CHAPTER 4

THE STAKEHOLDER NORM IN BUSINESS PRACTICE

This chapter illustrates how private actors active in the CSR regime (e.g. businesses, market intermediaries, civil society groups) specify the stakeholder norm discussed before. The first part presents a variety of CSR contexts and adds the necessary factual background for later analysis. Reference will then be made to the ‘business case’ of CSR, that is, the idea that the company will benefit from its responsible practices; CSR turns out to be a matter of enlightened ‘self-interest’. The main section of the chapter looks at the management of CSR. Here are identified the stages of implementing CSR commitments, and we especially insist on multistakeholder fora that build the necessary tools and understandings. The review of recent CSR developments concludes with a discussion about the limits and potential of CSR as perceived by both its sceptics and proponents.

4.1. CONTEXT OF CSR: GOVERNANCE GAPS AND BUSINESS RESPONSES

Businesses contribute to society’s well-being through products/services supplied at competitive prices, taxes, job creation, skills dissemination, technology transfer, returns to suppliers of capital, philanthropic contributions, etc. However when good governance is missing, tax revenues are often diverted by corrupt officials and do not benefit the people. Host governments may tolerate jobs that sometime do not provide even a livelihood for the worker and his family or may be so hazardous to result in ill-health, accidents or death. Such instances have been referred to as ‘governance gaps’.

Sometimes governance gaps exist due to insufficient resources in circumstances beyond the control of host states. Examples could be external shocks produced by global markets (product and financial markets), insufficient external aid and foreign direct investment, lack of access to the markets of developed countries, armed conflicts, external debt, etc. Other times governments pursue questionable development strategies based on low-cost production that deliberately weaken the protection of human rights in order to attract foreign investment. Still in other cases governance gaps and low accountability levels are maintained to promote the interests of corrupt elites. Thus states might be unable or unwilling to develop proper regulatory and institutional frameworks. Governance gaps allow unscrupulous corporate groups to get away with violating human rights.

The relationship between business and human rights then turns to an examination of how a TNC relates to these governance gaps: does it take advantage of the gaps or not; does it attempt to narrow the gaps or not? Treating both self-
regulation (aimed at compliance with human rights standards) and partnerships for development (aimed not at compliance but at improving the environment where human rights are protected) together is justified. Framing them together is not done here for the sake of descriptive accuracy and comprehensiveness, although this would be necessary for making an accurate assessment of the impacts of corporate voluntarism. The main reason is that both these types of business initiatives appear as different illustrations of the same stakeholder norm; both self-regulation and contributions to poverty-reduction help to establish the stakeholder norm to the detriment of the incumbent norm articulated by Friedman. They both reveal the ability of some businesses to have a positive impact on the host countries and being able to demonstrate it. Self-regulation and developmental partnerships both impact governance gaps in a positive way by either not taking advantage of gaps or by deliberately working with others to narrow such gaps. They respond to the expectations articulated by policymakers; for example the UN’s Global Compact guides businesses to respect human rights and avoid complicity in abuses, and also to support human rights within their spheres of influence. Thinking of CSR as a response to governance gaps allows not only to see the variety of contexts in which CSR issues appear, but also to account for the policies of other actors (i.e. other businesses, civil society groups and governmental agencies) that aim to narrow those gaps. This encourages one to avoid an isolationist focus, as often done in normative CSR writings, and to search for comprehensive solutions and possible synergies between various actors. Thus awareness to governance gaps helps CSR analysis with both diagnosis of the deeper roots of problems and solutions likely to be effective (for rightholders, businesses and public-interest bodies).

The next section reviews some areas where most high profile CSR cases have arisen. CSR controversies have appeared in situations where the host country has abundant cheap labour, natural resources or new markets attractive to MNEs. A quick look at these cases highlights the diversity of CSR issues, organisational challenges and CSR solutions.

4.1.1. Labour

The case of labour intensive industries (e.g. clothing, footwear, sport equipment and toy industries) is epitomised by Nike, which in the mid-1990s was confronted with evidence of sweatshop conditions throughout its supply chains in East Asia. Typical issues for these industries include unsafe and unhealthy work environments, overtime, inadequate wages, physical abuses, child labour, restrictions on unionisation and collective bargaining, etc.

Especially in the late 1980s and 1990s, MNEs operating in these labour intensive industries have moved production to countries whose competitive advantage is cheap and abundant labour, especially in Southeast Asia and Central America, in order to cut labour costs. The company headquartered in the North