

Is Corporate Social Responsibility In Labour Standards An Oxymoron?ⁱ

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Abstract

The corporate social responsibility (CSR) movement pressures corporations to reject the shareholder primacy model of corporate governance in favour of multiple objectives. We examine how effective market forces are at ensuring CSR in relation to the application of labour standards within multinational supply chains and locate this in the context of theory of the corporation. As corporations are primarily motivated to engage in CSR to protect their corporate image, they will attempt to do so at the lowest possible cost, which does not necessarily mean improving labour conditions in factories. Many corporations have countered negative CSR publicity by adopting sophisticated campaigns to improve corporate image without improving respect for human rights. Major US corporations pressure governments to avoid binding them to human rights standards, as these would restrict their competitive edge internationally. The high degree of control exercised by finance capital means that the focus on profit maximisation is stronger now than at any time over the previous century. Any attempts to promote responsible corporate behaviour must eventually feature codes of conduct that are verifiable and create legal responsibility.

Introduction

The growth of international trade has enabled corporations to externalise damage to the community while internalising profits (Bakan 2004). In recent decades the externalising of harm has attracted substantial criticism and has led to the emergence of the corporate social responsibility (CSR) movement. The CSR movement pressures corporations to reject the pure form of the shareholder primacy model of corporate governance in favour of an approach that factors in the community's interests as well as profits (Fairfax 2006; Frynas et al. 2003, pp.53-78). CSR pressure has called upon large multinational corporations (MNCs) to ensure labour conditions are respected in their supply chains. Supply chain management incorporates the process of procurement of raw materials, manufacturing those raw materials into products, distribution and then marketing and sale of those products (Beamon 1999). Supply chain management is a business model that utilizes separate legal entities to decrease legal obligations and the expenses of manufacturing, supply and retail of products, while meeting service requirements (Johnstone & Wilson 2006; Harpur 2008). At the top of the supply chain are generally retailers or large brand names who outsource the supply of products to unrelated corporate entities. These unrelated corporate entities often act as suppliers and further outsource the production of products to factories until finally workers toil to make the products (Nossar et al. 2004). The cost savings to head corporations have implications for labour, with Cooney observing:

Very many workplaces forming part of buyer-driven commodity chains certainly merit the 'sweatshop' label. Serious labour abuses are common. Basic safety standards are violated, often resulting in severe injury or death (Cooney 2004, p.295).

The image of western, buyer-driven supply chains forcing employees around the world into sweatshops has placed pressure on western corporations to alter purchasing conduct through introducing corporate codes of conduct to demonstrate their commitment to CSR (Armbruster-Sandoval 2004, pp.135-55; Hsing 1998, p.53; Ochoa 2003).

This paper will ask *how effective market forces are at ensuring CSR by large corporations?* By reference to theory of the corporation, we assess whether corporations continue to regard profits as more important than human rights, analyse research on whether corporations' claims to adopt ethical supply chains constitute a public relations exercise without achieving substantive changes for workers, and consider three methods through which corporations demonstrated their attitude to ethical supply chains. Our focus is on US corporations, partly for reasons of space and also as the US is the modern home of liberal capitalism and the country that provides the world's greatest number of largest corporations, almost 30 per cent of the worlds 300 largest corporations originating in the US (Murray & Peetz 2010).

CSR and the theory of the corporation

Ultimately, the potential for CSR to make a difference to behaviour depends on the objectives of the corporation. We can distinguish between two broad models of corporate objectives.

The first model is based on the possibility that firms will adopt a broader range of objectives than the sole objective of profit maximisation under the shareholder primacy model. Under such a model – the *multiple objectives* model – notions of CSR can be embedded within a corporate framework. This one often hears of corporations having, or claiming to have, a 'triple bottom line', of profit, social (eg labour) and environmental concerns.

The second model treats multiple objectives as impossible, and asserts that corporations have a single objective, that of *profit maximisation* (Bakan 2004). There may be competing considerations as to how profit is measured (in particular, between short-term and long-term profits and hence growth), but these do not take away from the focus on profits. If this model is accurate, then CSR will only be taken on board to the extent that the *appearance* of social responsibility enables a corporation to increase its rate of profit.

The multiple objectives model implies that the task of improving corporate behaviour with respect to labour and environmental standards can be approached by a process of cultural change – seeking to alter the norms and values of corporations and their managers and/or owners, to promote acceptance of the value and importance of social, industrial and environmental considerations. Behavioural changes would be driven by external consumers – people who purchase products specifically because those products are associated with ethical corporate conduct – and internal customers – workers and managers who associate with a particular corporation due to that corporation's stance on CSR (Freeman 1994, p.82; Liubicic 1998). If western corporations refused to purchase goods manufactured in sweatshop conditions, then manufacturers would meet the demand by altering the conditions under which the products were produced (Ross 1997).

By contrast, the profit maximisation model implies that CSR behaviour will be adopted voluntarily by corporations only if the corporation is able to enhance its brand value or reputation through doing so, or to minimise adverse costs associated with not adopting CSR behaviours. What becomes important, then, is CSR's role as a public relations tool: able to be adopted to encourage increased consumption of the corporation's products. Where CSR cannot be deployed for these purposes, the firm will subvert it to the extent that CSR undermines profitability (for example, by increasing costs) and it is able to do so without brand damage.

Under either model, there is a transparency problem. The fact that corporations claim in their rhetoric to adhere to prescribed human rights' standards does not assure that the corporation and its sub-contractors, and third party suppliers, adhere to values in the corporations' codes of conduct. So to increase their credibility, corporations have started to release audited CSR reports. These CSR reports have some similarities with corporations' financial annual reports. The main difference between these is that, whereas corporate annual reports are audited by accountants under strict financial guidelines issued by accounting regulators, CSR reports have no mandatory auditing requirements. Under the multiple objectives model, these reports are essential to enable consumers to make informed choices. Under the profit maximisation model, these reports are necessary to give the *illusion* of action.

Developments in the nature and theory of the corporation over the past century are pertinent to the question of which model is most useful for understanding CSR activity by firms. For example, we would expect that, where decision-making is in the hands of an individual or family with particular pro-social values, then the capacity for advocates of CSR to promote its adoption would be greater. We can identify periods when at least part of that condition – that is, decision-making being in the hands of individuals or families – was in place.

A century or so ago, ownership of large corporations rested often in the hands of wealthy families. Chandler (1990, p.292) described how, in the first part of the twentieth century, Britain was characterised by 'personal capitalism', in which large firms were essentially managed by families. He cites Coleman (1973) who referred to the managers of British companies being either 'gentlemen' (from the controlling family) or 'players' (recruited externally) whose primary ambition was to become 'gentlemen'. The system was said to be based on a philosophy of 'live and let live' as price competition was seen as destructive.

Berle and Means (1932) argued that in the early 20th century, the pattern of control of large corporations underwent major change. Wealthy families who owned most of a corporation's shares lost their control as the companies expanded and their shareholdings were diluted. Control of corporations passed from owners to managers. The process continued through much of the rest of the century. Herman (1981, p.71) observed a decline in firms owned or majority controlled by individuals or families – from 19 out of the top 200 US firms in Berle and Means' 1929 study, to 3 in 1975. He reports a 'consistent and substantial decline in family holdings over the 1929-1976 period (Herman 1981, p.72). In a majority of companies with large family holdings, that family's share fell by 75 per cent or more. Control passed out of the hands of the families in three fifths of cases.

If individual or family control of corporations opened the door for CSR behaviours, that door was open widest over a century ago, and has since almost closed. But we know little of the pro-social attitudes of such individuals or families other than what can be observed through their behaviour, some of which was charitable but much of which was exploitative and even violent in pursuit of profit. Yet perhaps the decline of family control opened up new opportunities for CSR behaviours through the emergence of new forms of governance?

In the place of family control, emerged managerial control of corporations. This apparent separation of ownership and control led a number of authors to canvass the different conduct of management-controlled corporations. They would not necessarily be subject to the same profit making objective demanded by family/owner-controlled firms (Herman 1981).

Indeed, Berle and Means (1932) in their classic work suggested that these patterns meant over the long run that it was conceivable, indeed 'almost essential' for its survival, that the control of large corporations would become a 'purely neutral technology' that would balance the claims of various interests in the community. Later Berle referred to the 'corporate

conscience' (Berle 1954) and suggested manager-controllers would give greater priority to public opinion than would owner-controllers (Berle 1959 cited in Herman 1981, p.258). Similarly, Kaysen (1957, p.314) proclaimed "the modern corporation is a soulful corporation". By this logic, "no longer subject to the dictates of profit maximisation", corporate managers could concentrate on other areas, "even charitable and cultural concerns" (Mizruchi 1982, p.17). Others, however, have disputed the idea that the emergence of a managerial control model meant a step way from profit maximisation (Mizruchi 1982, pp.24-31).

Herman (1981) examined the aggregate holdings of voting stock amongst the 200 largest non-financial US corporations in 1974, and found that a median of 20 percent of shareholdings were in the hands of banks, insurance companies and investment companies. He observed, though, that

There has been a *decline* in banker control of the large corporation in the twentieth century. In 1900-1901 a quarter of the 200 largest companies were financially controlled; in 1929, an eighth; and in 1975, only a single firm out of 200 (Herman 1981, p.157)...

The impact of financial enterprises on the large non-financial corporations of the 1970s has novel features, as compared with the past. Direct and decisive control has declined in importance and is rare, but shared power in the sense of important minority and/or constraining influence is applicable in perhaps as many as a fifth of the large companies...Financial power in the 1970s appears to constitute a strongly conservative force, accommodating and serving the dominant non-financial elements in the community.

Mizruchi (1982, p.178) challenged the idea of declining bank influence, arguing that over the period from 1919, while the ownership role by commercial banks declined, the centrality of commercial banks on corporate board networks remained strong through the next half century covered by his study. Most recently Murray and Peetz (2010) found that finance capital, in the form of banks, financial companies, managed funds, insurance companies, private equity firms and hedge funds in 2009 controlled 68 per cent of the assets of the world's 300 largest corporations, including 61 per cent of the assets of non-financial corporations. Although these figures are not directly comparable with the American figures from earlier decades, it is apparent that finance capital controls large corporations in a way that is probably unprecedented for over a century, if ever. The dominance of a 'new form' finance capital has also been reported by other writers (Carroll 2008).

This has major implications for the potential for voluntary CSR. The high degree of control exercised by finance capital means that the focus on the profit maximisation is stronger now than at any time over the previous century. It implies that CSR will only be voluntarily adopted to the extent that it can be utilised for public relations and brand value purposes, or to the extent that it can be subverted. This interpretation is lent support by the increased volatility and 'short termism' on capital markets, requiring corporate managers to adhere strictly to a profit maximisation model. In this paper then we investigate the question of whether voluntarism and market forces can deliver effective CSR that acts to the benefit of workers. We refer to several corporate experiences, including those of Reebok, chosen as a leader in CSR, and Wal-Mart, chosen as the world's largest retailer.

Trans-national corporations as good corporate citizens?

There is a difference between a corporation genuinely attempting to ensure ethical conduct and a corporation maintaining the lowest level of socially responsible practices that the market will accept without making a negative reaction. The distinction between a corporation acting ethically and gleaning benefits from adopting a minimalist, sophisticated, strategic, CSR approach is highlighted by Yu's study (2006). This explored the emergence, development and implementation of Reebok's corporate code of practice in a Reebok supplier, footwear manufacturer, in Fuzhou City, Fujian Province in China. Reebok was perhaps one of the world's leaders in establishing CSR throughout its supply chain. Reebok had established the Reebok Human Rights Foundation, sponsored the 'Human Rights Now!' concert tour, set up Reebok Human Rights Awards, and introduced the Reebok Human Rights Production Codes of Conduct (Yu 2006, ch. 5). The main motivation behind these moves was not altruism; rather, Reebok aggressively positioned itself as the leader in respecting human rights in order to gain the competitive edge over its competitors. Reebok's marketing positioning made it crucial for Reebok to avoid embarrassing human rights violations.

Prior to Reebok's CSR drive, Yu observed that the subject factory demonstrated despotic management strategies (Yu 2006, ch. 7). Employees had no rights and their human rights were violated. Some of the more visible problems, such as child labour and major occupational health and safety problems were remedied, however as a result of these expenses, workers were forced to work harder, faster and for less money. As Reebok had simply imposed its new standard upon the subject factory, the subject factory had absorbed the additional expenses by cutting workers' wages and rest breaks, and increasing the pace of production. The situation at the subject factory became even worse when Reebok reduced the price it was prepared to pay for the manufactured product. This resulted in factories forcing workers to work even harder and resulted in further cost-cutting by management. Interviews revealed those workers blamed Reebok for worsening their labour conditions (Yu 2006, p.217).

Rather than seeking genuine improvement in workers' labour conditions, Yu concluded Reebok was engaging in a race to the lowest acceptable, ethical, legal standards possible (Yu 2006, pp.267-8). It sought to identify the most visible sweatshop conditions and remove them and to ensure its CSR practices were slightly more advanced than its competitors. While Reebok had made some visible efforts to improve labour conditions, in reality, Yu argued Reebok's efforts were a marketing strategy. As a marketing strategy, Reebok only required the image of a good corporate citizen, and not the reality of actual ethical labour conditions in its supplier factories. As Reebok's motivation was profits through positive marketing, it was not prepared to invest adequate resources into improving the labour conditions in supplier factories. As a consequence, the under-funded CSR effort only resulted in changing the types of labour conditions being breached and not in an overall reduction in the number of labour conditions being breached (Yu 2006, ch. 11). Corporations that adopt the lowest level of socially acceptable CSR can be criticised for failing to demonstrate genuine commitment to discharging their human rights' obligations.

Enforcing codes or minimising the impact of human rights violations?

Corporations may respond to CSR pressure by targeting those areas that give it the most kudos for the least cost. Wal-mart – the world's largest corporation by turnover – for example, focuses on building up its reputation on environmental CSR and downplaying the significance of labour standards. Its drive for environmentally friendly practices extends to Wal-Mart seeking to purchase its products from suppliers who are environmentally friendly.

Wal-Mart claims it 'helped' one of its suppliers adopt more environmentally friendly, manufacturing practices (Wal-Mart 2008). Wal-Mart links this focus on environmental concerns back to its drive for profits, claiming that caring for the environment makes 'good business sense' (Wal-Mart 2008). In relation to labour practices, Wal-Mart has a far poorer record. Wal-Mart shows little sign of ensuring labour conditions in its supplier factories are protected (Kernaghan et al. 2007) and actively suppresses its own employees' labour rights. It tells its managers, "you are our first line of defense against unionization" (Wal Mart Stores Inc 1997), providing them with a *Manager's Toolbox to Remaining Union Free* and a union-busting team of staff to fly into any Wal-Mart outlet which attempts to unionise (Sheehy 2004). It appears Wal-Mart is attempting to minimise the negative media attention of their open violations of employees' labour rights through promoting their high ethical standards in relation to the environment and focusing upon their low consumer prices. This might succeed, as research has found customers only altered their purchasing practices if they felt unethical conduct may impact upon them (Mercer 2003). The abuse of workers may not affect many customers, while environmental degradation affects the survival of the planet. This means customers may react negatively to environmental abuse, but may have a lesser reaction to labour abuses.

When a corporation is criticised for trading with factories that violate their workers' human rights, corporations can respond to the negative publicity by making genuine efforts to improve those labour conditions or by counteracting the negative publicity with other publicity tools. The ability of corporations to counter negative publicity with their positive publicity can arguably reduce the effectiveness of the CSR movement. This approach to CSR issues has been adopted by a number of large corporations. For example, Williams examined how Nike, Gap and Disney utilized exculpatory propaganda as a form of ideological social control (Williams 2003). Ideological social control uses a person's beliefs to control people where direct social control uses coercive sanctions when a person digresses from acceptable social norms (Ewen 1998, pp.145-147, pp.154-157, p.162). Williams claimed these corporations established a standard of acceptable conduct through their corporate codes, then manipulated the way in which the corporation's failure to meet those codes were perceived by consumers and employees. Williams obtained CSR statements from the websites of Nike, Gap and Disney (Williams 2003, pp.26-28). The statements gathered included their stated intention to achieve socially responsible conduct, and their statements that excused, justified or rationalized their participation in sweatshops.

Williams identified various approaches to exculpate the corporation, without making any effort actually to improve the labour conditions (2003, pp.28-42). For example, Nike has been criticised for decades about its sweatshop conditions in its supplier factories in Asia. Rather than addressing the underlying issue of Nike's failure to provide employees with satisfactory labour conditions, Nike claimed employees were better off now than ten years ago (Beder 2002, p.25). In reaching this conclusion, Nike focused on the fact that labour conditions had improved and used this as a means to excuse its conduct. Through the use of outsourcing work to unrelated corporations, Nike was able to distance itself from liability and claim it had done all it could to improve labour conditions. Nike's code required factories to which it outsources work, to ensure adequate lighting, guards on machines, ventilation and compliance with all other labour conditions. When these factories failed to meet the standards set by Nike, Nike blamed the factory. Nike also required every factory to have Nike's Code of Conduct on the wall in the factory. Workers were instructed to contact Nike directly if there was a breach. When workers failed to contact Nike when there were breaches, Nike blamed the workers. In essence, Nike's approach was to shift the blame for the labour conditions' violations to external parties. Williams concluded that the approach of

Nike, Gap and Disney to socially responsible conduct was a marketing ploy without any substance.

Nike's use of exculpatory public relations campaigns has attracted particular academic attention. Nike's efforts to mislead consumers by the existence of corporate codes came to a head in the USA's *Nike Inc. v Kasky* case (539 US 654 (2003)). In response to substantial negative media attention, protests and a decline in sales, Nike had launched a public relations blitz (Ronald et al. 2004). This public relations blitz largely consisted of Nike claiming it had complied with its corporate code of practice, and that labour conditions in its supplier factories were acceptable. A consumer activist, Kasky filed suit against Nike, claiming, in effect, Nike was lying. Kasky claimed Nike was, in fact, acting socially irresponsibly, and that its public relations blitz consisted of false and misleading commercial statements in violation of California's unfair trade practices and false advertising laws, found in the *Californian Business & Professional Code*. The unfair competition law defines 'unfair competition' to include "any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by [the false advertising law]" (S 17200 of the Californian Business & Professional Code (West 2000)).

Nike did not seek to deny that it had lied. To defend the case, Nike argued, inter alia, that the claim was flawed and that it should not be liable for its representations as there was a constitutional right to free speech in the First Amendment to the USA's *Bill of Rights*. In essence, Nike pleaded that constitutionally, it has a right to mislead the public in its CSR propaganda. Piety explains Nike's position as follows:

[Kasky] claimed Nike lied, and Nike replied (in effect), 'So what? The First Amendment protects everything your lawsuit alleges we said, even if we lied' (Piety 2005, p.153).

This case was never heard on its facts. Nike attempted to have the case struck out on constitutional grounds through the lower courts, to the Californian Supreme Court and ultimately to the United States Supreme Court. The United States Supreme Court did not hand down a judgment on the substantive issues in the case. The United States Supreme Court held *certiorari* (the right to review a lower court decision) was 'improvidently granted' (539 US 654, 655 (2003)). Kasky's claim was struck out and the veracity of Nike's public relations' claims was never tested. Even though the United States Supreme Court declined to hear the case and provide a precedent, human rights advocates rated *Nike Inc. v Kasky* as a victory, in the sense that it warns corporations they risk litigation if they lie in CSR propaganda (Fisher 2006).

Nike Inc. v Kasky demonstrated that Nike's position in relation to socially responsible conduct may only amount to a public relations' exercise. Nike claimed that it should not be liable for the accuracy of its CSR public relations' propaganda, even when it was made negligently or fraudulently. From Nike's perspective, this argument was a sensible position. Corporations are about maximising profits, and any diversion caused by defending suits that its CSR representations were negligent or fraudulent would cost money. Presumably, if Nike was taking its social responsibilities seriously, then Nike would have already performed reliable audits and obtained reports from which it could easily defend its position. The fact that Nike vigorously fought this action, rather than just providing the courts with its internal audits for inspection, arguably indicates that Nike did not have confidence in its audits. After all, if a judicial examination of Nike's CSR propaganda judged Nike to be honest, then this would have been an extremely positive marketing tool. Rather than exposing itself to the expense of a legal battle and the associated public scrutiny Nike elected to adopt a strategy to protect their CSR reporting and auditing process from examination.

Will large corporations accept liability for their violations of human rights?

While corporations' associations have claimed to be concerned with human rights' violations in their subsidiaries and suppliers overseas, an *amicus curiae* ('friend of the court') brief, filed in the *Sosa v Alvarez-Machain* Supreme Court case (542 US 692 (2003)) by those same corporations, asserted they should not be required to uphold basic human rights (National Foreign Trade Council 2003). In the brief, the National Foreign Trade Council, the USA Chamber of Commerce, the USA Council for International Business and the USA Business Roundtable claimed the action contained in the *Alien Tort Statute* (part of the *Judiciary Act of 1879* (USA)) and *Torture Victim Protection Act* (USA) should not be applied to corporations based in the USA, as this would place them at a *competitive disadvantage* (Collingsworth 2004 p.669). Yet the *Alien Tort Statute* only provided a cause of action in the most extreme cases, for example, slavery, torture, extra-judicial killing, genocide, war crimes, crimes against humanity and arbitrary detention (Harpur 2006). While some corporations have engaged with civil society to improve their ethical conduct (Herz 2008), other corporations based in the USA have argued that holding them accountable for such crimes placed them at a competitive disadvantage against foreign corporations. If these corporations did not have the intent to engage in human rights' violations in the future, then the existence of the *Alien Tort Statute* could not have placed them at a competitive disadvantage. Indeed those corporations that had implemented measures to ensure that neither it nor its suppliers would breach the statute could sensibly have supported the expansion of the *Alien Tort Statute*. If these corporations were sued under the *Alien Tort Statute* arguably these corporations would have been able to defend such claims and could use the law to harass competitors who violate human rights. The fact corporations attempted to reduce this avenue of judicial scrutiny over potentially serious human rights abuses arguably raises concerns about the willingness of these corporations to participate in the CSR movement in good faith.

Redeeming features?

There is a substantial amount of evidence that corporate codes are not being effectively audited in many cases. This does not mean that corporate codes are never effectively audited. If a corporation is subject to pressure from CSR, management in that corporation may feel pressured to provide the appearance of taking social responsibility seriously. If a corporation's code fails to deliver results in every case, then the corporation would have no positive results to report to the market and may suffer adverse pressure from the socially conscious consumers and corporations. While many social audits have some positive impacts, the degree of improvement and the amount of labour violations that are not addressed which reduces the ability of States to rely upon CSR as a vehicle to discharge their human rights' obligations.

While national governments cannot rely on market driven unregulated CSR to operate to reliably self-regulate companies, it could be argued that CSR does have a positive impact on improving some labour conditions. As a market-driven movement, CSR has achieved some successes in improving corporations' ethical conduct. In Australia, CSR has motivated the Coles Myer and Woolworths groups to become active in managing their supply chains and motivated 112 retailers to sign up to the *Home Workers Code of Practice*. The 2008 Australian Centre for CSR 2008 Conference heard testimonies from corporations about their innovative approaches to CSR (Australian Centre for Corporate Social Responsibility 2008). These testimonies included speeches by the CEO of Westpac, and senior managers from Australian companies including Transurban, Investa, Coca-Cola South Pacific, Telstra Business and from other corporations and industry participants (Edgecombe 2008; Hanan

2008; Hunt 2008; Kelly 2008; Shiff 2008). Labour Behind the Label has concluded that “[s]ocial audits can be valuable, if they are frequent and unannounced, include gender-sensitive, rigorous, off-site interviews, and involve local trade unions and NGOs” (Labour Behind the Label 2006, p.36). Whether or not social audits are effective depends on the other tools adopted by the corporate code, such as ensuring freedom of association, accountability, independent complaints mechanisms and the like. Representatives from the Society for Technical Co-operation and the German Ministry of Economic Co-operation and Development claim social auditing has the potential to motivate employers to improve workplace illumination, to provide sufficient and clean toilets, to ensure safe ventilation, to ensure employees have access to adequate equipment, to ensure workplace canteens provide adequate sustenance and, to ensure there are proper and appropriate spaces to deposit raw materials (cited in Clean Clothes Campaign 2005, p.18). The Clean Clothes Campaign (2005, p.18) concludes:

It is clear that, in spite of limited impact in many cases, the insistence of buyers on compliance, policed by social auditing, is helping to have a limited but positive effect on companies, particularly in areas linked to occupational health and safety.

Barrientos and Smith (2007, p.729) argued that:

Ongoing tensions exist between corporate and civil society actors. While these tensions have driven positive change in outcome standards, in that corporations have responded to demands from civil society to adopt codes of labour practice, they have not done much to improve workers' access to process rights. Our analysis suggests this is partly because buyers and retailers prioritise commercial imperatives and take a technocratic approach to code compliance that does little to challenge embedded social relations or business practices that undermine labour standards in global production systems.

Shellenberger & Ethical Business Campaigns (Shellenberger and Ethical Business Campaigns Network 2006, pp.1-3) detail a number of high profile successes where corporations have agreed to act ethically. Despite the successes, this report observes that corporate culture continues to conceive CSR as an optional extra, which many corporations elect to ignore. Arguably CSR provides a vehicle for social campaigning, but the low success rate of motivating corporations to purport to act ethically and problems in holding accountable corporations that claim to engage in CSR activities means market-driven unregulated CSR has limitations as a viable option.

Conclusion

While in practice corporations are being pressured through the CSR movement to uphold human rights and general values, corporations are not legally bound to adhere to such standards (Harpur 2006). Corporations are pressured to be seen to uphold such values arguably due to a threat to their corporate image and profits (Addo 2005, p.676). True, corporations have recognised that adverse publicity could hurt their profits (Barnes 2007). In response to the media attention, some corporations have made a public show of improving working conditions in their supplier factories (Barnes 2007; Chuanli and Gang 2007). As the main motivator of corporations is negative publicity, most corporations engaging in socially responsible conduct do so primarily as a marketing strategy (Yan 2003; Jones et al. 2007).

The fact corporations claim to have ethical supply chain purchasing strategies does not mean these codes are enforced in practice. The evidence we have reviewed shows that major brand names engage in the lowest level of ethical conduct that is acceptable to the market. As

corporations are primarily motivated to engage in CSR to protect their corporate image, corporations will attempt to maintain their corporate image at the cheapest possible cost. CSR does not always motivate corporations to focus upon improving labour conditions in their factories. Corporations have countered negative CSR publicity by adopting sophisticated media campaigns that use psychological tactics to improve the corporation's image without improving its respect for human rights. When the rubber hits the road, major corporations in the USA argue in legal submissions that they should not be bound by human rights laws, as this would restrict their competitive edge internationally.

So, is 'corporate social responsibility' an oxymoron – a phrase containing two contradictory terms? The evidence supports the profit maximisation model of corporate governance, which suggests that if the meaning 'voluntary' is to be inferred from the term 'responsibility', then it is indeed an oxymoron. The adjective 'social' seems at odds with the premise of *profit* maximisation. That said, there might be some gains from its use as a political tool. Even though the number of corporations that participate in CSR is limited and there are substantial problems with social auditing, CSR has resulted in some corporations ensuring ethical supply chains, which has resulted in improvements in labour conditions supplier factories. While CSR can be a positive tool for civil society to motivate corporations to act ethically, we consider that the problems with performing unregulated social audits confound the CSR movement. As unregulated social audits have varying degrees of validity, states and international institutions need alternative vehicles to ensure accurate auditing of corporate practices becomes the norm.

The rise (or resurgence) of the dominance of finance capital also suggests that, if there ever was a time when the voluntary CSR model was relevant, when profit maximisation might occasionally defer to other considerations, that time was in the past. Yet CSR has risen (or returned) to prominence at a time when, under the influence of neoliberal reforms, the scope for meaningful voluntary adoption of CSR is at its nadir. There are probably two factors at work here. One is that, as globalisation of trade and information technologies has progressed, awareness of third world exploitation by MNCs has grown, increasing the likelihood that members of the public and activists would pressure corporations to 'do something'. The other is that, in a neoliberal world of profit maximisation, CSR, as something that is voluntaristic and able alternatively to be used for brand enhancement or subverted in its implementation, is the perfect corporate response. Any attempts to promote responsible corporate behaviour through codes of conduct must then, in the end, rely on codes that are verifiable and that create responsibility *at law*.

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ⁱ This paper has been peer reviewed by two anonymous referees