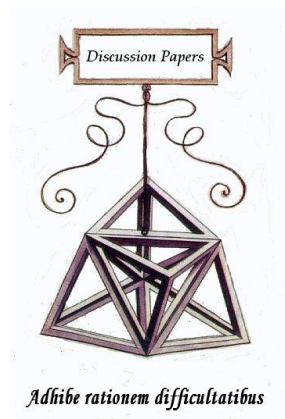




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Davide Fiaschi & Elisa Giuliani

THE IMPACT OF BUSINESS ON SOCIETY: EXPLORING CSR
ADOPTION AND ALLEGED HUMAN RIGHTS ABUSES BY
LARGE CORPORATIONS

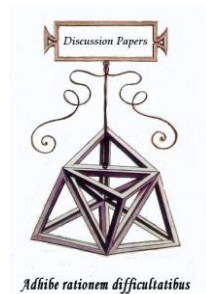
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Discussion Paper
n. 155



*Davide Fiaschi & Elisa Giuliani**

THE IMPACT OF BUSINESS ON SOCIETY: EXPLORING CSR ADOPTION AND ALLEGED HUMAN RIGHTS ABUSES BY LARGE CORPORATIONS

ABSTRACT

Management research on Corporate Social Responsibility (CSR) focuses almost exclusively on the impact of CSR on profitability or corporate value. A largely neglected question is whether CSR impacts positively on society. We address this gap in the literature by exploring the relationship between CSR adoption (as reflected by corporate declarations to adopt CSR policies) and corporate involvement in alleged human rights abuses. Using information on 140 large advanced country corporations, we find that there is a relationship between CSR and alleged human rights abuses, but that the nature of this relationship varies according to the type of abuse: firms that declare to be CSR-adopters appear less likely to be involved than non-adopters in the worst of the abuses (i.e. *jus cogens* abuses), but more likely than non-adopters to be involved in other types of “less serious” abuse (i.e. *no-jus cogens* abuses). Also, over time, the adoption of CSR reduces corporate involvement in direct abuses allegedly committed by management, or by a subsidiary, but not indirect abuses allegedly committed by complicit third parties (e.g. suppliers, clients, etc.). Our analyses contribute to the theory on the impact of business on society and have some normative implications for corporate abuses of human rights.

Key words: Corporate Social Responsibility, Alleged Human Rights Abuses; Panel Data.

JEL Codes: M14; K40; F23; C23

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INTRODUCTION

The oil giant Shell has agreed to pay \$15.5m in settlement of a legal action in which it was accused of having collaborated in the execution of the writer Ken Saro-Wiwa and eight other leaders of the Ogoni tribe of southern Nigeria. The settlement...was one of the largest payouts agreed by a multinational corporation charged with human rights violations. (The Guardian, Tuesday 9 June 2009)

We believe companies have a role to help support fundamental human rights in line with the legitimate role of business... we look for practical ways to support human rights directly related to our business activities. (The Shell Oil, "Environment & Society" Web Page, 21st December 2011)

We are living an apparent paradox. Most global corporations have introduced Corporate Social Responsibility (CSR) in their strategies and their CEOs make bold statements about the importance of respecting human rights in business, but at the same time we are overwhelmed with news about corporate human rights abuses, unethical behavior and misconduct. How can this be explained? Management research on CSR focuses almost exclusively on the reasons that lead corporations to invest in CSR policies (McWilliams and Siegel, 2001; Aguilera, Rupp, Williams, & Ganapathi, 2007; Sprinkle and Maines, 2010) and on the impact of CSR on corporate profitability or corporate value (Harrison and Freeman, 1999; Hillman and Keim, 2001; Margolis and Walsh, 2003; Orlitzky, 2008; Wang and Qian, 2011). Relatively less attention is devoted to understanding whether CSR can truly benefit society (Karnani, 2011), a question that Margolis and Walsh (2003, p. 297) believe could have been explored "before rushing off to find the missing link between a firm's social and financial performance". CSR can benefit society in at least two ways. One is

through all the discretionary actions (Carroll, 1979), the positive responsibilities, and profound changes corporations undertake in favor of employees, the environment, or society at large (Rivoli and Waddock, 2011). The other is by respecting the negative duty to do no harm, which implies respecting human rights while conducting business operations. While generally overshadowed by the more positive side of social responsibility, the focus on the negative duty to do no harm has gained momentum thanks to the recent release of the “Protect, Respect and Remedy” (PRR) United Nations (UN) Framework on business and human rights (Ruggie, 2010; Cragg, Arnold, & Muchlinski, 2012), which describes transnational corporations as having responsibility to avoid infringing on the rights of others. In the present research we focus on this latter type of societal impact and investigate a largely ignored question: Are corporations that declare to have adopted CSR practices less likely to cause harm in the conduct of their business? In other words, are such corporations less likely than non-adopters to be involved in allegations of human rights abuses?

While there may be a difference between corporations that declare to have adopted CSR and those that have not, we are not naïve about CSR adopters. Earlier work shows that global corporations can be simultaneously socially responsible and socially irresponsible (Strike, Gao, & Bansal, 2006), as the spread of operations worldwide may lead corporations to build reputation through certain CSR policies and to seek opportunities for profit by taking irresponsible decisions. A case in point is the oil extraction companies in the Niger Delta, which meet CSR positive duties by contributing to community development, but fail to meet the negative duty not to harm local livelihood conditions (Idemudia, 2009). It should not be surprising, therefore, that corporations are caught out infringing a human right, in spite of having declared to have CSR policies in place. The important question is whether this is less likely to occur over time, as corporations accumulate experience with CSR and allow their employees to turn CSR core ideas and precepts into practical actions not to harm. This brings us to our second research question: does corporate involvement in alleged human rights abuses decrease as the number of years since the introduction of CSR policies increases?

To investigate these questions, we created a novel dataset including information on 140 of the largest US, Canadian, EU and Asian (Japan and South Korea) corporations, in 28 sectors (including primary, manufacturing and services). For each corporation, the dataset includes information on declarations of CSR adoption and on any associated alleged human rights abuses in the period 1990 to 2006. Information on alleged human rights abuses is taken from the Business and Human Rights Resource Centre (BHRRC), considered to be the world's leading independent source of information on business and human rights worldwide. The dataset includes other information that is used as control variables. The econometric analysis shows that there is a relationship between CSR and alleged human rights abuses, but that the nature of this relationship varies according to the types of abuses. We find that corporations strategize their human rights abuses: those with CSR policies are less likely to be involved in allegations of the worst human rights abuses (i.e. *jus cogens* abuses), which include, for example, cases of slavery and arbitrary deprivation of life. In contrast, they are more likely than non-adopters to be involved in allegations of other types of "less serious" abuses (i.e. *no-jus cogens* abuses), such as on-the-job discrimination or failure to guarantee safety standards in the workplace, which are less likely to spark reactions from observers inside and outside the corporation. We find also that, over time, only involvement in allegations of direct abuses, committed by managers of the corporation or of its subsidiaries tends to reduce, but not of indirect abuses, committed by complicit third parties (e.g. suppliers, clients, etc.)

Our findings contribute to the scholarly debate on the impact of CSR on society. This paper answers the call for a positivistic approach to the analysis of the impact of CSR on society. Most positivistic/quantitative studies involving CSR are oriented towards proving its impact on corporate profitability, which is raising concerns among business ethics scholars (Scherer and Palazzo, 2008), while the impact on society is based mainly on anecdotal evidence. This work contributes to the quality and nature of the debate on the impact of business on society, and particularly to the strand of conceptual research that seeks to define a common ground between economic-aligned perspectives of CSR that emphasize the instrumental value of CSR for profitability, and duty-

aligned perspectives, which instead understand CSR only on moral grounds (Weaver and Treviño, 1994; Jones and Wicks, 1999; Scherer and Palazzo, 2008). Finally, more research along the directions traced by the present work could have important normative implications for sustainability managers, governments, and practitioners in policy-making organizations, as discussed in the conclusion to this paper.

LITERATURE REVIEW AND HYPOTHESES

Research on CSR, human rights, and business is increasing. Landmark events, such as the undisputed connection between Shell and the arbitrary assassination of Ken Saro-Wiwa in 1995 (Wettstein, 2012), or the Enron scandal in 2001, have prompted management scholars to pay more attention to the social repercussions of business operations. Yet very little is known about the role and relevance of CSR in reducing corporate involvement in human rights abuses. Many classic and earlier definitions of social responsibility included, as a baseline expectation, the negative duty not to harm. Carroll (1979) describes social responsibility as consisting of four layers: it is first and foremost an economic (profit making) and legal (respecting the law) responsibility. Then there is a layer of ethical responsibility- that is, “ additional behavior and activities that are not necessarily codified into law but nevertheless are expected of business by society’s members.” (Carroll, 1979, p. 500) and the last layer includes a whole set of “discretionary responsibilities”, among which are philanthropic initiatives or donations. Sethi (1975) makes a distinction between ‘social obligation’ and ‘social responsibility’, the former being a response to market forces and legal constraints (Sethi, 1975, p. 70), and the latter implying bringing “corporate behavior up to a level where it is congruent with the prevailing social norms, values and expectations of performance.” (Sethi, 1975, p. 62) Jones (1980, p. 59-60) defines social responsibility as “an obligation to constituent groups in society other than stockholders and beyond that prescribed by law and union contract”. Over the years, CSR concepts and definitions have proliferated (Crane et al., 2008) and, in spite of their

differences, the voluntary nature of CSR to contribute to the wellbeing of different stakeholders has tended to overshadow the negative duty not to do harm, which at best has been taken for granted. As recently noticed by Lange and Washburn (2012, p. 300) “the corporate social responsibility (CSR) literature tends to focus on the meaning of and expectations for responsible behavior, rather than on the meaning of irresponsible behavior.” This emphasis on positive duties is also reflected in the way corporations have put CSR into practice: the usual focus is on the promotion of initiatives in favor of their employees, the environment, and the community at large (Wanderley et al., 2008), with companies dedicating considerable resources to self-declaratory exercises demonstrating their “good” actions, described in detail in their annual sustainability reports.

Recently, the PRR Report of the UN Special Representative for Human Rights, John Ruggie, has put human rights at the core of the social responsibility concept (Ruggie, 2010): “the corporate responsibility to respect applies to all [human] rights”, which are identified by the 1948 Universal Declaration of Human Rights (UDHR), and by the 1966 International Covenants on Civil and Political Rights and on Economic, Social and Cultural rights. Human rights are commonly understood as inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being, whatever her or his nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status. They are conceived as universal rights because they apply everywhere.¹ A list of internationally recognized rights is reported in Appendix A.

Reference to universal human rights has become salient since corporations increasingly are locating their production activities in developing countries, which are often characterized by weak state capacity and rules of law, and where legal standards are lower than those in more advanced countries – for example, less strict workers’ rights and environmental regulations. In such cases, corporations may be caught infringing universal human rights although abiding by the local law.

¹ See <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>, last accessed 2nd April 2012.

In this research we explore the relationship between declarations of CSR adoption and alleged human rights abuses. We consider the declaration of CSR adoption as the act through which corporations make an open and explicit commitment to do business in a law-abiding, moral and ethical way, and state that they will undertake policies and articulate responsibility for societal interests and in favor of different stakeholders (Matten and Moon, 2008). Next, we consider that an abuse of human rights has occurred if the corporation, through its decision making, is either directly or indirectly involved in an alleged abuse, defined on the basis of the UDHR and subsequent covenants. In this respect, our research embraces a universal human rights' perspective.²

CSR and the Respect of Human Rights

Are corporations that declare to adopt CSR practices less likely to be involved in alleged human rights abuses in the conduct of their business? There are contrasting ideological answers to this question and good theoretical motivations to support both positive and negative predictions. We investigate this question empirically and can formulate two alternative hypotheses.

On the one hand, we adopt the stance of critical theories on CSR (Kuhn and Deetz, 2008), which, for different reasons, express skepticism towards the appropriateness or usefulness of CSR - from free market perspectives (Friedman, 1970) to critical left perspectives (Banerjee, 2007; Enoch, 2007) - and we argue in favor of an increase in corporate abuses with the declaration of adoption of a CSR policy. Different concurrent elements justify this argument. First, corporations obtain direct economic advantages from infringement of certain human rights. There is substantial case-study evidence showing that, to keep labor and other production costs to a minimum, to secure advantageous pricing conditions on inputs, and/or to obtain the access to lucrative resources, corporations have, deliberately or not, infringed human rights (Frynas, 1998; Meyer, 1998; Litvin, 2003; Soares de Oliveira, 2007). On purely economic terms, these abuses carry a cost, in the form

² We take this position because it has become the accepted position in the practice of business and human rights; however, we are aware of the tension between universal and relativistic views on human rights (Donaldson, 1996; Velasquez, 2000).

of reputational backlash and/or compensation to the victims of abuses (Fombrun, Gardberg, & Barnett, 2000), but these costs are only potential and depend on whether the abuse is discovered, denounced, and punished – which the corporation cannot fully predict. Hence, corporations may behave imprudently and risk their operations leading to human rights abuses if this brings certain economic advantages.

Under these circumstances, companies that have declared to have adopted CSR policies may actually put in place a set of CSR-related activities precisely to minimize the potential costs of abuses, by engaging in preemptive positive discourses with potentially problematic stakeholders and in other window-dressing activities. As Calvano (2008, p. 796) puts it “companies can use corporate philanthropy to buy-off or silence communities that oppose their activities”. Hence, should there be any abusing behavior by the corporation, the local community will be discouraged from denouncing it. Failure to denounce is likely to occur in contexts where corporations undertake several positive CSR policies to build local trust, legitimization, and social acceptance (Rajak, 2011). Additionally, some CSR-related activities may be instrumental to securing the favor of the local governments, as a guarantee that abusing behavior will be tolerated and will be unlikely to be punished – especially in countries where governments are weak and corrupt. In principle, this scenario would result in more abuses, whose chances of being denounced are lessened by the effect of CSR. But declarations of CSR adoption is likely to produce an important additional effect, which boosts the discovery and reporting of human rights abuses – even in the cases in which they are not fully denounced by the abused subjects: it puts corporations into the spotlight. Earlier research shows that the more companies expose their ethical and social ambitions, the more likely they are to attract critical stakeholder attention (Ashforth and Gibbs 1990, Morsing and Schultz, 2006), hence corporations that declare to have CSR strategies in place are more likely than companies without them to be monitored by NGOs, civil society, and the media, which are likely to reveal and diffuse evidence of any perpetrated abuse. On these grounds we argue that:

Hypothesis 1a. Companies that declare to adopt CSR policies are more likely to be involved in alleged human rights abuses than companies with no CSR policies in place.

On the other hand, we can formulate the opposite hypothesis that the declaration of CSR adoption induces in corporations higher attention to moral values, which is reflected in managerial decisions not to do harm. This may well be the result of a sane intention of the corporation not to do harm, to fully adhere to CSR values once having committed to them. But it may also have to do with the costs related to a misaligned behavior between what is declared through CSR and what is actually done. In this respect, we draw on organizational justice theories (Greenberg, 1987; 1990) and more specifically on studies that bridge CSR and organizational justice (Rupp, Ganapathi, Aguilera, & Williams, 2006; Aguilera et al., 2007), to argue in favor of the hypothesis that corporations with CSR strategies in place are less likely to be involved in human rights abuses than non-adopters, all other things being equal. The strategic decision to adopt CSR policies is generally taken at the top management level but, to become effective, a CSR culture and values need to trickle down to all organizational levels. Rupp et al. (2006) suggest that employees judge whether corporate behavior and outcomes are coherent with the social values portrayed by the CSR initiatives or policies. If they perceive a misalignment between them, their psychological needs for control, belonging, and morality are threatened. A wealth of studies in the organizational justice literature finds that the performance of employees is influenced by different dimensions of corporate fairness (Colquitt, Conlon, Wesson, Porter, Yee Ng, 2001; Cropanzano, Byrne, Bobocel, & Rupp, 2001; Colquitt, 2004; Robbins, Ford, & Tetrick, 2012) on which basis we argue that a perceived misalignment between CSR values and corporate behavior may produce generalized dissatisfaction, stress, and reduced job performance, none of which is in the interests of the corporation. Furthermore, incoherence between CSR values and corporate activities may lead to reactions from outside the corporation (Rupp et al., 2006). Reputation is the first thing to suffer: the credibility that a firm has taken years to build, may vanish immediately when the firm is associated

with allegations of human rights abuses, which in turn may threaten corporate value and profitability (Fombrun et al., 2000). Furthermore, the integrity of corporations and their corporate social performance may increase their attractiveness for the best talents (Greening and Turban, 2000).

Hence there are two reasons for supporting the hypothesis below: either corporations that have declared to adopt CSR are sincere in pursuing a sane policy not to do harm while conducting their businesses, or their internal and external justice reactions push them to adhere as closely as possible to their proposed values, and minimize their chances of doing harm. Corporations that have not adopted CSR policies may not be subject to the same kinds of pressure. We therefore formulate the following hypothesis:

Hypothesis 1b: Companies that declare to adopt CSR policies are less likely to be involved in alleged human rights abuses than companies with no CSR policies in place.

The Longitudinal Perspective

Our second research question tackles the effect of CSR adoption over time. Since their initial declaration of CSR adoption, companies may take time to actually bring changes in the behavior of managers and employees at all levels of the corporation. We argue that corporate involvement in allegations of human right abuses will tend to decrease as the number of years since CSR adoption increases. In our view, this effect is likely to hold both for corporations that use the declaration of CSR adoption for window-dressing purposes (our Hypothesis 1a), as well as for corporations that take CSR seriously and do their best to avoid any involvement in human rights abuses (our Hypothesis 1b). In the latter case, we find a quote from the Procter and Gamble's (P&G) Sustainability web-page to be illustrative of our argument: "In order to deliver our environmental and social programs, we must engage our employees...Our objective is to equip all P&G employees

to build sustainability thinking and practices into their everyday work”.³ Building up a “sustainability thinking and practice” is a task that involves the creation of new organizational routines (Nelson and Winter, 1982) and new combinations between the codified knowledge coming from CSR precepts and codebooks, with the idiosyncratic and tacit knowledge embodied in corporate employees (Polanyi, 1967; Nonaka and Takeuchi, 1994). None of this occurs overnight: organizational learning processes are cumulative, which means that they build on pre-existing skills and knowledge (Dosi, Freeman, Nelson, Silverberg, & Soete, 1988) and therefore changes in the way business is conducted tend to be incremental and require time to be accomplished. This argument holds particularly for large multinational corporations, where CSR ideas and principles need to trickle down from the headquarters to distant subsidiary managers (or the reverse, see Ghoshal and Bartlett, 1990). Therefore we consider that even in the case of corporations whose CEOs are willing to avoid involvement in human rights abuses, such a process is not instantaneous: it will take time to refine and it will be more likely as the corporation accumulates experience in CSR, and corporate employees at all levels are allowed time to familiarize and incorporate the proposed CSR core values into their business practice.

In the case of corporations that use CSR as window-dressing tool, we argue that such a strategy is not sustainable over long periods of time. A prolonged misaligned behavior between what is first declared through CSR and what is actually done is detrimental to any corporation in terms of both internal and external reputation (Fombrun et al., 2000). Hence, over time, the burden of CSR-related declarations will become heavier, and the costs connected to the loss of reputation higher.

On these grounds we formulate the following hypothesis:

Hypothesis 2: The longer the number of years since the declaration of CSR adoption, the less will be the corporate involvement in human right abuses.

³ http://www.pg.com/en_US/sustainability/overview.shtml, Last Accessed 15th February 2012.

Differences in Types of Human Rights Abuses

So far, we have considered human rights abuses as a single type. However, they show some differences which are worthy of discussion. A distinction should be made according to the gravity of the abuse. International law scholars generally reject the idea that a hierarchy of human rights can be formulated, arguing that the achievement of each individual human right requires fulfillment of other human rights and in this sense human rights are indivisible (Teraya, 2001). Nevertheless, we can make a distinction between abuses that represent violations of *jus cogens* norms and other abuses. *Jus cogens* norms are defined in the Vienna Convention on the Law of Treaties as peremptory norms of international law: they are considered legally binding on all states by customary law, irrespective of the treaties ratified by individual countries and are accepted and recognized by the international community of States as a whole, as norms from which no derogation is permitted, and which can be modified only by a subsequent norm of general international law having the same character. *Jus cogens* norms include prohibitions on certain abuses, including arbitrary deprivation of life, genocide, slavery, torture, prolonged arbitrary detention and enforced disappearance (see Appendix A for a complete list). An example of a corporate *jus cogens* abuse is represented by the Unocal case, which was found to be complicit in human rights violations including forced relocation, forced labor, rape, murder, and torture, perpetrated during the construction of a natural gas pipeline through Burma to Thailand – the Yadana project (Wells, 1998; Holzmeier, 2009). We consider abuses of the *jus cogens* type as the worst type of abuse. Other human rights abuses can be classified as *no-jus cogens*, and span from worker discrimination, to cases of environmental contamination that infringe on people's rights to live in a healthy environment, to instances of products launched on the market that contain dangerous or toxic ingredients.

We also make a distinction between direct and indirect abuses. We define direct abuses as those involving a corporation or one of its subsidiaries, and indirect abuses as those in which a corporation (and/or its subsidiaries) is found to be complicit with a third actor (e.g. a supplier, a

client, a government agency, etc.) that has committed the abuse. Since contemporary production is organized mostly along global value chains (Gereffi, 1996), several indirect human rights abuses are being committed by local suppliers and subcontractors (Yu, 2008; Cruz and Boehe, 2008). Corporations may have differing capacity to prevent or manage different types of abuses. *Jus cogens* abuses are more of a problem in terms of their implications once they are discovered, but also are rarer events than *no-jus cogens* abuses. Direct abuses are probably more easily preventable than indirect abuses, because many corporations do not have complete control over the operations of their suppliers (Lim, 2008) or of other third-party actors. In this research, we extend analysis of the impact of CSR on alleged human rights abuses to these four types of abuses. We do not formulate specific hypotheses for each type of alleged abuse and we leave the theoretical interpretations of our results to the Discussion section.

METHOD

Sample

To test our hypotheses we focus on large corporations with headquarters in an advanced country. Large corporations are more powerful, more visible, and their human rights adherence/abuses tend to be more frequently monitored, by the press and NGOs, than those of smaller companies. Large firms also have the resources to invest in CSR policies and manage human rights abuses. The focus on advanced countries is justified by the fact that they have a longer history of adoption of explicit CSR policies (Matten and Moon, 2008), which makes it easier to assess their impact over time. Drawing on the Forbes Global 2000 ranking for 2006, we selected 140 large corporations across 28 sectors, namely (ISIC Rev. 4 codes in brackets):⁴ Accommodation (I55); Advertising (M73); Aerospace & Defence (C30); Automotive (C29); Banking (K64); Beverages (C11); Chemicals (C20); Computer Electronics (C262); Consulting (M70); Cosmetics (C2023); Electrical Equipment (C27); Energy (B06); Food & Beverage Service Activities (I56);

⁴ The Forbes industry classification does not conform to ISIC. We recoded Forbes firms and sectors into their ISIC sectors and drew our sample from the recoded list.

Food Products (C10); Footwear & Wearing Apparel (C13 and C14); Health care (Q86); Insurance (K65); IT (J61); Metals & Mining (B06-07-08); Optical Instruments (C267); Pharmaceuticals (C21); Pulp & Paper products (C17); Real Estate (L68); Retail trade (G47); Rubber and Plastic products (C22); Tobacco (C12); Tourism (N79); Toys (C324). We adopt a stratified random sampling approach with equal allocation, by randomly selecting from the Forbes list five firms in each of the listed sectors. Our interest is not in a sample that is representative of the Forbes Global 2000 firms – the majority of which are banks - but in working with a sample that both includes the largest corporations in the world and also represents a wide range of primary, manufacturing and service industries. For this reason we choose an equal allocation strategy. The population of Forbes 2000 firms within our selected industries, that originated from an advanced country, numbered 1236, with an average of 44 firms per sector. Hence our sample covers about the 10 percent of the firms in the Forbes list. The final sample includes firms from the US and Canada (54%), Europe (38%), Asia (Japan and South Korea) (7%) and Bermuda (1%).

For each corporation we collected information on alleged human rights abuses, declarations of CSR adoption, and other details used to construct our control variables (size, year of foundation, country of origin). Our analysis covers the period 1990 to 2006 (see below).⁵ Ten percent of our sample firms underwent a merger or acquisition (M&A) during the period of observation; we account for this change in the analysis.

Dependent variables: Alleged Human Rights Abuses.

We analyze whether corporations that declare to adopt CSR policies are more (or less) likely to be involved in alleged human rights abuses (Hypotheses 1a and 1b), and whether the number of years since CSR declaration of adoption has an impact on the probability of being involved in an alleged abuse (Hypothesis 2). The collection and measurement of human rights abuses was not straightforward. There is very little quantitative work in this area, despite several calls for more

⁵ We are aware that our sample is based on a 2006 ranking, which means that the firms in our analysis were ranked as the largest public firms at the end of the period of our analysis. However, this ranking was not used prior to 2003.

research on the field (Claude and Jabine, 1986). Our first problem was to identify a sufficiently comprehensive source of information which included data on alleged abuses of human rights perpetrated by the business sector worldwide. We organized a focus group to which were invited law and business and human rights experts to discuss the critical methodological challenges related to our project. The outcome was that the Business and Human Rights Resource Centre (BHRRC) as a valid source of information. The BHRRC is considered the world's leading independent information hub on the positive and negative impacts exerted by corporations on human rights and was the source used for the Addendum to Special Representative John Ruggie's 2008 report to the UN Human Rights Council (Wright, 2008). The Centre has offices in London and New York and relies on the efforts of regional researchers based in Africa, Asia, Eastern Europe, and Latin America, who interact with local NGOs and gather information in the field. The BHRRC database "covers the social and environmental impacts of over 5000 companies, operating in over 180 countries. Taking international human rights standards as its starting point, topics covered include discrimination, environment, poverty and development, labor, access to medicines, health and safety, security, trade".⁶ BHRRC researchers collect news and reports relating to Business and Human Rights from the web and other sources, on a day to day basis, paying attention to sources in all regions of the world, including local newspapers and reports produced by large and small NGOs. News, reports, and events focusing on the relations between the activities of companies and human rights, are examined and are published on the BHRRC website provided they meet a minimum criterion of credibility (therefore excluding blind attacks on companies). They highlight the impact of business on human beings (e.g. news relating to the protection of an endangered species but with no clear connection to an impact on human rights is not usually published). Since allegations of human rights violations by companies are made public, companies have an opportunity to respond to any allegations before their publication on the BHRRC website. If companies do respond, their counter-arguments are published along the articles/reports condemning their conduct.

⁶ <http://www.business-humanrights.org/Aboutus/Briefdescription>. Last accessed 15 January 2011.

We used this information source to search for alleged abuse connected to the corporations in our sample. It resulted in more than a 1000 documents, including news and reports providing evidence of “events” of negative human rights impacts. We analyzed each document, and codified the information into a dataset in three stages. First, two research students (supervised by the authors) downloaded the documents and saved the information on abuse events in separate coded files. For instance *FirmA-1-neg*, indicates that the file includes news or reports referring to a distinct human rights abuse in which *FirmA* is involved as a corporation – e.g. sexual discrimination in the workplace. Second, a third research student repeated this exercise to check that no document or relevant information was missed in the first stage, and where appropriate updated the file containing the documents reporting the abuses. This process took around 12 months to complete. In a third stage, we entered reported information on each individual event of human rights abuse into a dataset, which included the following items:

- (a) a unique code for each distinct event of abuse (hereafter “event”);
- (b) each event code was associated with the firm-level code;
- (c) a brief description of the event – e.g. “it exposed employees to radiation without protection, which has resulted in long term illness or death”;
- (d) year(s) in which the event took place, including, for each event, the year in which the abuse is known to have started and the year in which it is considered to have ceased;
- (e) the year in which the event was first denounced or reported;
- (f) whether the event is:
 - a human right abuse of the *jus cogens* type. Examples of this type of abuse in our dataset include e.g. documented cases of unauthorized experimentation in the pharmaceutical sector of vaccines that have led to infant malformations and deaths; slave-labour working conditions, including child exploitation; use of chemicals in production processes that have resulted in the death of employees and people in nearby communities;

– a human right abuse of the *no-jus-cogens* type. Examples of this type of abuse in our dataset include e.g. workplace discrimination (based on ethnic group, sex, health conditions, etc.); union busting and other work-related violations; environmental contamination or commercialization of final products that have endangered human health;

(g) whether the event of the abuse is:

- directly associable to the corporation, which includes abuses committed by managers working at the headquarters or at one or more of the corporate subsidiaries worldwide;
- indirectly associable to the corporation, which includes abuses committed by third-party actors which have connections to the corporation.

Data on human rights events were collected up to the year 2010. However, due to the existence of a time lag between the year in which an abuse has been committed and the year in which it was first reported, we decided to limit our analysis to the 1990-2006 cohort. This choice was influenced by the fact that, over the period of analysis, the average reporting lag is 4.37 years: hence the years after 2006 would have systematically underestimated events that occurred in that period. Our choice to start the analysis at 1990 is based on two considerations: first, that the BHRRC began in the 1990s, and second that it is only from the early 1990s that information on corporate human rights abuses started to become more widely available, especially due to increased accessibility to the internet.

Once the information was codified into the dataset, we asked a human rights expert, with experience of working for BHRRC, to check the events to ensure there were no errors or misunderstandings in the events reported, and that the coding of abuses into the different types (*jus cogens*, *no-jus cogens*, direct and indirect) was accurate.

We were conservative and careful in our coding of information on human rights abuses; also the BHRRC filters out information on abuses from unreliable sources. However, our data do have some shortcomings. We include information on alleged abuses, which may not be finally judged as such by a domestic court. However, in reality, only a small minority of reported human rights

abuses go through the judicial system. The lack of an effective international law regulatory framework (and the fact that relevant treaties are seldom incorporated into national legal systems) (e.g. Kobrin, 2009), the often low level of protection granted by national legislation, and the weakness of many governments in respecting the rule of law (e.g. due to widespread corruption and/or incompetence in the judicial branch) make it difficult for victims of abuse to access formal justice and to have their cases heard in fair proceedings. Even when this does occur, the courts may take several years to reach a final decision and the parties frequently embark on negotiations to reach a “friendly settlement” which per se is not definitive proof of guilt. Hence, relying only on abuses that have gone through a final judicial decision would be problematic. Another potential weakness of the dataset is not the overestimation of abuses, but rather their underestimation since not all abuses are denounced and tracked in the BHRRC portal. Unreported abuses may be common in countries where political and civil rights are weak, freedom of the press is limited, and protests by local communities, NGOs, and other components of civil society are repressed. Also, abuses are unlikely to be reported in those countries where governments are complicit in corporate human rights abuses and impose bans on this type of information. Despite these caveats, we think that our dataset is an accurate selection of the available empirical evidence on corporate human rights abuses, and reflects what is available to analysts and scientists, on these abuses.

Our dependent variable – *human right abuse* - is a binary variable indicating whether a firm at time t has been involved (coded as 1) or not (coded as 0) in any type of alleged human right abuse. We also constructed four other dependent variables based on the type of abuse, namely *jus cogens abuse*; *no-jus cogens abuse*; *direct abuse* and *indirect abuse*. For instance, we constructed a dependent variable for *jus cogens abuse*, which is a binary variable indicating whether at time t a firm has been involved in an allegation of *jus cogens* abuse (coded as 1) or not (coded as 0). We did the same of the other three types of abuses.

Explanatory variables.

Our explanatory variables are: *CSR*, a binary variable taking the value 1 if the firm had explicitly declared to have adopted CSR at time *t*; and *CSR experience* reporting at period *t*, the years since firm's declaration of CSR adoption. Information on corporate CSR adoption was retrieved directly from corporate websites, by looking at the web-page dedicated to CSR, which commonly is identified as "Social Corporate Responsibility," or variations of this (e.g. "Social Responsibility", "Corporate Responsibility and Sustainability", etc.). While most firms have a CSR webpage or include CSR information in their Annual Reports, not all corporations indicate the year when CSR policies were formally introduced into their corporate strategy. In such cases, we contacted companies directly, via email or phone. There are no missing data for this item. In asking for the information, we did not impose a definition of CSR, we simply referred to the company's CSR website and asked what year CSR was first formally introduced at the corporate level. We are aware that the CSR-related variables we use in this paper do not account for the different commitments and resources that corporations devote to CSR, but our interest here is in whether or not they adopted explicit policies, which per se is an important strategic decision for the firm. We nevertheless discuss and defend the choice of this variable in the conclusion to the paper.

Control variables.

Over the years, human rights scholars have conducted extensive research on the conditions that give rise to the emergence of corporate human rights abuses. Qualitative evidence suggests that some industries are more exposed than others to ethical problems and corporate complicity with human rights abuses. We thus control for a firm belonging to the energy and extractive industries (*Dummy Energy and Extractive*) (Papaioannou, 2006; Wright, 2008; Drimmer, 2010; Slack, 2011); to labour intensive industries such as the footwear and textile industries (*Dummy Footwear and Textile*) (Arnold and Bowie, 2003) and the toy industry (Roloff and Abländer, 2010), and to the chemical (*Dummy Chemicals*) and pharmaceutical (*Dummy Pharmaceutical*) industries (Leisinger,

2005; Santoro and Gorrie, 2005; Brice, 2008; Wise, 2009). We control also for the service sector as a whole (*Dummy Service*), where we consider firms may be less likely to be involved in abuses of human rights because they are not involved in manufacturing activity. The reference group is all the other industries. We control also for the size of the corporation (*Size*), using average number of workers in the period 1990-2006, since larger firms, because of the larger number of their operations, may be involved in more abuses; for the age of the corporation (*Age*), and for its country of origin (*Dummy country of origin*), based on the evidence that different cultures may value human rights and ethics differently (Christie et al., 2003; Bailey and Spicer, 2007; Matten and Moon, 2008).

Analyses

We test our hypotheses through the following baseline econometric model:

$$\Pr(\text{ABUSE}_{it}) = \beta_0 + \beta_1 \text{CSR}_{it} + \beta_2 \text{CSR experience}_{it} + \beta_3 \text{TIME DUMMIES}_t + \beta_4 \text{CONTROLS}_i + \mu_{it} \quad (1)$$

where $\Pr(\text{ABUSE}_{it})$ is the probability of firm i to be involved in an alleged abuse at time t . We run one estimation for each type of alleged abuse, namely: *human rights abuses* (including any kind of abuses); *jus cogens abuses*; *no-jus cogens abuses*; *direct abuses* and *indirect abuses*. $\Pr(\text{ABUSE})$ is explained by *CSR* and by *CSR experience*, which have been previously defined. We also include control variables (*CONTROLS*) (i.e. industry controls, size, age, and country of origin) and a time dummy (*TIME DUMMIES*), which we include in all the estimations because the number of alleged abuses may increase over time due to the expected increased availability of information on corporate human rights abuses on the Internet, and as a result of the massive reporting work undertaken by various agencies and NGOs (see Figures 2-3 for time trends). Our analysis therefore is conservative since it controls for the fact that increases in alleged abuses may be due to the effect

of a higher probability of abuses being reported over time. As expected, the signs of the coefficients of the time dummies are increasing over time.⁷

Our analysis presents two main critical methodological considerations. First, the presence of unobserved heterogeneity at firm level which our controls cannot fully account for – which suggests use of panel data estimates.⁸ Second, we suspect endogeneity on the variable *CSR* since the factors that lead firms to declare to adopt CSR may be the same factors that promote abusing behavior – this suggests use of an instrumental variable (IV) approach to control for endogeneity.⁹

To account for both of these problems we proceed as follows. First, we run the test for no endogeneity (Wooldridge, 2010, pp. 352, 358) to assess whether an IV approach is necessary. Next, we run a Hausman test to check whether the unobserved heterogeneity is uncorrelated or is arbitrarily dependent on the observed explanatory variables, in order to decide between a random effects (RE) or a fixed effects (FE) framework (Wooldridge, 2010, p. 328). The rejection of the null hypothesis in the Hausman test suggests the use of the FE estimator. Based on the results of the no endogeneity and Hausman tests we selected the most appropriate estimation method from among RE, FE, RE-IV and FE-IV approaches for each dependent variable. The dependent variables have specificities that in principle also justify different estimation approaches. For instance, in the case of the dependent variable being *jus cogens abuses* we believe measurement errors will be less likely, because such abuses refer to the worst and most serious human rights violations, which makes their reporting more thorough and more likely to be cross-validated by the press and other actors such as NGOs. This means that the errors are less likely to be less serially correlated, which means also that

⁷ Time dummies' coefficients are available upon request.

⁸ Tests for the absence of unobserved heterogeneity (Wooldridge, 2010, p. 299) are rejected in all our regressions.

⁹ Another possible methodological consideration derives from the fact that our dependent variables are all binary. However, endogeneity is hardly tractable in binary response models unless specific assumptions are made (see, e.g., the discussion on bivariate probit estimation in Wooldridge, 2010, p. 595). The presence of unobserved heterogeneity at firm level would impose restrictive assumptions (see Wooldridge, 2010, p. 630) and at the same time Random Effects and Fixed Effects estimations provide reasonable estimates of Eq (1) (see Wooldridge, 2010, p. 608).

the FE framework is the most accurate estimation method – an intuition that is corroborated by the results of the Hausman test (see Results).¹⁰

The IV of CSR for firm i is measured as the share of firms in our dataset, belonging to the same sector as firm i , that declare to have adopted CSR at time t (a variable we call *CSR contagion*). This variable reflects the well known contagion (Rivoli and Waddock, 2011) or mimetic isomorphism effect (Matten and Moon, 2008), whereby companies emulate the behavior of direct competitors in the adoption of a CSR policy. The IV *CSR contagion* satisfies the two conditions for IV: it is expected to be strongly correlated to CSR, because of the contagion effect mentioned above, and it is weakly correlated to abusing behavior by firm i . First step estimates, reported in Appendix B, suggest that *CSR contagion* is a good IV.

In all the estimates p -values are calculated on the basis of robust standard errors given the presence of serial and cross-sectional correlation in the errors (we test for this, see Wooldridge 2010, p. 319). For all the models we report the statistics of the adjusted R^2 . Also, to enable comparison of these statistics across all estimation methods we report the percentage correctly predicted, as recommended by Wooldridge (2010, p. 573) in the case of binary dependent variables. All the estimates are made in R and performed by routines contained in several packages, primarily `plm` (Croissant and Millo, 2008).

¹⁰ FE estimates suffer from the well known attenuation bias in the presence of measurement errors (Wooldridge, 2010, p. 365).

RESULTS

Descriptive Statistics

Table 1 provides summary statistics and correlations for the variables in our analysis. The correlation among different kinds of abuses suggests that they should be analyzed separately in the econometric estimations. Figure 1 shows the cumulative number of companies in our sample that declared to have adopted CSR policies in the period 1990-2006. We observe an increase over time, especially after the year 2000, in line with evidence on the growing importance of CSR for corporate strategy (among many others see: World Bank, 2003; Kitzmueller and Shimshack, 2012). At end of time period, only four of our sample firms did not have in place a CSR policy.

Insert Table 1 about here

Insert Figure 1 about here

Table 2 reports frequency distributions on the involvement of our sample firms in different kinds of abuses. Over the period 1990-2006, some 60 percent of the companies in our sample were involved in at least one case of alleged abuse, and around a third were involved in allegations of *jus cogens* or indirect abuses (33% and 27% respectively). Over the same period, more than half the sample was involved in at least one alleged *no-jus cogens* or direct abuse (54% and 52% respectively).

Insert Table 2 about here

Figure 2 shows that while the percentage of companies involved in at least one alleged abuse of the *jus cogens* type (straight line) has not increased over the period 1990-2006, the percentage of companies with at least one *no-jus cogens* abuse (dotted line) has increased over time - by a factor of 3. Figure 3 shows that the percentage of companies involved in allegations of at least one direct (straight line) or indirect abuse (dotted line) has increased over time. The growing trends observed for almost all the types of abuses is mostly due to an increase of the media coverage and NGOs' reporting of abuses over time. For this reason, we use time dummies in the estimations.

Insert Figure 2 about here

Insert Figure 3 about here

Estimations

Table 3 reports the results of the regression analyses used to test Hypotheses 1a and 1b and Hypothesis 2. We run separate regressions for different types of abuses. The first column in Table 3 reports the results of the regression considering all types of abuses (i.e. dependent variable is *human rights abuses*). The coefficient of CSR is statistically significant with a positive sign ($\beta=0.078$, $p<0.01$), supporting Hypothesis 1a, which predicts that corporations with CSR policies in place (as

reflected by the declaration of adoption made by the firm) are more likely to be involved in alleged human rights abuses than non-adopters. However, when we look at the different types of abuses (Columns 2-5) we find that this relationship varies according to the kind of abuse. In particular, the coefficient becomes negative when the dependent variable is the probability of being involved in a *jus cogens* abuse (Column 2): in this case firms that have declared to adopt CSR policies are 7.5 percent less likely than non adopters to be involved in an allegation of *jus cogens* abuse, supporting the predictions of Hypothesis 1b. For all other kinds of abuses (Columns 3-5), our results support Hypothesis 1a: the coefficients in the regressions when the dependent variable is *no-jus cogens abuses* ($\beta=0.045$, $p<0.05$), *direct abuses* ($\beta=0.153$, $p<0.05$) and *indirect abuses* ($\beta=0.028$, $p<0.10$) are all positive and significant. In summary, we find that firms that have declared to have CSR policies are more likely to be involved in all kind of alleged abuses, with the exception of the worst kind, *jus cogens* abuses.

The second set of findings concerns the effect of a longer period of time since the declaration of adoption of the CSR policy, on the probability of involvement in an alleged abuse. We find support for Hypothesis 2 only when we consider *direct abuses* as the dependent variable (Column 4): in fact, the probability of being involved in a direct abuse decreases over time by 0.3 percent per year. In contrast, the coefficients are non-significant for the dependent variables of *human rights abuses* (Column 1), *no jus cogens abuses* (Column 3), and *indirect abuses* (Column 5). Finally, when *jus cogens abuses* is the dependent variable (Column 2), the probability of a firm being involved in this type of abuse increases by 0.5 percent per year ($\beta= 0.005$, $p<0.05$), which contrasts with the prediction in Hypothesis 2.

Insert Table 3 about here

Insights from the Control Variables

Since all the control variables except *Age* are time invariant, we report them only for the RE estimations, that is, only when the dependent variables are *no-jus cogens abuses*, *direct abuses* or *indirect abuses* (Appendix C).¹¹ We find that companies operating in the energy and extractive industries have a higher chance of being involved in allegations of direct abuses compared to the reference group, largely confirming the qualitative evidence on this subject (Papaioannou, 2006; Wright, 2008; Drimmer, 2010; Slack, 2011). Chemical companies are more likely to be involved in alleged direct and *no-jus cogens* abuses, but less likely to be involved in alleged indirect abuses, which is in line with the high vertical integration of firms in this sector. Footwear and textile companies, on the other hand, are more likely to be involved in allegations of *no-jus cogens* abuses and are almost 50 percent more likely than the reference group to be involved in indirect abuses – a result that is in line with the global disintegration of manufacturing activities in this industry. Toy industry companies are less likely to be involved in allegations of direct human rights abuses compared to the reference group, which reflects the fact that in this sector companies may be more careful about damaging their reputation, given the sensitivity of their final market – and this despite anecdotal evidence to the contrary (see the Mattel case; Roloff and Aßlander, 2010). Another interesting result is that European corporations are less likely than US and Canadian corporations to be involved in allegations of direct abuses – a result that may be explained by the fact that the EU’s institutional system has traditionally differed from the North-American system (i.e. higher engagement of governments in economic and social activities, higher institutional protection of employees and other stakeholders’ rights, more regulated markets, etc.), which may have resulted in more prudent behavior from EU companies when dealing with potential risks of human rights abuses (Matten and Moon, 2008). Finally, we find that larger firms are systematically more likely to be involved in all three types of abuses, consistent with their larger worldwide operations.

¹¹ For FE estimations we control also for *Age*, which is never statistically significant.

DISCUSSION

Understanding the impact of CSR on society requires taking account of its impact on the corporate duty to respect human rights. John Ruggie (2008, p. 17) described the responsibility to respect as “a baseline expectation, [since] a company cannot compensate for human rights harm by performing good deeds elsewhere”. Drawing on alternative theories, our predictions about whether firms that have declared to have CSR policies in place would have a higher (or lower) probability to be involved in alleged human rights abuses were open. We also suggested that longer established CSR policies would reduce the chances of the company being involved in allegations of human rights abuses. Our analyses generally provide support for the existence of a relationship between declarations of adoption of CSR policies and allegations of human rights abuses, but show that the nature of this relationship varies according to the type of abuse. Companies that declare to have introduced CSR policies, compared to non-adopters, are less likely to be involved in the worst types of abuse, *jus cogens*, which include slavery, systematic racial discrimination, and arbitrary deprivation of life. Our interpretation is that this type of abuses is susceptible to strong justice reactions both internal and external to the corporation. In the eyes of internal and external observers, *jus cogens* abuses may be far less defensible than other types of abuses, and therefore they imply extraordinarily high costs, in terms of both reputation loss and compensation costs, which should be clear disincentives for this kind of behavior. On these grounds, corporations may seriously commit to avoidance of these kinds of abuses. However, we observed the opposite pattern for *no-jus cogens* abuses, which include less serious, and thus more tolerable types of abuse. Here our results are in line with critical left CSR theories (Banerjee, 2007; Enoch, 2007; see Kuhn and Deetz, 2008 for a review), since a plausible interpretation is that CSR is used instrumentally by corporations to “sugar the pill” of their *no-jus cogens* abuses. The costs of association with these kinds of abuses may not be so high, and thus may be worth the risk.

Hence, our results are consistent with the view that organizations fear justice reactions and strategize their human rights behavior. Beside, they indicate that organizational justice theory (Rupp

et al., 2006; Aguilera et al., 2007) combined with the view that corporations are self-interested organizations (Jensen, 2002), is useful to predict corporate behavior in the presence of CSR. At the same time, our evidence does not provide support for the idea that CSR adoption provokes a moral conversion across the whole organization – as long feared by business ethics scholars (Gond et al., 2009). Also, while studies on organizational learning emphasize the importance for competitiveness of knowledge accumulation over time (e.g. Nelson and Winter, 1982; Nonaka and Takeuchi, 1994), we observe that when the learning is related to the ability to manage human rights, corporations are slow learners and in many cases do not seem to learn at all. In this respect, we observe that companies may act strategically by reducing, over time, their involvement only in direct abuses while continuing to commit indirect abuses – a result that could hide a potential “outsourcing” of corporate abuses to third parties.

This latter result can be explained by the higher control maintained by corporations on their internal operations and the greater difficulty involved in controlling third-party actors, which are not owned by the corporation. For instance, with respect to suppliers, Apple’s recent Supplier Sustainability Progress Report (Apple, 2012) shows high levels of suppliers’ non-compliance with the labor rights standards set by Apple – despite the company’s notable attempts to monitor and guide compliance. But lack of control of indirect abuses over time can also be explained by the expected lower justice reactions when abuses are associated with third-party actors rather than members of the corporation. Companies’ responsibility for the companies in their value chains has received prominence only recently (Mares, 2010) and proving complicity between third-party actors and corporations is often less than straightforward (International Commission of Jurists, 2008). Hence, it is plausible that, along with being more complex to control, indirect abuses bear costs – in terms of reputational losses and compensation costs - that are much lower than those connected to direct abuses. At the same time, third-party abusing actors may lure corporations into exploiting advantageous business opportunities.

Finally, on the learning side, we found that corporate involvement in allegations of *jus cogens* abuses shows a significant, albeit modest, increase over time. Hence, corporations that have declared to have CSR policies in place are less likely to be involved in *jus cogens* abuses compared to corporations that have not adopted CSR policies, but they are generally unable to maintain prolonged moral austerity. This result is puzzling and is certainly deserving of some qualitative insights from in-the-field research. One possible explanation for it might be that, after some years of having a CSR policy in place, during which corporate reputation has not been damaged by involvement in any cases of severe abuse, some firms relax their control on *jus cogens* human rights, increasing the chances of involvement in an abusing event of this kind.

Contributions

The results have a number of implications for the CSR literature. Early work on CSR focused on whether CSR should exist or not (see, Friedman, 1970; Jensen, 2002), and more recent research has begun a shift to “why it does exist and it affects the economy” (Kitzmüller and Shimshack, 2012, p. 52). Most management research is focused on “building a case for CSR” and demonstrating the value for corporations (McWilliams and Siegel, 2001; and Margolis and Walsh, 2003 for a critical appraisal). What has remained largely unexplored is the analysis of the value that CSR has for society, which recent contributions demonstrate to be a highly controversial subject of inquiry (see e.g. Karnani, 2011 vs. Rivoli and Waddock, 2011). This paper contributes with new empirical evidence to this subject, and this in turn helps to speculate on the fundamental question of whether CSR is likely to be a win-win strategy for companies and society, and if so, why. In the short run, the advantages for society may come from the lower involvement in *jus cogens* abuses by CSR adopters, whereas companies may still benefit from the lucrative opportunities tied to *no-jus cogens* abuses. Over the long run, society can benefit from CSR through companies’ more limited involvement in direct abuses, whereas they can simultaneously take advantage from indirect abuses. It is hard to conclude that these scenarios constitute a win-win situation, but given the inherent

complex tension between business and societal interests, this seems to be a realistic appraisal of the impact of CSR on society.

On the conceptual side, we believe that our research potentially contributes to a middle ground between different perspectives on CSR, as suggested by Weaver and Treviño (1994). Jones and Wicks (1999) and Scherer and Palazzo (2008). The debate on CSR was originally developed based on two scholarly positions (Swanson, 1995). The first is the economic-aligned perspective, represented largely by management scholars, who consider CSR as beneficial as long as such a policy does not conflict with profit maximization. However, it is often considered to be “value free” and unable to provide a morally-grounded theory of CSR (Jones and Wicks, 1999; Scherer and Palazzo, 2008). The second is the duty-aligned perspective, which is grounded in moral philosophy and ethics and argues in favor of CSR, but on the basis of its moral merits and not as an instrument for profit or value maximization (Bowie, 1999; Gond et al., 2009; Cragg, 2012). These two strands of scholarly research are methodologically distant since the former tends to adopt positivistic research methods, while the latter is essentially theoretical and normative. In their 1994 article, Weaver and Treviño (1994, p. 140) called for some reconciliation between these approaches and for “normative theorists to be concerned with the vicissitudes of application and empirical theorists to be self-conscious about the moral purposes of their work”. A similar call was made by Jones and Wicks (1999), who suggested that if we, as a society, desire a moral and practical organizational response to the spread of intensively competitive markets, some convergence between these two approaches and their grounding theories will be necessary. We think the present paper goes some way towards a convergence: on the one hand, it applies positivistic research to investigate “value-rich” research questions; on the other hand, it provides fresh evidence to promote a more practical and less utopian ethicist approach to CSR.

On normative grounds, our research endorses the UN PRR framework’s focus on the responsibility to “respect.” Our empirical evidence reinforces the view that it is necessary to move beyond the traditional notion that only States should be held responsible for human rights

violations, and agrees with the need to enforce the mechanisms that allow corporations to be held accountable for their own violations (Muchlinski, 2001; Ruggie, 2008; Kobrin, 2009), including violations that are “allowed” in some of the host countries, but do not conform to the Universal Declaration of Human Rights. Unfortunately, the deficiencies of international law on this subject (Muchlinski, 2012), and the unwillingness or incapacity of many host countries effectively to regulate the operations of foreign corporations (Campbell, 2006; OECD, 2006; De Jonge, 2011), suggest that the hard-law way alone is unable fully to address the problem of corporate human rights abuses. One of the ways through which these limitations are being addressed is through a new approach to the formulation of foreign investment policies. In recent years, a growing number of International Investment Agreements (IIA), particularly Free Trade Agreements (FTAs), have included clauses oriented to enhancing corporate respect of the environment and human rights of host countries, not included in the original Bilateral Investment Treaties (BITs) (Aaronson, 2007; World Investment Report, 2010; 2011).¹² Although the effectiveness of these policies has yet to be demonstrated, their diffusion in principle could ease the settlement of investor-State disputes in local tribunals. The evidence of increasing human rights abuses provided by this work is certainly an encouragement to policy makers to continue to address these issues in FTAs.

Our research suggests that corporate self-regulation through CSR may be effective to some degree, in constraining abuses. Evidence that companies that have declared to have CSR policies in place are less likely to be involved in alleged *jus cogens* abuses is an indication that CSR works to prevent the worst abuses. Our conjecture is that this result is related more to the costs of strong justice reactions from different types of stakeholders, than to a thorough moral conversion of the corporations involved – not least because otherwise there would have been a reduction in other kinds of abuses. On these grounds, we believe that one of the most powerful incentives for self-regulation is stakeholder awareness of the existence and relevance of corporate abuses, which will

¹² This process has its origins in the mid-1990s (see e.g., the NAFTA preamble’s reference to environmental and labor considerations), but has become salient only in the recent years, as highlighted by UNCTAD 2010 and 2011 World Investment Reports.

influence their justice reactions. While awareness campaigns have increased since the early 1990s, we see a need for more to be done to increase stakeholder sensitivity towards all kinds of abuses, especially *no-jus cogens* abuses, which tend to be less prominent in the news and to be much more easily tolerated or forgiven than *jus cogens* abuses. One of the recommendations from this work is that governments should play a bigger role, through education programs so that future generations are more aware of human rights issues, and efforts by NGOs and international organizations to get the human rights responsibilities of corporations on the agendas of trade and industry policy.

Finally, our results suggest that dealing with indirect abuses will be one of this century's most important challenges. Corporate sustainability managers will need to pay much more attention to indirect abuses, and the disclosure of abuses by their global suppliers and clients must become part of their transparency agendas. This would facilitate the work of NGOs and the media in monitoring abuses and stimulating more responsible behavior along the supply chain. Self-regulation is probably the most effective way to deal with indirect abuses since proving legal complicity of corporations with third-party actors is fraught with difficulty (Clough, 2008; International Commission of Jurists, 2008).

Limitations and areas for future research

This paper has some limitations which it is hoped will stimulate further research along the directions indicated below. Measuring human rights abuses is without doubt one of the major challenges of this project; the concept of human rights abuse is complex and highly qualitative and studies on the impacts of and/or violations of human rights are mostly qualitative. However, measurement of human rights abuses at country level is becoming more common (Claude and Jabine, 1986; Barsh, 1993; UN, 2007; UN, 2008; Holland, 2008), because it is the only way to monitor abuses and allow cross country comparisons over time. We have extended this measurement to corporate abuses although cognizant of the fact that our dataset does not include unreported abuses and that, despite careful scrutiny, the abuses we count have not necessarily

become the objects of final judgments by domestic or international courts. Hence, we use allegations of abuses as a proxy of human rights abuses.

Another limitation is that our estimations do not control for the countries where the abuses took place, which can influence both the probability of abuses being committed and of their being denounced or reported. However, our research is interested in how the adoption of CSR as a global corporate strategy relates to human rights abuses, irrespective of where they took place. Also our unit of analysis is the whole corporation rather than individual subsidiaries, which means that abuses may be occurring in several countries at the same time; thus controlling for country-effects within our estimation approach was not possible. A promising line for future research would be to analyse similar research questions, but at the level of the subsidiary. We know from the International Business literature that there is a wide heterogeneity within corporate units in the way that CSR policies are implemented, and the ways in which human rights are recognized; hence extending the focus to the subsidiary levels would provide additional insights into the relationship between CSR and human rights abuses.

We also acknowledge the limitations of our operationalization of CSR. Our variable registers only the declaration of CSR-adoption and does not account for cases in which the companies declare to have CSR policies but they in effect have only a CSR web-page, which includes information about codes of ethics, and CSR-related initiatives (e.g. charity, and other positive responsibilities) that are just fake. We believe that, since we are dealing here with the largest and most visible advanced countries' corporations, it is highly unlikely that they declare the false on their websites or when asked by our team about their CSR policies. Hence, in spite of our caution with this concept, we do believe that declaration of CSR adoption do reflect the explicit adoption of CSR policies.

Certainly, our measure of CSR as binary variable could raise concerns, since it does not account for the differences across corporations in terms of the resources devoted to CSR policies. However, our measure is less likely to suffer from measurement errors than indicators based on

qualitative information provided in companies' annual reports, which are clearly influenced by the different communication efforts of these companies rather than by their different commitment to CSR. Also, longer term data on hard investments in CSR (i.e. balance sheet data) and qualitative annual or sustainability reports are not available. Alternative indicators of CSR – such as those included in the CSR Hub Portal and the Global Reporting Initiative (GRI) - are available only for the most recent years and thus are not useful for the purposes of this study. Financial sustainability indexes, such as the Dow Jones Sustainability Index (DJSI); the FTSE KLD 400 Social Index (and derivative indexes) and the FTSE4Good, are widely used in the economic analysis of corporate social performance, but most suffer from two main limitations that make them unsuitable for our study. First, their use would introduce selection bias in the sample, because in most of them only firms that are considered to operate in a sustainable and ethical manner are listed, and given sectors (e.g. tobacco) are excluded by definition (an exception are the KLD's 'exclusionary screens'). Second, decisions about companies' listing are generally evaluated by a panel of experts that also undertake media and stakeholder analysis, which means such indexes are likely to include dimensions of our dependent variable – for instance, a firm listed on the DJSI can be suspended should the firm be involved in a human rights scandal. Furthermore, with the exception of the KLD Social Index, which was introduced in 1990, the other indexes are quite recent (e.g. 1999 for the DJSI; 2001 for the FTSE4Good). The KLD Social Index is only available for US large public companies, while a similar index with a global span – the FTSE KLD Global Sustainability Index – was introduced only in 2009. Limiting the analysis to US firms would have been reductive, especially considering the significance of country of origin effects in our analysis. For these reasons, none of the alternatives suggested above were adopted in this study. It should be mentioned also that our research questions are about *CSR adoption*, which refers to the strategic decision and subsequent declaration to engage in explicit CSR policies. We consider that, irrespective of the investments devoted to these initiatives, a company that declare to adopt CSR policies is explicitly

‘outing’ their core values and beliefs, for strategic purposes, and this has a value in itself that should not be understated.

To conclude, we consider this study to be a first a first step in a new line of empirical research on the social impact of CSR, and we hope that in the future more quantitative data on firm-level CSR investments will be systematically available over time. This constitutes a major challenge for this field of research, which requires extensive collaboration with the business sector over the reporting and sharing of this kind of information. In this sense, one of the practical implications of this study is related to these data being made available which would be of immense help to analysts trying to account for the economic and societal impact of CSR. Indeed, sharing this kind of information should become part of companies’ CSR policies in the future. We believe also that this area of research would benefit from collaboration between academia and NGOs or organizations such as the BHRRC, over the codification of information on corporate human rights abuses into datasets, which could be made freely available to scholars and analysts.

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APPENDIX A

List of Civil and Political Rights

- ⤴ Right to self-determination of peoples
- ⤴ Freedom from discrimination
- ⤴ Right to an effective remedy for violations of rights
- ⤴ Right to life
- ⤴ Freedom from torture and from cruel, inhuman or degrading treatment or punishment
- ⤴ Freedom from slavery and servitude
- ⤴ Right to liberty and security of the person
- ⤴ Freedom from imprisonment due to debt
- ⤴ Freedom of movement
- ⤴ Right to equality before the law
- ⤴ Right to fair trial
- ⤴ Right to privacy
- ⤴ Freedom of thought, conscience and religion
- ⤴ Freedom of opinion and expression
- ⤴ Right to peaceful assembly
- ⤴ Freedom of association
- ⤴ Right to marry
- ⤴ Right to vote and to participation in public affairs
- ⤴ Right to a nationality

List of Economic, social and cultural rights

- ⤴ Right to self-determination of peoples
- ⤴ Freedom from discrimination

- ⤴ Right to work
- ⤴ Right to fair conditions of work
- ⤴ Right to form and join trade unions
- ⤴ Right to strike
- ⤴ Right to social security
- ⤴ Right to protection of the family
- ⤴ Freedom of children and youth from economic exploitation and from harmful and dangerous work
- ⤴ Prohibition of child labour below a certain age-limit set by law
- ⤴ Right to an adequate standard of living
- ⤴ Right to food
- ⤴ Right to housing
- ⤴ Right to be free from hunger
- ⤴ Right to health
- ⤴ Right to education
- ⤴ Right to take part in the cultural life and benefit from scientific progress
- ⤴ Right to protection of intellectual property

List of *jus cogens* violations

- ⤴ Arbitrary deprivation of life
- ⤴ *Torture* and other cruel, inhuman or degrading treatment
- ⤴ Slavery
- ⤴ Prolonged arbitrary detention
- ⤴ Forcible suppression of the right of peoples to self determination
- ⤴ Summary executions

- ♣ Forced disappearances
- ♣ Genocide
- ♣ Systematic racial discrimination
- ♣ Acquisition of territory by force
- ♣ *Refoulement* (Deportation to countries where the person faces arbitrary deprivation of life, torture or ill-treatment)
- ♣ War crimes
- ♣ Aggression (in inter-state relations)

The list of *jus cogens* violations is based on Orakhelashvili (2008). We are aware that there are other classifications of *jus cogens* violations and this is a subject of current debate.

APPENDIX B

Table B1. First step regressions

	<u>CSR</u> <u>(Human right</u> <u>abuses)</u>	<u>CSR</u> <u>(Jus cogens</u> <u>abuses)</u>	<u>CSR</u> <u>(Direct abuses)</u>
Model	FE-IV	FE-IV	RE-IV
Estimation method	P2SLS	P2SLS	P2SLS
Variables			
TIME DUMMIES	YES	YES	YES
<i>CSR contagion</i>	.83 (.04)***	.83 (.04)***	.79 (.04)***
<i>Age</i>	.04 (.01)***	.04 (.01)***	.00 (.00)***
<i>CSR experience</i>	-.01 (.00)**	-.01 (.00)**	.01 (.00)***
<i>Size</i>	-	-	.01 (.02)
<i>Dummy Service</i>	-	-	.02 (.05)
<i>Dummy Energy and Extractive</i>	-	-	.01 (.08)
<i>Dummy Toys</i>	-	-	.03 (.11)
<i>Dummy Chemicals</i>	-	-	-.09 (.11)
<i>Dummy Pharmaceutical</i>	-	-	-.10(.12)
<i>Dummy Footwear and Textile</i>	-	-	.11 (.11)
<i>Dummy Europe</i>	-	-	.01(.04)
<i>Dummy Asian</i>	-	-	-.01 (.08)
<i>Dummy Other Countries</i>	-	-	.18 (.23)
Number of observations	2280	2280	2280
Adjusted R ²	.44	.44	.47

** $p < .05$ *** $p < .01$

Note: Robust standard errors are in brackets.

P2SLS=Panel Two-Stage Least Squares.

APPENDIX C

Table C1. Coefficients of the control variables in the RE estimations

	<i>No-jus cogens abuses</i>	<i>Direct abuses</i>	<i>Indirect abuses</i>
Model	RE	RE-IV	RE
Estimation method	POLS	P2SLS	POLS
Variable			
TIME DUMMIES	YES	YES	YES
<i>Age</i>	.00(.00)	.00(.00)	-.00(.00)
<i>Size</i>	.09(.02)***	.09(.02)***	.07(.02)***
<i>Dummy Service</i>	-.08(.05)	-.03(.04)	-.02(.05)
<i>Dummy Energy and Extractive</i>	.12(.08)	.31(.10)***	.09(.08)
<i>Dummy Toys</i>	-.12(.08)	-.14(.07)**	-.05(.05)
<i>Dummy Chemicals</i>	.55(.16)***	.59(.14)***	-.12(.11)
<i>Dummy Pharmaceutical</i>	-.12(.14)	.13(.18)	-.12(.05)**
<i>Dummy Footwear and Textile</i>	.41(.18)**	.09(.12)	.47(.25)*
<i>Dummy Europe</i>	-.07(.05)	-.14(.04)***	.03(.05)
<i>Dummy Asian</i>	.19(.09)**	.11(.07)	.10(.08)
<i>Dummy Other Countries</i>	-.19(.09)**	-.20(.07)**	-.15(.08)*

* $p < .10$ ** $p < .05$ *** $p < .01$

Note: Robust standard errors are in brackets.

POLS= Pooled Ordinary Least Squares; P2SLS=Panel Two-Stage Least Squares.

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TABLES

	Variables	Mean	Min	Max	S.d.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	
1	Human rights abuses	0.26	0	1	0.44																			
2	Jus cogens abuses	0.12	0	1	0.33	.63**																		
3	No-jus cogens abuses	0.02	0	1	0.04	.85**	.31**																	
4	Direct abuses	0.18	0	1	0.39	.08**	.49**	.69**																
5	Indirect abuses	0.12	0	1	0.33	.63**	.55**	.59**	.18**															
6	CSR	0.33	0	1	0.47	.15**	.06**	.16**	.13**	.14**														
7	CSR experience	4.83	0	141	16.82	.05*	.04**	.05**	.05*	.06**	.41**													
8	CSR contagion	0.28	0	1	0.27	.02**	.02**	.25**	.17**	.17**	.58**	.26**												
9	Age	73.91	0	207	47.86	.05*	.03	.01**	.12**	-.08**	.02**	.17**	.18**											
10	Size	10.98	7.31	13.87	1.16	.03**	.29**	.22**	.25**	.21**	.09**	.09**	.06*	.12**										
11	Dummy Service	0.36	0	1	0.48	-.16**	-.04**	-.16**	-.13**	-.06**	-.13**	-.13**	-.21**	-.09**	.12**									
12	Dummy Energy & Extractive	0.07	0	1	0.26	.11**	.14**	.07**	.16**	.09**	-.02	-.03	-.05*	-.08**	.05*	-.21**								
13	Dummy Toys	0.04	0	1	0.19	-.11**	-.07**	-.09**	-.08**	-.07**	.07**	.02	.13**	.03	-.1**	-.14**	-.05*							
14	Dummy Chemicals	0.04	0	1	0.19	.21**	-.05**	.25**	.27*	-.06*	.08**	.12**	.12**	.12**	-.01	-.14**	-.05*	-.04*						
15	Dummy Pharmaceutical	0.04	0	1	0.19	.02*	.04*	-.04*	.05**	-.06**	-.02	-.04*	-.07**	.11**	-.02	-.14**	-.05*	-.04*	-.04*					
16	Dummy Footwear & Textile	0.04	0	1	0.19	.11**	.07*	.15**	-.01	.24**	.03	-.04*	.04*	-.09**	.14**	-.14**	-.05*	-.04*	-.04*	-.04*				
17	Dummy Europe	0.38	0	1	0.49	-.01	.00	-.01	-.06*	.07**	.02	-.10**	.01	.08**	.12**	.00	.18**	.15**	.09**	.01	.01			
18	Dummy Asia	0.07	0	1	0.26	.01	.02**	.11**	.06**	.05*	-.07**	-.03	.01	-.10**	-.04*	-.15**	-.08**	-.0*5	-.05*	-.05*	-.05*	-.05*	-.22**	
19	Dummy Other Country	0.01	0	1	0.08	-.05	-.03	-.04*	-.04*	-.03	-.01	-.02	-.04*	-.12**	.05*	.11**	-.02	-.02	-.02	-.02	-.02	-.02	-.07**	-.02

* $p < .05$ ** $p < .01$

Table 1 Descriptive Statistics and Correlations

Table 2 Frequency of Alleged Abuses

	Human right abuses	<i>Jus cogens</i> abuses	<i>No- jus cogens</i> abuses	Direct abuses	Indirect abuses
Number of companies with at least 1 abuse (1990-2006) (% on total)	80 (60%)	44 (33%)	73 (54%)	70 (52%)	36 (27%)
Number of companies with at least 5 abuses (1990-2006) (% on total)	44 (33%)	25 (19%)	31 (23%)	36 (27%)	24 (18%)
Number of companies with at least 10 abuses (1990-2006) (% on total)	31 (23%)	13 (10%)	22 (16%)	25 (19%)	16 (12%)
Average number of abuses per company (1990-2006)	1.36	0.19	0.49	0.42	0.26
Average number of abuses per company in 1990	0.84	0.21	0.21	0.32	0.10
Average number of abuses per company in 2006	1.83	0.24	0.67	0.48	0.44

Table 3 Results of Regression Analyses

	<i>Human right abuses</i>	<i>Jus cogens abuses</i>	<i>No-jus cogens abuses</i>	<i>Direct abuses</i>	<i>Indirect abuses</i>
Model	FE-IV	FE-IV	RE	RE-IV	RE
Estimation method	P2SLS	P2SLS	POLS	P2SLS	POLS
Variables					
TIME DUMMIES	YES	YES	YES	YES	YES
CONTROLS	NO	NO	YES	YES	YES
CSR	.08(.02)***	-.07(.02)***	.05(.02)**	.15(.06)*	.03(.02)*
CSR experience	.00(.00)	5.2e-2(.00)**	-.00(.00)	-2.6e-2(.00)*	.00(.00)
Number of observations	2280	2280	2280	2280	2280
Percent correctly predicted	.90	.94	.82	.84	.89
Adjusted R ²	.04	.01	.12	.09	.06
Test of no endogeneity	.07***	.05***	.03	.08***	.01
Test of no serial correlation in residuals (coeff.)	.51***	.58***	.54***	.51***	.63***
Hausman test RE vs FE or RE-IV vs FE- IV (<i>p</i> -value)	(.00)	(.00)	(.30)	(.78)	(.26)

* $p < .10$ ** $p < .05$ *** $p < .01$

Note: Robust standard errors are in brackets.

POLS= Pooled Ordinary Least Squares; P2SLS=Panel Two-Stage Least Squares.

FIGURES

FIGURE 1 Cumulative number of declarations of CSR adoption in the period 1990-2006

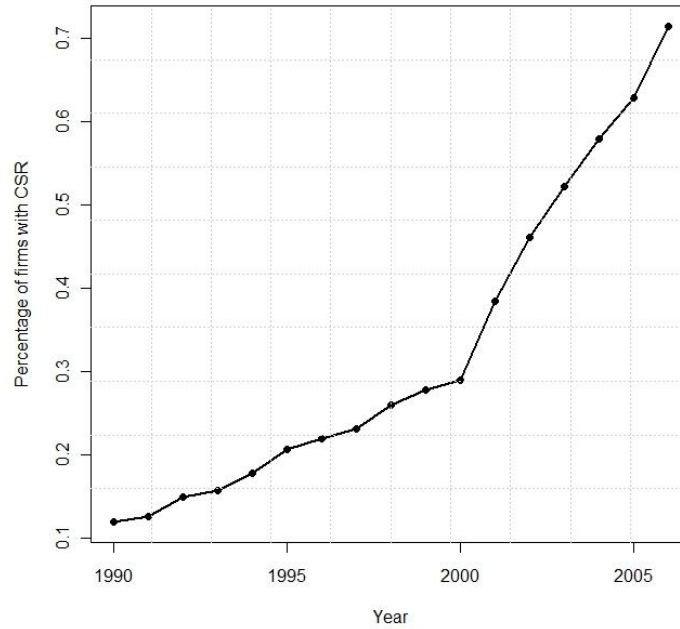


FIGURE 2 Percentage of firms according to type of abuse:

Alleged *jus cogens* and *no-jus cogens* in the period 1990-2006

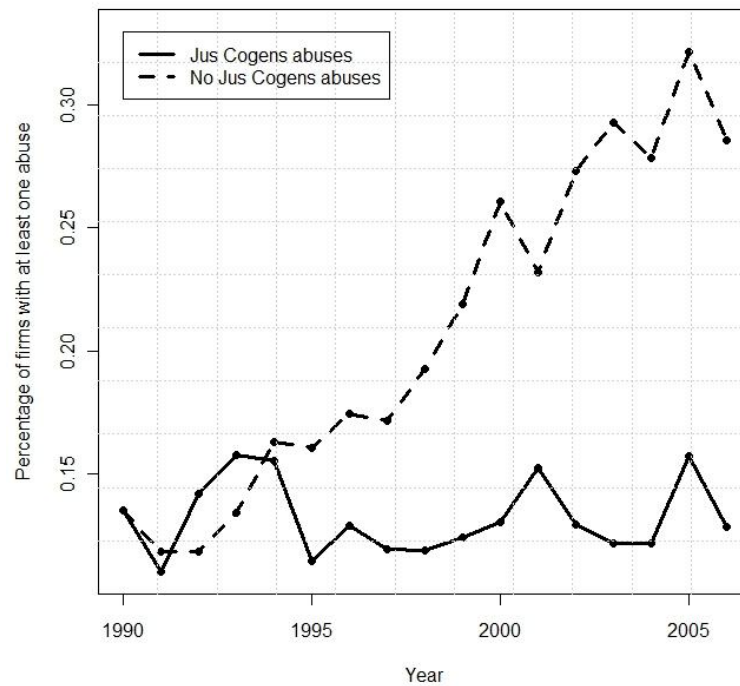


FIGURE 3 Percentage of firms according to type of abuse:
Alleged Direct and Indirect abuses in the period 1990-2006

