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Global Justice and International Business

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ABSTRACT: Little theoretical attention has been paid to the question of what obligations corporations and other business enterprises have to the four billion people living at the base of the global economic pyramid. This article makes several theoretical contributions to this topic. First, it is argued that corporations are properly understood as agents of global justice. Second, the legitimacy of global governance institutions and the legitimacy of corporations and other business enterprises are distinguished. Third, it is argued that a deliberative democracy model of corporate legitimacy defended by theorists of political CSR is unsatisfactory. Fourth, it is argued that a Rawlsian theoretical framework fails to provide a satisfactory account of the obligations of corporations regarding global justice. Finally, an ethical conception of CSR grounded in an appropriately modest set of duties tied to corporate relationships is then defended. This position is cosmopolitan in scope and grounded in overlapping arguments for human rights.

KEY WORDS: base of the pyramid, poverty, legitimacy, cosmopolitanism, Rawls, human rights, political CSR, ethical CSR, business ethics

AN ANIMATING CONCERN of much recent scholarship in political and moral philosophy and international business is that of poverty alleviation. Since the publication of Peter Singer's (1972) classic essay on the ethics of famine relief, hundreds of articles, chapters, and books by philosophers and political theorists have addressed the question of what justice requires of the affluent relative to the needs of the world's desperately poor. More recently, international business scholars have addressed a dimension of this problem by focusing attention on base of the pyramid (BoP) strategies, or business strategies intended to both alleviate poverty and be profitable. Since the publication of C. K. Prahalad and Stuart Hart's (2002) influential essay many articles, chapters, and books by international business scholars have addressed the nature and viability of the BoP business model.[1]

The facts that inspire this work addressing global poverty are increasingly well known. Approximately 1.4 billion people live in extreme poverty on less than $1.25 per day and another 1.2 billion live in moderate poverty on less than $2.00 per day, for a combined total of 2.6 billion people living in moderate or extreme poverty (MEP). A further 1.4 billion people live on between $2 and $9.05 per day for a total of 4 billion people living below $9.05 per day at the BoP (Arnold and Valentin 2013; World Bank 2011).

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There is compelling evidence that economic globalization has significantly reduced the percentage of the global population living in moderate and extreme income poverty and has enhanced the capability of impoverished people to function well (Sachs 2005; Wolf 2004). Nonetheless, poverty remains endemic in the developing world. Global justice scholars have advanced a variety of arguments regarding the scope and limits of the obligations or responsibilities of affluent populations to the BoP but the vast majority of these arguments have focused on the obligations or responsibilities of individuals and nation states. The obligations or responsibilities of non-state institutions, especially corporations and other business enterprises, has received much less attention from global justice theorists. International business scholars have advanced a variety of arguments regarding entrepreneurial and corporate strategies for alleviating poverty. Much of this literature assumes that any business interaction with the BoP will be beneficial insofar as it provides opportunities for enhanced consumer choice. More recently, the issue of exploitative business activity has received greater attention in the literature (Arnold and Valentin 2013; Karnani 2007). BoP consumers can be harmed when they are targeted as consumers of alcohol, tobacco, sugary sodas, and usurious micro-loans, and BoP workers can be harmed when they are exposed to hazardous working conditions, forced overtime, abusive supervision, or denied the right to collective bargaining. However, relatively little theoretical attention has been paid to the obligations or duties of corporations and other business enterprises to BoP populations in the context of the global institutional order. This reflects a broader failure of transdisciplinary scholarship across the field of international business, ethics, political philosophy, and business ethics (Arnold, Audi, and Zwolinski, 2010; Doh, Husted, Matten, and Santoro 2010; Heath, Moriarty, and Norman 2010).

My present aim is to address the question of what theoretical framework is best suited for determining what obligations, if any, transnational corporations and other business organizations have to the individuals living at the BoP. My argument is developed in four parts. First, the claim that corporations are properly understood as agents of justice is explained and defended. Second, two domains of normative legitimacy regarding international business are distinguished. It is argued that the moral legitimacy of organizations is not persuasively accounted for by the Habermasian deliberative democracy perspective that has been defended by management scholars (Scherer and Palazzo 2007). Third, it is argued that proponents of a Rawlsian political perspective on corporate obligations regarding global justice are mistaken. The upshot of these two sections is that the political account of corporate social responsibility (CSR) that has proven influential among some management scholars in recent years cannot provide an adequate theoretical account of the obligations of corporations regarding the BoP. In the fourth part of the article, an alternative ethical perspective on CSR that utilizes a cosmopolitan human rights perspective is defended. It is hoped that these arguments may contribute to an understanding of the obligations of corporations operating across national boundaries and within a multiplicity of nations and thereby advance theoretical understanding of global justice and the ethics of international business.

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1. AGENTS OF GLOBAL JUSTICE

Global justice is a topic of broad concern and one of the most lively and dynamic areas of contemporary scholarship in political philosophy. Among the central concerns of global justice scholars are the just distribution of global resources and the legitimacy of the global institutional order in light of global poverty. Much of the debate regarding global justice concerns just relations among states (or "peoples" in the language of Rawls) (Rawls 1999), individual responsibility for the global institutional order (Pogge 2002, 2005; Reitberger 2008; Young 2004, 2006), and the legitimacy of global governance institutions (e.g., the World Bank, International Monetary Fund, and the United Nations) (Buchanan and Keohane 2006; Keohane 2011). To the extent that they are discussed at all, corporations are typically discussed as subjects of control by the basic institutional structures of nations.

There are no doubt many reasonable explanations for this relative lack of interest in corporations by global justice scholars, but let us focus on two of these. First, part of the explanation for this relative lack of attention to these important global actors is likely to be sociological. While significant philosophical contributions to the literature on global justice have been made by scholars working in moral philosophy, the literature on global justice is most often the domain of political philosophers (including those trained in political science or government departments) and philosophers of international law. Through training and disciplinary focus, these scholars are inclined to focus on political systems, governmental institutions, and legal frameworks, rather than business enterprises. The significant international business ethics literature that initially emerged in the 1990s has had little impact on developments in the global justice literature and tends to be ignored by these scholars.[2]

The second reason involves differences in judgment regarding the role of corporations and other business enterprises in contributing to global justice and is well illustrated by the debate that took place a decade ago between Onora O'Neill (2001) and David Held (2002). O'Neill argues that corporations should be understood as agents of global justice. By "agents," O'Neill means only that they act on behalf of justice and not the more substantive claim that TNCs are genuine moral agents. Corporations, she argues, operate as secondary agents of justice in powerful nation states, but may operate as the primary agent of justice in weak or failed states. As O'Neill acknowledges, this is not a novel claim either from the perspective of theorists or from the perspective of corporate managers (2001: 200). Nonetheless, her claim met with resistance from Held. While acknowledging that important differences exist between corporations with regard to their attitudes toward global justice, Held argues that O'Neill is mistaken to focus attention on corporations rather than regional and global regulatory regimes. He argues that substantially different regulatory environments in different nations will lead corporations to seek out the least burdensome regulatory environments in order to remain competitive, resulting in a classic "race to the bottom" scenario (Held 2002: 71). To avoid this undesirable outcome, Held recommends a two-pronged solution. First, "entrenchment of revised rules, codes and procedures . . . in the articles of association and terms of reference

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of economics organizations and trading agencies" (Held 2002: 72–73).[3] Second, the adaptation of cosmopolitan principles by regional and global institutions.

Significantly, the debate between O'Neill and Held did not spark new lines of research among global justice scholars regarding the role that corporations should play in the moral division of labor regarding justice.[4] Indeed, this debate effectively died off after Held's rejoinder suggesting that global justice theorists who have reflected on these issues are sympathetic to Held's position. If most global justice theorists maintain something like Held's view that the role of corporations in global justice is a problem of global regulation and not a management issue, then it is not surprising that we have not seen more attention paid to corporations and other business enterprises in the global justice literature.

While there is a place for some of Held's recommended solutions, there are reasons familiar to scholars of international business and business ethics for thinking that he is mistaken to dismiss the roles of corporations in promoting global justice. First, Held's position is grounded in empirical claims about corporate behavior for which he provides no evidence. A lack of attention to empirical studies regarding the beneficial and harmful impacts of various features of contemporary globalization is a deficiency of philosophical scholarship on global justice in general (Blake 2012). Corporations and other business enterprises can benefit or harm the BoP in a variety of direct and indirect ways. For example, corporations have direct, positive impacts on the economies of developing nations by transferring technical and managerial knowledge. Firms have indirect, positive impacts via technology spillover and contributions to business infrastructure (Rugman and Doh 2008). Firms can also directly or indirectly have a negative impact on the BoP. For example, direct harm occurs when a corporation's products or labor conditions result in direct harm to members of the BoP. Indirect harm occurs when the general operations of corporations or other business enterprises result in harmful externalities, such as air pollution, water table drainage, or the introduction of carcinogens into local environments, that negatively impact BoP populations (Arnold and Williams 2012).

Second, substantial bodies of scholarship in industrial organization and behavioral business ethics have shown that an instrumental account of practical reasoning, one in which profitability is the only motive managers utilize in making business policy decisions, is an inadequate explanation of firm behavior.[5] Institutional structures, organizations incentives, bounded rationality, ethical values, and stakeholder perceptions of legitimacy can each contribute to the determination of business policy regarding activities impacting the BoP.

Third, global or regional rules and regulations intended to modify the behavior of corporations in weak, unstable, or failed states typically will be ineffectual unless firms conscientiously choose to adhere to those rules and regulations. These nations often lack the regulatory oversight and infrastructure necessary to enforce their own laws, or refrain from using such force because national leaders are fearful that the TNC will move operations elsewhere if local laws are enforced. It is unlikely that new rules or regulations will have the desired outcomes without voluntary adherence on the part of firms.

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The final reason that Held's position is unpersuasive is that there is no obvious basis for thinking that the idea that corporations can and should act as agents of justice is incompatible with the idea that global regulatory regimes can and should be enhanced to provide additional incentives for firms to promote justice.

2. INSTITUTIONAL LEGITIMACY

Legitimacy is a topic that has received considerable attention from political philosophers and management scholars, but the distinct types of moral legitimacy relevant to international business has received less attention than is merited by the subject. The debate between O'Neill and Held is instructive insofar as it highlights a distinction between two different domains of normative legitimacy regarding corporations and other business enterprises operating in the international sphere.[6] First, there is the question of the normative legitimacy of the international institutions and rules that govern international trade and regulate international business activity. Here, questions of legitimacy concern the basis of authority, the procedures by which rules or regulations are determined, the substantive content of those rules, and the legitimate enforcement of those rules. This topic has received modest attention from political philosophers and legal scholars (Buchanan and Keohane 2006; Cohen and Sabin 2006; Keohane 2011). We will put aside this topic in the present article given our focus on the obligations of corporations and other business enterprises. Second, there is the question of the normative legitimacy of the corporation itself, especially with regard to its activities in burdened societies. The general issue of corporate legitimacy has received modest attention from management scholars (Suchman 1995; Palazzo and Scherer 2006). Suchman's influential definition characterizes moral legitimacy regarding an organization as "a positive normative evaluation of the organization and its activities" (Suchman 1995: 579). He identifies consequences, procedures, and organizational structures in characterizing moral legitimacy.

The global context for business is unique insofar as it involves firms operating in a multiplicity of political contexts and in environments with weak or corrupt institutional frameworks (Arnold 2003; Matten and Crane 2005; Kobrin 2009). Palazzo and Scherer acknowledge this problem and argue that moral legitimacy cannot depend on universal moral or legal norms since there is no widespread agreement on their legitimacy (Palazzo and Scherer 2006: 77). Instead, they argue that moral legitimacy should be conceived of as "deliberative communication" (Palazzo and Scherer 2006: 73) and, drawing from Habermas, emphasize the importance of democratic control of the "state-like role of the corporation" (Scherer, Palazzo, and Bauman 2006: 515). By "state-like role," the authors have in mind the ability of transnational corporations to act as administrators of rights in their global operations. If corporations act in a "state-like role" with respect to any groups of individuals, this must include BoP populations since they are most in need of the basic goods and services that states provide such as the provisioning of clean water, sanitation, health care, education, affordable housing, and income security.

There are at least two serious difficulties with this deliberative democracy perspective on moral legitimacy of corporations. First, it is not clear what this view entails

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in practice. Let us call this the *process* objection. Modern transnational corporations may have operations spanning the globe that impact hundreds of millions or billions of people. Pragmatically, it is not clear how these diverse and conflicting perspectives are to be reflected in corporate governance. Is each individual impacted by corporate operations, products, and services to have an equivalent role in the determination of business policy? How might such a process work? Is the process compatible with the multiple regulatory frameworks under which companies operate? Should the process be the same for publicly traded companies, large private companies, state-owned enterprises, and small- and medium-sized enterprises? Does it matter whether or not the firm is operating in a democratic or non-democratic nation? How can a consultative, deliberative process involving millions of people be made compatible with the pace of innovation, dynamics of shifting competition, and technical expertise that are basic features of a global marketplace? Without a theoretical model of deliberation that takes into account these challenges, it remains unclear how the deliberative model constitutes a coherent account of moral legitimacy. However, such a theoretical model has not yet been provided and, on its face, it is difficult to imagine that one that could address these myriad difficulties could be provided.

Second, it is not clear how the BoP, in particular, can have a role in corporate governance given the illiteracy, impoverishment, and vulnerability of this population. Let us call this the *voice* objection. The BoP may be negatively impacted by harmfully exploitative products and services (Arnold and Williams, 2012; Arnold and Valentin 2013; Karnani 2007) that are profitable for corporations and benefit other stakeholders such as employees and shareholders in both democratic and non-democratic nations. Given the range of disadvantages faced by the BoP, and especially the MEP, it is not clear how their perspectives can be incorporated into a democratic process of global governance in a meaningful way, given the size, power, and sheer number of corporations and other business enterprises involved. In functional representative democracies, the voices of the BoP may be heard through the standard political process; but it seems clear that this not what Palazzo and Scherer have in mind when they argue for deliberative democracy as a basis for establishing the moral legitimacy of corporations. Without the ability to specify a process by which the BoP can be empowered to help determine business policy, the idea that democratic deliberation can provide corporations with moral legitimacy appears unfeasible.

Proponents of deliberative democracy as a source of moral legitimacy may be able to respond to these objections, but it is also possible that an alternative approach to assessing the role of corporations in promoting global justice can better take into account the distinctive needs and vulnerabilities of BoP populations. One alternative approach to the question of how firms can gain moral legitimacy in a global context is one that utilizes ethical principles that have been incorporated into corporate business policy and operations. This ethical conception of CSR is different from both political CSR and instrumental CSR (Scherer and Palazzo 2011; Windsor 2006). If we are to take such an approach, we must determine which ethical principles, if any, might be utilized in this way. It is beyond the scope of this article to defend such principles in a comprehensive manner, although an argument for one principle is

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provided below in section four. However, if such principles can be articulated and defended, it is necessary to determine what theoretical framework could provide the grounding for such principles. It is to this task to which we now turn.

3. AGAINST RAWLS

The recent philosophical literature concerning global justice may be divided into two competing categories. Proponents of the *political* view of justice maintain that a system of global socio-economic justice should be grounded in political systems, rather than in ethical norms (Nagel, 2005; Rawls 1999). Democracy, in this view, is essential to the legitimacy of political systems. Advocates of this view maintain that justice should be understood primarily as a political value, rather than a moral value. They see justice as a virtue of sovereign states, one that legitimately extends to the citizens of such a state as a result of the willingness of citizens to honor the laws of the state and defend it against the aggression of other states. *Cosmopolitans* maintain that a system of global socio-economic justice must be grounded in ethical principles such as respect for basic human rights or utilitarian welfare maximization (Caney 2005; Pogge, 2002; Singer 1972; Unger 1996). Cosmopolitans see political institutions as a means to ensure respect for such universal norms. Nation-states that contribute to the violation of basic rights, or merely tolerate the violations of such rights, are problems that must be overcome. Proponents of this view typically call for the creation of institutions that have both the power and legitimate authority to compensate for failed states, stabilize weak states, and coerce successful states into respecting relevant ethical norms.

The political view of global justice is distinct from political CSR. Political CSR has been defined as "an extended model of governance with business firms contributing to global regulation and providing public goods" (Scherer and Palazzo 2011: 17). It is both a description of some types of business activity and normative insofar as it defends a particular conception of the legitimacy of business organizations (Makinen and Kourula 2012; Whelan 2012). As we have seen, Scherer and Palazzo defend a Habermasian deliberative democracy perspective regarding corporate legitimacy but that is only one possible political account of the role of corporations in promoting global justice. A contrasting Rawlsian perspective on corporate duties regarding global justice also merits attention because of the scope and influence of Rawls's conception of justice and because Rawlsian arguments have previously been utilized to assess corporate obligations to the BoP (Hsieh 2004, 2009; Santos and Laczniak 2009). Rawls has also been invoked by political CSR scholars in a way that suggests that a Rawlsian perspective is compatible with a Habermasian perspective (Scherer and Palazzo 2007). For these reasons, it will be valuable to assess whether or not a Rawlsian perspective on global justice can provide a satisfying theory of the obligations or responsibilities of corporations to the BoP. Since the Rawlsian perspective is only one possible political perspective on global justice, in the remainder of this section, we will refer to the Rawlsian theory of global justice rather than to the broader category of a political view of global justice. Our focus continues to be on the question of corporate obligations regarding global justice,

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rather than obligations that may arise for nations or individuals as a result of the global institutional frameworks that emerged in the twentieth century.[7]

To understand a Rawlsian view of the role of corporations in global justice it is necessary to understand one of Rawls's reasons for favoring a dualist conception of moral theory. Rawls argues that the basic structure of society ought to be regarded as the first subject of justice, at least on a Kantian contractarian view (Rawls 1996). He characterizes the basic structure as "the way in which the major social institutions fit together into one system, and how they assign fundamental rights and duties and shape the division of advantages that arise through social cooperation" (Rawls 1996: 258). Dualism refers to the claim that "the two practical problems of institutional design and personal conduct require, at the fundamental level, two different kinds of practical principle" (Murphy 1998: 254). On Rawls's account, the division of duties is between political institutions and individual persons. One justification given by Rawls for this division has to do with a fair distribution of labor in order to ensure that the demands of justice are met. Rawls thinks this is best accomplished by

> an institutional division of labor between the basic structure and the rules applying directly to individuals and associations and to be followed by them in particular transactions. If this division of labor can be established, individuals and associations are then left free to advance their ends more effectively within the framework of the basic structure, secure in the knowledge that elsewhere in the social system the necessary corrections to preserve background justice are being made. (Rawls 1996: 268–69)[8]

In this division of labor, corporations fit under the broad category of associations of individuals, side by side with church congregations, book clubs, recreational sports leagues, and civil society organizations. However, an account of social systems that categorizes corporations alongside amateur softball teams and independent church congregations, and attributes to them similar responsibilities for the maintenance of a just society, would appear to inadequately differentiate between social categories.

Here, it is necessary to clarify the distinction between institutions and mere associations. Institutions may be understood as distinct systems of rules that govern the behavior of well-defined groups of people who share common ends, together with a mechanism for enforcing those rules with formal sanctions.[9] On this *intentional* account, institutions persist because of the intentions of the relevant agents whose interests they serve. An institution exists at a certain time and place where the rules it specifies are followed and enforced. The rules are enforced by members of the group who are empowered to act on behalf of the institution. All institutions are associations, but not all associations are institutions. Associations are perhaps best understood as collectives informed by collective purposes and shared norms.[10] Typically, associations have less rigid membership rules and informal, rather than formal, internal decision structures. Institutions may be either private or public depending on how one becomes a member and the nature of the sanctions. Private institutions include corporations, private universities, professional organizations, trade unions, and religious organizations. In private institutions, membership is determined by the members, and the primary sanction is the revocation of membership in the group. In many public institutions, membership is determined by non-members. Here,

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sanctions may include taxes, fines, the revocation of licenses, and imprisonment. Public institutions include regulatory agencies, public universities, and health care systems. Political institutions, such as legislative bodies and executive branch offices, are a subset of public institutions.

Private institutions operating within nations have distinctive resources and abilities that enable them to influence both the understanding of justice by citizens and the basic framework of society. In this way, private institutions are distinct from actual citizens or associations of citizens. The legitimate role of these institutions is unaccounted for in Rawls's characterization of the basic structure of society. Beyond the domestic sphere, Rawls's two-part division of labor also fails to adequately account for the roles of global institutions in our post-Westphalian era. Global institutions are usefully separated into three categories. Multilateral organizations that are established by governments, such as the World Bank, International Monetary Fund, and the OECD; non-governmental organizations such as the International Chamber of Commerce, Human Rights Watch, and Greenpeace; and transnational corporations and other business enterprises.

These three classes of global institutions share in common certain features that undermine Rawls's dualism. First, global institutions are operated or made functional by citizens of scores of nations who do not share allegiance to the same domestic government. They may be members of liberal societies, decent hierarchical societies, burdened societies, or benevolent absolutist societies; and many of these societies will have distinct, non-identical conceptions of justice (Rawls 1999). Second, global institutions operate in a range of societies with different background conceptions of justice. The principles or values that should guide these institutions will not be informed by a either shared conception of justice on the part of the constituent members of these institutions, or by a shared conception of justice in the societies in which the institutions function. What is needed are principles that can transcend these different conceptions of justice.

To more fully and fairly assess the adequacy of a Rawlsian account of global justice for determining what obligations, if any, corporations have to BoP populations, we need to examine the subtle and carefully crafted arguments developed by Nien-hê Hsieh (2004; see also Hsieh 2009) in support of the claim that multinational enterprises based in developed economies have obligations of assistance to developing societies. Hsieh uses the arguments developed by Rawls in the *Law or Peoples* (1999) as the grounding for his arguments.

To facilitate our assessment of these arguments it is necessary to introduce a basic distinction between the types of nations in which transnational business is conducted. Rawls provides a useful typology of societies, or "peoples," in his analysis of global justice. For our purposes, it will be sufficient to utilize a basic distinction he makes between two broad classes of "peoples." First, there are what Rawls characterizes as well-ordered societies. These are societies that operate according to liberal principles or meet certain conditions of decency. These conditions of decency include non-aggression, a shared conception of justice, and a system of law that respects human rights and that imposes other moral obligations on members of society derived from a shared conception of justice (Rawls 1999: 64–67). Second, there are

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what Rawls calls burdened societies; that is, societies whose "historical, social, and economic circumstances make their achieving a well-ordered regime . . . difficult if not impossible" (Rawls 1999: 90). Hsieh argues that multinational corporations based in well-ordered societies, and largely owned by members of those societies, have an obligation to assist burdened societies in which they operate, so long as the assistance does not outweigh the benefits gained by these firms in the burdened society. However, this duty *only* applies when the well-ordered nation is *not* itself fulfilling its obligations regarding its duty of assistance to a specific burdened society.

This Rawlsian account of the duties of transnational corporations has distinct limitations. These may be summarized with the observation that the account applies only to a limited number of transnational firms, only to limited segments of the global BoP population, and only in certain timeframes. To better understand this assessment, consider the following: First, a large percentage of global BoP populations live in well-ordered societies. For example, India constitutes a well-ordered society but has a large BoP population. On the political account, there is no duty of assistance to members of the BoP living in well-ordered societies; so there would appear to be no basis on the political account for an obligation on the part of corporations to BoP populations living in well-ordered societies such as India.[11] On this account, the obligations of justice are a feature of the needs of the societies in question and not a feature of the needs of individual members of the BoP.

Second, on the Rawlsian account, duties of assistance apply only to transnational corporations that are largely owned by the members of the same well-ordered societies. However, in a globalized economy, ownership of transnational corporations is often multi-domestic with both individual and institutional investors from diverse societies owning shares of companies. Only a limited number of corporations will be largely owned by citizens of the nations in which they were founded or are based. Firms that fall outside of this group will not have any duties of assistance on this political account. Third, corporations may themselves be based in burdened societies; in which case, the duties of the firm toward the society in which it is based and toward other burdened societies are left unspecified.

Finally, the Rawlsian view fails to take into account the mobility of people and labor capital in the contemporary world. Many individuals do not live their lives within a single society but instead migrate across borders to escape poverty, conflict, or oppression. The International Labour Organization puts the number of migrant laborers alone at 100 million (International Labour Office 2010: 2). Again, what is needed is a theoretical structure that can provide principles that correspond to individual persons and not to societies or "peoples" (Buchanan 2000: 698). A Rawlsian account of global justice grounded in *Law of Peoples* does not provide such a framework. We need to look elsewhere.

4. HUMAN RIGHTS COSMOPOLITANISM

Moral cosmopolitanism may be said to have three distinct features, which it will be useful to summarize here with an oft-quoted passage from Thomas Pogge:

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> First, individualism: the ultimate units of concern are human beings, or persons—rather than, say, family lines, tribes, ethnic, cultural, or religious communities, nations, or states. The latter may be units of concern only indirectly, in virtue of their individual members or citizens. Second, universality: the status of ultimate unit of concern attaches to every living human being equally—not merely to some subset, such as men, aristocrats, Aryans, whites, or Muslims. Third, generality: this special status has global force. Persons are ultimate units of concern for everyone—not only for their compatriots, fellow religionists, or suchlike. (Pogge 2002: 169)

There are a variety of moral cosmopolitan perspectives defended by moral and political philosophers, including consequentialist (Singer 1972, 2002; Unger, 1996), Kantian (O'Neill, 2000), needs-based (Brock 2009), and rights-based (Caney 2005; Pogge 2002, 2005). It is not possible to canvass or discuss all of these alternatives to political accounts of global justice in relation to BoP populations in the space of this article. Instead, in this concluding section, my aim is to provide a plausible cosmopolitan human rights perspective regarding the obligations of corporations and other business enterprises to the BoP.

Much of the discussion that animates the flourishing literature on cosmopolitan justice concerns the specifications of the obligations that affluent individuals have to distant people living at the BoP. Strict cosmopolitans argue that duties of assistance are equally binding on members of one's community or nation as they are to distant others. Moderate cosmopolitans acknowledge that a duty of assistance to distant others is a binding obligation, but defend special obligations to local communities or nations that supersede obligations to distant others. The position defended in this section circumvents this debate altogether by focusing on the relationships that corporations and other business enterprises have to individuals living at the BoP. In particular, my focus is on the direct benefits and harms that may result from relationships with members of the BoP as customers, as producers, as laborers, and community members.[12] The argument developed here is thus limited in scope. In particular, the argument developed here does not address the obligations that businesses have, if any, to people with whom they do not have relationships.

The argument begins by drawing upon the growing literature on business and human rights. Within the business ethics literature, the obligation of corporations to respect human rights has been grounded in two complementary sets of arguments. First, corporate human rights duties are justified on contractualist grounds (Donaldson 1991; Cragg 2002). This argument, which Donaldson made persuasively over twenty years ago, takes into account the fact that the very reason that corporations are allowed to exist is to allow people to come together to make productive contributions to humanity. To accomplish this end, corporations are granted such rights as property and freedom in most nations. Corporate rights holders have reciprocal duties to respect the rights of others, including the basic human rights enjoyed by individual persons. Second, human rights are grounded in the idea that the human capacity of autonomous action entitles persons to basic respect, not merely from other individuals and governments, but from organizations with whom they have relationships (Arnold, 2010). Together these two arguments provide an overlapping

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justification for the position that corporations operating transnationally have duties to respect human rights independently of the ability of host nation governments to police and remedy human rights transgressions by corporations. The idea that businesses have human rights obligations has also been institutionalized in recent years via a variety of international agreements and covenants among governments, multilateral organizations, and non-governmental organizations, culminating in the United Nations Tripartite Framework on Business and Human Rights (United Nations Special Representative 2008; for discussion of these initiatives see Arnold 2010 and Muchlinski 2012).

If such human rights duties can be justified, the question of the scope of these obligations must be addressed. Florian Wettstein defends an account of the human rights obligations of corporations where the obligations of corporations are limited only by their capabilities. On this account, corporations have expansive obligations to make "positive contributions to human development" consistent with their expertise and resources (Wettstein 2009; see also Wettstein 2012a, Wettstein 2012b). According to Wettstein, corporations are "quasi-governmental" institutions and are required to meet state-like human rights obligations. This is a much more expansive view of the scope of corporate human rights obligations than has been defended historically by business ethics scholars and is not the position defended here. Rather, it stands as one point on a spectrum of possible accounts of corporate human rights obligations and may be contrasted with a libertarian account of these obligations at the opposite end of the spectrum.

On one libertarian conception of the human rights obligations of corporations, no rights are binding on corporations that are not legally required or contractually agreed upon. This argument holds that no obligations or responsibilities can be binding on the basis of a relationship one has entered into unless one has expressly agreed to fulfill those obligations. In other words, corporations can have no special obligations to individual members of the BoP independent of contractual agreements stipulating those obligations or formal commitments to human rights standards. Samuel Scheffler has called this the "voluntarist objection" (Scheffler 2001). This judgment can be seen as informing libertarian perspectives on business ethics. To test the strength of the voluntarist objection, let us use the standard philosophical technique of testing our intuitions against an example; in this case, a variation of Peter Singer's (1972) classic drowning child example.

Imagine that you are a businessperson who has secured a difficult-to-obtain pitch meeting with a senior executive at a large firm. He has agreed to meet you at a new factory he is inspecting that is being completed outside of town in a valley that is mainly farmland. Securing the contract would generate significant new revenue for your company. The executive is known to be fastidious about both business attire and punctuality. You leave for the meeting wearing appropriate attire. As you are driving down a dirt road to the factory, you notice a young child struggling to keep her head above water in an irrigation pond. You stop, wade into the pond and save the child. The child, who appears to be about four years old, is crying for her mother in Spanish, which you do not speak. You see no one else in the area and you can-

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not get mobile phone reception. Your clothes are ruined and you are late for your appointment. What now?

According to the voluntarist, you have no special obligation to the child since you have not expressly agreed to care for the child. You are free to leave the child by the side of the road, and proceed to your business meeting despite there being no adults in the area. The voluntarist can fairly point out that you have already incurred costs in the form of ruined clothes and tardiness for your meeting, which will make it more challenging for you to close the deal. Is leaving the child by the side of the road the correct choice?

The voluntarist objection conflicts with most people's intuitions because a child left alone near an irrigation ditch and back road without adult supervision is vulnerable to injury or death. But what reason can be given for the view that you have an obligation to see that the child is safely turned over to appropriate authorities before proceeding about your business?

One explanation is what we will call the *principle of protecting the vulnerable*. According to this principle, when a person or organization stands in a relevant relationship to a vulnerable party, the person or organization has a special obligation to protect the vulnerable party from harm when they have the capacity to do so. Vulnerability, however, is a relative concept insofar as parties that are simply less intelligent, less skilled, less strong, or less competitive are vulnerable to harm or loss from individuals who are more intelligent, more skilled, stronger, or more competitive. As George Brenkert (1998) has noted in a different context, we are concerned, in particular, with people who are vulnerable because their cognitive abilities, social circumstances, or economic standing make it impossible, or nearly impossible, for them to protect their own interests and welfare in comparison to normal adults. Vulnerability on this view does not constitute mere weakness relative to another party, in which case, we would all count as vulnerable agents, but vulnerability relative to a relevant baseline standard. One useful standard for assessing human vulnerability is one's capability to function well.

Poverty and development scholars have shown that the lives of the global poor are characterized by malnourishment, poor health, high illiteracy rates and tradeoffs between food, health care, and education.[13] Members of the BoP are socially and cognitively vulnerable as a result of their poverty and the lack of institutional frameworks that can provide BoP populations with social welfare services. The cognitive vulnerability of those living at the BoP is a feature of illiteracy or limited education. Social vulnerability is a result of poverty itself. A short-term "live for the moment" mentality contributes to unhealthy tobacco and alcohol consumption which exacerbates incapacities to function well, especially among the 2.6 billion people living in moderate and extreme poverty. Opportunities for a decent life are limited from early childhood and contribute to a range of vulnerabilities that leave people living at the BoP susceptible to misfortune and predation, typically without recourse to social or economic safety nets.

On the other hand, corporations can provide direct benefits to the BoP. Utilizing a capabilities framework, which both Nussbaum and Sen characterize as a form of human rights theorizing (Nussbaum 2007; Sen 2005), we can helpfully distinguish

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between two different categories of empowerment (Arnold and Valentin, 2013). First, ventures that provide opportunities for the poor to improve their capability to function well. These opportunities may take the form of employment with decent working conditions consistent with ILO conventions, purchasing produce grown by BoP farmers, or providing entrepreneurial opportunities. They are characterized by the opportunity they present for individuals in the BoP to utilize their labor to improve their capability to function well by earning income. Second, BoP consumers may be benefitted by ventures that offer direct opportunities for them to function well by purchasing products or services, the use of which directly improves their well-being. Examples might include renewable energy sources and inexpensive water purification systems.

On the cosmopolitan account defended here, harmful exploitation of people living at the BoP takes place when corporations or other business enterprises take advantage of their cognitive, social, and economic vulnerabilities in ways that violate or undermine such basic human rights as subsistence, physical security, and freedom of movement and association. If the arguments presented here are roughly correct, a cosmopolitan account of justice appears better suited than a political account to help us understand how corporations and other business enterprises can act as agents of justice in ways that enhance organizational moral legitimacy.

5. CONCLUSION

The task of defending a theoretical framework regarding the obligations of transnational corporations and other business enterprises to the four billion people living at the base of the pyramid is a complex endeavor. This article has attempted to contribute to that end in four ways. First, it has been argued that corporations are properly understood as agents of global justice. Second, it has been argued that there are two domains of normative legitimacy relevant to role of corporations and other business enterprises in promoting global justice: the legitimacy of global governance institutions and the legitimacy of corporations and other business enterprises. The arguments of this article have focused on corporate legitimacy. The most prominent political conception of CSR present in the management literature defends an account of corporate moral legitimacy grounded in deliberative democracy. It has been argued that this account is unpersuasive for two reasons. First, because the process of deliberation is theoretically unspecified and because the practical task of implementing deliberative democracy in a global context is unlikely to be successful. Second, because the vulnerability, illiteracy, and resource deprivation of the BoP, and especially the MEP, render their full and equal participation in a process of deliberative democracy implausible.

Rawls's influential conception of justice is an important alternative for those who believe that a political conception of CSR is viable. The arguments of this article challenge the assumption that Rawls's theoretical framework can provide a satisfactory account of the obligations of corporations regarding global justice. In place of a political conceptions of CSR, an ethical conception of CSR grounded in an appropriately modest set of duties tied to relationships with stakeholders in the

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organization is defended. This position is cosmopolitan in scope and grounded in overlapping arguments for human rights. This view, it has been argued, provides the most plausible account of the duties of corporations operating in the post-Westphalian era of the world.

NOTES

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1. The literature is expansive but key works include Prahalad 2004; London and Hart 2004, 2011; and Karnani 2007.

2. Key works from this period include De George 1993; Donaldson 1991; Donaldson and Dunfee 1999; and Santoro 2000.

3. Held's concerns are broader than poverty reduction and include "health, child labour, trade union activity, environmental protection, stake-holder consultation and corporate governance" (Held 2002: 72).

4. No articles with an explicit focus on corporations, or other business enterprises, and global justice have appeared in the main ethics or political philosophy journals since that time.

5. For criticism of instrumental accounts of practical reasoning see O'Neill 2000, chaps. 1 and 2.

6. This concept of legitimacy was developed by Weber to analyze governments and has been extended to organizations by Suchman and others. A normative account of legitimacy provides a justification for beliefs regarding the legitimacy of governments or organizations. A descriptive concept of legitimacy characterizes what people do believe about organizations and explains why they believe an organization is legitimate or illegitimate (Suchman 1995).

7. For a Rawlsian perspective on the implications of the "basic structure" of the global institutional framework see Beitz 1979. This work builds on the early work of Rawls, rather than the later work of Rawls which is the primary focus of our discussion in this section.

8. A similar position is endorsed by Nagel 1991.

9. See Elster 1989, Rawls 1955, and Rawls 1971, esp. 54–60. For a summary of the intentional view of institutions, see Pettit 1992, esp. pp. 614–17.

10. Social norms are shared by a group of people and are partly sustained by their approval or disapproval. Social norms are enforced via informal sanctions and lack formal mechanisms of enforcement. See Elster 1989, 113–23.

11. It is also not clear what the political account has to say about the distinctive obligations of corporations based in poor, well-ordered nations to those living in burdened societies.

12. For present purposes, I am putting aside indirect impacts via positive and negative externalities. For discussion of direct vs. indirect harm, see Arnold and Williams 2012.

13. For a review of this literature, see Arnold and Valentin 2013.

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