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Corporate Social Responsibility: Challenges and Opportunities for Trade Unionists

Abstract

Presents a background of the corporate initiative at self regulation. Criticizes certain components of the concept from the perspective of trade unions.

Keywords

Business, Catherwood, Code, Codes, Conduct, Cornell, Corporate, Economic, Engagement, Global, Globalization, Globalisation, ILO, ILR, Industrial, International, Labor, Labour, Law, Legal, Legislation, Library, Organization, Organisation, Portal, Relations, Responsibility, Rights, School, Social, Standards, Trade, Unions, University, Work, Workers, Workplace

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Corporate social responsibility: Challenges and opportunities for trade unionists

The notion that companies are responsible not only to their stockholders (owners), but also to a broader set of stakeholders and to society at large, is one of the essential ideas behind what is now referred to as corporate social responsibility (CSR). Yet there are differing perceptions of CSR. They bring with them challenges and opportunities for trade unions – and for the ILO. The challenge for labour is to prevent CSR from becoming a substitute for the proper role of governments and trade unions. This will require a nuanced approach.

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Corporate social responsibility (CSR) has emerged as a significant subject of public policy, in many countries as well as internationally. Considered by some to be “the business issue for the twenty-first century”, CSR is assuming an increasing part of the larger debates over both globalization and sustainable development. There is no universally agreed definition of CSR. Differing perceptions of CSR have resulted in many misunderstandings and have created obstacles for trade unions in addressing the opportunities and challenges of CSR.

The meaning of corporate social responsibility

Some trade unionists look upon CSR as a desirable goal, while others in the unions see in it a dangerous attempt to create a substitute for the traditional roles of both governments and trade unions. And, of course, many trade unionists regard CSR as just “PR” (public relations). This article will consider various aspects of CSR and their implications for workers and their trade unions. It does not make recommendations about specific initiatives or organizations, but it does identify

some of the underlying issues that trade unionists should take into account. It is based on conclusions reached by a special Global Unions meeting (Stockholm, April 2003) held to consider the implications of CSR for trade unions.

CSR has a tangible dimension that cannot be ignored by trade unionists. It has spawned a new industry of consultants and enterprises offering CSR services to business. It has changed the industry of investment managers who organize funds and other investment vehicles as well as those enterprises that offer company information to investors. CSR is manifest in the newly created CSR departments found in numerous corporations, in “multi-stakeholder” initiatives involving non-governmental organizations (NGOs) (and sometimes trade union organizations), and in public-private partnerships linking business and governments. Governments, intergovernmental organizations and regional institutions such as the European Union have developed work plans and have created special units to promote CSR. Business schools and universities have also created CSR departments and units. CSR is the subject of numerous books, articles, web sites and entire journals. Thousands of businesses have adopted codes of

conduct, ethical principles and guidelines in the name of CSR.

CSR is also the proliferation of increasingly elaborate reports by corporations on their social responsibility or their “sustainability performance”. Part of this phenomenon is explained by an accounting industry that is positioning itself to sell assurance¹ for non-financial reporting in the anticipation that companies will eventually be forced to provide such reports and to have them verified.

Trade unionists cannot ignore the concept behind this phenomenon. As a concept, CSR has been used to counter or complement trade union objectives and is the subject of a debate over the relationship of business to society. The outcome of that debate will affect workers and their trade unions.

The term “corporate social responsibility” is not new, at least in academic literature, but the concept has evolved. Consider the following five definitions:

- “Corporate responsibility involves a commitment by a company to manage its role in society – as producer, employer, marketer, customer and citizen – in a responsible and sustainable manner. That commitment can include a set of voluntary principles – over and above applicable legal requirements – that seek to ensure that the company has a positive impact on societies in which it operates.”²
- “Corporate social responsibility are actions which are above and beyond that required by law.”³
- “It is not about ‘doing good’, it is not even about being seen to be doing good, it is about recognizing a company’s responsibility to all its stakeholder groups and acting in their best interests.”⁴
- “Corporate social responsibility is the overall relationship of the corporation with all of its stakeholders. These include customers, employees, communities, owners/investors, government, suppliers and competitors. Through effective CSR practices, organizations

will: achieve a balance between economic, environmental and social imperatives; address stakeholders’ expectations, demands, and influences; sustain shareholder value.”⁵

- CSR is a “concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis”.⁶

Among the most frequently recurring elements in the various definitions of CSR are its voluntary nature and its emphasis on management initiatives and on managing social impact, as well as the idea that companies have stakeholders whose interests must be taken into account.

Sometimes questions about the meaning of “CSR” lead to discussion of whether it is, in fact, the right term to use. Some prefer “CR” (corporate responsibility) because they believe that the word “social” does not include “environmental”. Others prefer “OR” (organizational responsibility) or “SR” (social responsibility) because they do not believe that business enterprises should be singled out or treated differently from other organizations or even governments. Still others prefer the term “corporate citizenship”, with its implication that a company should be regarded as an individual, having both rights and responsibilities. In any event, the term “corporate social responsibility” is used more often than the other terms.

The sources of the current concept

The current form of CSR emerged in the 1990s and represents a convergence of ideas and developments. The most significant source for the current CSR concept comes from concern over the environment. It is related to the idea of sustainable development, developed by the Brundtland Commission in the late 1980s and accepted by the Rio Earth Summit in 1992. Trade unionists played a major role in linking the environmental with the social during this period. They also succeeded in obtaining

recognition that there was a social dimension to sustainability. This became an integral part of the sustainable development concept.

One of the most important drivers of CSR is the idea that there is a “business case” for social responsibility. Behind this idea lies the widely accepted belief that measures that are good for the environment can also be good for the financial performance of a company.

Another aspect of the environmental influence on the concept of CSR was that the non-financial performance of an enterprise could be objectively measured, reported, audited and certified in ways similar to those that are used to measure, report, audit and certify the financial performance of a company. This thinking lay behind rapid and widespread acceptance of the term “triple bottom line” which links the financial, environmental and social performance of companies.

Yet another aspect of the environmental influence was the ecological approach to social issues represented in the concept of “stakeholders”. Stakeholders are considered to be any person or group affected by the activities of an enterprise. Corporations are expected to approach social issues by identifying the “impact” of their activities, just as environmentalists demand that corporations identify the impact (the “footprint”) of their activities on the environment.

A second important source of the current concept of CSR can be traced to the consequences of liberalization, deregulation and privatization policies in the last 20 years. Embraced by governments seeking “low-cost, low-maintenance policy”, CSR fits in well with the growth of public-private partnerships and the increasing use of NGOs as service providers for new forms of philanthropy. A widely held view was that, as business assumed more of the tasks that society had previously expected governments to perform, the expectations of business with respect to its social responsibilities would increase.

A third source of the current concept of CSR relates to the codes of conduct

adopted by companies and meant to be applied to the labour practices of their suppliers and subcontractors. These “supplier codes” were a response to negative publicity related to exploitation and abusive labour practices in the production of famous brand-name goods. These codes raised questions as to how the companies that were adopting them could implement them – and how they could prove to the public that these codes were actually being respected. The search for answers to these questions motivated a lot of private standard-setting in the social area and led to the creation of an industry of private labour inspectors, or social auditors, as well as related multi-stakeholder initiatives which came to have a profound impact on the CSR phenomenon.

The supplier codes were important to the evolution of the CSR concept because they addressed questions of business responsibility raised by two significant and long-term developments. The first was the impact of the new forms of business organization and relationships, brought about in large part by outsourcing and subcontracting. Increasingly elaborate international chains of production (value chains) were making it easier for business to avoid its responsibilities at the same time that various pressures were making it difficult for many governments, especially in developing countries, to fulfil their responsibilities.

A second and related development was the increasing importance of intangibles, including brand names and reputation, in determining the worth of an enterprise. The supplier codes became a means of “risk management” for brand reputation. Codes and management systems addressing other reputation risks, such as possible bribery and corruption scandals, were also developed. Risk management became one of the strongest components of the business case for CSR and codes of conduct became a central feature of CSR.

Another source for the present concept of CSR is the incorporation of ideas drawn from human resource development (HRD) concerning the retention or training of the

workforce. Existing thinking and practices in this area fit well with the CSR concept. Companies came to describe their HRD policies as an aspect of their social responsibility towards their employee “stakeholders”, and as evidence that they were taking the “high road” to being competitive. Industrial relations and collective bargaining are hardly ever mentioned, even where the subject is the company’s relations with its employees. Of course, the impact of successful employee retention on society is less significant for companies that outsource most of their work. Moreover, these kinds of HRD policy cannot have much of a role in low-skill, labour-intensive industries operating in environments where basic human rights are not respected.

The nature of CSR

The most controversial issue in the definition of CSR centres on the idea that it is about the voluntary activities of companies “above and beyond legal requirements”. The question is not whether companies should respect the law – some defend the voluntary nature of CSR by saying that it assumes compliance with law (“takes compliance as a starting point”). Although it is increasingly accepted that CSR is about voluntary activities, this has not ended the controversy over the voluntary nature of CSR. Two unresolved questions keep the controversy alive. The first concerns the adequacy and role of business regulation and the second is whether business should determine its social responsibilities where society has not incorporated its expectations of business into legally binding requirements. Some see CSR as an alternative to regulation, and some promoters of CSR want acceptance of its voluntary nature to translate into acceptance that voluntary initiatives are the sufficient and preferred means of addressing the social consequences of business activity.

If CSR is to be a voluntary concept, then it is important that it be distinguished from other concepts concerning the relationship

between business and society. The term “corporate accountability” (at least in the English language) is now being used by some to refer to the obligations imposed on corporations by governments, and to the corporate governance framework established to hold management accountable. Thus, corporations are said to be “accountable” in a binding sense both to their shareholders and to the governments under whose laws they are created and must operate. There is little difference in English between the meanings of the words “accountability” and “responsibility” (a similarity that does not exist in some other languages). There is, however, a need for terms that can be used to distinguish between the regulatory and corporate governance idea in this use of the term “corporate accountability” on the one hand, and the voluntary activities idea most often meant by the term “corporate social responsibility” on the other. It is widely accepted that regulatory and corporate governance frameworks can shape corporate behaviour more than CSR principles or initiatives. There is also growing recognition that these regulatory frameworks are inadequate.

Distinguishing the voluntary from the binding is not the only important distinction. The voluntary nature of CSR is often interpreted by business to mean that, since CSR activities are not binding, they are always optional and therefore can be determined solely by business. Through the use of voluntary codes and other forms of private standard-setting, companies decide what they consider to be their responsibilities to society. Implicit (and sometimes explicit) in these self-definitions is that there must always be a “business case” – that is, a positive financial result from the responsible behaviour. Often, this private standard-setting has resulted in a redefining or reinterpreting downward by business of already-established norms. Norms need not be binding to be applicable and the expectations of society with respect to the behaviour of business are manifest in non-binding instruments at the national and international level as well as in other forms of “soft law” and practices which

may vary among cultures and societies. If CSR is only a voluntary concept, then there must be another concept that could be called “the social responsibilities of business”. This would enable us to distinguish the CSR activities, which are optional, from the legitimate expectations of society which are always applicable, even where they are not binding.

It is in the nature of CSR to be a management concept – it really does not distinguish the company from its management and is, in the end, only about management decisions and systems that management should put in place to make and implement decisions. Understanding the social impact of a company involves understanding that the management of a company, on the one hand, and the company as a whole, on the other, are not the same thing. As UN Secretary-General Kofi Annan observed in July 2000 when describing the participants in the Global Compact, “Labour unions can mobilize the workforce – for after all, companies are not composed only of their executives.”

CSR is international in nature. Although it can take different forms in different countries, it is more often than not about the internationally applicable behaviour of multinational companies. CSR has a relationship to globalization, is the subject of an international debate and has attracted the attention of intergovernmental organizations.

An environment and not an option

Trade unions did not create CSR. However, neither the concept nor the phenomenon will disappear should trade unionists choose to ignore either.

CSR should not be viewed as an end in itself. Nor should it be regarded as a tool to be used as needed and returned to the toolbox. Rather, CSR is a convergence of ideas and real developments that is changing the environment in which trade unions relate to employers, business organizations, NGOs, governments and international and intergovernmental organizations. This

new environment is not an option. Trade unionists can, however, help to shape it. But they must first recognize both the challenges and the opportunities that the environment holds for workers and their trade unions. Rising to the challenges and taking advantage of the opportunities will require a nuanced approach.

CSR has provided tools to obtain leverage over companies. The new environment has resulted in codes of conduct, in greater support for trade union-driven shareholder actions and in improved follow-up procedures to the OECD Guidelines for Multinational Enterprises. While these opportunities should not be overlooked, the challenges for trade unions must not be ignored.

Challenges and opportunities

The following considers some of the challenges and opportunities for workers and their trade unions in seven aspects of the CSR concept and phenomenon:

The challenges and opportunities of a voluntary concept

The experience of workers and their trade unions is that, in the end, their rights and interests are advanced or protected only through the proper application of good laws and regulations or through their own self-organization for such purposes as collective bargaining. Trade unionists know that paternalism is no substitute for the proper role of government. Their experience is that regulatory frameworks are needed to ensure that business activities are socially responsible.

The challenge for trade unionists is to prevent CSR from becoming a substitute for the proper role of governments and trade unions. The opportunity for trade unionists is to use CSR as a way of promoting a culture of legal compliance and respect for standards as well as to promote good industrial relations and respect for the role of trade unions. This suggests

that trade unions should take a nuanced approach to CSR issues, similar to the approach that many trade unionists now take with respect to the codes of conduct that are unilaterally adopted by companies and intended to be applied to their suppliers. The beneficial effects of these codes are considered to be indirect and depend on whether they create space for governments and trade unions to function properly.

Of course, the use of CSR by business to avoid regulation or to promote privatization of the proper functions of government should be opposed. The greater problem, however, may lie with the use of CSR by governments at the international level. Governments seek to balance, on the one hand, their own binding obligations with respect to property rights in trade and investment agreements with, on the other hand, urging voluntary actions by business to respect human rights.

There is growing recognition in many countries, as well as internationally, that certain frameworks meant to hold business accountable are inadequate. Some of the most important of these frameworks have received international attention and are the subject of international standards. They include corporate governance, accounting and reporting as well as bribery and corruption.

The challenges and opportunities of the stakeholder idea

The idea that companies are responsible not only to their stockholders (owners), but also to a broader set of stakeholders, is one of the essential elements of the CSR concept. Much of CSR is about how management should identify and “engage” stakeholders and how managers should determine, measure and report the impact of company activities on stakeholders. Of course, identifying and engaging all stakeholders is impossible and the practice is most often to identify and engage NGOs as surrogates for the real stakeholders.

In the CSR world, NGOs are considered to be synonymous with civil society – but

there is a difference, and not all NGOs are part of civil society. Indeed, many of the most important civil society organizations are often not considered to be NGOs. Depending on the situation and how they function, organized religion and political parties are key civil society organizations. As a concept, civil society is more than the relationship between the individual and the state and is more about the relationship of individual members of society to each other. The growth of some kinds of NGO results from attempts to substitute for the failure of civil society and explains why the visibility and importance of NGOs is increasing, even in situations where genuine civil society institutions are weaker than ever.

There are some conceptual difficulties with the stakeholder idea. One is that not all stakeholders are equal. Another is that not all stakeholders have a legitimate claim on the behaviour of the company arising out of the interests of society. Indeed, there are some stakeholders whose existence does not add to the responsibilities of the company and may even reduce them. Consider situations where a company has outsourced work to other enterprises, even where this is in order to avoid responsibilities. In such cases the number of “stakeholders” has increased but the responsibilities of the company have not changed or may have decreased.

Some misuses of this overused term reflect conceptual difficulties. The term “stakeholder” is supposed to contrast with the term “shareholder” and concerns relationships with a company. “Stakeholders” is an inappropriate term to describe the relationships of governments with constituents. Citizens in democracies are more analogous to shareholders.

Trade unions have welcomed acceptance of the stakeholder idea and have used it in their efforts to push for corporate governance frameworks that take the interests of society into account. They have supported the stakeholder idea up to a certain point – not, however, when it substitutes for social partners. The most effective and proven means of increasing

the beneficial impact of business activities upon society has been through industrial relations and especially collective bargaining in the framework of effective protection of rights and regulations by governments. Collective bargaining, of course, requires partners and recognition that companies are more than their management. Indeed, other than governments, the only real counterbalance or check on corporate power has been trade unions. As mass representative organizations, trade unions are almost always among the largest civil society organizations. But as representatives of employees and as vehicles for collective bargaining, trade unions are also private economic actors that are important organizations in their respective industries or economic sectors.

This dual nature of trade unions underlies the idea that industry has two sides. The existence of two sides in turn is the basis for social partnership and social dialogue. These concepts are reflected in the tripartite structure of the ILO, through the consultative arrangements at the OECD and in the many and various social dialogue structures that have been established in many countries. Some private CSR “multi-stakeholder” organizations, including the UK-based Ethical Trading Initiative and the Global Reporting Initiative, recognize this dual nature of trade unions and distinguish between trade unions and NGOs in their structures.

Often, company CSR departments do not distinguish between NGOs and trade unions and many do not consider trade unions at all. This can be true even for companies whose employees belong to trade unions. One reason for this is that, within the company, CSR activities tend to be located in a separate place from human resource/personnel functions. Where CSR departments fail to understand the dual nature of trade unions as industrial organizations that are also civil society organizations, they also fail to appreciate how a company can develop genuine roots in a community through the trade unions of its employees.

The challenges and opportunities of standards and standard-setting

Trade unionists seek labour standards and their application. The CSR phenomenon and especially the codes of conduct for suppliers have provided an opportunity to promote greater recognition and appreciation of ILO standards than ever before. Indeed, it was the international trade union movement that introduced the use of ILO international labour standards into the debate over codes of conduct covering labour practices.

Trade unionists face, however, a number of serious challenges with respect to standards. Business is using codes of conduct and other forms of private standard-setting in the social area to redefine or reinterpret standards so as to make their responsibility seem less than it really is. For instance, many companies promise to respect freedom of association only where it is lawful and accept no responsibility in this regard for operating in environments where this basic human right is not permitted. Although the right to collective bargaining is now recognized as one of the fundamental rights at work, it is rarely included by business even where respecting workers’ freedom of association has been accepted.

Many businesses will claim that ILO Conventions do not apply to companies. This is to ignore the fact that the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy constituted recognition, by employers as well as governments and workers, that the underlying principles of many ILO Conventions could and should be applied to the behaviour of business. The fact that ILO Conventions establish definitions and are accompanied by jurisprudence to clarify their meanings in specific circumstances has not discouraged business and its CSR consultants from redefining more conveniently terms such as “child labour” or from promoting employer-dominated mechanisms to substitute for freedom of association.

One way that companies use private standards to lower expectations of their

behaviour is by not distinguishing the different purposes of codes. Codes that are appropriate for one enterprise to apply to the labour practices of its suppliers or subcontractors will not be appropriate to apply to activities that the enterprise directly owns or controls. The best supplier codes rightly stress observing minimum internationally recognized human rights standards such as those identified by the ILO as being fundamental rights at work. But existing expectations concerning the responsible behaviour of business go well beyond respecting basic human rights. There is, for instance, a big difference between respecting freedom of association, on the one hand, and having good industrial relations, on the other. Business should not avoid the broader range of expectations of society, especially when set forth in legitimate and always applicable instruments such as the OECD Guidelines for Multinational Enterprises.

Business is used to participating in technical standard-setting processes where the purpose is to create or promote markets. An example of this can be developing standards so that products can be interchangeable. In recent years, there has been an increase in private standard-setting activities in the social area, which are modelled on the processes involved in establishing market-promoting technical standards. This kind of social standard-setting lacks both the genuinely representative structures and the competence necessary to give it legitimacy. Trade unionists must work to make sure that private standard-setting and self-regulation do not negatively impact on the legitimate standard-setting functions of the ILO or of governments.

Private standard-setting can take many forms. Programmes and organizations that seek to collect and disseminate “best practice” in this area can even be considered to be engaging in a form of social standard-setting.

The challenges and opportunities of reporting and verification

Trade unionists seek corporate transparency. A “true and fair” view of the performance of the employer is considered indispensable in collective bargaining. Trade unions were among the first to demand that companies account for their social impact and to support the idea that companies must report on their social responsibilities. “Social reporting” has become one of the most important CSR activities – and an opportunity for trade unionists.

Agreeing on what a company should report to the public about the social impact of its activities or its contributions to society can be one of the most important forms of standard-setting. For this reason, the Global Unions decided to participate in the Global Reporting Initiative, an international multi-stakeholder initiative designed to develop guidelines for company reports. Sometimes referred to as “sustainability reporting” and “triple bottom line reporting”, this non-financial reporting is heavily influenced both by financial reporting practices and by experience from reporting on environmental impacts. The emphasis is on quantifiable information that is also considered objective (unbiased or neutral), comparable and auditable.

Among other things, reporting standards involve identifying aspects of CSR and deciding on “performance indicators” that relate to these aspects. One of the many challenges is choosing indicators that really indicate the aspect to be measured. For instance, consider the number of strikes or of days lost due to strikes. These figures would be poor indicators for aspects such as the quality of industrial relations or for respect of freedom of association. The same figures could be present in situations where there were good industrial relations, bad industrial relations or no industrial relations as well as in situations where freedom of association was respected or where it was repressed. Another challenge is deciding the appropriate boundary of the reporting company. The human resource policies applied to

the core headquarters employees will say little about the impact on labour of companies who outsource most of their work.

One of the major influences on determining reporting content is a nascent industry of consultancies offering assistance to companies in preparing reports, as well as other enterprises, often linked to the accounting industry, offering services designed to enhance the “credibility” of these reports by providing “verification” or “assurance”. The more important drivers for “assurance” will not be campaigning organizations seeking to make companies prove their CSR claims, but the companies themselves who want to reduce liability for their public claims – and investors demanding reliable reporting of non-financial performance that has a bearing on the financial performance of the company.

The influence of this reporting and assurance industry on reporting standards is becoming a significant challenge to trade unionists. Many of the practices and principles that underlie financial and environmental reporting may not be appropriate to the social dimension, where a high level of intangibles must be taken into account. Albert Einstein said, “Not everything that can be counted counts, and not everything that counts can be counted.”

Trade unionists need to be careful about verification. Consider the behaviour of “social auditors” engaged by companies to “independently monitor” workplaces in their supply chain. These enterprises regularly report compliance with respect for freedom of association, including in places where there is no trade union or where the government does not permit the exercise of the human right to unionize. These “social auditors” rarely understand the link between the suppression of trade union rights and the exploitation that their activities are ultimately intended to prevent. For various reasons, such “social auditors” are disposed to show that workers can have a “voice” without the genuine representation that comes from trade unions or to demonstrate that it is possible to source from countries with repressive regimes without using exploited labour.

Many of the ways in which workers can be intimidated, discouraged or prevented from joining or forming trade unions are difficult to detect. Because of this, the only real test that workers’ freedom of association is respected is the presence of an independent or free trade union which is actually permitted to function. Similarly, the only good test for respect of the right to bargain collectively is a collective agreement that is respected. The CSR industry has handled the subject of trade union rights poorly for various reasons, including the confusion of management interests with those of the company and the failure to recognize that governments, and not management alone, must function properly if human rights are to be respected.

Trade unions were among the first to demand that companies, applying codes of labour practice to their suppliers, have these suppliers “independently monitored”. Later, it became clear that what was being demanded was unrealistic – the word “monitoring” implies a continuous presence or a frequently repeated activity of the kind that companies and the “social auditors” that they engage cannot perform. The only real system of “independent monitoring” of workplaces is by the workers themselves through their trade unions. Workers are able to speak up about workplace conditions through their trade unions or directly because of the protection afforded by their trade unions. This is not to say that there is no role for private workplace inspection or verification of supplier code compliance. The challenge for trade unionists is to ensure that standards for “social auditors” and private workplace inspection are developed that are compatible with the best practices of the labour inspectorate, promote a culture of compliance with law and are consistent with the role of industrial relations. In the view of many, this is a job for the ILO.

The challenges and opportunities of socially responsible investment

The interest in socially responsible investment (SRI) is part of the CSR phenomenon. It has led to the growth and popularity of investment funds claiming to invest in companies that are socially responsible, and to the growth in the number of enterprises that provide information to investors about the social or environmental performance of companies. This has increased opportunities for trade unionists to obtain leverage over corporate behaviour through means such as introducing shareholder resolutions at annual company meetings. Such use of workers' capital has helped to shape the CSR environment. These tactics have been applied mainly in countries where there is an "equity culture" and where workers' or other institutions, such as religious groups, with an interest in the social responsibility of business, have an influence on the investment decisions or the proxy voting of pension funds.

The interest in SRI may also be of use for trade unionists in the debate over corporate governance. It offers opportunities for trade unionists in some countries to promote a long-term perspective on share value performance in capital markets that serves the interests of worker beneficiaries of funds by encouraging responsible corporate behaviour.

There are different ways that SRI can be used to influence corporate behaviour. One is by choosing investments through screening. In applying a screening strategy, investors either do not invest in companies (or divest themselves from companies) that fail to meet agreed criteria concerning various aspects of CSR, or else invest in "ethical" or "responsible" companies that meet certain criteria. The screen can operate on either positive or negative criteria. While there is logic to a CSR screening system perfectly constructed and universally applied, the actual situation poses obstacles to creating any such system which may not be possible to surmount. These include getting the right criteria (the choice

of standards) as well as obtaining the right information about company compliance. One risk of screening is to eliminate from share ownership the very institutions that would be likely to engage corporate boards and management over reform. Screening is a different, but not necessarily competing, approach to active share ownership.

SRI challenges trade unionists. The justification for insisting that companies be socially responsible requires a "business case", usually based on risk management and liability and associated with protecting intangible assets such as brand value or company reputation. The danger is that investors or enterprises supplying CSR information about companies will reinterpret or redefine the social responsibilities of business to conform to this need. The problem is that the "sustainability" of an enterprise is not always the same as the "sustainability" of society, as expressed in the concept of sustainable development. In other words, there is not always a business case for socially responsible behaviour. This is one of the reasons why checks on corporate power through regulation and industrial relations are needed.

SRI is about the role of shareholders in making companies more socially responsible through their investment decisions, through the exercise of their voting rights acquired through share ownership or through participation in a dialogue of company owners and company management. There are, however, important limits to this approach. Even in situations where workers are important shareholders, efforts to strengthen the rights of shareholders in the corporate governance framework will not necessarily advance workers' interests. Workers have both common and competing interests with their employer. Although workers' capital can be a positive influence and its power should be developed, it can never be a substitute for trade unions.

The challenges and opportunities of social rating, awards and social labels

CSR has spawned various means of judging companies. For trade unionists, the most useful have been those that can be used to embarrass companies into changing their behaviour or that otherwise inhibit their behaviour. Sometimes, judgements can be comparative, as in the social ratings of companies that enterprises provide to investors. Some of these enterprises want trade unions to provide information about companies. Under certain circumstances, providing this kind of information could raise practical and ethical problems. Ethical questions could, for instance, arise in situations where a rating agency offered to compensate a trade union for information that the agency would make proprietary.

Comparing companies could pose problems for trade unions choosing to do so. Rating companies comparatively could interfere with the central trade union purpose of engaging management and defending the interests of union members. Ratings can be affected by where a company does business or by its home country. The trade union experience with multinational enterprises (MNEs) is that the host country environment is a more reliable predictor of company attitudes and behaviour than the home country environment of the MNE. National trade unions may not be appropriate organizations to judge the overall behaviour of an MNE.

Not surprisingly, business enterprises prefer positive judgements to “naming and shaming”, and the CSR phenomenon features positive incentives such as awards and labels. These can concern labour issues, and they range from human resource practice awards at home to labels related to supply chain codes abroad.

Awards that purport to promote “best practice” can be seen as a form of standard-setting. The implicit message of awards seems to be that companies do not require regulation or collective bargaining to be “good employers”. These kinds of award are usually based on management reports and employee surveys conducted by man-

agement. Trade unions are often bypassed, and “experts” engaged to judge the reports may not be familiar with industrial relations. The source of good working conditions is always presented as the generosity of management, even where these conditions were collectively negotiated. Not surprisingly, companies with poor industrial relations records or anti-trade union policies are just as likely, or more likely, to win awards. Awards for human resource management or conditions of work may well be the most paternalistic aspect of CSR.

There is little difference between giving a company an award and authorizing a company to use a label. Labels for products that, in effect, certify the labour practices involved in the manufacture of the product pose special problems. Unlike product content or safety labels, the claim cannot be verified by testing the product itself. A label covering labour practices could only be credible if there were constant policing of the workplace – a condition that exists only where secure and independent trade unions are permitted to perform their proper functions and even then, only where they are supported by enforceable and enforced labour regulation in an open and democratic society.

Social labels for products are unlikely to be credible. There is reason for moral concern where industry associations or governments authorize the use of labels intended to create a commercial advantage without also creating a liability for the abuse of the label. Although social labels have the potential to provide leverage over a company where problems are discovered, the label itself may not promote dialogue within the company.

The challenges and opportunities of engaging employers

The CSR concept can be contradictory. It stresses the importance of identifying and engaging stakeholders but, at the same time, stresses unilateral management action. The experience is that CSR is more about management systems and check-

lists than genuine dialogue. Not surprisingly, management prefers to choose its “stakeholders” for dialogue. Too often, companies engage NGOs over workplace issues and avoid trade unions. Although the “empowerment” of workers is a recurring CSR theme, this term almost never refers to the genuine power that workers acquire through their trade unions.

Co-operation between trade unions and NGOs has worked best in this area when it has been based on a full understanding of their respective and complementary roles. This issue is not about competition between NGOs and trade unions. It is, however, about the meaning of representation and the responsibility of business with respect to trade unions and industrial relations. Although both trade unions and NGOs can be advocacy organizations, only trade unions are representative organizations of workers. This is true even in industries or countries where trade union membership is low (where, for instance, employers resist recognizing trade unions or governments set low standards or fail to enforce standards). In many countries, national industrial trade unions should be considered the representative organizations for workers in an industry, even if not all workers are members or not all companies in the industry are parties to collective agreements. Similarly, at the international level, the various Global Union Federations (GUFs) are the representative organizations of workers in their respective industries or economic sectors. GUFs are the international trade union organizations representing workers by sector.

Industrial relations and social dialogue require representative structures. There is, of course, a big difference between the CSR approach to workers and the industrial relations approach. Industrial relations are based on the understanding that, in the relationship between labour and management, not everything can be “win-win”. In this relationship, there will always be conflict and competing interests. Collective agreements anticipate problems and are about an orderly means of resolving them. CSR seems to be more about dealing

with problems if found or asserting the absence of problems through the application of management systems. The challenge for trade unionists is to identify ways to engage employers in the CSR environment so that it involves genuine social dialogue and promotes good industrial relations. This requires representative structures that are also democratic and legitimate.

In recent years, a number of “framework agreements” have come into effect between multinational companies and the GUFs. Some consider framework agreements to be negotiated codes of conduct with complaints systems and therefore superior to “unilaterally adopted” company codes of conduct. This is, however, not a useful way of looking at these agreements, which are qualitatively different from codes of conduct. The importance of these agreements does not stem from any complaints procedures or even their content. The agreements are important because they constitute a formal recognition of social partnership at the global level. Although they are closer to collective agreements than to codes of conduct, framework agreements are intended to complement but not substitute agreements at the national or local level. Because GUFs are the representative organizations of workers in an industry at the global level, framework agreements do not pose the serious problems that can arise where national trade unions “negotiate” with companies’ codes of conduct or similar CSR instruments that are meant to be applied globally. National or local agreements should not be negotiated at the world level, and global agreements should not be negotiated at the local or national level. The challenge for trade unionists is to make sure that what is on the negotiating table determines who is around the table.

Conclusion

CSR is neither an objective nor an option but an environment offering challenges and opportunities that can also be shaped. The trade union response to CSR will re-

quire nuanced approaches. Trade unionists have much experience in such approaches. They recognize both common and competing interests with their employer. It should be no surprise that, while trade unionists recognize an interest in the sustainability of their employers, they also understand that this kind of sustainability is not the same as is meant by “sustainable development” in terms of society and the environment. Trade unionists encourage business to take the “high road” with respect to their competitive behaviour. However, they also understand that the business case for social responsibility is, more often than not, insufficient to guarantee socially responsible behaviour and that countervailing power, in the form of regulations and trade unions, is needed.

A nuanced approach is incompatible with an approach that encourages activities uncritically by letting “1,000 flowers bloom”. Trade unionists should resist the argument that, even where initiatives and activities do little good, they are better than nothing. It is now clear that many CSR activities are having a substitute effect for the role of government and are also substituting for genuine dialogue.

Trade unionists can do much to inform the CSR debate. They can recall their experience with paternalism. They can remind governments and business that collective bargaining and social dialogue are the private mechanisms that have been the most important and effective means for society to maximize the positive and minimize the negative social consequences of business activities.

Because CSR is based on voluntary activities, it is of critical importance that a different term such as “the social responsibilities of business” be used to refer to the legitimate expectations of society with respect to the behaviour of business, whether or not these expectations are binding. CSR must not be a means for business to redefine or reinterpret its existing responsibilities. CSR must not become a substitute for

the proper functions of government. Business does not possess the political legitimacy to define its responsibilities or substitute for government. Many of the problems brought about by globalization are governance problems that business is in no position to resolve.

Because private business activities are not the whole problem, they cannot be the whole solution.

CSR has an international dimension that requires an international response. This response can include engaging business internationally and through various international initiatives where this is appropriate. The ILO has much to contribute to the debate over the social responsibilities of business and to the CSR phenomenon. The most important contributions that the ILO could make concern standards and standard-setting, as well as social dialogue and tripartite consultation. The challenges for the ILO will be to resist adopting a management system approach to CSR and to protect its leading and central role as a standard-setting organization for the world of work.

Notes

¹ In the context of CSR, “assurance” usually means “verification” – Ed.

² United States Council on International Business, *Advancing Corporate Responsibility – A statement by the USCIB Corporate Responsibility Committee*, November 2002.

³ Cited as “McWilliams and Siegel 2001” and found at the web site of Response Consulting, <http://www.response-website.com>

⁴ Response Consulting, <http://www.response-website.com/What-is-corporate-social-responsibility>

⁵ George Khoury et al.: *Corporate social responsibility: Turning words into action*, The Conference Board of Canada, Ottawa, 1999. <http://www.conferenceboard.ca>

⁶ Commission of the European Communities: *Communication from the Commission concerning corporate social responsibility: “A business contribution to sustainable development”*, July 2002, COM (2002) 347 Final, p. 5.