconomic rights from background moral claims to legal rights through a variety of law making processes and institutions (Brand and Heyns 2005, p. 3).

Vindication of socioeconomic rights is usually through the domestic legal system and this enables judicial and quasi-judicial bodies to define the scope and attributes of rights and clarify states' obligations. International human rights require procedural and substantive principles applicable to poverty reduction such as universality,

indivisibility and interrelatedness of rights, accountability, transparency, rule of law, participation, empowerment, non-discrimination and attention to vulnerable groups for the implementation and enforcement of socioeconomic rights (Arbour 2006; Kapindu 2006; UNAIDS 2004, pp. 2–3). Ways the human rights approach advances poverty reduction include adopting poverty reduction strategies underpinned by human rights as legal obligations; extending poverty reduction to discrimination structures that generate and sustain poverty; expanding civil and political rights instrumental to poverty reduction; confirming socioeconomic rights as binding international human rights; demanding the poor's participation in decision-making; dissuading non-fulfilment of core obligations; and creating and strengthening accountability institutions (FAO 2002, para. 24). As the UN guidelines (OHCHR 2006) illustrate, steps for implementing a human rights-based approach to poverty reduction include understanding a right's poverty context importance; extracting a right's content and scope by drawing upon human rights jurisprudence identifying the rights of right-holders and duties of duty-holders; identifying key targets in relation to a right and developing for each target some indicators for assessing the extent of achievement over time; and developing a strategy for achieving specified targets (OHCHR 2002). The human rights-based approach involves legal empowerment which entails the state respecting, protecting and fulfilling human rights and the poor realizing their rights and enjoying opportunities from the rights. Legal empowerment focuses on the process through which the poor and the excluded can use the law and legal systems to protect and promote their rights and interests (Banik 2008, p. 13). A human rights-based approach therefore transforms the rationale of poverty reduction from the poor merely having needs to entitlements with legal obligations (UNHCHR 2002, guideline 1). The rights-based approach therefore assumes that every right has a right-holder and a corresponding duty-bearer.

However, the rights-based approach has not been very effective in protecting people from poverty. For example, clear formal rights are lacking in some developing countries despite this being the initial stage for the rights-based approach. Some African states are still developing legislative protection and justiciability of socioeconomic rights (Mubangizi 2006, p. 19). Key challenges to socioeconomic rights include justiciability, enforcement, reliance on litigation and institutional capacity. Defined as the "susceptibility of a right to third party adjudication" (Toebes 1999, p. 168), justiciability subjects rights to examination by courts or quasi-judicial entities. Socioeconomic rights are justiciable in domestic law mainly through constitutional references to international treaties, specific inclusion in a constitutional bill of rights or Directive Principles of State Policy, and domestic legislation. Closely related to justiciability is enforceability which suggests that decisions of courts and supervisory bodies can be executed. A national court's order is enforced by domestic institutional force, whereas the international level enforcement mainly takes the form of "naming and shaming" (Viljoen 2005).

Following the instrumental and intrinsic value of socioeconomic rights to poverty reduction, justiciability enables right-holders to hold duty-bearers to account and challenge poverty and inequality through judicial and quasi-judicial institutions. However, the justiciability of socioeconomic rights is debated at the international level with suggestions of non-justiciability because of the vagueness and opaque normative contents of such rights. The African Charter, for example, is criticised for lack of clarity of its socioeconomic rights arising from the failure to outline the nature of states' obligations (Brennan 2009, p. 70; Kalantry et al. 2010, p. 256). For instance, the proclamation of the right of every individual to education in Article 17(1) does not outline any programmes for its realization. Until recently, when the ICESCR adopted a reporting procedure in article 16, individual, group and inter-state complaint procedures were unavailable for socioeconomic rights unlike civil and political rights (Arambulo, 1999, p. 56). An Optional Protocol[11] allowing individual complaints before the Committee on Economic, Social and Cultural Rights was adopted only in December 2008. The development of relevant jurisprudence has also been slowed by the non-application of socioeconomic rights in domestic law where individual rights are usually claimed. This is either by explicit non-justiciability when a law bars the courts from adjudicating a right or non-justiciability as a matter of appropriateness when the courts consider a right inherently unsuitable for adjudication (Ghai and Cottrel 2004, p. 66).

Justiciability and enforceability can impede the effectiveness of socioeconomic rights. For example, judicial enforcement of socioeconomic rights in Nigeria is largely expressed through constitutional civil and political rights (Odinkalu 2008, p. 220). However, Chapter 2 of Nigeria's Constitution classifies socioeconomic rights as non-justiciable Fundamental Objectives and Directive Principles of States Policy, unless such rights are specifically legislated for.[12] Although Section 13 suggests that Chapter 2 may be judicially applicable, the courts have firmly decided that Section 6(6)(c) precluded the enforcement of socioeconomic rights and other provisions of Chapter 2

[11] Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. Available at: http://www.treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3-a&chapter=4&lang=en, retrieved 16th September, 2013.

[12] *Attorney General of Ondo State v Attorney General of the Federation and 35 others* [2002] 6 SC (pt 1) at 1; *A.G Lagos State v A.G Federation* (2003) 6SC (pt 1) 24.

(Nnamuchi 2008, p. 19).[13] The constitutional socioeconomic rights are merely declaratory statements of broad political, social and cultural guidelines of government policy.[14] Even if the African Charter is enforceable in Nigeria[15] because of its incorporation by local legislation,[16] locus standi threatens the realization of socioeconomic rights due to the public nature of such rights. Locus standi, which is a condition precedent to initiating judicial processes,[17] requires persons alleging violations of socioeconomic rights to show sufficient interest far and above the interests of others. Significantly, no decision recognizing rights-based principles such as attention to vulnerable people and non-discrimination indicates a fundamental right to "positive" judicially enforceable state action against poverty.

Domestic implementation of socioeconomic rights largely relies on litigation which is useful because litigation raises awareness of challenges, clarifies programmes, rights and individual claims, and may serve as a law reform strategy. Jurisprudence developed by the courts defines the nature of states' obligations, the conditions for claiming socioeconomic rights and the nature of reliefs.[18] This is not only important for future litigation, but can guide the adoption of policies and legislation for facilitating access to socioeconomic rights. However, difficulties with formal rights required for litigation include, firstly, the courts' attempt to balance socioeconomic rights protection and respect for legislative and executive roles as the main branches of government responsible for realizing such rights and managing national finances (Liebenberg 2004). Secondly, although access to court means both the right and ability to bring court cases the poor in many developing countries lack equal opportunities and protection. Complicated laws and legal processes and expensive legal advice hinder access to justice (Mubangizi and Mubangizi 2005, p. 103), while vulnerable people often approach the informal dispute settlement sector, creating an ineffective system for legal protection of rights (UN 2009, para. 2).

Poverty-triggering governance and institutional challenges in developing countries also constitute obstacles to the realization of socioeconomic rights which requires positive actions from states to ensure equitable distribution of productive resources such as land and capital. Poverty reduction is a difficult task if public institutions are incompetent, corrupt or lack resources. For example, while halving extreme poverty by 2015 is one of the interrelated commitments on development, governance, peace, security and human rights in the MDGs, many developing countries including Nigeria are yet to achieve the MDGs and are unlikely to meet the poverty reduction target (AfDB 2013; UNDP 2005, p. 10). Similar institutional difficulties beset supranational bodies and regional instruments established by developing countries. For example, the African Charter's complaint mechanisms such as the African Commission and Court[19] are ineffective because of lack of resources (ACHPR 2006), weak monitoring (Mugwanya 2001, p. 278), and unwillingness of state parties to accept or implement decisions (Chirwa 2002, pp. 24–27; Wachira and Ayinla 2006, p. 473).

The global economic system is another obstacle to a rights-based approach to poverty reduction. Issues arising from the process of implementation from global theory to national practice are, firstly, the substance of the human rights-based approach may be lost if global issues such as trade, capital flows and migration are ignored. Secondly, there is no international accountability of donors, multilateral and other international institutions to individual and community socioeconomic right-holders. Thirdly, an unequal balance of power between developing states and donor agencies is characterized by lack of transparency regarding resource allocation, priorities and performance assessment. Fourthly, unfair practices by multinational corporations (MNCs) can adversely affect poor and vulnerable people (Banik 2007, pp. 3, 14). Ideally, streamlining MNCs' activities through national and international programmes focusing on human development may help realise socioeconomic rights but MNCs and other corporations are not signatories to human rights treaties. The fifth difficulty is the tension between demands for market economy in the light of globalization and the protection of socioeconomic rights, the realization of which may entail state control of private actors such as MNCs and other corporations. For example, the Constitutive Act of the African Union integrates state parties' responsibility to protect and fulfil human rights in the African Charter but neither it nor the Charter directly provides for the regulation of corporations (Jenkins 2005, pp. 531–535). Little regulation is in place because of states' competition for investments from MNCs threatening to leave regulated

[13] *Archbishop Okogie & others v Attorney General of Lagos State* NCLR, 337.

[14] *Uzoukwu v Ezeonu* 1991 6 NWLR pt 2000 P 708 at 761

[15] *Fawehinmi vs. Abacha* S.C. 45/1997; *Oronto Douglas v Shell Petroleum Development Company Limited* (1999) 2 NWLR (Pt 591) 466; *Gbemre v Shell* (Unreported) Suit no: FHC/B/CS/53/05; *Odafe and Others v Attorney General and Others* FHC/PH/CS/680/2003.

[16] African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act.

[17] *Uzoukwu v Ezeonu* (1991 6 NWLR pt 2000 p708 at 761).

[18] *Ibid*.

[19] Article 30, African Charter on Human and Peoples' Rights; *Malawi African Association and others v Mauritania*, Communication. Nos. 54/91, 61/91, 98/93, 164/97 à 196/97 and 210/98 (2000); *SERAC v Nigeria*, Communication No. 55 of 1996; *SERAC v Nigeria*, Communication No. 55 of 1996; *Purohit and Moore v The Gambia*, Communication No. 241/2001.

jurisdictions. Therefore, a rights-based approach to poverty reduction which is drained of political power, like in many African states, is difficult to implement at national levels (Piron 2005, pp. 7–10).

Non-exclusivity of Rights

A condition precedent for human rights' role in development is their recognition as social mobilisation tools and frameworks for decision-making. This is probably why the UN agency development framework provides that development programmes ought to further international human rights principles, be guided by international human rights standards, build the capacity of "duty-bearers" to meet their human rights obligations, and promote the ability of "right-holders" to make human rights claims (Ghai and Cottrel 2004, pp. 58–60). In Hohfeld's (1923, pp. 35–65) analysis, duties and rights are correlative terms: a duty/legal obligation is that which one ought to do or not do. For example, if A has a right against B, this would be meaningless unless B has a duty to honour A's right (Tomuschat 2003, p. 39). As the African Charter indicates, states have the primary responsibility for realization of socioeconomic rights, enactment of relevant laws and policies and application of rights-based approaches to poverty reduction (Mubangizi 2006, p. 10). In *SERAC v Nigeria*,[20] the African Commission held that human rights entail the states' obligations to respect, protect, promote and fulfil. This classification is widely accepted (Arambulo 1999, p. 10; Gauri and Brinks 2008, p. 13).

States therefore ought to establish laws and institutions for protecting socioeconomic rights and preventing third party violations. Under international law, a state's duty to prevent third party violations essentially applies to agents within its jurisdiction or territory. Article 2 of ICCPR is an example.[21] In *SERAC*, the African Commission acknowledged the governments' positive duty to protect their citizens from damaging acts of private parties and held that Nigeria violated the rights to health and clean environment guaranteed by Articles 16 and 24 and other socioeconomic rights in articles 2, 4, 14, 18(1) and 21 of the African Charter by failing to protect its citizens from the harmful activities of oil companies (Chirwa 2002, pp. 24–27). Similarly, the Committee on Economic, Social and Cultural Rights inferred violations of the obligation to protect from states' failure to take necessary measures to safeguard persons within their jurisdiction from third party infringements (UNCESCR 2000, p. 51).

Conventional human rights discourse assumes that human rights are inapplicable against non-state actors as only states have international human rights law obligations. However, the distinction between public and private spheres as, respectively, being appropriate and inappropriate venues for applying human rights has been unmasked as artificial, counter-productive and oppressive especially with the reality that private entities can harm vulnerable members of society. The transfer of state power to private entities through privatization, for example, has increased the social significance of corporate actions and transferred many welfare-related functions to the private sector. MNCs and other businesses have been responsible for human rights violations, particularly in developing countries. Direct violations include employee abuses, unpaid labour, child labour and environmental pollution affecting water and livelihood (Amnesty 2009; UNEP 2011). Indirect violations include supporting repressive governments[22] and taking sides, encouraging and assisting in conflicts for control of natural resources (CAWG 2008, pp. 14–15; Muchlinski 2009). These abuses prompted the drafting of the aborted 2003 Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights.[23]

The preamble to the UDHR provides for duties of states and "every individual and every organ of society". Articles 29 and 30 of the UDHR and article 5 of both the ICCPR and ICESCR contain similar provisions. This broader approach is followed by the Africa Charter which recognizes that human rights violations can occur in private spheres and its articles 28 and 29 arguably include corporate bodies in the class of 'individual' in the provisions for duties to the family, community and country. India's Supreme Court similarly recognized the obligations of public and private employers to protect rights to life, safe workplace, clean environment and good health.[24] This suggests that the rights-based approach ought to recognize human rights obligations of states and non-state actors. Nevertheless, the extent to which private parties are accountable for socioeconomic rights depends on the nature and extent of the power they exercise, the degree to which the power emulates state powers and the impact of such power on the enjoyment of rights (Ellmann 2001).

At the core of the international human rights system is the idea of multiple kinds of either positive or negative measures for ensuring human rights protection, particularly by states. Since socioeconomic rights are essentially the right to subsistence or minimal economic security, the correlative state's positive and negative duties are to avoid

[20] Communication No. 155/96.

[21] *Lopez V Uruguay* Communication No. 52/1979, U.N. Doc. CCPR/C/OP/1 at 88 (1984).

[22] *SERAC v Nigeria*.

[23] Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, U.N. Doc. E/CN.4/Sub.2/2002/13 at 15-21 (2002).

[24] Consumer Education & Research Centre v Union of India (1995) 3 SCC 42.

depriving, protect the deprived and aid the deprived (Shue 1996, pp. 13–35). States are obliged to protect their populations from poverty and social exclusion and create enabling environments for realization of relevant rights (OHCHR 2004, p. 16). This needs not be achieved only through formal rights in constitutions and legislation and can, for example, involve "means [which] are most appropriate under the circumstances" (UNCESCR 1991). Similarly, Article 1 of the African Charter recognizes the use of "legislative or other measures" for realization of rights. Therefore, the conceptualization of human rights therefore needs not be restricted to one implementation method, and states are obliged to utilize available resources maximally to correct socioeconomic inequalities and imbalances. The UN Framework and Guiding Principles are clear that they are not the exclusive source of corporate human rights obligations under national laws. The SRSG instructively observed that "[t]he responsibility of business enterprises to respect human rights is distinct from issues of legal liability and enforcement, which remain defined largely by national law provisions in relevant jurisdictions" (UN 2011, p. 13). In next part, we will argue that CSR can be part of a coherent framework of laws and policies for translating broad human rights commitments to poverty reduction into concrete programmes.

Poverty Reduction, CSR and Complementing Rights

A challenge is how to ensure that corporations and non-state actors act consistently with human rights standards relating to poverty reduction and are accountable for their actions. Various arguments have been proffered for corporate obligations towards socioeconomic rights (Nolan and Taylor 2009; Wettstein 2012). MNCs and other corporations are seen as the "most powerful citizens" that should have "all the benefits of citizenship" and its responsibilities (Kercher 2007, p. 3), and their involvement in poverty reduction is essential because of their economic power and preeminent position among non-state actors (Muchlinski 2009). In areas such as employment, local content, distribution channels and tax payments to host governments, MNCs can directly impact on poverty (Jenkins 2005, pp. 531–535). Moreover "a more proactive strategy focused on the contributions of firms to development" (Rasche and Waddock 2014) has led to attempts to link CSR and poverty reduction. If CSR is seen as "formal and informal ways in which business makes a contribution to improving to improving governance, social, ethical, labour and environmental conditions of developing countries in which they operate" (Visser 2008), poverty is likely to be on its agenda. It is instructive that the flexible and multi-goal human rights-oriented capability approach has also been used in the CSR discourse to justify business responsibility to individuals and communities in society (Bertland 2008; Giovanola 2009; Kalfagianni 2014). For example, it has been argued that "liberty without the existence of any real opportunities makes a mockery of human freedom" (Wettstein 2012, p. 758).

Even if one favours a central role for business in poverty eradication, the question is still whether the "role can be performed through business-as-usual practices, voluntarily and through the market, or does it need to be guided, regulated and driven by broader state-led developmental priorities?" (Newell and Frynas 2007, p. 672). Before exploring how the law can take advantage of CSR in promoting poverty alleviation, it is important to note the peculiar difficulties of CSR. As the Engineers for Poverty argued, the difficulties include "the apparent over-proliferation of international initiatives that are at best only poorly coordinated; the absence of credible procedures for monitoring and verifying corporate compliance; the lack of participation by developing country governments and their people in developing CSR initiatives; confusion over the incentives that are required to encourage business to do more and the charge that CSR is likely to fail precisely because it is based on voluntary self-regulation rather than legislation" (EAP 2004, p. 3).

The orthodox view of CSR as voluntary activities (Berliner and Prakash 2014, p. 291; CEC 2006, p. 2; Hah and Freeman 2014, p. 128; Schölmerich 2013, pp. 3–4; Wettstein 2012, pp. 748–750) is reflected by the European Commission's previous definition of CSR as "a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis" (CEC 2001). Thus, CSR is described as "a firm's voluntary actions to mitigate and remedy social and environmental consequences of its operation" (Fransen 2013, p. 213). However, a purely voluntary CSR model does not reflect the counterfactual evidence of the modern world where the private and public sectors can set CSR agendas. It is correct that "CSR is no longer the sole domain of business" as "[t]he distinction between publicly and privately initiated behaviour has become increasingly ambiguous" (IOB 2013, p. 17). Reactive CSR in response to regulatory requirements exists side-by-side with proactive CSR engagement (Groza et al. 2011). The "varieties of capitalism" scholarship shows that political culture, governmental capacity, regulatory frameworks, corporate governance system, labour relationships and stakeholders differ from country to country (Becker 2008; Hall and Soskice 2001; Jackson and Deeg 2008a, b; Matten and Moon 2008). Thus, national political and economic institutional environments are a significant driver for CSR by shaping relevant political and stakeholder pressures, self-

regulation, private regulation and corporate strategies (Fransen 2013). A recent study found that key drivers for CSR include internal business practices and responses to market developments, corporate philanthropy targeted at positive reputation and government policy, the latter being "particularly important in facilitating 'beyond-compliance' behaviour" (IOB 2013, pp. 12, 32–33, 67–69).

Nevertheless, a purely prescriptive regulatory approach has its pitfalls. For example, the Draft Norms on the Responsibility of Transnational Corporations and Other Business Enterprises with Regard to Human Rights essentially failed to attract support from businesses and the UN Human Rights Commission because of its prescriptive approach (Wettstein 2012, p. 744). The middle ground is to promote CSR as a developmental tool by specifying appropriate priorities, agendas and goals. The voluntary character of CSR can be respected through such indirect policies and administrative initiatives (Albareda et al. 2008). Drawing on van Tulder and van der Zwart (2006), Netherlands' Ministry of Foreign Affairs rightly suggested endorsing, partnering, facilitating and mandating as government policies for encouraging, supporting and enforcing CSR without altering its private character. Endorsing policies provide political support, publicity and praise to CSR activities through, for example, private labels endorsement and adoption, publication of best practices and supporting independent transparency initiatives. Partnering policies combine public and private resources and include public–private partnerships and agreements, stakeholder dialogues and sector CSR agreements. Facilitating policies are enabling measures such as awareness campaigns, tax and other financial incentives, public procurement, capacity building and dissemination and supporting self-regulatory and independent regulatory organisations. Mandating policies provide compulsory rules for controlling, guiding, monitoring and enforcing CSR and may include regulation, inspection, verification, public labelling, penalties and standards (IOB 2013, pp. 11, 23). These suggestions support "governance with government" rather than "governance by government" and "governance without government" (Börzel and Risse 2010; Haack and Scherer 2014, p. 227) by showing that the law can play important roles in shaping and guiding CSR through administrative agencies, legislative organs and judicial bodies. A law-facilitated CSR that can complement the rights-based approach is arguably one that acknowledges the tripod foundation of responsibility, responsiveness and performance. This requires statements of social obligations and corporate activities reflecting the obligations and their results (Fransen 2013, p. 217). It will next be demonstrated that imperative issues for a complementary CSR framework include definition, ethical justifications, reporting and enforcement.

CSR Definition

Terminology matters in CSR and other areas of public discourse as language helps to shape perceptions, assumptions, attitudes and behaviour (Baden and Harwood 2013, pp. 621–624). However, CSR is a contested concept lacking a widely accepted definition (Garriga and Mele 2004; Okoye 2009) and it seems "not possible to develop an unbiased definition" (Dahlsrud 2008, p. 2). Some scholars consequently describe CSR as an "umbrella term" (Jonker 2005; Sabadoz 2011) for "responsibilities of business and its role in society" (Scherer and Palazzo 2007, p. 1096) and a "sensitising concept" drawing "attention to a complex range of issues and elements that are all related to the position and function of the business enterprise in contemporary society" (Jonker 2005, p. 20). Rather than view the impreciseness, variability and contextualization of CSR as a weakness, it is arguably that this provides room for definitions that suit particular jurisdictions, issues and goals, including poverty reduction. To incorporate poverty alleviation in CSR discourse, a definition ought to be encompassing and regard CSR as both positive and negative "contributions and consequences of business practices" (Torugsa et al. 2013, p. 383).

The alternative is the restrictive "impact" notion reflected in the European Commission's recent redefinition of CSR as "the responsibility of enterprises for their impacts on society" (CEC 2011). Despite its narrow confines, the "impact" approach has been followed by the SRSG (UN 2008a, pp. 5–8, b, p. 18, 2010, pp. 13–14, 2011, pp. 14–18), the ISO 26000 (ISO 2009, para .5.2.3) and others (IOB 2013, p. 24). As reflected in the SRSG's report, "impact" is a wrongdoing approach requiring a causal link to harm (UN 2008a, p. 5). Wood (2012, p. 64) observed that impact differs from leverage-based responsibility which "arises from an organization's ability to influence the actions of other actors through its relationships, regardless of whether the impacts of those other actors' actions can be traced to the organization". Although the "wrongdoing" perspective seems dominant, it unhelpfully excludes "the positive potential of corporations to be a part of the solution rather than only a part of the problem" to societal challenges (Wettstein 2012, p. 751). It was probably the case that the SRSG chose the narrow impact-based "respect" obligation for corporations because of the failure of the more ambitious UN Draft Norms on Transnational Corporations and other Business Enterprises (Fasterling and Demuijnck 2013, p. 800). However, such restraints are unnecessary in national settings where states are unconstrained by the difficulty and complexity of reaching international agreements and can adopt whatever approach that appeals to them.

A CSR definition that incorporates poverty reduction has to avoid the causal pathway or contribution of the wrongdoing approach. It can refer easily to "spheres of activity and influence" (UN 2009, para. A.1), "influence" (ISO 2009, para. 5.2.3; Weissbrodt and Kruger 2003, p. 912; Wood 2012, p. 81), "sphere of influence" (Office of UN High Commissioner for Human Rights (OHCHR) 2005, p.14), "degree of influence" OHCHR 2005, p. 14), "promote" (ISO 2009, p. 4.1), "leverage" (Wood 2012), and similar expressions which although controversial at the international level are suggestive of both positive and negative obligations toward poverty reduction. CSR can then be "essentially about proactive corporate engagement in social causes and thus about corporate responsibilities beyond the (negative) realm of doing no harm" (Wettstein 2012, p. 751). States can therefore acknowledge broader arguments for corporate human rights obligations by including poverty alleviation as part of the applicable CSR definition but without linking poverty to the impact of corporate activity. The CSR badge is then defined by law without really compelling corporate behaviour one way or the other. For example, the "organic" label defined in some jurisdictions does not compel one to engage in organic farming but one must satisfy its legal definition to attach the attribute to oneself or one's products.

Beyond Business Case

The dominance of business case and its economic language on the thinking and assumptions of corporate managers and the principles and strategies they adopt has adversely affected the pursuit of socially responsible practices (Poruthiyil 2013). Poverty alleviation is often promoted as a business goal by linking it to improved corporate financial performance and profits (e.g.: Carroll and Shabana 2010; Lodge and Wilson 2006; Prahalad 2005; VanSandt and Sud 2012; Werhane et al. 2010; Wilson and Wilson 2006) and national economic growth (Kraay 2006). However, a purely business case approach to CSR does not promote engagement in issues such as poverty alleviation where favourable economic results for corporate participation are at best debatable. Empirical research on CSR and financial performance is inconclusive showing both positive and negative results (Torugsa et al. 2013; Wood 2012). The second difficulty is what Poruthiyil (2013, p. 736) describes as "economism". Rather than prioritise human dignity, economism is the "(1) assumption of a separation between economics and society, (2) belief that economic goals always contribute to social goals, (3) extension of economic calculations into social spheres, and (4) assumption that individuals are perfectly knowledgeable and masterful consumers". The business case approach favours "opportunism, leaves institutional blockades intact and drives out the intrinsic [ethical] motivation for engaging in CSR" (Nijhof and Jeurissen 2010, p. 618). It therefore impedes responsible business practices in areas where justifications for engaging in CSR are ethical (Arnold 2013; Arnold and Williams 2012; Bondy et al. 2012; Osuji 2011; Poruthiyil 2013). It allows "ethical obligations to be jettisoned when they come into conflict with business interests" which is problematic because "[o]nce CSR loses its foundation in ethics it becomes not only irrelevant, but counter-productive as it distracts attention from more effective solutions to social and environmental impacts" (Baden and Harwood 2013, p. 617).

Emphasising the ethical foundations of CSR provides an appropriate link to socioeconomic rights and other human rights which are "quintessentially ethical articulations, and they are not, in particular, putative legal claims" (Sen 2004, p. 321). Although human rights are often seen as rights in domestic and international instruments, they have "much broader moral foundation or ethical justification" (Wettstein 2012, p. 741). Nussbaum (2002, p. 135) consequently observed that a human right is "an especially urgent and morally justified claim that a person has, simply in virtue of being a human adult, and independently of membership in a particular nation, class, sex, or ethnic, religious or sexual group". Wettstein (2012, p. 753) similarly described human rights as being "moral claims and imperatives at the same time". As "human rights are considered as minimal ethical requirements that are universally valid" (Fasterling and Demuijnck 2013, p. 800), consideration of poverty alleviation and other human welfare and social justice issues requires a CSR model that does not primarily or exclusively focus on profit (Cragg et al. 2012; Hsieh 2009; Mele et al. 2011; Wettestein 2012). This ethical CSR is described as "responsible business practices that support the three principles of sustainable development: economic growth and prosperity, social cohesion and equity and environmental integrity and protection" (Torugsa et al. 2013, p. 383).

Closing Credibility and Transparency Gaps

Although the growth of CSR discourse and corporate interest on social responsibility owed more to "increased societal expectations [of corporations] as moral agents" than "increased [corporate] commitment" (Tengblad and Ohlsson 2010, p. 653), significant credibility and transparency gaps exist between corporate claims and actual conduct. It is for this reason that the UN Global Compact has been termed a "bluewash" (Sethi and Schepers 2014, p. 206). The dominant corporate practice appears to be reputation management that is not necessarily linked to social performance. As corporate reputation is the product of "judgements that external observers can make on the

basis of a corporate image complemented with other [social responsibility] information" (Aßländer 2013, p. 762), corporations largely focus on influencing and sustaining positive CSR reputation. Corporate social reputation can be shaped by businesses since the "transition from identity to image is a function of public relations, marketing and other organizational processes that attempt to shape the impression people have of the firm" (Barnett et al. 2006, p. 34).

There are several dimensions of business engagement with CSR raised by social disclosures even if CSR is regarded as a set of voluntary activities. These include quality and acceptability of CSR standards, quality of implementation and monitoring policies, scope and issues in CSR policies, quality of performance reporting, and degree of independent verification (Fransen 2013, pp. 217–218). These dimensions determine corporate social reputation through the images they help to create for stakeholders and the resulting stakeholder beliefs. Fombrun (2001, p. 294) rightly argued that reputation is "a collective representation of a company's past actions and future prospects and describes how key resource providers interpret a company's initiatives and assess its ability to deliver valued outcomes". Sims (2009, p. 454) similarly observed that "[r]eputation is formed by the beliefs that people hold about an organization based upon the experience with it, their relationship to it, and their knowledge gained through word of mouth or mass media". These observations reiterate the need to consider the level of permissibility for corporate reputation generated by claims of involvement in poverty reduction, particularly when such claims are not factually correct.

It is noteworthy that that the UN Framework, for example, recognizes that states' duty to protect human rights can be met by requiring sustainability reports, although such reports are linked to the due diligence component of the respect obligation on corporations (UN 2008b). One can therefore argue that states' human rights obligations include the regulation of relevant social disclosures to ensure transparency and credibility. An effective regulatory framework for CSR ought to recognize that studies and evaluations of social responsibility performance of corporations are largely based on four sources. These sources are corporate policy documents, rankings often based on those policy documents, membership of CSR promoting business associations, and participation in certification programmes and other private regulatory arrangements (Fransen 2013, p. 217). One way of closing the credibility gap in social reports is to require their professional auditing (Manetti and Becatti 2008). Other methods for independent verification of claims and monitoring of policies and performance are certainly useful.

Governmental intervention of this nature is an indirect pressure on companies which invariably would prefer positive reputation to remain competitive. As Fombrun (2001, p. 293) rightly argued, businesses "compete not only in product, capital, and labour markets, but also in reputational markets". This reputational market is both financial and social (Lange et al. 2011). ISO (2009, p. vi) observed that "perception and reality of an organization's performance on social responsibility can influence, among other things: its competitive advantage; its reputation; its ability to attract and retain certain workers or members, customers, clients or users; the maintenance of employees' morale, commitment and productivity; the view of investors, owners, donors, sponsors and the financial community; and its relationship with companies, governments, the media, suppliers, peers, customers and the community in which it operates".

Therefore, a clear legal recognition of stakeholder enforcement rights against false and misleading claims is necessary to, firstly, ensure that public policies for realization of socioeconomic rights are accountable, rights-based and reflect a proper commitment. Secondly, providing for stakeholder rights is arguably a component of states' human rights obligations because "the accountability of governments and other entitles as well as the availability of remedies in cases of violations are indispensable elements of international human rights law" (Steiner and Alston 2000, p. 275). Thirdly, it reflects the UN Framework's requirement of states in their "remedy" duty to provide judicial and non-judicial investigations, redress and sanctions mechanisms for corporate human rights abuses (UN 2008b, UN 2011). Fourthly, the UN Framework expects corporations to engage with right-holders as part of remedial actions (UN 2011). Fifthly, enforcement rights promote stakeholder management, which is defined as "the ability to establish trust-based collaborative relationships with a wide variety of stakeholders, especially those with non-economic goals" (Sharma and Vredenburg 1998, p. 735) and is imperative for the CSR that can make a real difference.

In recognizing that corporate reputation may simply be "a message available to an organization from its stakeholders" (Lewellyn 2002, p. 448), a CSR communication regulatory strategy is therefore required to hold businesses responsible for poverty alleviation claims although their autonomy in engaging in or refraining from poverty reduction activities can be respected. This requires that a law-facilitated CSR ought to include stakeholders' right to challenge false and misleading statements, an enforcement right which may be exercised by either or both public and private persons. Since factually incorrect claims can undermine stakeholders' sense of justice, remedies such as financial compensation and apologies may be available to stakeholders in addition to other penalties for defaulters (Cugueró-Escofet et al. 2014). This does not affect the

perceived voluntary character of CSR but rather helps to create, influence and sustain CSR-related private regulations. It may be up to individual corporations to make CSR claims and seek its badge but the CSR badge can only be meaningful if corporate claims can be challenged by stakeholders.

India's Companies Act 2013

Having seen how a law-facilitated CSR can complement the rights-based approach to poverty reduction, it is useful to examine the ground-breaking India's Companies Act 2013 which challenges the rights-CSR divide orthodoxy. Section 135 of the Act requires companies having certain net worth, turnover or profit to appoint a "CSR Committee" of the Board of Directors consisting of three or members and at least one independent director. The Committee formulates and recommends CSR policies to the Board, monitors such policies and recommends the amount of expenditure to be incurred in furtherance of activities in the CSR policies. The Board is required to disclose the contents of CSR policies in the directors' report and on the corporate website, and ensure that the company undertakes activities stipulated by such policies. Relevant companies are required to spend at least 2 % of average net profits of the three preceding financial years in furtherance of CSR policies, giving preference to the local area of corporate operations. No sanctions are indicated for non-compliance, although Section 135(5) requires the directors' report to give reasons for not spending the required amount. Schedule VII of the Act stipulates activities to be considered for CSR policies including "eradicating extreme hunger and poverty" and "contributing to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the State Government for socio-economic development and relief".

India's Companies Act 2013 simply proves that domestic law can overcome the public–private divide in CSR discourse and shape and direct CSR to suit national socioeconomic goals. It needs to be observed, firstly, that the legislation reflects a development and socioeconomic rights context and adopts a task-specific CSR definition in Sect. 135 and Schedule VII. This is by explicitly referring to poverty reduction as one of the components of CSR. Secondly, the Act appears to regard CSR in terms of contributions to community and nation rather than the narrower alternative impact approach. This is arguably a right step for CSR to guide corporations to proactively contribute to resolving societal problems such as poverty. In that case, CSR has to be seen as "the obligation of the firm to use its resources in ways to benefit society, through committed participation as a member of society at large, and improving welfare of society at large independently of direct gains of the company" (Kok et al. 2001, p. 287). Thirdly, the Act follows the ethical-type CSR by not linking poverty reduction to financial performance. This is not very surprising since empirical research evidence indicates that CSR is generally viewed in India from the perspective of moral obligations and community sustainability, including involvement in education, health and environment issues (Nambiar and Chitty 2014; Narwal 2007; Young and Thyil 2014). Nevertheless, the Companies Act 2013 does not go far in the juridification of CSR. A major difficulty is the omission of CSR performance and reporting standards despite provisions for comparable financial statements and performance. There are also no provisions for private and public enforcement and sanctions for factually inaccurate claims.

Conclusion

CSR has emerged as an alternative to the human rights-based approach to socioeconomic issues, including poverty reduction. India's Companies Act 2013 has proved that CSR and the rights-based approach are not conceptually parallel methods having no shared boundaries. Nevertheless, existing literature on poverty reduction generally regards CSR as a voluntary philanthropic "doing good" activity. This masks complex theoretical and practical dimensions of direct and indirect responsibility and potential contributions of businesses to poverty alleviation, particularly where CSR has some legal badge. This paper proceeds on the basis that the nascent recognition of CSR as private regulation extends to demonstrating the traditional and alternative methods for protecting socioeconomic rights. The paper is aggregative by investigating and reviewing difficulties with the rights-based approach and a narrowly defined CSR. It is configurative in seeking appropriate definitions and boundaries for CSR, and explorative in searching for and identifying how CSR can complement the rights-based approach.

This paper demonstrates that the conceptualization of human rights is not restricted to one implementation method. Thus, the paper establishes a clearer linkage between CSR and human rights, which enables the law to use the former to promote the latter. It has been shown that rights and CSR need not be parallel approaches to the protection of socioeconomic rights since CSR can be used to concretise broad human rights commitments and to partly satisfy the states' human rights obligations. This regulatory CSR context is helpful in transcending the narrow conventional human rights discourse on obligations of non-state actors, particularly corporations, and to clarify the apparent paradox of legal compulsion of essentially voluntary corporate activity such as CSR.

Although primarily a study on poverty reduction, this paper demonstrates the impact of non-state actors on

socioeconomic rights in developing countries and places such rights in broader perspectives including CSR. It highlights justiciability, enforceability, institutional and other hurdles to a rights-based approach to socioeconomic rights in developing countries and identifies possible methods of overcoming the challenges. It acknowledges that CSR is a potentially important tool for socioeconomic rights within the umbrella of CSR as "development done by the private sector, and [perfectly complementing] the development efforts of governments and multilateral development institutions" (Vives 2004, p. 46). An effective strategy for using CSR as a poverty reduction tool includes a task-specific contextualised definition incorporating a CSR model that is not confined to the business case and includes enforcement rights to prevent credibility and transparency gaps in poverty reduction claims. It enables stakeholders and vulnerable and disadvantaged groups represented by private or public persons to challenge poverty and socioeconomic inequality even when strict legal rights are unavailable or impractical.

References

African Commission on Human and Peoples' Rights (ACHPR). (2006). IN *20th activity report of the African Commission*. Addis Ababa: African Union.

African Development Bank (AfDB). (2013). *African economic outlook 2013—Nigeria*. Retrieved December 11, 2013, from http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/2013/PDF/Nigeria.pdf.

Albareda, L., Lozano, J. M., Tencati, A., Midtun, A., & Perrini, F. (2008). The changing roles of governments in corporate social responsibility: Drivers and responses. *Business Ethics: A European Review, 17*(4), 347–363.

Alkire, S. (2007). *Choosing dimensions: the capability approach and multidimensional poverty*, CPRC Working Paper 88. Retrieved January 2, 2014, from http://www.chronicpoverty.org/pdfs/88Alkire.pdf.

Amnesty, (2009). *Nigeria: Petroleum, pollution and poverty in the Niger Delta*. London: Amnesty International.

Andreassen, B., & Banik, D. (2010). Human rights and extreme poverty: African dimensions. Editorial introduction. *International Journal of Human Rights, 14*(1), 1–12.

An-Na'im, A. A. (2004). To affirm the full human rights standing of economic, social and cultural rights. In Y. Ghai & J. Cottrell (Eds.), *Economic, social and cultural rights in practice: The role of the judges in implementing economic, social and cultural rights*. London: International Centre for the Legal Protection of Human Rights.

Arambulo, K. (1999). *Strengthening the supervision of the international covenant on economic, social and cultural rights*. Utrecht: Intersentia-Hart.

Arbour, L. (2006). *Using human rights to reduce poverty*. Washington: World Bank Institute.

Arnold, D. G. (2010). Transnational corporations and the duty to respect basic human rights. *Business Ethics Quarterly, 20*(3), 371–399.

Arnold, D. G. (2013). Global justice and international business. *Business Ethics Quarterly, 23*(1), 125–143.

Arnold, D. G., & Williams, L. H. D. (2012). The paradox at the base of the pyramid: Environmental sustainability and market-based poverty alleviation. *International Journal of Technology Management, 60*(1/2), 44–59.

Aßländer, M. S. (2013). Honorableness or beneficialness? Cicero on natural law, virtues, glory, and (corporate) reputation. *Journal of Business Ethics, 116*, 751–767.

Baden, D., & Harwood, I. A. (2013). Terminology matters: A critical exploration of corporate social responsibility terms. *Journal of Business Ethics, 116*, 615–627.

Banerjee, S. B. (2010). Governing the global corporation: A critical perspective. *Business Ethics Quarterly, 20*(2), 264–274.

Banik, D. (2007). Implementing human rights based approach: Some preliminary evidence from Malawi. Retrieved January 20, 2014, from http://www2.ohchr.org/english/issues/poverty/expert/docs/Dan_Banik.pdf.

Banik, D. (2008). *Rights and legal empowerment of the poor*. London: Ashgate.

Barnett, M. L., Jermier, J. M., & Lafferty, B. A. (2006). Corporate reputation: The definitional landscape. *Corporate Reputation Review, 9*(1), 26–38.

Becker, U. (2008). *Open varieties of capitalism: Continuity, change and performances*. London: Palgrave.

Berliner, D., & Prakash, A. (2014). The United Nations Global Compact: An institutionalist perspective. *Journal of Business Ethics, 122*, 217–223.

Bertland, A. (2008). Virtue ethics in business and the capabilities approach. *Journal of Business Ethics, 84*(1), 25–32.

Bilchitz, D. (2008). *Poverty and fundamental rights: The justification and enforcement of socio-economic rights*. Oxford: Oxford University Press.

Blowfield, M., & Frynas, J. (2005). Setting new agendas: Critical perspectives on corporate social responsibility in the developing world. *International Affairs, 81*(3), 499–513.

Bondy, K., Moon, J., & Matten, D. (2012). An institution of corporate social responsibility (CSR) in multi-national corporations (MNCs): Form and Implications. *Journal of Business Ethics, 111*(2), 281–299.

Börzel, T. A., & Risse, T. (2010). Governance without a state: Can it work? *Regulation and Governance, 4*(2), 113–134.

Brammer, S., Jackson, G., & Matten, D. (2012). Corporate social responsibility and institutional theory: New perspectives on private governance. *Socio-Economic Review, 10*(1), 3–28.

Brand, D., & Heyns, C. (2005). *Socio-economic Rights in South Africa*. Pretoria: Pretoria University Law Press.

Brennan, F. (2009). *National human rights consultation*. Barton, ACT: Commonwealth of Australia.

Carroll, A. B., & Shabana, K. M. (2010). The business case for social responsibility: A review of concepts, research and practice. *International Journal of Management Reviews, 12*, 85–105.

Chirwa, M. (2002). A fresh commitment to implementing economic, social and cultural rights in Africa: Social and Economic Rights Action Centre (SERAC) and the Centre for Economic and Social Rights v Nigeria. *Economic and Social Review, 3*(2), 24–27.

Christian Aid. (2004). *Behind the mask: The real face of corporate social responsibility*. Christian Aid, 2004.

Commission of the European Communities (CEC). (2001). *Promoting a European framework for corporate social responsibility: Green paper*. Luxembourg: Office for Official Publication of the European Communities.

Commission of the European Communities (CEC). (2006). Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee. *Implementing the partnership for growth and jobs: Making Europe a pole of excellence on corporate social responsibility*. European Commission, Brussels.

Commission of the European Communities (CEC). (2011). *Communication from the Commission to the European Parliament, the*

Council, the European Economic and Social Committee and the Committee of the Regions. A renewed EU strategy 2011–2014 for corporate social responsibility, COM(2011) 881 final. European Commission, Brussels.

Corporate Accountability Working Group (CAWG). (2008). Collective report on business and human rights submission to the 8th session of the United Nations Human Rights Council, June 2008. Retrieved June 2, 2014, from http://www.escr-net.org/usr_doc/BHRCollectiveReport_ESCR-Net.pdf.

Cragg, W. (2012). Ethics, enlightened self-interest and the corporate responsibility to respect human rights: A critical look at the justificatory foundations of the UN framework. *Business Ethics Quarterly, 22*(1), 9–36.

Cragg, C., Arnold, D., & Muchlinski, P. (2012). Human rights and business. *Business Ethics Quarterly, 22*(1), 1–7.

Cugueró-Escofet, N., Fortin, M., & Canela, M. (2014). Righting the wrong for third parties: How monetary compensation, procedure changes and apologies can restore justice for observers of injustice. *Journal of Business Ethics, 122*, 253–268.

Dahlsrud, A. (2008). How corporate social responsibility is defined: An analysis of 37 definitions. *Corporate Social Responsibility and Environmental Management, 15*, 1–13.

De Vos, P. (1997). Pious wishes or directly enforceable human rights? Social and economic rights in South Africa's 1996 constitution. *South Africa Journal of Human Rights, 13*, 67–101.

DFID. (2004). *Socially responsible business team strategy: April 2001-March 2004*. Department for International Development, London.

Donnelly, J. (1989). *Universal human rights in theory and practice*. New York: Cornell University Press.

Ellmann, S. (2001). A constitutional confluence: American 'state action' law and the application of South Africa's socioeconomic rights guarantees to private actors. *New York Law School Review, 45*, 21–75.

Engineers Against Poverty (EAP).(2004). Corporate social responsibility as a strategy for poverty reduction: Fact or fiction? Conference Report. Engineers Against Poverty and UNESCO, London.

Fasterling, B., & Demuijnck, G. (2013). Human rights in the void? Due diligence in the UN guiding principles on business and human rights. *Journal of Business Ethics, 116*, 799–814.

Fombrun, C. J. (2001). Corporate reputation as economic assets. In M. A. Hitt, R. E. Freeman, & J. S. Harrison (Eds.), *Handbook of strategic management*. Oxford: Blackwell.

Food and Agricultural Organisation of the United Nations (FAO). (2002). Draft guidelines: A human rights approach to poverty reduction strategies. Retrieved July 2, 2014, from http://www.fao.org/righttofood/KC/downloads/vl/docs/Human%20rights%20approach%20to%20poverty%20reduction%20strategies_draft%20guidelines.pdf.

Fox, T. (2004). Corporate social responsibility and development: In quest of an agenda. *Development, 47*(3), 29–36.

Fransen, L. (2013). The embeddedness of responsible business practice: Exploring the interaction between national-institutional environments and corporate social responsibility. *Journal of Business Ethics, 115*, 213–227.

Garriga, E., & Mele, D. N. (2004). Corporate social responsibility theories: Mapping the territory. *Journal of Business Ethics, 53*(1–2), 51–71.

Gauri, V., & Brinks, D. (2008). *Courting social justice: Judicial enforcement of social and economic rights in the developing world*. New York: Cambridge University Press.

Ghai, Y., & Cottrel, J. (2004). The role of courts in the protection of economic, social and cultural rights. In Y. Ghai & J. Cottrel (Eds.), *Economic, social and cultural rights in practice: The role of the judges in implementing economic, social and cultural rights*. London: International Centre for the Legal Protection of Human Rights.

Giovanola, B. (2009). Re-thinking the anthropological and ethical foundation of economics and business: Human capabilities enhancement. *Journal of Business Ethics, 88*(3), 431–444.

Gond, J. P., Kang, N., & Moon, J. (2011). The government of self-regulation: On the comparative dynamics of corporate social responsibility. *Economy and Society, 40*(4), 640–671.

Groza, M. D., Pronschinske, M. R., & Walker, M. (2011). Perceived organizational motives and consumer responses to proactive and reactive CSR. *Journal of Business Ethics, 102*, 639–652.

Haack, P., & Scherer, A. G. (2014). Why sparing the rod does not spoil the child: A critique of the 'strict father' model in transnational governance. *Journal of Business Ethics, 122*, 225–240.

Hah, K., & Freeman, S. (2014). Multinational enterprise subsidiaries and their CSR: A conceptual framework of the management of CSR in smaller emerging economies. *Journal of Business Ethics, 122*, 125–136.

Hall, P. A., & Soskice, D. (2001). *Varieties of capitalism: The institutional dimensions to comparative advantage*. Oxford: Oxford University Press.

Hannum, H. (1979). The Butare colloquium on human rights and economic development in Francophone Africa: A summary and analysis. *Universal Human Rights, 1*(2), 63–87.

Haug, R. and Ruan, E. (2002). Integrating poverty reduction and the right to food in Africa. Retrieved June 8, 2014, from http://www.nlh.no/noragric/publications/reports/NoragricRep2B.pdf.

Hohfeld, W. N. (1923). *Fundamental legal concepts as applied in judicial reasoning and legal essays*. New Haven: Yale University Press.

Howse, R., & Mutua, M. (2000). Protecting human rights in global economy: challenges for the World Trade Organization, International Center for Human Rights and Democratic Development, Policy Paper. Retrieved June 20, 2014, from http://www.ichrdd.ca/english/commdoc/publications/globalization/wtoRightsGlob.html.

Hsieh, N. (2009). Does global business have a responsibility to promote just institutions? *Business Ethics Quarterly, 19*(2), 251–273.

Hudon, M., & Sandberg, J. (2013). The ethical crisis in microfinance: Issues, findings, and implications. *Business Ethics Quarterly, 23*(4), 561–589.

International Organization for Standardization (ISO). (2009). *ISO 26000, guidance on social responsibility* (1st ed.). Geneva: International Organization for Standardization.

Ite, U. E. (2005). Poverty reduction in resource-rich developing countries: What have multinational corporations got to do with it? *Journal of International Development, 17*(7), 913–929.

Jackson, G., & Deeg, R. (2008a). Comparing capitalisms: Understanding institutional diversity and its implications for international business. *Journal of International Business Studies, 39*, 540–561.

Jackson, G., & Deeg, R. (2008b). From comparing capitalisms to the politics of institutional change. *Review of International Political Economy, 15*(4), 680–709.

Jenkins, R. (2005). Globalization, corporate social responsibility and poverty. *International Affairs, 81*(3), 525–540.

Jonker, J. (2005). CSR wonderland: Navigating between movement, community, and organization. *Journal of Corporate Citizenship, 20*, 19–22.

Kalantry, S., Getgen, J., & Koh, S. A. (2010). Enhancing enforcement of economic, social and cultural rights using indicators: A focus on the right to education in the ICESCR. *Human Rights Quarterly, 32*(2), 253–310.

Kalfagianni, A. (2014). Addressing the global sustainability challenge: The potential and pitfalls of private governance from the

perspective of human capabilities. *Journal of Business Ethics, 122*, 307–320.

Kapindu, R. E. (2006). Poverty reduction strategies and the right to health and housing: The Malawian and Ugandan experiences. *African Human Rights Law Journal, 6*(2), 499–523.

Kercher, K. (2007). Corporate social responsibility: Impact of globalisation and international business. *Corporate Governance E-Journal, 4–12*, 1–12.

Kok, P., van der Wiele, T., McKenna, R., & Brown, A. (2001). A Corporate social responsibility audit within a quality management framework. *Journal of Business Ethics, 31*, 285–297.

Kolk, A. R., & Tulder, R. (2006). Poverty alleviation as business strategy? Evaluating commitments of forerunner multinational corporations. *World Development, 35*(3), 542–551.

Kraay, A. (2006). When is growth pro-poor? Evidence from a panel of countries. *Journal of Development Economics, 80*(1), 198–227.

Lange, D., Lee, P. M., & Dai, Y. (2011). Organizational reputation: A review. *Journal of Management, 37*(1), 153–184.

Lawan, M. (2011). Law and development in Nigeria: A need for activism. *Journal of African Law, 55*(1), 59–85.

Lewellyn, P. G. (2002). Corporate reputation. *Business and Society, 41*(4), 415–445.

Liebenberg, S. (2004). Basic rights claims: How responsive is reasonableness review? *Economic and Social Review, 5*(5), 7–11.

Lodge, G. C., & Wilson, C. (2006). *A Corporate solution to global poverty: How multinationals can help the poor and invigorate their own legitimacy*. Princeton: Princeton University Press.

Manetti, G., & Becatti, L. (2008). Assurance services for sustainability reports: Standards and empirical evidence. *Journal of Business Ethics, 82*(2), 391–406.

Matten, D., & Moon, J. (2008). Implicit and explicit CSR: A conceptual framework for a comparative understanding of corporate social responsibility. *Academy of Management Review, 33*(2), 404–424.

Mayer, A. E. (2009). Human rights as a dimension of CSR: The blurred line between legal and non legal categories. *Journal of Business Ethics, 88*, 561–577.

Mbazira, C. (2006). Enforcing the economic, social and cultural rights in the African charter on human and peoples' rights: Twenty years of redundancy, progression and significant strides. *African Human Rights Journal, 6*(2), 333–357.

McCorquodale, R. (2009). Corporate social responsibility and international human rights law. *Journal of Business Ethics, 87*, 385–400.

McKay, A., & Vizard, P. (2006). Rights and economic growth: Inevitable conflict or common ground. In T. O'Neil (Ed.), *Human Rights and poverty reduction: Realities, controversies and strategies*. London: Overseas Development Institute.

Mele, D., Argandona, A., & Sanchez-Runde, C. (2011). Facing the crisis: Towards a new humanistic synthesis for business. *Journal of Business Ethics, 99*(1), 239–253.

Mena, S., de Leede, M., Baumann, D., Black, N., Lindeman, S., & McShane, L. (2010). Advancing the business and human rights agenda: Dialogue, empowerment, and practical engagement. *Journal of Business Ethics, 93*(1), 161–188.

Ministry of Foreign Affairs, The Netherlands (IOB). (2013). IOB Study. *Corporate social responsibility: The role of public policy. A systematic literature review of the effects of government supported interventions on the corporate social responsibility (CSR) behaviour of enterprises in developing countries*. Policy and Operations Evaluation Department (IOB), Ministry of Foreign Affairs, The Netherlands, Amsterdam.

Moon, J., Crane, A., & Matten, D. (2005). Can corporations be citizens? Corporate citizenship as a metaphor for business participation in society. *Business Ethics Quarterly, 15*(3), 427–451.

Mubangizi, J. C. (2006). The constitutional protection of socio-economic rights in selected African countries: A comparative evaluation. *African Journal of Legal Studies, 1*(2), 1–19.

Mubangizi, J. C., & Mubangizi, B. C. (2005). Poverty, human rights and socio-economic realities in South Africa. *Development Southern Africa, 22*(2), 277–290.

Muchlinski, P. (2009). Social and human rights implications of TNC activities in the extractive industries. *Transnational Corporations, 18*(1), 93–104.

Muchlinski, P. (2012). Implementing the new UN corporate human rights framework: implications for corporate law, governance, and regulation. *Business Ethics Quarterly, 22*(1), 145–177.

Mugwanya, G. (2001). Examination of state reports by the African Commission: A critical Appraisal. *African Human Rights Journal, 1*(2), 268–284.

Murphy, M., & Vives, J. (2013). Perceptions of justice and the human rights protect, respect, and remedy framework. *Journal of Business Ethics, 116*, 781–797.

Nambiar, P. N., & Chitty, N. (2014). Meaning making by managers: Corporate discourse on environment and sustainability in India. *Journal of Business Ethics, 123*, 493–511.

Narwal, M. (2007). CSR initiatives of Indian banking industry. *Social Responsibility Journal, 3*(4), 49–60.

Newell, P., & Frynas, J. G. (2007). Beyond CSR? Business, poverty and social justice: An introduction. *Third World Quarterly, 28*(4), 669–681.

Nijhof, A. H. J., & Jeurissen, R. J. M. (2010). The glass ceiling of corporate social responsibility: Consequences of a business case approach towards CSR. *The International Journal of Sociology and Social Policy, 30*(11/12), 618–631.

Nnamuchi, O. (2008). Kleptocracy and its many faces: The challenges of justiciability of the right to health care in Nigeria. *Journal of African Law, 52*(1), 1–42.

Nolan, J., & Taylor, L. (2009). Corporate responsibility for economic, social and cultural rights: Rights in search of a remedy? *Journal of Business Ethics, 87*, 433–451.

Nussbaum, M. C. (2002). Capabilities and human rights. In P. De Greiff & C. Cronin (Eds.), *Global Justice and Transnational Politics: Essays on the Moral and Political Challenges of Globalization*. Cambridge: The MIT Press.

Nussbaum, M. C. (2011). *Creating capabilities: The human development approach*. Cambridge: Harvard University Press.

Odinkalu, C. (2008). The impact of economic and social rights in Nigeria. In V. Gauri & D. Brinks (Eds.), *Courting social justice: Judicial enforcement of social and economic rights in the developing world*. New York: Cambridge University Press.

Office of UN High Commissioner for Human Rights (OHCHR). (1990). General comment No. 3: The nature of States parties' obligations. Retrieved November 25, 2014, from http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f4758&Lang=en.

Office of UN High Commissioner for Human Rights (OHCHR). (2002). Draft guidelines: A human rights approach to poverty reduction strategies. Retrieved May 15, 2014, from http://www.unhchr.Ch/development/povertyfinal.html.

Office of UN High Commissioner for Human Rights (OHCHR). (2003). Human rights and poverty reduction: A conceptual framework. Retrieved May 2, 2014, from http://www.ohchr.org/english/issues/poverty/docs/povertyE.pdf.

Office of UN High Commissioner for Human Rights (OHCHR). (2004). Human rights and poverty reduction: A conceptual framework. Retrieved May 20, 2014, from http://www2.ohchr.org/english/issues/poverty/docs/povertyE.pdf.

Office of UN High Commissioner for Human Rights (OHCHR). (2005). Report of the United Nations High Commissioner on Human Rights on the Responsibilities of Transnational Corporations and Related Enterprises with Regard to Human Rights. UN Doc. E/CN.4/2005/91.

Office of UN High Commissioner for Human Rights (OHCHR). (2006). *Principles and guidelines for a human rights approach to poverty reduction strategies*. Geneva: United Nations.

Okoye, A. (2009). Theorising corporate social responsibility as an essentially contested concept: Is a definition necessary? *Journal of Business Ethics, 89*(4), 613–627.

Osuji, O. K. (2011). Fluidity of regulation-CSR nexus: The multinational corporate corruption example. *Journal of Business Ethics, 103*, 31–57.

Piron, L.H. (2005). Human rights and poverty reduction: The role of human rights in promoting donor accountability. Retrieved June 20, 2014, from www.odi.org.uk/resources/download/1555.pdf.

Pogge, T. (2007). Severe poverty as a human rights violation. In T. Pogge (Ed.), *Freedom from poverty as a human right: Who owes what to the poor*. Oxford: Oxford University Press.

Poruthiyil, P. V. (2013). Weaning business ethics from strategic economism: The development ethics perspective. *Journal of Business Ethics, 116*, 735–749.

Prahalad, C. K. (2005). *The fortune at the bottom of the pyramid*. Philadelphia: Wharton School Publishing.

Prieto-Carron, M., Lund-Thomsen, P., Chan, A., Muro, A. N. A., & Bhusan, C. (2006). Critical perspectives on CSR and development: What we know, what we don't know, and what we need to know. *International Affairs, 82*(5), 977–987.

Rasche, A. (2009). A necessary supplement: What the United Nations Global Compact is and is not. *Business and Society, 48*(4), 511–537.

Rasche, A., & Waddock, S. (2014). Global sustainability governance and the UN Global Compact: A rejoinder to critics. *Journal of Business Ethics, 122*, 209–216.

Robeyns, I. (2005). The capability approach: A theoretical survey. *Journal of Human Development and Capabilities, 6*(1), 93–117.

Ruggie, J. G. (2007). Business and human rights: The evolving international agenda. *American Journal of International Law, 101*(4), 819–840.

Sabadoz, C. (2011). Between profit-seeking and prosociality: Corporate social responsibility as derridean supplement. *Journal of Business Ethics, 104*, 77–91.

Sajo, A. (2002). Socio-Economic Rights and the new International Economic Order. *New York University Journal of International Law and Politics, 35*(1), 221–262.

Scherer, A. G., & Palazzo, G. (2007). Toward a political conception of corporate responsibility: Business and society seen from a Habermasian perspective. *Academy of Management Review, 32*(4), 1096–1120.

Scherer, A. G., & Palazzo, G. (2011). The new political role of business in a globalized world: A review of a new perspective on CSR and its implications for the firm, governance, and democracy. *Journal of Management Studies, 48*(4), 899–931.

Schölmerich, M. J. (2013). On the impact of corporate social responsibility on poverty in Cambodia in the light of Sen's capability approach. *Asian Journal of Business Ethics, 2*, 1–33.

Sen, S. (1999). *Development as freedom*. Oxford: Oxford University Press.

Sen, S. (2004). Elements of a theory of human rights. *Philosophy & Public Affairs, 32*(4), 315–356.

Sengupta, A. (2008). Poverty eradication and human rights. Retrieved May 14, 2014, from http://www.esocialsciences.com/data/articles/Document12662008320.5880396.pdf.

Seppala, N. (2009). Business and the international human rights regime: A comparison of UN initiatives. *Journal of Business Ethics, 87*, 401–417.

Sethi, S. P. (2014). John Gerard Ruggie, Just business: multinational corporations and human rights. *Journal of Business Ethics, 123*, 361.

Sethi, S. P., & Schepers, D. H. (2014). United Nations Global Compact: The promise-performance gap. *Journal of Business Ethics, 122*, 193–208.

Sharma, S., & Vredenburg, H. (1998). Proactive corporate environmental strategy and the development of competitively valuable organizational capabilities. *Strategic Management Journal, 19*(8), 729–753.

Sheehy, B. (2012). Understanding CSR: An empirical study of private self-regulation. *Monash University Law Review, 38*(2), 103–127.

Sheehy, B. (2014). Defining CSR: Problems and solutions. *Journal of Business Ethics,*. doi:10.1007/s10551-014-2281-x.

Shue, H. (1996). *Basic rights, subsistence, affluence and the U.S foreign policy* (2nd ed.). Princeton: Princeton University Press.

Sims, R. R. (2009). Toward better understanding of organizational efforts to rebuild reputation following an ethical scandal. *Journal of Business Ethics, 90*(4), 453–472.

Steiner, H., & Alston, P. (2000). *International human rights law in context: Law, politics, morals*. Oxford: Oxford University Press.

Steurer, R. (2010). The role of governments in corporate social responsibility: Characterising public policies on CSR in Europe. *Policy Studies, 43*(1), 49–72.

Tengblad, S., & Ohlsson, C. (2010). The framing of corporate social responsibility and the globalization of national business systems: A longitudinal case study. *Journal of Business Ethics, 93*, 653–669.

The Joint United Nations Programme on HIV/AIDS, (UNAIDS). (2004). What constitutes a rights-based approach? Definitions, methods, and practices. Retrieved May 20, 2014, from http://data.unaids.org/Topics/Human-Rights/hrissuepaper_rbadefinitions_en.pdf.

Toebes, B. (1999). *The right to health as a human right in international law*. Utrecht: Intersentia-Hart.

Tomuschat, C. (2003). *Human rights: Between idealism and realism*. Oxford: Oxford University Press.

Torugsa, N. A., O'Donohue, W., & Hecker, R. (2013). Proactive CSR: An empirical analysis of the role of its economic, social and environmental dimensions on the association between capabilities and performance. *Journal of Business Ethics, 115*, 383–402.

United Nations. (2006). *Millennium development goals report 2006*. Brussels: United Nations.

United Nations. (2008a). *Clarifying the concepts of 'sphere of influence' and 'complicity'*. Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and other Business Enterprises, John Ruggie. Human Rights Council, Eighth Session, A/HRC/8/16.

United Nations. (2008b). Human Rights Council, eighth session. *Protect, respect and remedy: a framework for business and human rights*. Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and other Business Enterprises, John Ruggie, A/HRC/8/5.

United Nations. (2009). *Legal empowerment of the poor and eradication of poverty*. UN/Doc A/64/133.

United Nations. (2010). *Business and human rights: Further steps toward the operationalization of the 'protect, respect and remedy' framework*. Report of the Special Representative of the Secretary General on the Issue of Human Rights and Trasnational Corporations and Other Business Enterprises, John Ruggie. UN Doc. A/HRC/14/27.

United Nations. (2011). *Guiding principles on business and human rights: Implementing the United Nations 'protect, respect and remedy' framework.* Report of the Special Representative of the

Secretary General on Human Rights, John Ruggie, on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises. UN Doc A/HRC/17/31.

UN Committee on Economic, Social and Cultural Rights (UNCESCR). (1991). United Nations Committee on Economic, Social and Cultural Rights, General Comment 3, UN Doc E/1991/23.

UN Committee on Economic, Social and Cultural Rights (UNCESCR). (2000). *General Comment No. 14, Paragraph 11: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)*, 11 August 2000, E/C.12/2000/4.

UN Committee on Economic, Social and Cultural Rights (UNCESCR). (2006). *General Comment No. 18: The Right to Work (Art. 6 of the Covenant)*, 6 February 2006, E/C.12/GC/18.

United Nations Development Programme (UNDP). (2005). Indicators for policy management: A guide for enhancing the statistical capacity of policy-makers for effective monitoring of the MDGs at the country level. Retrieved June 20, 2014, from http://www.content.undp.org/go/cms-service/download/publication/?version=live.

United Nations Environment Programme (UNEP). 2011. United Nations Environment Programme (UNEP). (2011). Environmental assessment of Ogoniland. Retrieved January 31, 2014, from http://postconflict.unep.ch/publications/OEA/UNEP_OEA.pdf.

United Nations High Commission for Human Rights (UNHCHR). 2002. *Summary of the draft guidelines on a human rights approach to poverty reduction*. Retrieved June 4, 2014, from www.unhchr.ch/development/SwissSummary1.doc.

van Tulder, R., & van der Zwart, A. (2006). *International business and society management: Linking corporate responsibility and globalization*. London: Routledge.

VanSandt, C. V., & Sud, M. (2012). Poverty alleviation through partnerships: A road less travelled for business, governments, and entrepreneurs. *Journal of Business Ethics, 110*, 321–332.

Viljoen, F. (2005). National legislation as a source of justiciable human rights. *Economic and Social Review, 6*(3), 6–9.

Visser, W. (2008). Corporate social responsibility in developing countries. In A. Crane, A. McWilliams, D. Matten, J. Moon, & D. Siegel (Eds.), *The oxford handbook of corporate social responsibility*. Oxford: Oxford University Press.

Vives, A. (2004). The role of multilateral development institutions in fostering corporate social responsibility. *Development, 47*(3), 45–52.

Vizard, P. (2006). Sen v Pogge on global poverty and human rights. *Éthique et économique/Ethics and Economics, 3*(2), 1–22.

Voegtlin, C., & Pless, N. M. (2014). Global governance: CSR and the role of the UN Global Compact. *Journal of Business Ethics, 122*, 179–191.

Vogel, D. (2010). The private regulation of global corporate conduct: Achievements and limitations. *Business and Society, 49*(1), 68–87.

Wachira, G., & Ayinla, A. (2006). Twenty years of elusive enforcement of the recommendations of the African Commission on Human and Peoples' Rights: A possible remedy. *African Human Rights Journal, 6*(2), 465–493.

Weissbrodt, D., & Kruger, M. (2003). Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights. *American Journal of International Law, 97*(4), 901–922.

Werhane, P. H., Kelley, S. P., Hartman, L., & Moberg, D. J. (2010). *Alleviating poverty through profitable partnerships: Globalization, markets, and economic well-being*. London: Routledge.

Wettstein, F. (2012). CSR and the debate on business and human rights: Bridging the great divide. *Business Ethics Quarterly, 22*(4), 739–770.

Whelan, G. J., & Orlitzky, M. (2009). Human Rights, transnational corporations, and embedded liberalism: What chance consensus. *Journal of Business Ethics, 87*(2), 367–383.

Williams, O. F. (2014). The United Nations Global Compact: What did it promise? *Journal of Business Ethics, 122*, 241–251.

Wilson, C., & Wilson, P. (2006). *Make poverty business: Increase profits and reduce risks by engaging with the poor*. Sheffield: Greenleaf.

Wood, S. (2012). The case for leverage-based corporate human rights responsibility. *Business Ethics Quarterly, 22*(1), 63–98.

Young, S., & Thyil, V. (2014). Corporate social responsibility and corporate governance: Role of context in international settings. *Journal of Business Ethics, 122*, 1–24.