A Critical Perspective on Corporate Social Responsibility: Towards a Global Governance Framework

Abstract

Purpose – The purpose of this paper is to outline the structural limits of corporate social responsibility (CSR) and develop a framework for the global governance of CSR.

Design/methodology/approach – The paper adopts a critical perspective on emerging discourses of CSR in developing a governance framework.

Findings – Win-Win situations do not capture the complexities of business and society relationships and a more democratic governance framework is needed to minimize the harm that results from corporate activity.

Research implications/limitations – More attention should be paid to the outcomes of CSR initiatives and in investigating the discursive, strategic and regulatory dimensions of power that emerge from the governance of CSR.

Social implications: Non-corporate and non-market actors and civil society actors have greater influence in governing corporate behavior.

Originality/value – The paper focuses on the political economy of corporations rather than on firm level CSR initiatives thus providing a richer and multidisciplinary perspective on the role of corporations in society.

Keywords – Corporate social responsibility, democratic governance, civil society.

Paper type – Conceptual

Corporations should be and could be a major force for resolving environmental and social concerns in the 21st century.

William Ford, Jr., 2004.

Corporate social responsibility is a dangerous distortion of business principles. If you find an executive who wants to take on social responsibilities, fire him. Fast.

Peter Drucker, 2004.

As the above quotes indicate, the tensions between social and economic good have always occupied an uneasy position in organization studies. In recent years corporations have been asked to play a key role in addressing issues that appear to go beyond their primary economic function, for instance corporations are increasingly being urged to tackle issues like global poverty, human rights, and climate change (United Nations, 2006). Whether corporations are equipped to play such a role is in some doubt: while there is a long history of corporate engagement with the broader society through philanthropy and community development, the primary function of a corporation remains firmly focused on profit generation, which limits the extent of a corporation's involvement with broader social issues. In this paper I argue that the corporation *in its current form* is an inappropriate agent for positive social change. Lest this sound too polemic let me hasten to add that I am not attempting to paint corporations as 'good' or 'bad', rather I want to identify the limits of corporate social initiatives, limits that are generated by a particular form of corporate rationality arising from fundamental ideological and political assumptions about the nature of a corporation and its role in society. The unit of analysis is not so much the individual corporation, rather I focus on how power dynamics between market, state and civil society actors create particular notions of corporate social responsibility in the political economy that determine the boundaries of what a corporation can or cannot do to promote positive social change. The limits of corporate rationality determine the limits of corporate social responsibility (CSR) because if a corporation ‘can do good only to help itself do well, there is a profound limit on just how much good it can do’ (Bakan, 2004: 50). In the paper I discuss alternate arrangements between corporations and stakeholders that could overcome the limits of CSR.

Critiques of CSR point to the limits underlying the win-win assumptions of CSR strategies (Banerjee, 2007). The limits arise from both the structure of the modern corporation and the political economy in which it is embedded. The current structure and purpose of corporations is designed to deliver shareholder value, which limits a corporation’s ability to pursue social goals. As Margolis and Walsh (2003) have pointed out the ‘practical necessities’ of stakeholder theory have meant that normative justifications beyond that of providing shareholder value have not gained significant ground in theory or practice. The focus is almost entirely on win-win situations where a particular ‘social’ initiative is evaluated by its economic benefit to the firm. Commenting on the results of a meta-analysis of more than 25 years of empirical studies on the link between corporate economic and social performance, Orlitzky et al. (2003) claimed that the literature was ‘over inclusive’ in defining organizational stakeholders and called for a more ‘restrictive’ concept of stakeholders in order to establish a stronger link. This implies a focus on stakeholders who can influence the financial or competitive position of the firm, leaving little or no resources directed to serve the interests of marginalized stakeholder groups.

For CSR to produce social outcomes that are not necessarily constrained by corporate rationality there needs to be a change in the normative framework of public decision making at the institutional level. Current theories and practices of CSR are not strong enough to constrain the destructive effects of some corporate activity. When market failure is accompanied by state failure civil society actors and institutions play an important role in protecting social welfare. Thus, alternative conceptualizations of CSR involve interventions at multiple levels by multiple actors, which imply some form of governance of CSR that goes beyond conventional theories of corporate governance. The new development regime also requires a new global governance regime if international development decisions are to be governed by democratic principles (Sanders, 2012). The new regime requires more voices in the governance of corporations and marks a significant shift in CSR from a corporation interacting with its stakeholders to a corporation itself becoming a stakeholder. What are the implications for societal governance of corporate activity as opposed to government regulation of corporate activity? What institutional and authority structures are needed to develop a more inclusive concept of the social in the political economy? In the next section I will explore these questions and discuss some possibilities for a global governance framework for CSR.

TOWARDS A GLOBAL GOVERNANCE FRAMEWORK FOR CSR

The way corporations are currently structured and governed coupled with the norms of the broader political economy implies that any alternate visions of a corporation must necessarily involve alternate visions of the economy and polity as well. Such a transformation cannot be expected to occur at the level of the firm, hence the need to understand the larger political economy of CSR and the governance issues that arise from a political economic approach to CSR. Political democracy and democratic systems of governance are key enabling conditions of a global governance system for CSR.

Recovering the social from the economic and re-embedding it in contemporary institutional and corporate structures and processes is a challenge faced by many critical theorists, social activists, environmental organizations and NGOs. Voices calling for a transformation of the business-society relationship focus on two themes: promoting democratic forms of governance at the institutional level and increasing accountability at the corporate level. Reformists argue that there is a deficit of democracy in the present global economic system and decisions are made at the global level by non-democratic and unaccountable actors that have deleterious effects on large segments of the population, especially the poor. As Deetz (1992) argues, decision-making in the public sphere is democratic only in the legislative domain because it involves elected representatives. No such public representation exists in the administrative and corporate domains, in fact according to Deetz (1992: 16) 'the modern corporation is the most protected from direct public control and it is there that most decisions are made'. The political role of business, their influence over governmental institutions and their role in delivering public responsibilities once the sole purview of states can lead to both a democracy deficit and governance deficit (Scherer and Palazzo, 2007).

Theoretical efforts to develop such transnational democratic modes of governance have focused on notions of deliberative democracy developed by Habermas (1996) and Rawls (1993). Deliberative democracy is posed as an alternative to conventional liberal democracies where there was a clear separation between the political and the economic (Bohman, 1998; Gutman and Thompson, 2004). However, such a distinction is misleading: political, economic and social spheres interact in multiple circuits of power and through the power-knowledge nexus create forms of democracy that are contingent on particular forms of authority (the power to create and enforce laws including 'soft' laws such as voluntary codes of conduct, standards and guidelines); capability (organizational or institutional capability to perform or participate in the decision-making process) and legitimacy (being in compliance with the law or in accordance with established or accepted patterns and standards).

Calls for a more democratic control over global economic policies imply some form of global governance. Effective regulation of power requires what Wolf (2008) calls 'meta-governance' or governance of governance which requires allocating institutional capabilities that enable the weak to be protected from the strong. The legal framework that can provide such protection requires public actors. Thus, private governance requires a multi-level multi-actor public framework to govern itself. Global governance is defined as 'the complex of formal and informal institutions, mechanisms, relationships, and processes between and among states, markets, citizens and organizations, both inter- and non-governmental, through which collective interests on the global plane are articulated, rights and obligations are established, and differences are mediated' (Weiss and Thakur, 2006, p. 4). Global governance arrangements emerge from interactions between market, state and civil society actors and go beyond conventional treaty-based international agreements between states or command-and-control domestic forms of regulation. The involvement of a variety of actors with differing interests, capabilities and resources lead to new institutional forms and a variety of regulatory and voluntary compliance mechanisms (Wolf, 2008).

While increased NGO and public pressure in a variety of arenas may not yet have been translated into legal mechanisms they have forced corporations to change some of their more damaging practices. Some theorists claim that increasing corporate engagement with state and non-state actors can result in a more democratically embedded form of governance (Scherer and Palazzo, 2007). However, due to the absence of any global monitoring and enforcement mechanism there is a danger that CSR could become a privatized system of governance lacking public accountability (Levy and Kaplan, 2007). Even high profile global forums such as the

United Nations Global Compact (UNGC), which encourages corporations to sign up to a charter of human rights, remain limited in their impact because of the lack of any enforceability apparatus. The focus is more on reporting processes than actual outcomes of corporate activity. And like CSR, the rationale provided is a ‘business case’ for human rights where the assumption is that corporations that adhere to human rights principles will benefit from enhanced reputation and image, reduce costs, and maintain their license to operate (Banerjee, 2007). While the UNGC does not mark a radical reconceptualization of CSR it has resulted in increased partnerships between the corporate sector and international agencies. Monitoring and assessment of these partnerships is required to see if they produce meaningful social outcomes or whether participation in the Global Compact is a form of ‘bluewashing’ where corporations wrap their credentials in the blue UN flag to escape scrutiny of their actions at the global level. The lack of accountability, monitoring and enforcement mechanisms is a fundamental problem with the plethora of human right declarations, codes of conduct, standards, compacts, policies, statements, reports.

There is little if any empirical evidence suggesting that corporations benefit from having a good record on human rights or that companies with a bad record of human rights are economically disadvantaged. The financial and business risks of violating human rights may be outweighed by the benefits of investments in corrupt regions and there is no evidence to suggest that corporations are being punished financially by investors or markets based on their human rights record. Signing up to a code of human rights can easily become a substitute for ending human rights violations without questioning the dynamics of power that create the space for violations. The question of power also remains unresolved: many NGOs simply do not have the resources or power to participate effectively in global policy making. Some private bodies may not be interested in participating in policy development. Democratic participation can become dominated by sectoral interests (the global climate change regime is a good example where sectoral interests have dominated the public agenda). Thus, traditional sources of legitimacy like nation states and their political institutions are also required in a global governance framework because private actors, who may be legitimate participants in a governance system because of their resources and expertise, do not have the authority to both create and maintain the regulatory framework within which they operate. Thus, in the contemporary political economy there are differences in the capability and authority of corporations, governments and NGOs to influence decision-making and participate in global governance. Some of these differences are highlighted in Figure 1. A key question is whether corporate participation in global forums should be expanded or whether its influence can be reduced. The influence of corporations in various UN bodies has been documented in the United Nations' own reports and perhaps a more effective antidote to their rising influence is to develop clear accountability and enforcement mechanisms with more representative public participation through civil society organizations (Banerjee, 2012).

INSERT FIGURE 1 ABOUT HERE

In a traditional command and control regime governments have the legitimacy, authority, and capability for decision-making that affects public interests. In a democratic society citizens can demand accountability from their elected represents and can vote for a change in government if they feel one is needed. Non-governmental organizations like community and environmental activist groups can demand new legislation from governments to promote social and environmental welfare. They also negotiate directly with corporations in an attempt to change particular forms of corporate behavior. The capacity of activist groups and NGOs to influence both government policy and corporate strategy depends both on the legitimacy and power (level of funding, scope and reach of membership, level of participation in different networks) of particular groups. The extent of direct authority to act or develop policy is limited for these groups.

Figure 2 presents a global governance framework that includes both firm-level and political-economic level aspects of CSR. Each level has strategic and regulatory features arising from power dynamics in the political economy that provide the basis for a governance framework which is discussed below.

INSERT FIGURE 2 ABOUT HERE

Strategic and Regulatory Features of CSR Governance

Strategic governance features operate at the political-economic level and at the level of the firm. At the level of political economy the dynamics of institutional, material and discursive power determine the authority, capability and legitimacy of market, state and civil society actors. Depending on their authority and capability to participate in decision-making civil society actors can forge transnational alliances with other groups, enter into public-private partnerships with state and market actors, and participate in the development of 'soft governance laws' such as codes of conduct, standards and policies (Levy and Kaplan, 2007). At the level of the firm strategic governance features can involve expanding the role of directors to include environmental and social governance apart from corporate governance (Parkinson, 2003), developing comprehensive stakeholder engagement strategies (Aguilera et al., 2007; Freeman, 1984), or promoting workplace democracy (Kelly, 2001).

Strategic governance features, especially at the firm level are discretionary and at the political economic level depend on the willingness and capability of market, state and civil society actors to engage with each other. In contrast, *regulatory governance features* provide an enforcement apparatus at both the level of the firm and the political economy. At the firm level, regulatory governance measures include mandatory reporting of social and environmental impact, extended corporate liability, and stakeholder voting rights in strategic corporate decisions that have significant social and environmental impacts. At the level of political economy there is a need for more institutional accountability and international laws, permits and sanctions to protect social welfare of marginalized groups. Affected communities should have legal rights for redress, for example through the Alien Torts Claim Act (Ramasastry, 2002) or veto rights over developmental projects that threaten their livelihoods.

If deliberative democracy highlights the interface between the market, state and civil society what is the role of the corporation as a key non-state actor in the political economy? According to Scherer and Palazzo (2007) in the context of deliberative democracy CSR can serve as the link between state, civil society and market actors and through a system of participatory dialogue with civil society and state actors in an explicit political process that perhaps may permit a more 'democratic control on the public use of corporate power'. While participatory dialogue may increase transparency of corporate decisions it is not clear how corporate participation in deliberate democracy can give non-corporate actors 'democratic control' over corporate actions. The problem of unequal power dynamics between state, corporate and civil society actors remains. If the capacity of corporations to do social good is constrained by the corporate form and purpose, their capacity to do social harm is constrained by external forces, but to a much lesser extent. Open dialogue between conflicting interests may manufacture an uneasy form of consent, perhaps offer better transparency but it still does not address how accountability can be established and enforced in the context of deliberate democracy. Public-private partnerships may represent a more participatory approach to development but the rules governing these partnerships tend to be framed by business through structural and discursive power relations (Fuchs and Lederer, 2007). As Mouffe (2000: 14) argues, if relations of power are constitutive of the social, then the ‘main question for democratic politics is not how to eliminate power but how to constitute forms of power more compatible with democratic values’.

The key difference between state regulation of corporations and societal governance of corporations is that hierarchical state-society or state-market relations are replaced by horizontal public-private partnerships involving deliberate cooperation and bargaining. The Forest Stewardship Council (FSC) is an example of a deliberate mode of governance involving private actors such as corporations and their suppliers, environmental NGOs, community groups, human rights activists and Indigenous groups. The FSC was created to fill the governance gap after the failure of governments to agree on global forest protection standards at the 1992 United Nations Conference on Environment and Development. The FSC certifies timber and timber products to ensure they are ‘sustainably harvested’ and do not come from felling of old growth forests. However, the scale of these so-called sustainable operations is miniscule: in the U.S. only 7% of total forested area is under FSC certification (compared to 30% in Europe) and FSC certified wood products account for 1% of total sales of wood and wood products in the U.S. (5% in Europe) (Vogel, 2005). While the FSC claims these standards have had a ‘measurable impact’ in preserving old-growth forests in North America and Europe, the rate of tropical forest destruction and loss of biodiversity continues unabated in the poorer regions of the world and has accelerated instead of declined in recent years, which raises questions about the effectiveness of voluntary standards for environmental protection.

Apart from institutional capability there is the question of which actors can exercise authority in any governance arrangement. One of the limitations of a deliberative CSR approach is that it tends to overestimate the capacity and authority of civil society actors. And while NGOs play a crucial role in promoting deliberative democracy a critical perspective on the governance of CSR does not assume that NGOs automatically hold the moral high ground when it comes to social and environmental issues. NGOs and civil society actors may not be profit driven, but their power and legitimacy to represent marginalized groups must also be scrutinized along with their motives and intentions. All NGOs do not necessarily represent interests of marginalized communities and neither are all outcomes of NGO strategies beneficial to the communities they represent. Civil society actors sometimes can merely serve as instruments of state policy. They can also manipulate states and market actors to further their own agendas. A critical perspective in analyzing social movements would examine the policies, practices, modes of governance, power dynamics underlying their interactions with other stakeholders and the conflicting discursive rationalities they produce. This might yield valuable insights on how social problems are articulated along with the contradictions, modes of resistance, struggles and tensions between social movements and economic agendas (Grewal, 2005; Zald, 2002).

A key question in the governance of CSR is whether a corporation can be made legally accountable for its social responsibilities (de Jonge, 2011). A variety of legal mechanisms could be used to encourage, even enforce the discretionary and voluntary aspects of CSR. Arguing that the law by itself does not guarantee good corporate behavior Parker and Braithwaite (2003) call for a ‘meta-regulation’ or ‘regulation of self-regulation’ involving multiple constituencies from the market, state and civil society sectors. Meta-regulatory regimes need not replicate nation-state based command-and-control regulation but can include international networks of governance and conventional legal mechanisms with enforcement and sanctioning powers, or even authorize non-governmental bodies like professional associations or civil society bodies to develop and enforce CSR standards. One of the outcomes of meta-regulation is to ensure that stakeholders who might otherwise be excluded from corporate decision-making are given legal rights to be involved. If these stakeholders play a more important role in corporate and institutional decision-making one would expect better social outcomes depending on the context of CSR initiatives (for example if CSR practices are aimed at providing better employment, educational, health or environmental outcomes for the community).

Alternative discourses of corporate accountability have less to do with the ‘good’ that corporations can do focusing instead on developing mechanisms that can monitor and prevent the ‘bad’ effects of corporate activity. The effects of regulation and government intervention to promote CSR have not received much attention because CSR is conceptualized as a voluntary activity. The dominant view is that strategic CSR as opposed to coercive CSR leads to better outcomes for both the firm and for society (Husted and de Jesus Salazar, 2006). The ‘philosophical’ approach to CSR proposes a moral argument why corporations should be socially responsible which implies government and policy intervention to promote CSR and support stakeholder rights (Windsor, 2006). Proposed initiatives include mandatory corporate environmental and social reporting; extended liability to directors for corporate breaches of environmental and social laws; corporate liability for breeches of international laws and agreements; rights of redress for affected communities; veto rights over developmental projects; and sanctions against corporations for negative social and environmental impacts including suspending stock exchange listing, and in extreme cases revoking the corporation's charter or withdrawal of limited liability status (Bruno and Karliner, 2002). Perhaps what is needed is some kind of supranational agency with enforcement powers working in partnership with a wide range of stakeholders in order to ensure that vulnerable communities either have the right to say no to forms of development that further marginalize them or the right to demand accountability from their governments and from transnational corporations.

FUTURE PROSPECTS

There is no escaping from the inherently normative basis of any theory of corporate social responsibility. Such a normative theory would require corporate decision-making to be organized around delivering key social outcomes that the shareholder primacy model is not equipped to deliver. Thus, if corporations are to play the role of social change agents a new ontology of the corporation is required that can open the way to more 'polyphonic' forms of organization (Hazen, 1993) requiring a plurality of voices and actors from economic, social, cultural, political, juridical and pedagogical spheres.

I point to three directions for a critical research agenda for CSR that goes beyond identifying the conditions for profit-maximization but examines instead how goals like emancipation, social justice, ecological balance, community and human development can be integrated with the governance of economic activity (Alvesson and Willmott, 2003). While much of current research focuses on the financial consequences of corporate social initiatives, we know little about the social consequences of these strategies. To what extent do current corporate initiatives actually achieve their intended outcomes? Under what conditions are these goals achieved? Instead of focusing on win-win situations, perhaps identifying and describing the conditions, challenges, and consequences of lose-lose or win-lose situations might reveal more interesting theoretical and practical challenges. Much of the strident voices against corporate power draw attention to issues such as exploitation of labor in developing countries, abusive labor practices and environmental destruction. These are practices that are easy targets. We need more research on the social consequences of apparently beneficial economic development policies at the level of people, for example detailed ethnographic accounts of the social transformations and dislocations created by foreign direct investment, industrial development, industrial agriculture, privatization, offshore production and export processing zones (Harvey, 2003; Ong, 1987).

A second research direction is to understand the power dynamics between market, state and civil society actors in the context of global climate change governance. While we know that organizations tend to engage with stakeholders that have some level of power we do not know enough about how civil society actors can exercise authority over the global governance of climate change. What discursive strategies do civil society actors use to contest the dominant economic discourse? How do these strategies create new forms of authority and accountability? How do authority and capability of non-market actors influence corporate responses to climate change and the strategic and regulatory forms of climate change governance? Exploring these questions can help us develop a more democratic process of climate change governance and offer ways of changing the normative framework of political decision-making enabling more meaningful corporate social initiatives to be developed and sustained.

A third research direction is to explore the discursive, strategic and regulatory dimensions of power that emerge from the governance of CSR. Dimensions of power operate at different levels – from the macro political economy level (e.g. setting the global agenda through the identification of global problems like climate change and poverty framework) to the institutional level (e.g. how these problems are articulated and solutions presented by global institutions like the United Nations and World Bank as well as national governments), to the organizational level (e.g. how NGOs, community groups and corporations respond to the issues), to the managerial level (e.g. how managerial subjectivities influence CSR decision-making and how managers make tradeoffs between the social, economic and environment and the consequences of these decisions). This multi-level multi-actor analysis will reveal how different dimensions of power result in strategic and regulatory forms of governance that can enable or constrain corporate CSR strategies. Current formulations of CSR do not pay sufficient attention to issues of power, discourse and subjectivities and a critical perspective will enhance our understanding of both the limits of CSR and the institutional and political arrangements required to overcome these limits.

There are profound contradictions between societal expectations of corporations and what corporations can actually deliver. Corporations cannot replace governments and despite the neoliberal push for diminished regulation a different regulatory environment may be required to address social ills in a more meaningful manner. Broader social goals such as democracy, social justice, citizens' health and welfare, environmental integrity, cultural identity are sometimes incompatible with the narrower corporate goals of self-interest and shareholder value and require a regulatory system with authority and democratic legitimacy that go beyond those provided by a market-based system (Bakan, 2004). What kind of future awaits us depends on how we negotiate these profound contradictions and challenges. Albert Einstein once said, 'imagination is more important than knowledge'. If this is true then we need to demand that our theories act with an ‘organizational imagination’ in order to address questions of social inequality, cultural marginalization and ecological crisis which will enable researchers ‘to make linkages between history, structures and individual lives in the service of an intellectual and political purpose’ (Mir and Mir, 2002: 115). A critical research agenda for CSR will attempt to recover and re-embed the social into the economic.

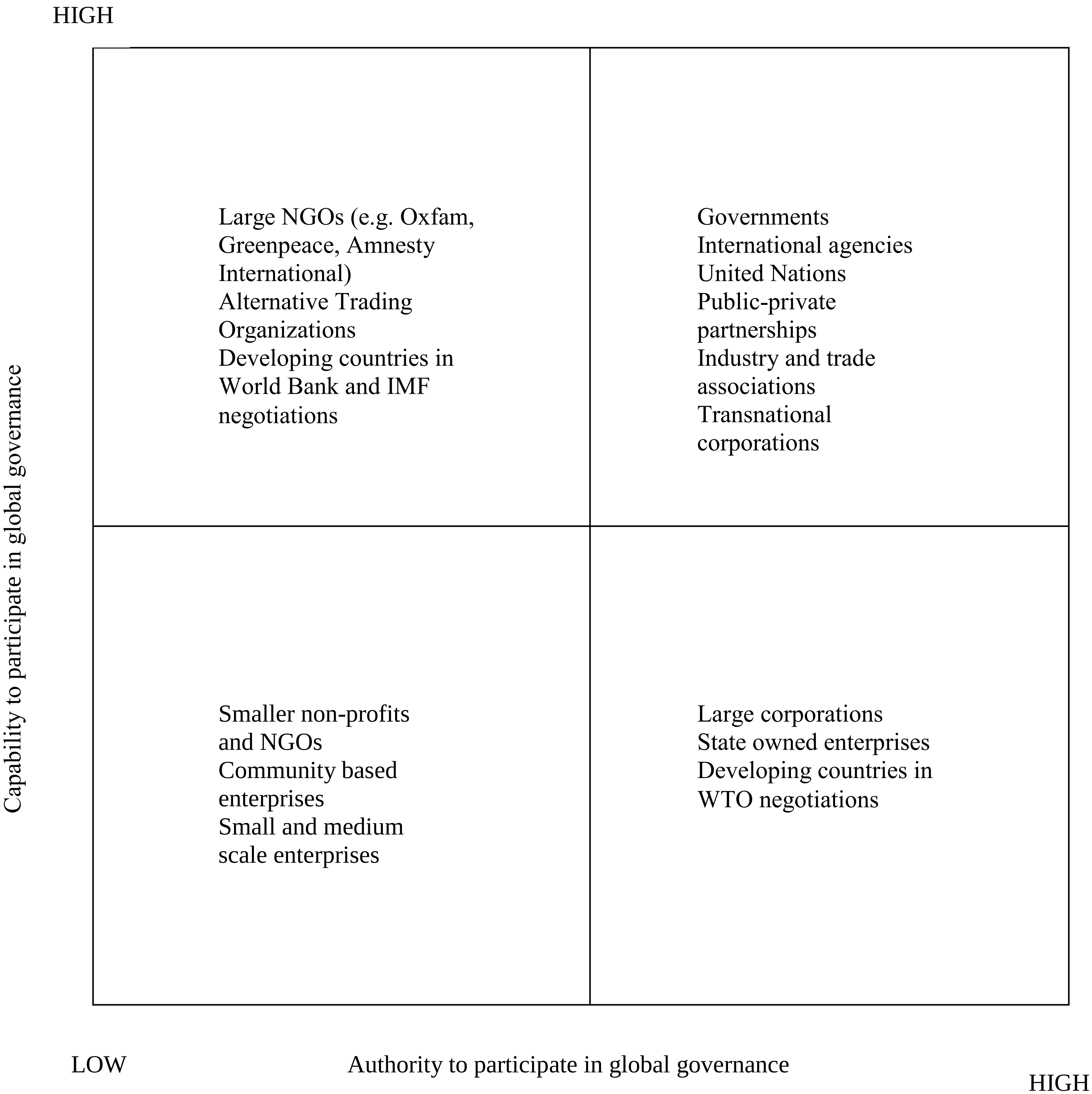

Figure 1

Capability, Authority and Global Governance

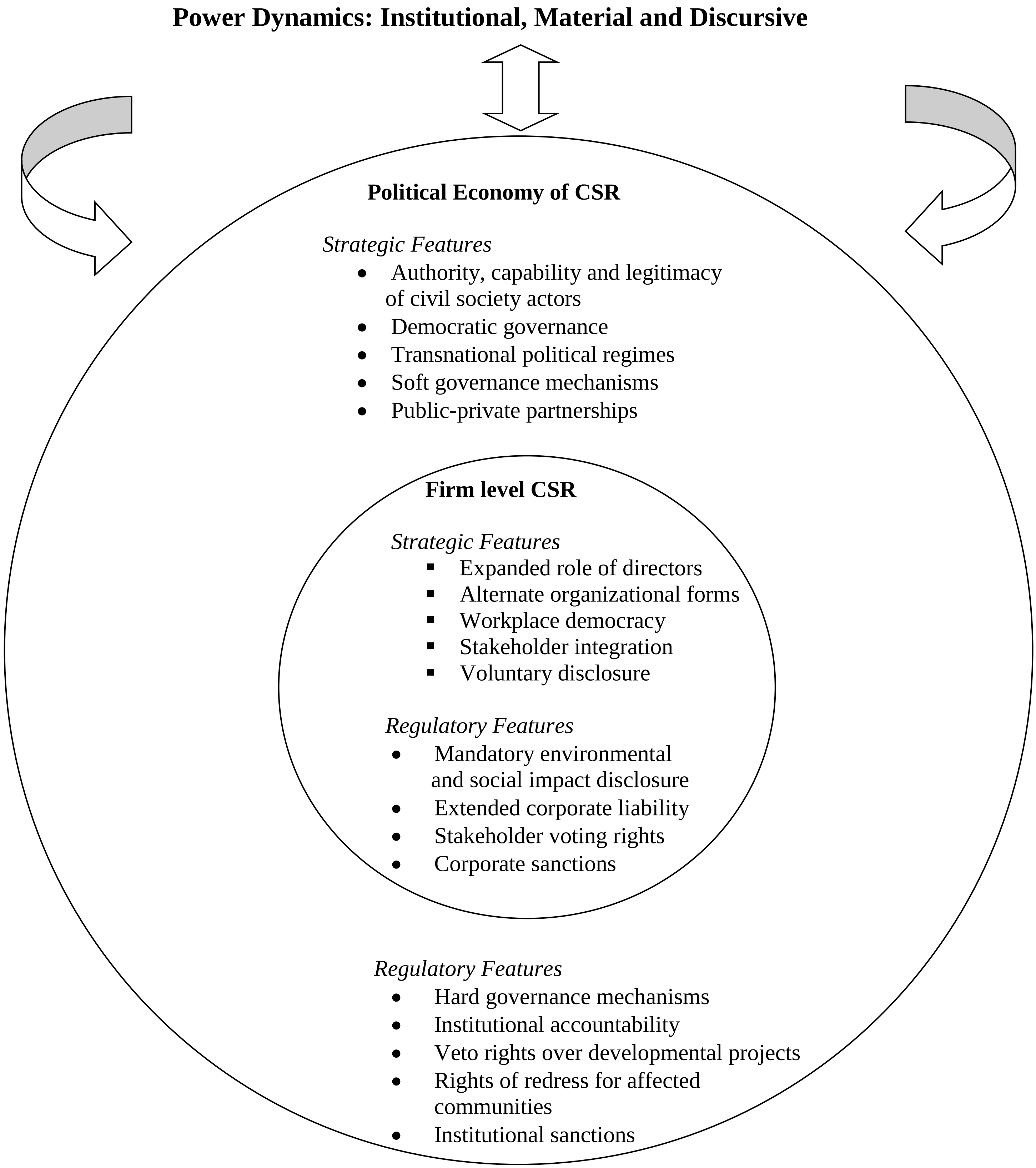

Figure 2

A Governance Framework for CSR

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