
Is enlightened self-interest enough to ground the corporate responsibility to protect human rights?

What is this Research About?
The United Nations Framework, which sets out the human rights responsibilities of corporations, holds that corporations have a responsibility to respect human rights in their operations whether or not doing so is required by law. John Ruggie, the author of the Framework, proposes that corporations should respect human rights for reasons of corporate (enlightened) self-interest.

Cragg identifies this as a serious weakness and argues that the responsibility to respect human rights is an explicitly ethical obligation and is to be respected for that very reason. Doing so would provide a stronger justificatory foundation for the UN Framework as the self-interest of a corporation—for example, its financial well-being—might come into conflict with human rights obligations, thus undercutting the motivation to respect human rights.

Background
Human rights are geared to protect fundamental human interests by placing obligations and duties on others who could be in a position to harm those interests.

For a right to a genuine right, there must be a way to systematically institutionalize a respect for that right within an organization's rules and regulations as a right cannot be properly respected on a case by case basis.

Cragg identifies two properties that are necessary for an entity to bear obligations. First, an organization must have goals and objectives that are compatible with a broad respect for human rights. Second, an organization must have the ability to curb human rights abuses by institutionalizing a respect for those rights within its own rules and regulations.

States have human rights obligations as they clearly have goals and objectives that are compatible with the respect for human rights—indeed, one of the goals of nation states is to serve public interests and respecting human rights is clearly in the public interest. Similarly, states can readily institutionalize a respect for human rights through voluntarily signing the UN’s Declaration of Human Rights and incorporating its demands into their own constitutions, laws, etc.

What did the Researcher do?
Cragg explores whether corporations have direct human rights obligations in a manner that is analogous to how states have direct obligations. He concludes that they do by examining that question from both a historical and normative question.

Historically, nation states have been seen to have direct human rights obligations precisely because states were the primary threats to human rights. With the rise of globalization and the relative ease with which corporation can do business across large geographical and national boundaries, corporations are now in a similar position as nation states.

Normatively, the demand to respect human rights arises from the goals of an organization being in harmony with the public interest and through an organization's ability to institutionalize processes...
that would ensure those rights are respected. Both conditions are met by corporations. Although they are private entities, the economic goals of corporations often serve the public interest, even if indirectly. Second, corporations can, through their dealings with various peoples, positively or negatively affect the interests of those people. As corporations have, within the scope of their own mandates, the capacity to institutionalize a respect for human rights, they should do so, just as states do...

What did the Researcher Find Out?

Cragg is able to give compelling reasons to reject the pragmatic justification for corporations to respect human rights in favour of a normative argument that respects the fundamentally ethical nature of human rights. Cragg recognizes that the pragmatic justification for corporate human rights obligations rests on the assumption that it will always be in a corporation’s best financial interest to respect human rights. As Cragg says, this “is not credible or likely to be seen as credible”.

His new view, by placing a normative demand on corporations to respect human rights, has several additional advantages. First, corporations must see the UN Framework as justifiable from a corporate perspective. But there are often prudential benefits that result from respecting human rights. At the very least, there is no immediate incompatibility that ensues from respecting human rights for ethical reasons, but also benefiting from the results that come from doing so. Placing the UN Framework on an explicitly ethical foundation might also enable corporations to avoid hidden costs in the future.

Second, while the UN Framework is to be adopted voluntarily by corporations—they aren’t to be compelled by law—the term ‘voluntary’ is ambiguous. Even if a state should not legally compel a corporation to explicitly respect human rights, there still remains an ethical demand to respect human rights. Thus, the UN Framework remains voluntary in legal terms, but mandatory on ethical grounds. By holding all corporations to the same ethical standard, the cost of ignoring human rights violations becomes harder to justify on a monetary basis and easier to condemn as part of the social license of corporations to operate is to respect human rights.

Third, by treating the “responsibility to respect” human rights as an ethical and not pragmatic principle, corporations may be more willing to support a multi-national enforcement of human rights standards. Practically speaking, this could result in a more evenhanded and clear formulation of corporate responsibilities that apply to all corporations equally. The ethical obligation to respect human rights might, as well, lead to corporations accepting more explicitly legally mandatory obligations as well.

Why is this relevant to...

The research community

Cragg provides a thorough analysis of the locus of human rights obligations and situates it within a broader framework that holds corporations to have normative and not merely pragmatic reasons to respect human rights. Both his analysis and the framework he develops are novel and contribute to a growing body of work on the corporate responsibility to respect human rights.

The policy community

Policymakers—governmental and corporate—should find his arguments compelling insofar as he locates a normative requirement on corporations to respect human rights. This should be useful in motivating the creation of guidelines for best practices in a corporation’s dealings with issues that might affect the human rights of those with whom it does business.

What Next?

Theoretically and practically, Cragg’s research is important as it asks us to reconsider what the basis is for demanding that corporations respect human rights and what can be done to motivate corporations themselves to respect those rights. In addition to merely pragmatic reasons for respecting human rights, Cragg provides an alternate means of articulating that demand, one that should be compelling to researchers and practitioners.