
SPHERES OF RESPONSIBILITY IN A PARTIALLY JOINED-UP WORLD: INSTITUTIONAL ACTION AND THE BUSINESS "RESPONSIBILITY TO RESPECT"

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This paper considers two prominent frameworks for defining the scope of business responsibility for human rights. The first approach advocates the extension of business responsibility beyond the boundaries of the enterprise to encompass broader spheres of influence. The second approach advocates a business responsibility to respect human rights (but not also to undertake the "positive" responsibility to protect, promote or fulfil rights). Building on a critical evaluation of these competing accounts of business responsibility, the paper outlines a modified account that is referred to as a framework of spheres of responsibility.

On such an account, business responsibility for human rights outcomes is conceptualised not only in terms of direct harms imposed by business, but also in relation to corporate influence over broader institutional relationships and structures that shape and constrain the substantive realisation of human rights. The paper suggests that such a model of responsibility may be given concrete institutional expression in the form of shared and distributed responsibilities for institutionally mediated outcomes, and points towards some possible directions in which institutional innovation of this kind might proceed.

Over the last two decades of economic globalisation, the operation of transnational business activity has become associated in the minds of many with a range of practices that contribute both directly and indirectly to the violation of human rights among many vulnerable individuals and communities in the developing world. These include the use of overseas sweatshop labour in the factories from which prominent global brands source their products, the use of market power to push down prices received by poor developing country farmers for their agricultural products, and damage inflicted on the health, livelihoods and ways of life of local communities living close to mines or pipelines operated by major global resource companies.¹

In response to the governance challenge presented by such transnational corporate practices, a range of competing accounts of business responsibility for human rights has been elaborated and debated. This paper focuses on an analysis on two frameworks that have attracted particular attention in recent years as potential means of defining – and importantly also *bounding* – the scope of business responsibility for human rights: one advocates the extension of business responsibility beyond the boundaries of the enterprise to encompass broader spheres of influence; the other advocates a business responsibility to respect human rights (but not also to protect, promote or fulfil rights).

The proposition to bound business responsibility for human rights around the scope of business spheres of influence was widely debated following reference to such a principle within the UN Global Compact and the UN Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights. Some observers perceived the framework as offering a promising means to capture the diverse and widely varying channels through which businesses impact both directly and indirectly on human rights. However, while the concept's theoretical elasticity may have bolstered its virtues as a flexible guiding metaphor, its analytical bluntness has made it difficult to operationalise as a basis for defining operational standards to govern transnational business conduct. Such perceived weaknesses within the framework culminated in its rejection by the United Nations Special Representative on Business and Human Rights (UNSR) in his most recent report. In its place, the Special Representative has proposed an alternative framework in which business responsibilities are limited to a negative duty to respect human rights in the conduct of its activities and relationships.

Many questions remain regarding both the normative grounding and the institutional implications of these frameworks. Serious challenges therefore confront both scholars and practitioners seeking to design effective and legitimate means to overcome the identified governance gap with respect to transnational business and human rights. The central goal of this paper is to draw on a critical evaluation of these competing accounts of business responsibility for human rights as a basis for developing a modified account that is referred to as a framework of spheres of responsibility.²

In developing this account, the paper draws for illustrative purposes on empirical sources derived from multi-country field research involving around 300 individuals and organisations associated with garment and coffee sector supply chains connected to production sites in Nicaragua.³ It draws also on research conducted together with the UK's Corporate Responsibility Coalition (CORE), based on case studies of corporate human rights abuses in Nigeria and India.⁴ These cases reflect the paper's central interest in the responsibility of business actors that operate across transnational borders, influencing human rights outcomes among vulnerable individuals and communities in the developing world. The cases also offer examples from a range of business sectors in which the institutional contexts of business action vary widely. They encompass examples of corporations directly impacting on communities in the mining sector; corporate participants in relational networks that are very common in supply chains in the garment sector; and companies operating in agricultural sectors such as coffee in which business activity is typically coordinated via more arms length forms of networked and market relations.

Business responsibility to respect human rights

Responsibility to respect as an agent-relative account of responsibility

One prominent framework that has attempted to develop an account of how business responsibilities for human rights may be defined and bounded is the framework developed by the United Nations Special Representative for Business and Human Rights. This account focuses centrally on the business obligation to respect human rights, and derivative obligations of due diligence.

The business responsibility to respect is presented as part of a broader framework that also includes the principles of a state duty to protect against human rights abuses by third parties, including business, and the need for more effective access to remedies.⁵

The account of responsibility this framework presents – in common with others adopting a similar approach⁶ – can be understood as what is commonly termed a liability, blame or agent-relative account of responsibility.⁷ While such an agency conception of responsibility in reality reflects a loose grouping or family of theoretical accounts, these approaches concur on the central proposition that attributions of responsibility rest solely or at least primarily on facts about agents and their relations to certain harmful or favourable events or states.⁸ Attribution of responsibility is therefore tightly linked to consequences of an agent's actions and choices:⁹

Agency conceptions suppose that the way in which a deed or consequence is attributed to the agency of its author, that is responsibility as attributability, provides the basis for the moral interest we take in the responsibility of others.¹⁰

The *normative grounding* of such a view rests importantly on a particular conception of responsibility as moral agency: the idea that “responsibility is a moral property of agents that consists in or supervenes upon underlying facts of agency and upon agents’ connections to the world”.¹¹ Such an account is linked importantly to the liberal view of individuals as primary bearers of rights and responsibilities.¹² Scheffler suggests that the apparent “naturalness” of such a view of responsibility may also contribute to its appeal; he attributes this seeming naturalness to certain features of the “phenomenology of agency” – the way we tend to experience and imagine our agency acting in the world – in which greater weight is placed on individual versus group actions and near as opposed to remote effects.¹³

Such a phenomenology of agency seems to lend support to a familiar distinction between acts and omissions, often presented as a distinction between negative versus positive obligations. Scheffler describes this restrictive view of responsibility thus:

individuals have a special responsibility for what they themselves do, as opposed to what they merely fail to prevent. This doctrine is sometimes expressed in the principle that negative duties are stricter than positive duties, where this means, roughly, that it is more important to avoid doing certain sorts of things to people than it is to prevent unwelcome occurrences from befalling them or to provide them with positive benefits.¹⁴

On this account, simply the *existence* of acknowledged needs or entitlements does not necessarily imply responsibilities for all those with capabilities to assist. Rather, responsibilities are assigned on the basis of empirically informed arguments that seek to assign responsibility to those who in some way control the outcomes in question.

Deployment of such a positive/negative distinction by the UNSR's framework is explicit: "To respect rights essentially means not to infringe on the rights of others – put simply, to do no harm".¹⁵ The framework does incorporate an important role for some positive duties, in so far as they are "clearly necessary to effect" the negative duties.¹⁶ An important example of this is the framework's inclusion of positive obligations of business to engage in processes of due diligence as a means of managing risks associated with potential harm. Nevertheless, such positive duties remain *derivative* from the primary negative duties, which continue to provide the underlying normative justification of business obligation.

This positive/negative distinction then plays an important role in *bounding the scope* of business responsibility, since the positive duty to aid others tends to be experienced as constituting more of a constraint on the pursuit of one's own goals than the less stringent negative duty to avoid actively harming others.¹⁷

In practice, there are many cases in which business impacts on human rights involve the direct imposition of harms of the kind apparently contemplated by such a simple agent-relative account. Some of the clearest examples of violations of this kind come from the mining sector, in which a number of prominent cases of abuse come to mind. One clear example is the practice of flaring gas in Nigeria – an oil companies' practice when oil deposits are mixed with gas and it is judged more profitable simply to burn off the associated gas rather than capturing it for utilisation or re-injection. Gas flaring is carried out in Nigeria by five multinational oil companies (Shell making a greater contribution to the total flaring than any other individual company).¹⁸ As detailed elsewhere¹⁹ the

flaring activities have resulted in alleged harms to the health, environment and livelihoods of communities living near to the flaring sites, including respiratory problems and other serious health issues, and undermining of the food security of local communities through destruction of their crops.

In another case of direct human rights violations imposed by mining companies, the UK listed company Vedanta is alleged to have committed a broad range of human rights violations as part of its bauxite mining activities in the Indian state of Orissa. Concerns have focused in particular on damage to local livelihoods, health, environment and ways of life among tribal people living in affected areas. To make way for the construction of the Lanjigarh refinery, villages have been razed and over 100 tribal families moved from their land, in many cases to a crowded cement-house “rehabilitation colony”, without land for farming and grazing. Particular concerns have focused on Vedanta’s toxic waste management at the Lanjigarh refinery, which produces up to three million tons of caustic soda waste each year. People have complained of breathing difficulties and skin problems, as well as damage to crop yields and livestock.²⁰

In cases such as these, the relationship between businesses and the populations they affect are proximate in time and space, and attributable in very direct ways to the agency of the transnational mining companies involved. If ascribing responsibility is essentially a matter of pointing fingers, as Goodin suggests,²¹ then the finger of blame on an agent account of responsibility points very clearly in such cases towards these corporations who have directly inflicted the harms in question, and who could clearly have reasonably acted otherwise. In such cases, the characterisation of human rights violations as resulting from the direct abuse of human rights appears highly appropriate.

Contemplating cases such as these, it makes a great deal of sense to regard the business and human rights governance challenge as essentially one of containing abuses committed by “powerful global actors that some states lack the resources or will to control”.²² Reflecting such a view, the governance gap has been widely characterised as consisting in a regulatory environment that permits wrongful or negligent acts to occur and fails to provide appropriate remedies to victims of abuse.²³ In response to governance gaps of this kind, the respect framework of business responsibility offers an important basis on which strengthened systems of enforcement and remedy in such individual cases may be built.

Institutionally mediated action: the limits of responsibility to respect

The central problem with relying on an agent-relative account of corporate responsibility such as that described above is that an account of this kind rests on a conception of corporate agency that does not take sufficiently seriously the significance of social institutions as mediating channels standing between the exercise of corporate agency and the human rights outcomes that result. To elaborate this point, there is first an examination of some of the most common dynamics of institutionally mediated action through which business agency is extended and/or constrained. The paper then considers the implications of these dynamics for the limits of the responsibility to respect framework.

The dynamics of institutionally mediated action

Social institutions mediate between individual actors and social outcomes at a number of different levels. Institutions *constitute* social actors in various ways, defining and instilling core norms, identities, capabilities, purposes and relationships. Institutions can also act as *constraints* on the exercise of agency, in part as a result of actions combining with those of others in typically unintended and uncoordinated ways, and also as a result of dynamics of institutional mediation through which actions are separated in time from their effects.²⁴ Further, dynamics of institutional interaction operate to *distribute* agency across different actors. In those cases where institutional structures lead agency to be widely *diffused*, as within market-based systems of social coordination, such diffusion may give rise to widely recognised information and coordination problems which limit the efficacy of transformative agency.

Recognising the importance of dynamics of institutional mediation of these kinds has potential implications for the plausibility of competing accounts of business responsibility in two key ways. First, it provides a basis for holding businesses responsible for their *indirect impacts* on human rights, on the grounds that institutionally mediated causal processes enable businesses to do harm at a distance. Such an account of responsibility for indirect impacts would acknowledge that when individual agents act within institutions, it is often the confluence of their often unintended and uncoordinated actions that result in the harms that give rise to human rights claims.²⁵ Second, recognising dynamics of institutional

mediation may support the placement of *limits* on the scope of business responsibility, on the grounds that the need to act within institutions places constraints on the extent to which individual decision-makers can control outcomes. Although “can” does not necessarily imply “ought”,²⁶ the reverse is true, in the sense that capacity enters as a *precondition* for the meaningful attribution of responsibility.²⁷

Clearly, businesses of all kinds are deeply enmeshed in institutional relationships of an enormous variety. To illustrate how dynamics of institutional mediation operate in practice to both extend and constrain business influence over human rights outcomes, there is a brief consideration of some of the most common types of institutional relationships through which business decision-makers influence patterns of human rights outcomes.

One very widely analysed category of institutional relationship through which business enterprises are in some cases able to influence human rights indirectly are the legal, financial and managerial links between businesses organised within *decentralised structures of enterprise association*, typically in the form of a corporate group or joint venture. Depending on the specific relations of control that link businesses, such relationships may facilitate and constrain indirect control in differing ways. Institutional relationships of this kind have raised particular concern in relation to their tendency to impede the *legal* liability of individual business actors in many jurisdictions.²⁸

Increasing attention is also being attracted by the ways in which many business enterprises are able to exercise institutionally mediated influence over human rights outcomes via their participation in *business networks and supply chains*. In some cases, these networks are structured around long term contractual relationships; in others, the economic relationships may be constituted and coordinated via more arms length market relationships, in which dynamics of control are shaped importantly as a function of the economic importance of each business enterprise in relation to its suppliers or purchasers.²⁹

One very common form of network organisation within a wide range of manufacturing, horticultural and agricultural industries takes the form of *buyer-driven supply chains*, in which primarily large retailers and branded merchandisers based in industrialised countries coordinate and control transnational systems of production. Examples are brands and retailers in garment and footwear sectors and roasting companies in the

coffee industry.³⁰ Acting via these networked chains of relationships, lead firms within such buyer-driven supply chains are able to influence a wide range of human rights outcomes among workers, producers and communities connected to these chains.

The scope and limits of such forms of influence vary significantly within and between industries. For example, in the garment industry, the line of control from retailers to production sites is generally quite direct;³¹ direct sourcing relationships are also common in specialty coffee chains (accounting for around 10% of global coffee trade). In contrast, distributions of control within those supply chains sourcing commodity grade coffee are much more diffuse. While trade remains dominated by roasters, these are separated from producers via often lengthy, intermediate trading chains through which producers sell to exporters – either directly via extensive networks of collection centres in coffee producing regions, or indirectly via additional intermediaries. The market oriented coordination mechanisms dominating such conventional chains play an important role in diffusing control over resultant outcomes.

While such institutional relationships facilitate important forms of indirect control, they also give rise to important forms of constraint on the influence of lead firms within such supply chain systems. For example, while large retailers are able to exercise significant influence over factory conditions via the terms of the contracts they set with suppliers, they lack control over day to day management practices that also contribute to determining workplace conditions. On large-scale plantations for instance, permanent workers generally live on farm property, and provision for housing, food, health care and other forms of social infrastructure is at the discretion of farm owners and managers, as are most other working conditions. In the garment industry, while actors higher up the supply chain determine variables influencing wages, overtime and conditions (such as price, quality and delivery schedules) more directly, decision-makers at the factory level remain in control of many other working conditions.

In those sectors in which arms length market relations dominate coordination, dynamics of institutional mediation often place particularly strong constraints on the capacity of business to influence human rights outcomes, as a result of the *diffusion of control* between a long chain of supply chain intermediaries. For example, those companies purchasing conventional green coffee beans via the major market exchanges may exercise short term

control over production processes only in the sense of first, choosing the basic characteristics of coffee they purchase (differentiated on the exchange on the basis of origin and quality class) and second, negotiating details of price and delivery.³² Within the terms of such institutional arrangements, such buyers have limited ability to control broader social and environmental features of the production process within their supply chains. Buyers also have limited control over farm-gate prices. The lack of both traceability and price transparency within intermediated supply chains means that it is generally only when roasters purchase coffee directly from farmers that they can ensure any payment of higher prices by roasters will be passed on to farmers.

Another important form of institutional interaction through which companies exercise *indirect* influence over human rights outcomes is the relationships that transnational businesses form with *governments and other social actors within host countries*. Most obviously, such relationships often take the form of both direct and indirect forms of political engagement with host country governments. In some cases, influence may also be exercised via engagement with non-state organisations and networks which shape formal or informal rules governing business activity in a particular sector or location.

Social and governmental institutions within host countries also operate at times as important *constraints* on the capacity of transnational business enterprises to control human rights outcomes among those with whom they engage in institutional relationships. A variety of local actors, norms and historically entrenched patterns of social privilege shape the institutional environments in which businesses operate.³³ Practices such as the denial of social and economic rights to landless agricultural workers, or the persistence of child labour in many agricultural and manufacturing sectors are often entrenched via social institutions of these kinds. In other cases, business influence is importantly constrained by the practices of host country governments, such as the barriers to freedom of association created by government policy and practice (together with wider social influences) in countries such as China or Vietnam.

The limits of responsibility to respect

The exercise of business agency over human rights outcomes in these institutionally mediated ways presents a significant challenge to the responsibility to respect framework. This makes it very difficult – both conceptually and empirically – to distinguish

between human rights non-fulfilment resulting from the (active/negative) engagement of business in damaging forms of institutional engagement, as opposed to the (passive) failure of business to (positively) engage in more favourable forms of institutional action. This reflects the way in which common sense understandings of agency (giving priority to near over distant and individual over group effects) are compromised, as action is mediated through institutions – particularly when these institutional systems are stretched through time and space under conditions of globalisation. Within complex institutional systems, those interactions that in fact shape outcomes of normative concern are no longer experienced “primarily in small-scale interactions, with clearly demarcated lines of causation, among independent individual agents”.³⁴

Because the framework of a business responsibility to respect human rights relies so heavily on the positive/negative distinction as a basis for bounding the scope of business responsibility – limiting responsibility primarily to those human rights outcomes that a business has actively and directly harmed – the prevalence of cases in which the influence of individual businesses is mediated (extended and/or constrained) through institutional processes presents serious challenges to this framework.

Two challenges are of particular importance. The first is a problem of *indeterminacy*: in those cases where institutionally mediated dynamics significantly influence human rights outcomes, the positive/negative distinction – and thus also the respect framework – ceases to offer a clear practical basis for defining and bounding business responsibility. Following from the problem of indeterminacy is a problem of *excessively restrictive scope*. To the extent that the influence of institutionally mediated action cannot be understood straightforwardly as negative (with respect to either the moral agency of the perpetrators or the consequences for the victims), the tendency is for such forms of influence to simply be excluded from the scope of a business responsibility to respect. This second problem therefore importantly limits the capacity of this framework to address the elements of the prevailing governance gap that result from institutionally mediated action as opposed to directly wrongful or negligent acts on the part of individual businesses. Both these problems weaken the capacity of the responsibility to respect framework to tackle the governance gap to which it is addressed effectively.

Spheres of influence as an account of institutionally mediated harms

In comparison with the framework of responsibility to respect, the idea of obliging business to both support and respect human rights within their spheres of influence – an approach contemplated by both the Global Compact and the UN Norms – invokes an image which focuses the lens of responsibility outward towards businesses' relationships with other actors and institutions rather than simply on the *direct* impact of business activity. To this extent, such a framework seems to provide fertile ground as a basis for developing an account of the responsibility of business for institutionally mediated contributions to human rights violations.

The spheres of influence framework has however been widely criticised, both in relation to its simplistic empirical assumptions and its normative ambiguity. Each of these criticisms is considered briefly in turn.

The first aspect of the spheres of influence metaphor that has been the subject of widespread criticism has been its simplistic empirical assumptions – based on the image of concentric circles of stakeholders radiating out from each company. As recalled by the Human Rights Council, the concept as envisaged in the Global Compact and UN Norms

was intended as a spatial metaphor: the sphere was expressed in concentric circles with company operations at the core, moving outward to suppliers, the community and beyond with the assumption that the influence and thus presumably the responsibility of the company declines from one circle to the next.³⁵

Such a tidy and symmetrical empirical image stands in stark contrast to the configurations of institutional agency that we observe within the partially joined up world of the contemporary global political economy. These configurations are much more heterogeneous, overlapping and complex in form than suggested by the imagery of tidily nested concentric circles. As several commentators have observed, the metaphor of webs of relationships seems to capture the messy empirical reality more accurately than that of circles radiating out from a central point.³⁶

Another important criticism levelled at the spheres of influence framework as the UN Global Compact and the UN Norms represented it is that of normative ambiguity or incoherence: the charge that it “lumped together too many disparate dimensions

related to the notion of influence”, including leverage, impact, capacity and benefit.³⁷ It is perfectly possible to imagine an account of spheres of influence that could justify consideration of a broad range of criteria associated with influence, encompassing benefit and capacity as well as impact. For example, the spheres of influence framework could be interpreted as an element of a broader account of what some political theorists have referred to as interaction-dependent or relational accounts of global distributive justice.³⁸ Given that such an account has been neither articulated nor defended, however, it seems clear that the spheres of influence framework as articulated in these contexts must at least plead guilty to being *underspecified*.

The spheres of influence framework may, however, be reinterpreted more narrowly, as an account of business responsibility for institutionally mediated harm. Such an account would continue to build on a restrictive *normative* view of the grounds of responsibility – linking responsibility closely to the exercise of moral agency, and thereby restricting responsibility to those cases of human rights non-fulfilment to which individual companies have actively contributed.³⁹ In this way, such an account could avoid the charge of normative under-specification or incoherence. Such a restrictive normative interpretation of spheres of influence can then be combined with a more complex and multi-dimensional *empirical* account of the kinds of actually existing institutional relations that activate narrowly construed agent-relative responsibilities.

An account of spheres of influence understood in this way serves to *complement* rather than to challenge the narrower account of corporate responsibility to respect human rights in relation to direct impacts. The responsibility to respect offers a means of holding businesses responsible for their direct impacts on human rights; alongside this, an account of spheres of influence as business responsibility for institutionally mediated harm provides a means of allocating responsibility for harms that result from the coordinated or uncoordinated actions of multiple businesses – often interacting also with state and non-state actors of other kinds. What we require is a framework that encompasses business responsibility for *both* direct and institutionally mediated impacts on human rights; such a framework is referred to as a spheres of responsibility approach. An account of spheres of responsibility understood in this way would operate in practice as a *multi-level account of business responsibility*, capable of accommodating the plural and heterogeneous configurations of institutional relationships in which businesses participate.

Conclusion: operationalising a framework of spheres of responsibility?

The framework of a business responsibility to respect human rights appears to offer important potential for creating new mechanisms at the international level for enforcing those simple yet immensely important negative duties resulting from direct forms of corporate harm. However, the problem of specifying clear standards of responsibility to govern business responsibility for human rights has been shown to be greatly complicated as it relates to business responsibility for addressing longer term, institutionally mediated barriers to human rights compliance, for which businesses are partially but not wholly responsible.

This paper has suggested that the governance challenge we confront within a partially joined up world of overlapping institutional spheres demands an account of business responsibility for human rights that goes beyond simply a framework of respecting rights, to encompass a broader account of institutionally mediated spheres of responsibility. However, establishing effective *institutional* means of distributing and coordinating business responsibility in the presence of significant dynamics of institutionally mediated business action will also require a considerable degree of institutional innovation.

The analysis of institutionally mediated business action presented above seems to point towards several elements that an operational framework delineating business spheres of responsibility needs to incorporate. First, in relation to those forms of influence that are diffused and shared within network and market structures, an account of *distributed and shared responsibilities* may provide a basis for reconciling the normative grounding of an agent-relative account of responsibility with the empirical complexities of institutionally mediated action.⁴⁰ Such an account would need to specify a means of *disaggregating* responsibilities between relevant decision-makers, and also, where necessary, means of *coordinating* those decision-making processes that impact interdependently upon relevant human rights outcomes.

In some cases, it may be possible to coordinate disaggregated duties of this kind via the voluntary formation of inter-organisational networks as means of negotiating shares of responsibility and coordinating contributions. In other cases, instituting responsibilities of this kind would probably require some form of legal instrument to strengthen corporate incentives to engage in relevant kinds of cooperation. Teubner, for example, refers to French law in the health and social security sector which imposes a duty of coordination on network participants and sanctions breaches of those duties.⁴¹

In those cases in which business agency is *constrained* as a result of the institutional dynamics through which it is exercised, there may also be a need for some account of distributed and shared business responsibility

for supporting processes of *institutional change*. In some contexts businesses may be able to support institutional change of various kinds via alterations of the way they conduct their individual relationships: for example, by modifying their bargaining strategies with suppliers, their strategic engagement with competitors or their political engagement with governmental and relevant non-state actors. More commonly, bringing about meaningful change also requires at least some degree of coordinated action together with other business, state and/or non-state actors. The task of defining business responsibilities of this kind is particularly difficult because of the often overtly *political* character of debates surrounding processes of institutional change. To this extent, it becomes difficult to separate questions regarding the boundaries of business responsibility from broader debates about the appropriate boundaries of transnational political constituencies and democratic decision-making processes. Introducing considerations of this kind would magnify even further the political and theoretical challenges associated with developing an account of transnational business responsibility.

The normative and institutional challenges of defining and instituting a clearer account of spheres of responsibility for a partially joined up world remain daunting. It will require much practical and theoretical experimentation to develop such an agenda further. Yet if we are to have any hope of avoiding the prospect of widespread violation of the human rights of some of the most vulnerable individuals and communities integrated into a globalising economy continuing indefinitely, we need to confront such challenges seriously and urgently.

Endnotes

- ¹ See Clapham and Jerby (2001); Koenig-Archibugi (2004); Macdonald (2009); Muchlinski (2001).
- ² This phrase has been variously employed by a number of other authors and commentators, including Lehr and Jenkins (2007) and the European Coalition for Corporate Justice (2008).
- ³ Interviews were conducted with key stakeholders and decision-makers within garment and coffee supply chains reaching from factories in Nicaragua, to both consumer markets in the USA and locations of investors and civil society activists spanning the USA, Europe and East Asia. For further detail, see Macdonald (2007a) and (2007b).
- ⁴ Macdonald (2009)
- ⁵ Human Rights Council (2008a)
- ⁶ Ratner (2001); Jungk (1999)
- ⁷ Goodin (1987)
- ⁸ The agent can be a collective entity, such as a corporation, but when it is, that entity can be treated as a single agent for the purposes of assigning responsibility; Young (2004); Pettit 2007).
- ⁹ Haydar (2005); Kutz (2002)
- ¹⁰ Ripstein (2004)
- ¹¹ Kutz (2002), p.550

- ¹² See Scheffler (2003), p.89: “Ideas of individual desert play an important role in our practice of treating one another as responsible agents, and desert has traditionally been seen as having a central role to play in both distributive and retributive justice.”
- ¹³ *ibid.*, p.39
- ¹⁴ See also Patten (2005). According to Shue: “Being negative in the case of duties means, roughly, involving nothing more than not depriving other people of what they have rights to – a negative duty requires simply not interfering with others. All that I give up in performing a negative duty are opportunities to do or to take what I have duties not to do or take. A duty’s being positive, on the other hand, means that fulfilling it will require the expenditure of some resource I control, like time, money, energy, or emotional involvement”; Shue (1988), pp.689-90.
- ¹⁵ Human Rights Council (2008a), p.9
- ¹⁶ Ratner (2001), p.516
- ¹⁷ Scheffler (2003); Shue (1988)
- ¹⁸ All companies operate in joint ventures with the Nigerian National Petroleum Corporation, which is a statutorily established, state owned corporation.
- ¹⁹ Macdonald (2009)
- ²⁰ *ibid.*
- ²¹ Goodin (1987)
- ²² Ratner (2001), p.461
- ²³ Human Rights Council (2008a)
- ²⁴ For example, dynamics of path dependency and lock in effects enable events and decisions in previous time periods to shape outcomes by giving rise to significant constraints on the exercise of transformative agency within current contexts of decision-making.
- ²⁵ Gosselin (2006)
- ²⁶ Human Rights Council (2008a)
- ²⁷ Kutz (2002)
- ²⁸ Human Rights Council (2008a)
- ²⁹ Ratner (2001)
- ³⁰ Within these buyer-driven chains, northern brands and retailers are able to control marketing and design activities, which in turn enables them to wield extensive power over decision-making throughout the global chain; Gereffi (1999).
- ³¹ In some sectors of the industry, especially in the higher volume sections of the market, intermediary trading companies also play an important role.
- ³² Fitter and Kalpinsky (2001), p.16; Gibbon (2001)
- ³³ These will most obviously include labour and product market dynamics at the local level as well as distributions of assets and infrastructure and prevailing configurations of hierarchical and exclusionary social relations.
- ³⁴ Young (2004); Scheffler (2001)
- ³⁵ Human Rights Council (2008a), p.19
- ³⁶ The web metaphor has been involved in a number of contexts. Human Rights Council (2008b), p.6 states that “it is not proximity that determines whether or not a human rights impact falls within the responsibility to respect, but rather the company’s web of activities and relationships”. In his influential analysis of human rights duties (written in the 1980s), Shue similarly observed: “Perhaps the nearest thing to an accurate representation of the real circumstances now is one of those irregular spider webs with some very short strands and some very long strands, such that if something touches one strand it may send a shock to the farthest side of the web, while if it touches a different strand its effect may quickly fade away”; Shue (1988), p.693.
- ³⁷ Lehr and Jenkins (2007); Human Rights Council (2008a), p.19

- ³⁸ Pogge and Bleisch (2002). According to such accounts, the scope and content of social obligations and entitlements are linked importantly to empirical features of the social interactions in which individuals and groups participate; Armstrong (2009); Maffettone (2009); Sangiovanni (2008).
- ³⁹ Leverage a business may have over an entity engaging in exerting harm would therefore not count as relevant to responsibility on this account unless the way the leverage was being exercised was as an empirical matter contributing to the form and extent of the harm – either directly, or indirectly by sustaining (to a non-negligible extent) other relevant dimensions of institutional relationships contributing to the harm.
- ⁴⁰ Ashford (2006); Barry (2005); Young (2004)
- ⁴¹ Teubner (2000)

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