

# The Politics of Corporate Social Responsibility and Human Rights Due Diligence

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Social and Cultural Anthropology

Master's thesis

November 2020



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HELSINGFORS UNIVERSITET  
UNIVERSITY OF HELSINKI

Tiedekunta/Osasto – Fakultet/Sektion – Faculty Faculty of Social Sciences		Laitos – Institution – Department Department of Social Research	
Tekijä □ – Författare – Author Sanna Marjukka Eriksson			
Työn nimi – Arbetets titel – Title The Politics of Corporate Social Responsibility and Human Rights Due Diligence			
Oppiaine – Läroämne – Subject Social and Cultural Anthropology			
Työn laji – Arbetets art – Level Master's thesis	Aika – Datum – Month and year November 2020	Sivumäärä – Sidoantal – Number of pages 91	
Tiivistelmä – Referat – Abstract			
<p>The thesis looks at corporate social responsibility and its political discourse in Finland. Corporate social responsibility has gained a lot of public attention during the last decades. Especially the unethical behaviour of multinational corporations has increased the demands for corporate accountability. Anthropologists have observed the chameleon-like character of corporate social responsibility phenomenon. The phenomenon seems to always transform according to the criticism it receives. Thus, anthropologists have questioned the efficiency of corporate social responsibility in addressing the social and global problems caused by corporations. Lately there has been increasing demands to legislate corporate social responsibility. The purpose of this thesis is to analyse the current public discourse on the legalisation of corporate social responsibility, and to discuss whether there is a possibility that this discourse will facilitate change in corporate behaviour. By examining this latest shift in the corporate social responsibility discourse, the thesis also critically evaluates the existing anthropological research on corporate social responsibility.</p> <p>The thesis is based on an ethnographic fieldwork that has been conducted in different public events addressing corporate social responsibility in Helsinki, Finland. The fieldwork was conducted between October 2018 and November 2019. The data for this thesis has been gathered through participant observation, unofficial discussions, online-ethnography and the international policy documents underlying the discourse, such as UN Guiding Principles on Business and Human Rights and OECD Guidelines for Multinational Enterprises. The data is analysed through the existing anthropological research on corporate social responsibility. But in order to gain new insights, this thesis draws also from other anthropological research that has addressed global governance.</p> <p>By drawing from the existing anthropological research on corporate social responsibility, the thesis argues that the global guidelines underlying the current discourse aim to establish a symbolic authority on the issue of corporate responsibility to respect human rights. But these guidelines do not set any strict requirements on corporations as they are voluntary. Instead, they promote a post-political ideology of collaborative action and consensus. But the thesis suggests that instead of foreclosing the political discussion on controversial topics, these guidelines actually move political conflicts into other locations.</p> <p>The thesis shows how corporations and other actors in the society negotiate the norms for corporate behaviour. It shows how Finnish corporations appeal to their size in order to displace and diminish their responsibility. However, this thesis argues that also other actors than corporations displace responsibility according to their interests, which is contrary to what the previous anthropological research has suggested. But simultaneously the actors aim to build consensus through partnerships, business case reasoning and development rhetoric, whose discursive power has already been recognised by the existing anthropological research. But the thesis suggests that, in addition to these, the actors in Finland build consensus through national rhetoric and by appearing morally higher and more conscientious than actors outside of Finland. Thus the discourse in Finland frames the issue of corporate respect for human rights as a cultural problem. To address this cultural problem, corporations embrace the development discourse, and thus human rights education is framed as the corporate responsibility of the Finnish corporations. The thesis also shows how the discourse on the possible law is dominated by the practical problem of making the law. Thus, the thesis suggests that there is a risk that the law will not have much sanctioning power. The corporations can strategically utilise the human rights due diligence process to discharge responsibility, as they can show that they are trying to address the issues in their supply chains.</p> <p>Despite of the critical analysis of the current discourse, the thesis has argued that the public corporate social responsibility discourse, guidelines and legal technologies nonetheless foster change and increase ethical awareness of the corporations. Thus, the thesis argues that the existing anthropological research on corporate social responsibility has been too preoccupied with the focus on the discourse and practices of multinational corporations and the topics of power and inequality. These perspectives have resulted in overly critical analysis that assumes that the corporate social responsibility discourse always privileges corporations. Thus, the thesis argues that the existing anthropological research on corporate social responsibility diminishes the transformative capabilities of corporate social responsibility discourse and practice.</p>			
Avainsanat – Nyckelord – Keywords Global governance, due diligence, corporate social responsibility, politics			



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Tiedekunta/Osasto – Fakultet/Sektion – Faculty Valtiotieteellinen tiedekunta		Laitos – Institution – Department Sosiaalitieteiden laitos	
Tekijä □– Författare – Author Sanna Marjukka Eriksson			
Työn nimi – Arbetets titel – Title Yritysvastuun politiikka ja ihmisoikeuksia koskeva asianmukainen huolellisuus			
Oppiaine – Läroämne – Subject Sosiaali- ja kulttuuriantropologia			
Työn laji – Arbetets art – Level Pro Gradu -tutkielma		Aika – Datum – Month and year Marraskuu 2020	Sivumäärä – Sidoantal – Number of pages 91
Tiivistelmä – Referat – Abstract <p>Tämä tutkielma tarkastelee yritysten yhteiskuntavastuuta ja siitä käytävää poliittista diskurssia Suomessa. Yritysten yhteiskuntavastuu on saanut paljon julkista huomiota viimeisten vuosikymmenten aikana. Etenkin monikansallisten yritysten epäeettinen toiminta on lisännyt vaatimuksia yritysten vastuullisuudesta. Antropologit ovat huomioineet yritysten yhteiskuntavastuu -ilmiön kameleonttimaisen luonteen. Ilmiö tuntuu aina muuttavan muotoaan sen kohtaaman kritiikin mukaisesti. Täten, antropologit ovat kyseenalaistaneet yritysten yhteiskuntavastuun kyvyn puuttua tehokkaasti yritysten aiheuttamiin yhteiskunnallisiin ja globaaleihin ongelmiin. Viime aikoina on ilmennyt vaatimuksia siitä, että yritysten yhteiskuntavastuuta pitäisi säädellä lailla. Tämän tutkielman tarkoitus on analysoida tämän hetkistä julkista diskurssia, joka käsittelee yritysten yhteiskuntavastuun lakisäätelyä, ja keskustella diskurssin mahdollisuudesta muuttaa yritysten käyttäytymistä. Tutkimalla tätä viimeisintä muutosta yritysten yhteiskuntavastuu -diskurssissa, tutkielma tarkastelee myös kriittisesti olemassa olevaa antropologista tutkimusta yritysten yhteiskuntavastuusta.</p> <p>Tutkielma pohjautuu etnografiseen kenttätutkimukseen, joka on toteutettu erilaisissa yritysten yhteiskuntavastuuta käsittelevissä julkisissa tapahtumissa Helsingissä, Suomessa. Kenttätutkimus on kestänyt lokakuusta 2018 marraskuuhun 2019. Tutkielman aineisto koostuu osallistuvasta havainnoinnista, epävirallisista keskusteluista, online-etnografiasta sekä aihetta pohjustavista kansainvälisistä dokumenteista, kuten YK:n yrityksiä ja ihmisoikeuksia koskevista ohjaavista periaatteista sekä OECD:n toimintaohjeista monikansallisille yrityksille. Aineisto on analysoitu olemassa olevan yritysten yhteiskuntavastuun antropologisen tutkimuksen avulla. Mutta tutkielma perustuu myös muulle globaalin hallinnan antropologiselle tutkimukselle, josta tutkimukseen on saatu uusia näkökulmia.</p> <p>Tutkielma esittää olemassa olevaan antropologiseen yritysten yhteiskuntavastuun tutkimukseen nojaten, että nykyistä diskurssia ohjaavat globaalit toimintaohjeet pyrkivät luomaan symbolisen auktoriteetin yritysten vastuulle kunnioittaa ihmisoikeuksia. Nämä toimintaohjeet eivät kuitenkaan aseta tiukkoja vaatimuksia yrityksille, koska ne ovat vapaaehtoisia. Sen sijaan, ne edistävät politiikan jälkeistä ('post-politics') ideologiaa yhteistoiminnasta ja konsensuksesta. Tämä tutkielma kuitenkin ehdottaa, että sen sijaan että toimintaohjeet estäisivät poliittisen keskustelun kiistellyistä asioista, ne itse asiassa siirtävät poliittiset konfliktit muualle.</p> <p>Tutkielma osoittaa kuinka yritykset ja yhteiskunnan muut toimijat neuvottelevat normeista, jotka koskevat yritysten käyttäytymistä. Tutkielma näyttää kuinka suomalaiset yritykset vetoavat kokoonsa siirtääkseen ja vähentääkseen vastuutaan. Tutkielma kuitenkin esittää, että myös muut toimijat kuin yritykset siirtävät vastuutaan intressiensä mukaan, joka eroaa aikaisemmasta yritysten yhteiskuntavastuun antropologisesta tutkimuksesta. Mutta samalla toimijat pyrkivät rakentamaan konsensusta kumppanuuksilla, 'business case' perusteluilla ja kehitysretoriikalla, jotka jo aikaisempi antropologinen yritysten yhteiskuntavastuun tutkimus on osoittanut tehokkaiksi keinoiksi. Mutta tutkielma ehdottaa, että näiden lisäksi, suomalaiset toimijat rakentavat konsensusta nationalisella retoriikalla, ja he näyttävät moraalisesti ja vakaumuksellisesti ylevämpiä kuin muut toimijat Suomen ulkopuolella. Täten Suomessa käytävä diskurssi muotoilee yritysten vastuun kunnioittaa ihmisoikeuksia kulttuuriseksi ongelmaksi. Puuttuakseen tähän kulttuuriseen ongelmaan, yritykset omaksuvat kehitysdiskurssin, ja täten ihmisoikeuskoulutuksesta muodostuu suomalaisten yritysten vastuu. Tutkielma myös osoittaa kuinka käytännölliset ongelmat lain tekemisessä dominoivat laista käytävää keskustelua. Täten, tutkielma ehdottaa, että on olemassa riski, että lailla ei tule olemaan riittävää rangaistusvoimaa. Yritykset voivat myös strategisesti hyödyntää ihmisoikeuksia koskevaa asianmukaisen huolellisuuden prosessia vastuun siirtämiseen, koska he voivat näyttävää, että he yrittävät tarttua toimitusketjuissa oleviin ongelmiin.</p> <p>Tämän hetkisen diskurssin kriittisestä analyysistä huolimatta, tutkielma esittää, että yritysten yhteiskuntavastuun julkinen diskurssi, toimintaohjeet ja lakitekniikat siitä huolimatta edistävät muutosta ja lisäävät yritysten eettistä valvutuneisuutta. Täten, tutkielma toteaa, että olemassa oleva yritysten yhteiskuntavastuun antropologinen tutkimus on ollut liian keskittynyt monikansallisten yritysten diskurssiin ja käytäntöihin, sekä vallan ja eriarvoisuuden teemoihin. Nämä näkökulmat ovat tuottaneet liian kriittistä analyysia, joka olettaa että yritysten yhteiskuntavastuun diskurssi suosii yrityksiä. Täten, tutkielma toteaa, että olemassa oleva yritysten yhteiskuntavastuun antropologinen tutkimus vähättelee yritysten yhteiskuntavastuu -diskurssin ja käytäntöjen mahdollisuuksia muutokseen.</p>			
Avainsanat – Nyckelord – Keywords Globaali hallinta, asianmukainen huolellisuus, yritysten yhteiskuntavastuu, politiikka			

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## List of Abbreviations

BoP	Bottom of the pyramid
CEO	Chief Executive Officer
CSR	Corporate Social Responsibility
HRDD	Human Rights Due Diligence
MEAE	Ministry of Economic Affairs and Employment
NGO	non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
OECD Guidance	OECD Due Diligence Guidance for Responsible Business Conduct
OECD Guidelines	OECD Guidelines for Multinational Enterprises
SMEs	Small and medium-sized enterprises
UN	United Nations
UN Forum	UN Forum on Business and Human Rights
UN Framework	UN ‘Protect, Respect and Remedy’ Framework
UNGP	UN Guiding Principles for Business and Human Rights

# 1 Introduction

Corporate social responsibility (CSR) has received much attention during the last decades. Globalization and some of the ethical scandals of the 1980s and 1990s have raised questions regarding the morality of especially multinational corporations and there has been increasing demands for their accountability. This has led to the institutionalisation of the CSR during the last decades, and nowadays one can hardly find a larger corporation that does not have a CSR policy.

The common view is that CSR is good for both business and society. CSR helps corporations to build their reputation as a good member of the society, while simultaneously enhancing their bottom line. But CSR has also gained critics, especially among anthropologists that have studied how it operates in practice. Some anthropologists have suggested that CSR is just another corporate strategy to silence the criticism they are facing. Despite of all the progress CSR is claimed to achieve, anthropologists have shown how the voluntary CSR, that is based on soft law mechanisms and empowerment of local communities, is incapable of efficiently addressing the social and environmental problems that have been caused by globalisation.

During the recent years there has been increased demands that CSR should be legislated. The debate has been especially lively in Europe, where few countries have already passed CSR laws. These laws are based on the United Nations Guiding Principles on Business and Human Rights (UNGP) that address the corporate responsibility to respect human rights in their operations and supply chains. Many are hoping that the legislation of CSR will change the behaviour of corporations.

This has also been my motivation for this research project. I have a background in working for a global shipping company for 15 years. Global shipping is an industry that is responsible for approximately three percent of the worlds CO<sub>2</sub> emissions (International Maritime Organization n.d.). In addition to the environmental effects, the industry nowadays faces heavy criticism of the violation of human rights. During my career I was appointed as the Scandinavian CSR facilitator that was responsible for the

ISO14000 audits that are a set of standards that help companies “to manage their environmental responsibilities” (International Organization for Standardization n.d.). My practical experience in the audits made me question the transformative capability of CSR practices, as they seemed to raise more questions than to solve the problems they were supposed to address. The task itself included making sure we comply with all the audit requirements, so basically ticking of a checkbox in a list. Everyone in my corporation also spoke about how important CSR was, but no one seemed to have the time or resources for it. Someone would have called this a “bullshit job” (Graeber 2018).

So this thesis is looking at whether the latest shift in the CSR phenomenon, the legalisation discourse, actually has transformative capabilities to change corporate behaviour or it will be another corporate strategy to face criticism. This thesis does so in the context of Finland and thus it offers a glimpse into how different actors in Finland understand the corporate responsibility to respect human rights. Due to the global nature of the CSR phenomenon, the research is not restricted only to Finland, as the discussion has its origins in the UNGP. In addition, during the fieldwork, Finland actively projected its understanding of the CSR legislation in Europe, as Finland held the Presidency of the Council of the EU on the second half of 2019.

Theoretically this thesis draws from the existing anthropological research on CSR that seems to be focused on the old anthropological question of power. This thesis critically assesses how this focus on power might influence the analysis. There seems to be a normative preoccupation in anthropological research that corporations are evil, and that the CSR discourse always privileges corporations. Thus, this thesis argues that the existing research on CSR has been done from an overly critical perspective that diminishes the transformative capabilities of CSR guidelines and discourse. To overcome the excessively critical approach in my own research, I have drawn insights from other anthropological studies that have acknowledged also the positive effects of such global guidelines and discourse.

Due to my long term interest on CSR, some of the sections of this thesis have appeared in a different format in other course essays during my university studies. One of them is

the next chapter that gives the background for this thesis and introduces how CSR has developed in the West.

## 1.1 Background: The development of social corporate responsibility

Since the beginning of the millennium, corporate social responsibility movement has received a lot of public attention. Globalisation and the ethical scandals of the 1980s and 1990s increased the awareness of the unethical actions of multinational corporations, and thus the public demands for the accountability of corporations for their selfish behaviour has increased. This has led many to assume that CSR is a modern phenomenon that has its origins in the fight against the ills created by the accelerating globalisation and neoliberal economic policies of the 1980s (Rajak 2011, 9–10). Most likely these neoliberal economic policies have accelerated the spread of the corporate social responsibility movement. But the history of CSR movement – which is often overlooked in the CSR accounts – is much longer as there has always been an interest towards the morality of business and economics (e.g. Garsten and Hernes 2009, 191; Rajak 2011, 10). To understand the CSR phenomenon and how it continuously keeps reinventing itself, one must take a closer look at how this phenomenon has historically developed. The focus of this chapter is on the development of CSR in the West, as the movement has developed in different stages in other parts of the world.

### *The origin of corporate social responsibility*

A Professor of Law, Eric Chaffee (2017, 357), states quite disbelievingly that corporations should acknowledge their innate obligation to behave responsibly due to “the origin of the corporate form itself”. He refers to Stephens (2002, 54) and states that corporations have departed from their original function as first legally recognised corporations were created for social purposes during the ancient Rome. According to Chaffee this social conception of corporation later spread from England to United States and into the Anglo-American law. But before the 19<sup>th</sup> century corporations with a social purpose depended on charters granted by the British monarchy and later the government of United States. (Chaffee 2017, 357–59) For Chaffee, these chartered corporations, including East India Company, were “vehicles for social development” and he seems to



conceive them as socially responsible, because they had received their licence to operate from the Crown. In his view, the state has guaranteed the socially responsible behaviour of the corporations.

During the Industrial Revolution in the beginning of the 19<sup>th</sup> century, different social initiatives and practices began to emerge to alleviate many of the social problems – such as “labour unrest, poverty, slums, and child and female labour” – which were seen to be caused by the emerging capitalist factory system (Carroll 2008, 21). It followed that at least some companies became concerned about their employees and their productivity, and established hospital clinics and other initiatives to take care of the well-being of their employees. A businessman George M. Pullman even created a whole town for his staff. It remains unclear however, whether these actions had business or social motives, and these actions were not called ‘social responsibility’, they were seen more as cases of paternalism. (Ibid., 20-22.; see also Garsten and Hernes 2009: 191)

Simultaneously, a distinction between the non-profit and for-profit corporation first appeared in the United States and the question of the social responsibility of for-profit corporations started to emerge (Chaffee 2017, 360). At the end of the 19<sup>th</sup> century and in the beginning of the 20<sup>th</sup> century, several legal cases in Great Britain and in the United States resulted in court rulings that there is no room for charity in business and for-profit corporations’ main purpose is to produce profit (Carroll 2008, 21; Chaffee 2017, 360–61). This already projects Milton Friedman’s conception of the responsibility of business, when in 1970 he stated that “the social responsibility of business is to increase its profits” (Friedman 1970). Thus it does not come as a surprise that the current CSR phenomenon is said to have its origins in England and in the United States, where this specific type of for-profit corporation that has been able to operate quite independently from the rest of the society (Ertuna 2012, 438).

#### *From philanthropy and marketing...*

Philanthropy is usually considered as the first and most common form of CSR, and the time period leading up to 1950s has been labelled in business and management literature as “philanthropic era” (Murphy 1978) or “age of philanthropy” (Visser 2011). Individuals have practiced philanthropy for centuries, but in the late 19<sup>th</sup> century it

became associated also with companies. It was often, however, questionable whether the donation came from the wealthy business owners or the corporation itself. As previously described, at least in Great Britain and in the United States, corporate philanthropy was legally restricted as companies were allowed to spend their profits only into the business or into causes that benefitted the business. This was due to the fact that at the time, the responsibility of the companies was solely towards the stockholders and in increasing their wealth. Thus philanthropic donations by corporations were not generally accepted before the 20<sup>th</sup> century. But from the 1930s onwards people began to increasingly parallel corporations with governments and the claims for their social obligations increased especially during the Great Depression. Philanthropy by corporations increased, but according to Carroll it remained as the only CSR practice for still some time. (Carroll 2008, 22–23, 25–26)

Corporate social responsibility as a recognized phenomenon began to take shape in the 1950s (Carroll 2008, 24). During the next two decades the discussions about the definition, nature and extent of CSR accelerated. Murphy (1978) called this period the “awareness era”. According to Carroll (2008, 27–28), during the 1960s there were more talk than action, but there were some improvements on issues related to employees, customer and shareholder relations. But clearly all these beneficiaries had direct impact on company profitability. Carroll mentions Keith Davis’ (1960, 70), who first suggested the possibility of long-term gains from engaging in voluntary social activities outside the main focus of the business. This approach, which would later develop into the ‘the business-case’ for CSR, is still today the dominant driver for corporations to practice CSR and an important discourse strategy in the political arena of CSR, as I will later argue in this thesis.

In the 1970s, the concern for the corporate actions increased and questions about the political role of corporations began to emerge (Garsten and Hernes 2009, 189). First definitions of CSR started to emerge that signified a wider approach that would be later known as the “stakeholder approach” (Carroll 2008, 29). This approach also takes other interest groups into account than just the shareholders, such as local community, the nation and the suppliers. During the 1970s there was an increased awareness of the responsibilities of the business towards the society, and the beginning of the decade has been labelled as the “issue era” (Murphy 1978). This might be due to the growth of

specialised social movements focused on specific issues such as social justice, human rights and environment protection (Garsten and Hernes 2009, 189). According to Carroll (2008, 30–31), the focus clearly shifted from the national legal requirements (“social obligation”) towards corporate behaviour according to the norms and values of the society (“social responsibility”). Thus corporations were expected to do more than the law required, if there even were any requirements. The main CSR activities of corporations were minority hiring and training, environmental protection, and contributions to education and arts. The national legislative initiatives concerning the environment, product safety, employment discrimination, and worker safety, led to recommendations that companies would adopt a “managerial approach” towards the CSR; an approach where CSR would be forecasted, planned, assessed and institutionalised through corporate policies and strategies. (Carroll 2008, 33–34)

In the 1980s and 1990s the rapid globalisation changed the entire field of CSR. Until then CSR concerns and developments had mainly been local or national, but the ethical scandals of corporations drew more global attention to business ethics and behaviour than ever before. Especially the practices of transnational corporations were put under scrutiny as they were utilising the governance gaps created by the globalisation and media exposed how they violated the norms and values of their home societies. (Carroll 2008, 36; Dolan and Rajak 2016, 4) But as Garsten and Hernes (2009, 190) describe, the national and international legal regimes were powerless to sanction the transnational corporations. The 1980s have been appropriately labelled as the “the decade of ‘greed’” (Carroll 2008, 37) or the “age of greed” (Visser 2011, 23) as transnational businesses were increasingly focused solely on their own success and profits without much concern of the effects on the societies they were operating in. Wayne Visser (*ibid.*, 30) associates the immorality of business to the emergence of the derivatives market in the 1970s that finally caused the financial crisis in 2008. He describes how especially in the United States greed was not seen as unethical as the main purpose of businesses was to make profit for the shareholders at any cost and many believed that the market’s invisible hand would eventually solve all the social problems.

In the 1990s growing global criticism, media attention and increased scrutiny over business practices began to expand the understanding of CSR. In CSR literature themes such as sustainability, corporate citizenship, corporate accountability and business

ethics began to emerge. Corporations began to appoint managers dedicated to CSR practices and donations were given to community and NGO partners. (Carroll 2008, 37–39) According to Garsten and Hernes (2009, 190) companies also began to realise the reputational risks related to unethical behaviour. But clearly they also realised the marketing potential of CSR. This era starting from the 1990s has been labelled as the “age of marketing” (Visser 2011, 19). The CSR practices are directed towards the general public with “the purpose of enhancing the brand, image and reputation of the company” (ibid.). And of course the bottom line of the business. In connection to environmental issues this practice is now widely known as “greenwash” (Ibid., 91) and it has received a lot of public attention during the last two decades.

*...to sustainable development and accountability*

By the turn of the millennium, CSR had become an empirically studied global phenomenon. In the field of business and management, the studies were looking at how CSR activities influence company’s reputation, attitudes of shareholders and attractiveness to employees (Carroll 2008, 40). In other words the ‘business case’ for CSR. The CSR practices focused on increasing awareness of social issues, marketing, philanthropy, community volunteering and responsible investments. Interestingly none of these “best practices” seemed to address the core of the business (e.g. the negative impacts of mining). In addition, since the beginning of the 2000s, there has been a substantial growth of the rhetoric of ‘sustainable development’ and ‘inclusive business’ that is meant to drastically change CSR through the creation of ‘shared value’. Especially the ‘bottom of the pyramid’ (BoP) business that addresses the poorest groups by turning them into entrepreneurs has won popularity among both businesses and NGO development programs. BoP is said to provide a “win-win” situation for all the parties involved. (Dolan and Rajak 2016, 9) In management and development studies this approach is heralded as the revolutionary CSR agenda that will finally start the “age of responsibility” (Visser 2011, 152). In this approach CSR is systematically embedded into the core of the business.

All these practices have been more or less voluntary for businesses, which has been a major trend in CSR practices. Due to the voluntariness of CSR, the commitment of businesses seem to differ considerably. Since the launch of the United Nations Global

Compact Initiative in 2000 – an initiative that has been the “central arena and actor” for promoting corporate social responsibility globally (Garsten and Jacobsson 2011, 379) – there has been an accelerating global discussion of jointly accepted social norms on business conduct. (Carroll 2008, 41–42) This has led to the development of different frameworks, standards and codes of conduct that are meant to regulate corporate behaviour (see e.g. Rasche and Waddock 2017, 168). This development can be linked to the general rise of the ‘audit culture’ and calls for accountability (Strathern 2000) as I will describe in chapter 2.2. This new era of codes, standards and global guidelines has, according to business scholars, led to the institutionalization of CSR, which has been labelled as the “age of management” (Visser 2011, 19).

This ‘age of management’ is characterized by neoliberal self-regulation and certifications as a proof of good conduct. Anthropologists Garsten and Hernes (2009, 190) stated after the financial crisis of 2008 that it remains as “an open question” whether these measures aimed at enhancing the corporate accountability will actually work. For example the ISO26000 standard launched in 2010 by the International Organization for Standardization does not set any firm requirements to business practices, it simply provides guidance and recommendations on how businesses “can operate in a socially responsible way” (International Organization for Standardization 2010). In addition, the explosion in the amount of different initiatives and standards has led to a “code fatigue” and “audit exhaustion” (Visser 2011, 122). Or as I discovered during my fieldwork, to a ‘standard confusion’ by which I refer to a confusion over which standard to use. The corporate employees navigate in a jungle of different standards and they have to often rely on external experts to guide them out of there. So the ‘age of management’ has also produced “a burgeoning ethical industry” with all the consultants, auditors and certificates it needs to operate in the form it is today (Dolan and Rajak 2016, 2). This managerialism and ‘professionalisation’ of corporate responsibility has created the current tick-box approach to CSR, which I described in the introduction.

The purpose of this rather long history of the development of CSR phenomenon has been to show how the movement has changed during the last 70 years. All the different transformations in the approach to CSR (philanthropy, cause-related marketing, systemic management etc.) still exist today and corporations adopt and use them in

different ways. Based on my experience, so far the difference seems to be in the depth of the mission and in the scale of the ambition. Before turning into the purpose of this thesis, I wanted to highlight that CSR is not a modern phenomenon even though the research interest towards it has increased since the beginning of the 1990s.

## 1.2 Research questions and the purpose of the study

The history of the development of corporate responsibility shows how the CSR movement seems to always adapt. This chameleon-like character of corporate responsibility has been noted also by anthropologists. Catherine Dolan and Dinah Rajak (2016, 4) have suggested, by referencing Bruno Latour (1987), that instead of being a stable object, like “a Latourian immutable mobile”, “CSR continually reinvents itself”. In addition, some anthropologists have suggested that CSR is a discursive strategy for corporations to respond to the criticism they are facing (see e.g. Dolan and Rajak 2016; Kirsch 2014; Shever 2010). Following their suggestions, I initially began my fieldwork with very broad questions: how is CSR reinventing itself in this specific moment in time? How are corporations responding to the criticism they are currently facing?

In the beginning of my fieldwork, in 2018, it was evident that the CSR discourse had shifted from voluntary self-regulation into a discourse of mandatory CSR legislation. It seems that the inefficiency of the current CSR practices to address the global “governance gaps” (Garsten and Hernes 2009) and accidents like the collapse of Rana Plaza in 2013 (see for example ILO 2017) have led to the recent demands to legislate CSR. This “legalization of CSR” seems to be the new trend as several countries have recently drafted CSR laws, and some have even passed varied CSR legislations (Berger-Walliser and Scott 2018).

During my fieldwork in Finland, the discourse in CSR seminars and other events evolved around a possible CSR law (“yrittävistä”) <sup>1</sup> that would require corporations to respect human rights in their supply chains. The possible <sup>2</sup> law would be

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<sup>1</sup> During my fieldwork people referred to the possible law with the Finnish word “yrittävistä”.

<sup>2</sup> In November 2020, at the time of finishing this thesis, the law has not been passed yet.

based on a risk-management process called due diligence, a seemingly neutral and “technical little sideline item<sup>3</sup>” (Riles 2011, 1). Based on my observations, this technical item is heavily promoted by the UN Guiding Principles on Business and Human Rights (UNGP) that aims to address the governance gaps created by the globalisation (United Nations 2008).

The legalization of corporate responsibility and human rights have been studied by business and human rights scholars (see e.g. McPhail and Adams 2016; Heasman 2018), but according to Buhmann et al. (2018, 323) there would be a greater need for studies from such fields as anthropology “to better understand the practical developments” of the phenomena. To see the practical developments and impacts of such laws in specific locations, where corporations have violated or might violate human rights, will most likely be a topic for the future anthropological research. But as the phenomenon is still rather new and several CSR laws are still waiting to be passed, I would suggest directing the attention to the countries, where these laws are now being currently discussed.

This thesis addresses this research gap by looking through an ethnographic study how the corporate responsibility to respect human rights is publicly discussed and debated in Finland. I conducted the research in Helsinki between October 2018 and November 2019 by participating in public CSR events. The main methods for collecting the data have been participant observation and informal discussions. In addition, I have conducted online ethnography and analysed the global guidelines underlying the current CSR discourse.

First, this thesis asks what kind of discourse do the global guidelines, such as the UN Guiding Principles on Business and Human Rights (UNGP) and OECD Guidelines for Multinational Enterprises (OECD Guidelines), promote? These documents underlie the current discourse on corporate responsibility to respect human rights, and thus they set the foundation on the thinking and action in other parts of the world. Second, I am interested how is this discourse framed in the context of Finland, and how do different actors negotiate their interest? I will approach these questions through the existing

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<sup>3</sup> Annelise Riles (2011) uses this description in the context of collateral, a private legal technology.

anthropological research on CSR and ask what kind of strategies corporations deploy in order to silence the criticism, if necessary, and how do different actors assert or reassign responsibility? Third, I am interested in what kind of effects the policy may have. Are the global guidelines and human rights due diligence tools that can make corporations more responsible?

I begin the thesis by introducing the theoretical framework in chapter 2. This thesis will draw from the existing anthropological research on CSR that has focused on power and discuss how this research fails to see the potentialities of the global governance of CSR. In chapter 3, I will discuss the field and some of the challenges I faced when studying such a complex phenomenon. I will conclude chapter 3 by considering the ethical questions and limitations of this research. In chapter 4, I will describe and discuss the global guidelines underlying the corporate responsibility to respect human rights discourse. In chapter 5, I will look at how the content of these guidelines is discussed in the context of Finland. In chapter 6, I will look at the techno-politics of the guidelines, in other words the human rights due diligence process. In chapter 7, I will consider whether the policies can initiate change.



## 2 Theoretical framework

The history of corporate social responsibility illustrates how the questions of corporate morality and corporate role in the society have existed for a long time, but these questions have become more relevant today as corporations are seen to have more power than ever before (Garsten and Hernes 2009, 189, 191–192). The emergence of the CSR phenomenon in the West and especially the accelerating spread of it since the 1970s seems to coincide with the rise of the political economic ideology of neoliberalism during the same decade (Rajak 2011, 9). David Harvey writes that neoliberalism is

*“– a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade”.* (Harvey 2007, 2)

Under neoliberalism, the state should decrease its intervention in the markets through deregulation and privatization, and instead individuals are expected to regulate themselves (Ferguson and Gupta 2002, 989). Ferguson and Gupta note that the rise of the neoliberal policies can be seen as a withdrawal of the state, but unlike Harvey, they suggest that the governance has not decreased, instead it has been moved to other actors in the society, such as international institutions and NGOs - or multinational corporations.

In anthropology the concept of neoliberalism has been deployed to describe diverse phenomena (see Venkatesan et al. 2015; Ong and Collier 2004, 16–17). Lately the concept of neoliberalism has been intensely debated and some have suggested it should be dropped all together (Venkatesan et al. 2015). For some opponents, the concept is morally charged and used to describe everything that is “wrong in the modern world” (ibid., 917), and for some it is overused and left vague without a clear definition, “a sloppy synonym for capitalism itself” (Ferguson 2010, 171). For the proponents of the concept, neoliberalism describes “the ways in which the relations between states, corporation and the public” have been changing and how the concept is useful in explaining the broader economic and political processes that create responsible and

rational self-regulating subjects (Venkatesan et al. 2015, 911, 917). For my thesis the latter understanding of the concept is most useful as the thesis is looking at how the relationships are changing between the state, corporations and the public.

According to Sherry B. Ortner (2016, 49–50), the questions of power and inequality began to dominate the anthropological theory and research since the middle of the 1980s and she argues that this turn to what she calls “dark anthropology” was partly the result of the real world conditions under the socio-economic order of neoliberalism. Sherry describes how this turn emphasised the theories focused on power and inequality, especially the work of Karl Marx and Michel Foucault. These theories seem to have inspired many of the anthropological studies of CSR as I will describe in this chapter.

Rajak (2016, 37) has suggested that CSR was born out of concerns regarding corporate power, but corporations have fully adopted the phenomenon to themselves. While reading the anthropological research on CSR, several of the accounts depict a confrontation of a transnational corporation with the exploited subjects, or what Robbins (2013) would call the “suffering subjects”, of the local communities. Thus, it seems that the majority of the existing anthropological research on CSR has focused on the questions of power and how the “corporate power is rendered, exercised, limited or resisted through the practice of CSR” (Dolan and Rajak 2016b, 16). According to Catherine Dolan and Dinah Rajak, it seems that the transnational corporations are filling the “ethical void – – left in the wake of neoliberal capitalism” (2016b, 3) as increasingly it is the market that replaces the “politico-judicial and religious domains as society’s ethical arbiter” (ibid., 1). But based on anthropological research done on CSR, Rajak has suggested that instead of instilling ethics into the neoliberal capitalism, transnational corporations and their CSR practices actually “facilitate its expansion” (Rajak 2011, 16). I will argue that this focus on corporate power and neoliberalism leads to a somewhat biased analysis in the anthropological research of CSR and a less cynical approach could expose the more positive changes that the phenomenon is creating.

Next I will look at how CSR has been studied in anthropology, but first I will briefly discuss the concept of ‘corporate social responsibility’. Then I will look at how the anthropological research has studied CSR from two different perspectives: first, how

corporations use CSR as a strategy to silence criticism and maintain their – assumed – power, and second how, according to some, the international frameworks and guidelines aimed at controlling corporate power actually fail to do so. Finally I will suggest that to go beyond the biased critical analysis of CSR, a focus on change in the making could result in a more nuanced analysis. This does not mean however that criticism should be abolished completely, but that a researcher should understand how her own underlying prejudices and sentiments can have an influence on the research.

## 2.1 The concept of corporate social responsibility

Before turning into the anthropological literature that is relevant for my thesis, I want to say few words about the concept of ‘corporate social responsibility’, commonly referred to as CSR. According to Alexander Dahlsrud, who has analysed 37 different definitions of CSR, there seems to be an “abundance of definitions” that are “often biased towards specific interests” (2008, 1). According to Dahlsrud this confusion over the definition of CSR could lead to the fact that while people appear to talk about the same thing, they actually are not, and this could result in unproductive engagements. According to Dahlsrud, the definitional confusion can come out of the fact that the existing definitions do not define the social responsibility of business, but rather “describe CSR as a phenomenon” (ibid., 6). This is exactly what Rajak (2011, 1) does when she defines that CSR is “a movement promising to harness the *global* reach and resources of corporations in the service of *local* development and social improvement”. Rajak clearly has a developmental focus in her definition. However, Dahlsrud (2008, 6) points out that the confusion is not so much about “how CSR is defined, as it is about what constitutes the social responsibility of business”. According to Dahlsrud, the challenge then is “to understand how CSR is socially constructed in a specific context” (ibid.) and this is exactly what the anthropological studies of CSR have done. Thus, I do not attempt to present a clear definition of CSR in this thesis, instead I focus on how CSR is constructed in one specific context and in one specific moment in time in Finland.

## 2.2 Anthropological approaches to corporate social responsibility

In the beginning of their book “The Anthropology of Corporate Social Responsibility”, Catherine Dolan and Dinah Rajak draw from the views of James Ferguson and state that similarly as the study of development, “the study of CSR has been – – polarized” as it attracts both support and criticism (2016b, 1). This polarization is visible also in the history of CSR described in the beginning of this thesis. The advocates of CSR claim that CSR will transform capitalism into ethical capitalism, while critics claim that it is a product of strategic management and one of the many tools that corporations use to control their position in society and keep the neoliberal capitalism running (Dolan and Rajak 2016, 1–2; Cross 2011, 35). As Carroll has noted, “it is sometimes difficult to differentiate what organizations are doing for business reasons — and what the organizations are doing for social reasons” (Carroll 2008, 21). According to Dolan and Rajak, this “normative preoccupation with whether corporations are a ‘good’ or ‘bad’ thing for society” conceals the underlying ideologies of CSR research, “but also the ambivalences, contradictions and potentialities that inhere in the morality of the corporate form.” (ibid., 2)

During the last decade, anthropologists have tried to overcome the previously described normative preoccupation. They have studied how CSR is socially constructed in specific contexts and how it operates in practice locally in the communities affected by multinational corporations. Dolan and Rajak (2016a) summarise extensively the anthropological research on what they call “ethical capitalism” in the introduction of their book, so I will not repeat it all here. But according to Dolan and Rajak, the research has been done from two different perspectives: first perspective has looked at the local effects of CSR, and the second has focused on the “apparatus and architecture of CSR” (ibid. 2). My work falls in between the two perspectives, as it adds another layer to the CSR research. My study is not made in the global arenas of CSR, such as the UN conferences even though I did include one online streaming of one UN events into my data as I will describe in chapter 3. Also I have not been in the local communities to see what kind of effects the CSR practices of multinational corporations have caused locally. Instead my research looks at how the global CSR discourse evolves in a Nordic country and how different actors negotiate different interests before

corporations implement the CSR practices into the local contexts. But I see another division in the anthropological studies on CSR: on the one hand there is research that is interested in the corporate power and how CSR extends it, and on the other, there is research that is interested in the nature of the global governance of CSR. Due to this, instead of using the categorization of Dolan and Rajak, I will next look at these two perspectives as my research draws insights from both of them and shows how the normative preoccupation with corporations is very difficult to overcome.

### 2.2.1 CSR as a corporate strategy

According to Dolan and Rajak (2016b, 15), the vast majority of anthropological studies on CSR have focused on the local effects of the CSR practices by multinational corporations. Dolan and Rajak (ibid., 16) state that these studies have portrayed corporations as part of a larger structure, “as synonymous with global capital”, instead of being “agents and actors themselves” that deploy CSR practices to reach certain ends and make corporations appear as “ethical arbiters” of society. According to Dolan and Rajak more focus should be placed on the corporate form and agency. They are concerned with what kind of power this kind of role of corporation as an ethical mediator accrues to corporations and whether communities and governments actually adapt to the interests of the corporations instead of the opposite. Dolan and Rajak argue that corporations are able to “simultaneously assert and displace responsibility” (ibid., 4). In this chapter I will discuss some anthropological studies that see corporations using CSR as a strategy to silence criticism. According to these studies corporations respond to criticism by deploying CSR practices, technologies and discursive strategies, and by forming partnerships with their critics.

Garsten and Hernes (2009, 192) have stated that CSR practices and discourses with local stakeholders shape corporation into a “conscientious organisation”. For example, Elana Shever’s (2010) ethnography on the CSR practices of the oil giant Shell exposes how the corporation strategically responded to the increasing demands of the surrounding society. Shever accounts how in the beginning of the 2000s, Shell’s philanthropic efforts were no longer sufficient to address the growing criticism it was facing globally and especially in Argentina, where the economy had collapsed. Shever’s

account gives the image that up until that moment, Shell had operated relatively separately from the surrounding community in Buenos Aires except from providing employment. But as local people were facing more difficulties to sustain a living, criticism towards Shell grew and it was forced to start a dialogue with the local community. According to Shever (ibid. 34-36), in order to face the criticism, Shell mobilised a variety of CSR practices. Shell established a specific department for CSR issues and appointed people to handle community relations in a nurturing way. In addition, in 2005 Shell created a new development program through which Shell educated and empowered the local people to take care of themselves instead of relying on the assistance from Shell. In this way the discourse shifted from supporting the local people to empowering the people to improve their own lives and to take self-responsibility. Shever concludes that this reflected the wider neoliberal policy changes on the state level and the rhetoric of empowerment moved the governance from the state and corporation to the individuals and community groups. So for Shever, Shell's CSR practices were an intentional strategy to assert and displace responsibility, similarly as Dolan and Rajak (2016b) have suggested.

Whereas Shell used CSR practices such as development programs to respond to criticism, several anthropologists have focused on the discursive strategies of CSR. Stuart Kirsch (2014) has suggested through his study of the mining industry that the industry uses CSR discourse as a way to respond and silence its critics. Kirsch argues that mining industry is continuously adopting the discourse of CSR and tactically using the rhetoric of responsibility and sustainability in order to adjust to the criticism it faces. According to Kirsch (2016), 'corporate social responsibility' and 'sustainability' are what Urciouli (2003, 396) calls "strategically deployable shifters". As was explained in chapter 2.1, for example corporate social responsibility does not have one clear definition and it changes according to the context (Dahlsrud 2008). According to Urciouli (2010, 56), who quotes Silverstein, "shifters -- are semiotic elements whose 'referential value... depends on the presupposition of its pragmatic value (Silverstein 1976, p. 24)'" and this pragmatic value changes according to the context. According to Urciouli (2010, 56), these shifters function to align "the message with the interests of other speakers". So, Kirsch (2016, 49) has argued that these "strategically deployable shifters allow people to communicate across social boundaries and political vantage points". In addition, Kirsch (2014) argues that CSR language proliferates oxymorons

such as ‘sustainable mining’. According to Peter Benson and Stuart Kirsch (2010) oxymorons are word pairs where an ideal word such as ‘sustainable’ is paired with another word that has a negative mental image, such as ‘mining’. These corporate oxymorons allow corporations “to neutralize critique”. Benson and Stuart state that these oxymorons should be analysed, because through repetition, they become “familiar” and “plausible”, so in other words they become naturalised in the rhetoric of the business world and consequently they reduce the criticism.

Also Garsten and Hernes (2009, 210–207) have identified five discursive strategies on how corporations respond to criticism. Four of these strategies (differentiation, countering, repackaging and cover-up) concern product changes or the use of scientific data to counter criticism. In fact, Kirsch’s (2014) study of the mining industry also showed that sometimes harmful effects are covered up with scientific evidence to benefit the corporation. As my research does not address any specific company, these strategies did not appear during my fieldwork. But what Garsten and Hernes (2009, 204) call ‘structural decoupling’ is related to my research as I will describe in chapter 5.3.3. According to Garsten and Hernes (ibid., 205), “structural decoupling occurs when the organization disassociates itself from the practices that are potentially harmful to the image of the organization”. As Garsten and Hernes show, this is not always successful. For example, the apparel corporation Nike tried to reassign the responsibility to the subcontractor by saying that the workers were not directly employed by Nike and that Nike had no control over its subcontractors. In other words, Nike tried to decouple or distance itself from the practices of its subcontractors. For the critics this was not sufficient and in the end Nike was forced to demand actions from its suppliers and to be transparent of their supply chains in order to counter the criticism. (Garsten and Hernes 2009, 205) As I will later show in chapter 4.1, this is very much what the UN principle on corporate respect for human rights requires corporations to do, to know and show, in other words be transparent.

This leads to the third category, CSR technologies, by which I refer to different voluntary standards and audits. I will discuss the global frameworks of CSR in the next chapter, but for the purposes of this chapter I discuss how some anthropological studies see the use of CSR standards as a corporate strategy to silence criticism. For example Kirsch (2014) sees that the use of these standards and audits is a corporate strategy to

silence criticism. According to Kirsch, corporations strategically use standards, audits and awards to convince their critics that corporations are operating ethically and that they are addressing the harmful effects of their operations. In speaking of CSR awards, Rajak (2016, 35) has noted how especially the awards have significant symbolic value in creating the image of an ethical corporation. However, Garsten and Hernes (2009, 194) note that these standards and awards sometimes also work as “smokescreens” or “cover-ups”. Garsten and Hernes give the energy corporation Enron as an example. Enron was exemplary and at the top of the CSR indicators, but still failed miserably due to unethical behaviour. What these standards and awards do then, according to Garsten and Hernes (*ibid.*, 207), is that they distract the attention from other issues as corporations are able to select from the standards the ones that they can adhere to. As I will show later, there is a belief that by making such standards into a law will make them more credible. But as I will show, even the legalisation has its limits.

Finally, I turn to last corporate strategy, the corporate partnerships. According to Rajak (2016, 32), “in the case of CSR – – the concept of partnership has demonstrated even broader appeal, and greater discursive power – –”, than in the field of development. Through her research addressing the CSR movement, Rajak (2011; 2016) has argued that CSR is able to unite unlikely actors into partnerships and diffuse political debates by using the rhetoric of collective responsibility (2016, 34). The actors in these partnerships vary from international organisations such as UN and OECD to NGOs and labour unions that, according to Rajak (*ibid.*), at least in the past appeared to be more like combatants than collaborators. Similarly Kirsch (2014) has argued that corporations form “strategic partnerships with NGOs” in order to silence criticism and improve their reputation. However, Rajak (*ibid.*) argues that many NGOs see that they need to engage with corporations in order to facilitate change due to the inefficiency of governments to regulate corporate behaviour. This issue became apparent also during my fieldwork as I will discuss in chapter 5.1.

The rhetoric of collective responsibility is played out in what Rajak (*ibid.*, 31, 39) calls the “theatres of virtues” by which she refers to the CSR events that attract the actors described above. But simultaneously these events exclude the actors from the so called South. The Southern governments often become the targets of the discourse as there virtuous corporations in the North see that it is their responsibility to educate them (*ibid.*



41). Rajak describes how the actors in these events emphasise collective action through the rhetoric of “common good” and “shared values”. This way the CSR discourse and political debates transform from conflictual to collaborative and consensual as “global problems can only be addressed by collective action” (ibid., 38). However, Rajak (ibid., 41) argues that this commitment to collective action and collective responsibility is actually establishing the “norms of appropriate behaviour”. Any differing opinions and criticism is silenced with a countercriticism of not committing to the collective action and with counter arguments that at least corporations are “trying to do something” (ibid.). Thus Rajak (ibid. 42, 45) argues that the rhetoric of collective responsibility and collaboration actually marginalises and silences “alternative visions” and extends corporate power. The participation in the collective action and its partnerships is thus seen as ethical and any opposition is seen as unethical (ibid.).

### 2.2.2 Global governance of CSR

The previous chapter looked at how corporations utilize CSR or its partnerships in order to respond to the criticism they are facing. According to Rajak (2016, 30) these studies are important in exposing the social practice of CSR, which has been lacking from some of the anthropological accounts that focus only on the global governance of CSR. The last strategy discussed, partnerships and the rhetoric of collective action, overlaps to some extent with the perspective discussed in this chapter, which is the anthropological studies of global governance of CSR. As mentioned in chapter 1.1, there has been an increased discussion of globally accepted norms on corporate behavior since the launch of UN Global Compact in 2000 that has produced various guidelines, policies and initiatives. This development can be linked to the appearance of the “audit culture” (Strathern 2000) or “guidance culture” (Larsen 2013). By “guidance culture” Larsen refers to the proliferation of different UN guidelines related to environmental protection. As I will describe in chapter 4, also the business and human rights issue has become a part of this guidelines culture.

Guidelines, policies and initiatives are generally thought to express what is considered as “good” and how things should be done (Larsen 2013, 80). For example the UN Global Compact is assumed to drive the practice of CSR. Against this common

assumption, Dinah Rajak (2009, 214–215) has argued that the practice of CSR is not driven by policy, but instead it is driven by a complex “web of social relations, power dynamics, and organizational culture interacting within constantly changing, and oftentimes, unpredictable socio-economic realities”. By this Rajak refers to the fact that the global CSR policies are often “developed in the North and exported to the South”, without much consideration on how they will be implemented in practice in specific contexts. Inspired by Foucault, Rajak (2009, 215) notes that

*“The formal framework of policy have the effect of isolating and institutionalizing a particular belief, position, or idea as a collective good. CSR policy-making is thus framed in terms of an objectively identifiable societal or collective need, denying the moral impetus behind a policy or decision. As Bauman (1989: 170) states, policies are the product of supposedly ‘non-moral institutions which lend them their binding force’”. In this way they mask the political processes under a veil of “scientific rationalism” (Apthorpe 1997: 55). The effectiveness of power is seen to rest on this ability to ‘hide its own mechanisms’ (Foucault 1978: 86)”.*

In other words, Rajak sees that CSR policies remove the political debates of responsibility by usually introducing an apolitical and rational technocratic process to clean and transform the corporations (ibid., 215–216). Thus, she is critical of what Larsen (2013, 82) calls the functionalist justification of guidelines, where guidelines are meant to offer a technocratic “walkable paths” or “roadmaps” (as they were referred to during my fieldwork) for action. As Larsen (ibid., 83–84) summarizes, the guidelines that are functional in nature address “commonly agreed challenges and normative complexity in practical ways under *competent* guidance”. The practical way usually includes “technical solutions” (ibid., 85) or what Merry (2006, 19) calls “transnational program transplants”, such as legal innovations. In my case the technical solution seems to be the human rights due diligence process that is presented in chapter 4.1. and later discussed in chapter 6.

Drawing from Mary Douglas (1986), Garsten and Jacobsson suggest that by focusing on the “thinking” and technologies of international institutions, such as United Nations, one can understand how they create and transform normative ideas globally and what kind of ethics this type of global regulatory regimes promote (2011, 378–379).

Similarly to Rajak, Garsten and Jacobsson (2011) have argued through their study of UN Global Compact that United Nations promotes a certain understanding of CSR that

is based on “a metanarrative of rationality”. The UN frameworks are seen as “rational, objective and neutral” as they promote certain universal values in a neutral language (ibid., 152). However, the guidelines, frameworks and soft laws are reductionist in the sense that they have to be simple and understandable without too much constraints (Larsen 2013, 85). This makes them suitable for audit mechanisms. Similarly to Larsen, Garsten and Jacobsson (2011, 380) see CSR guidelines as reductionist and simplistic, but they see it as problematic, because then guidelines do not address the ethical issues in their full complexity and thus falsely make it possible for corporations to claim responsibility.

In addition, Garsten and Jacobsson (ibid.) argue that the metanarrative promoted by the UN Global Compact carries normative “ideals of transparency and legibility combined with an emphasis on consensus and harmony”. Especially transparency has been promoted as the main governance tool to control corporations. Also during my fieldwork corporations were taught in workshops how to disclose information to the public. But as Garsten and Jacobsson argue this transparency includes negotiations of what information is published. Such frameworks that are based on soft law are voluntary as there is no central authority to oversee and monitor the actions of corporations or what kind of choices they make regarding the information they publish. Garsten and Jacobsson have stated that the voluntary and self-regulatory nature of soft laws is preferred by corporations (2007: 149). Thus, Garsten and Jacobsson have argued that the global governance of CSR is very “post-political in nature” (2007, 145). By “post-political” they mean how these new forms of governance, such as soft laws, guidelines and frameworks, are based on voluntarism and a rhetoric of consensus as opposed to the traditional state-led regulation with sanctions. Zerilli (2010, 5) has noted, however, that despite of being voluntary these non-binding frameworks do have “a coercive dimension”. In soft laws and moral frameworks, the coercion does not occur through sanctions as in hard law, instead it works through soft law mechanisms such as “shaming, conformity, persuasion, self-interest, opportunity and fear”, which can turn out to be effective. Nonconformity can for example cause reputational damages, which results in financial losses for corporations.

In addition, Garsten and Jacobsson (2011, 380) argue that the heavy emphasis of the UN language on “partnership, agreement and dialogue” prevents participants to express

diverging interests and molds political debates into obscured win-win situations, that “forecloses the conflictual space”. The moral frameworks, guidelines and soft laws are able to transcend political conflicts and different interests, because they are abstract, flexible and adjustable to different contexts. So they create an illusion of consensus at least on the principle level (ibid. 150). This way the political conflicts are transformed into ethics and moral frameworks (2007, 145), such as for example the UN Global Compact. Garsten and Jacobsson (2011, 391) call this instance the “post-political global ethics” where political debates and different interests are transformed into ethics that are difficult to question. This makes Garsten and Jacobsson question whether CSR phenomenon and its guidelines, frameworks and soft laws can actually address the power relations as it is masked in the rhetoric of consensus and harmony.

### 2.3 Beyond the anthropological critique of CSR?

In the beginning of chapter 2.2, I described how the study of CSR has been characterised by a normative preoccupation of whether corporations are a good or a bad thing to society and how Dolan and Rajak stated that anthropologists should go beyond this preoccupation in order to analyse the contradictions, but also the possibilities of the CSR phenomenon. As the previously described anthropological studies demonstrate, the preoccupation seems to be very difficult to overcome. All the studies have been critical of CSR and usually the studies start from the presumption that corporation is a powerful actor. In fact, these studies of CSR seem to have focused on the extremes of capitalism: the big multinational giants such as Nike and Shell, and on the other hand the targets of the “bottom of the pyramid”, the people in the local villages. What is contrasted in these images is the power of the biggest and the suffering of the smallest. The first strand of studies focus on the negative effects of CSR while the other focuses on the inefficiency of the new forms of global governance to actually control corporate power. It somehow feels that the study of CSR has come to its end with its focus on power?

There is no denying that corporations are “one of the most dominant institutions in society” (Garsten and Hernes 2009, 189), but as Welker et al. (2011) have suggested, the widely shared negative attitude and criticism towards corporations by anthropologists, including myself, prevents them from seeing how corporations

influence people's everyday lives in multiple ways. Similarly, Browne and Milgram (2009, 4) have stated that many scholars have presumptions about the immorality of capitalism, or neoliberalism for that matter. In addition, Knudsen (2018, 507) has noted that anthropologists have usually been critical of CSR as there is an "underlying assumption" that the hegemonic CSR discourse always privileges the corporations. This is somehow projected in the anthropological studies described above, as in very few occasions the studies actually mention any positive effects of the CSR practices and guidelines, and when they do, it is usually summarized into one sentence. For example, Garsten and Jacobsson (2011, 379) acknowledge that the UN Global Compact Initiative, which is based on soft governance mechanisms, that are flexible, voluntary and have very little sanctioning power other than through a reputational damage, has nonetheless mobilised more actors than some other instruments that are based on state regulation. This mobilisation aspect has been shadowed by their more critical analysis. As Knudsen (2018, 507) notes, many of the CSR studies see agency as "top-down" instead of the other way around. According to Knudsen (*ibid.*) this kind of approach may be "epistemologically problematic" and by putting the political motives aside one might ask different kind of questions such as "what effects the policies may have", or we might "investigate how they are framed by different actors in different contexts"?

In addition, whereas Garsten and Jacobsson (2011) see the international guidelines as limiting the criticism and foreclosing the conflictual space, several other scholars, who have studied the construction of such international guidelines in practice, have noted how the creation of the consensus around such moral frameworks usually includes intense political debates of the contents and even wording of such frameworks (see for example Merry 2006, 15; Riles 1998). In addition, even though a seemingly harmonious document is produced in the end, it does not mean that the norms stated in the document could not be contested and interpreted again as was visible during my fieldwork. Peter Bille Larsen (2013, 85-86), who has studied the environmental governance, has noted that usually the criticism of the guidelines derives from the "governance failure perspective". This perspective sees non-binding guidelines as compromises in politically "controversially issues" and as "legal dead ends" that use the inefficient technical instruments to neutralise the politics (*ibid.*). Thus the critics interpret that for example due to the flexibility of such guidelines, they do not have enough influence to change corporate behaviour (*ibid.*).

But Larsen has argued that such critical perspective does not take into account some of the potentialities that exists in guidelines. First, Larsen (ibid.) has noted how guidelines enable the international discourse on controversial issues and in time several guidelines have actually turned into more “harder agreements and instruments”. Second, according to Larsen (ibid., 86) not enough credit is given to the “techno-politics” of the technical aspects of guidelines, which do the “quiet, invisible and humble” work of instituting change as I will show in my study. Thus Larsen (ibid., 87) argues that “guidelines do not depoliticise”, but instead they replay “politics in technical terms” and move the politics to “different arenas and action”. The traditional political decision making is replaced by “depoliticised managerial action through capacity-building, expert dialogue and technological transfer” (ibid. 88). Thus guidelines transform “politically contentious issues – – into technical and ‘do-able’ matters” (ibid.). In addition Coombe (2009) has suggested that the “new processes of consultation, reciprocation and collaborative practice – – evince an increased ethical sensitivity” instead of silencing criticism.

In addition to the techno-politics of the guidelines, Larsen has argued that guidelines are “meta-communicative” acts as they “allow social representation, hierarchy and symbolical authority to be set up” (Larsen, 89). For example as I will discuss later, there has not been any central authority to address the issue of corporate responsibility and the guidelines discussed in this thesis aim to do so. Similarly, Coombe (2009) has discussed how in the context of cultural property the discourse has recognised and accepted new social groups into the global public sphere, so allowed the social representation of these groups as Larsen states it. But according to Larsen (ibid., 93) guidelines also create hierarchies of agency and knowledge as guidelines imply that “someone knows better” and “acts better”. This way they could be seen as transforming the political relationships (Coombe 2009). In addition guidelines do not necessarily say how things should be changed, they only list expectations and suggest how things could be done in another way, better way. This way guidelines discreetly criticise and aim for change, but do not escalate it to fierce political conflicts that lead nowhere. Instead they encourage innovation (ibid. 90). So how I understand it is that guidelines are not necessarily meant to bring immediate change and function as an end itself, they are meant to functions as subtle means to an end that is somewhere in the distant future. So guidelines aim at defining meanings, mobilising action and evincing ethical sensibilities

by promoting certain ways of thinking and talking about issues that are politically controversial. Next I will turn to how this can be studied anthropologically.

### 3 The field and methodology

Anthropology is known for its ethnographic fieldwork method. It is a qualitative research method that produces insights that could not be produced in any other way (Melhuus, Mitchell, and Wulff 2010). The purpose of the methodology is to understand the world from another's point of view, or as Malinowski said it, from "the natives point of view" (Malinowski 2005 [1922]). In traditional fieldwork, this was made possible by spending longer periods of time in a specific location, or a fieldwork site, and through a method of participant observation, where the researcher submerges into the group being studied.

In a contemporary context characterised by globalisation this type of ethnography has raised some questions of the methodology as the field "site" is more complex. George E. Marcus (1995) suggested that in order to study the "circulation of cultural meanings, objects and identities in diffuse time-space", one should engage in "mobile ethnography" or "multi-sited ethnography" that traces activity in multiple sites. Marcus has been influential in changing the understandings of ethnography from the study of single sites into an ethnography of more complex phenomena. Inspired by Marcus, Sally Engle Merry (2006, 28–29) has suggested that to study movements that are linked to global discourses one should focus on sites where "global, national and local processes", conceptions and discourses meet and they are contested. Similarly Christina Garsten (2009, 58) has suggested that to study the phenomenon of CSR, anthropologist should posit herself at "the crossroads, or interface, of such linkages and connections". According to Garsten, in the interface one can grasp the "different versions" of the phenomenon and how the momentary consensus is negotiated between competing interests (*ibid.*).

In this chapter I will first describe the field, or in other words the interface that made up my field, which in the context of this research I would call the "political space". In this space the different actors came together to discuss CSR and the possible regulation of it.

I will begin by describing how I tracked down the field, its actors and the events followed by short descriptions of the events I attended. I will also briefly describe other materials I collected and analysed for this research. Then I will describe how the collected data was analysed before moving on to discuss the challenges I faced with this type of research. Finally I will turn to the ethical considerations of my fieldwork.

### 3.1 The field

I conducted the fieldwork in the capital of Finland, in the city of Helsinki, between the period of October 2018 and November 2019 by attending several CSR events where different actors discussed the regulation of CSR. Helsinki was an ideal site for following the discourse as all the Finnish events took place in the capital of Finland. In addition, in the beginning of my fieldwork a Finnish NGO had just launched a campaign that was advocating for the Finnish CSR law. This law would require Finnish corporations to do a mandatory human rights due diligence (HRDD). This HRDD process is introduced in chapter 4.1 and later discussed in chapter 6.2. The Finnish campaign was extraordinary as it was a coalition of over 100 companies, civil society organisations and trade unions that were demanding mandatory CSR law based on HRDD. It looked like old enemies had turned into collaborators and it was an intriguing set-up for my research.

Due to the global nature of the CSR movement and discourse, my field was not limited only to the events in Helsinki as the discourse regarding the regulation of CSR was linked to simultaneous discourses in other parts of the world, and especially in Europe. My research is a combination of traditional participant observation and online ethnography as unfortunately it was not possible for me to attend all the events organised outside of Finland. So I followed two events that were related to my thesis topic via online streaming of these events. The reasons for this are described in chapter 3.3 where I discuss more of the challenges I faced with this kind of contemporary and unbounded fieldwork.

In addition, it is very difficult to estimate the total time spent on the field due to the nature of the field itself as there was no bounded and clear field site, or restricted time



period. It felt like the field was everywhere and nowhere at the same time. When the field consists of specific type of events addressing a specific topic, I was totally dependent on the event schedules and in that sense gathering the material took longer than in a more traditional fieldwork with a bounded site and timeframe. In fact, I had to make a conscious decision on when to terminate the gathering of the material as the discourse on the topic just kept on continuing. I have to admit, though, that I have continued to follow the discourse after November 2019 as I am interested to see how it develops.

So instead of focusing on a certain group, corporation or organisation in Finland, my object of study has been something that I would describe as ‘a political space’ or “a discursive arena” (Garsten 2009, 60), which became concrete in a series of CSR events. According to Garsten (ibid., 59) CSR “conferences are arenas for the performance of corporate social responsibility talk, arenas where the discourse CSR is created, negotiated and elaborated upon”. So I attended several CSR events where different actors of the society came together to discuss the same topic: CSR and the possible regulatory measures to control it. Thus it became clear from the start of my research that in order to track my field, I should engage in a certain degree of multi-sited ethnography as the CSR discourse was linked to a broader discourse in other parts of Europe.

Marcus (1995, 106-111) has identified several ‘tracking strategies’ for constructing a multi-sited ethnography. The most related tracking strategies for my research turned out to be *follow the people*, *follow the story* and *follow the metaphor*, that in this case actually turned out to be more like *follow the discourse*. With the idea of “tracking” the people, the discourse and the phenomenon in my mind, I started to gather the data somewhat accidentally in October 2018, when I pulled out my old business outfit from the closet and attended the first public seminar I found on the topic of CSR in Helsinki, Finland. I relied heavily on the internet to find the events and occasionally I was tipped off by my friend<sup>4</sup> or other contacts who knew that I was interested in the topic. It seemed that the majority of these events were advertised in social media, organisation internet pages and email distribution lists. I might have missed some events during the

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<sup>4</sup> I am forever grateful to my friend Jenni Mõlkänen, a PhD student at University of Helsinki, for tipping me off the first CSR event I attended.

time period due to the fact that it took me a while to track all the relevant actors and to subscribe on their mailing lists. I also visited the websites of these actors almost on a daily basis and followed different social media accounts to, so to say, find my field.

Before I turn to describe the events I attended, I want to specify why I chose this kind of field site. I chose the events, such as seminars, conferences and workshops, as the field for three different reasons. First, following Garsten, CSR “is about conferencing” (2009, 59), because the interaction between the different actors in the interface exposes the underlying broader discourses that these local discourses are linked to. Second, the interaction and debates exposes the different perspectives of these actors. The events act as spaces where the different actors construct the meaning and discourse in interaction with each other. Finally, the interaction reveals how they negotiate different interests. I feel that these aspects would have been missing from just one-on-one interviews and to organise group interviews with such a variety of expert actors (corporate representatives, politicians, government officials, NGO representatives, labour union representatives etc.) could have turned out to be quite impossible. On the other hand doing formal one-on-one interviews on top of the public discussions would have increased the amount of data significantly and this thesis project could have turned into a dissertation. So I did a conscious decision to leave the interviews out to limit the amount of data. I did, however, have unofficial discussions with the participants of the events during the seminar breaks and these discussions form a part of my data. As Garsten (2009, 59) has noted people mainly attend conferences to meet other professionals informally and this was something that I quickly discovered during my fieldwork.

The main methods for gathering the data have been participant observation, informal discussions in the events, online ethnography and written documents. I audio recorded all the public events, except for one workshop that was organised under the Chatham House Rule. The language of the events has been both Finnish and English and I have translated all the data into English for this thesis. In total I have 22,5 hours of recorded material which I have transcribed and I have also transcribed relevant parts of the three day UN Forum on Business and Human Rights, such as the speeches made by the representatives of Finland. I have analysed the transcribed materials by coding them with themes that came up from my data.

The focus in the analysis has been on the language. As Garsten (2009, 60) has noted, the continuity of the field is “found in the vocabulary of the conference delegates” that use such keywords as “‘accountability’, ‘transparency’, ‘corporate citizenship’ and ‘partnerships’”. Garsten (ibid.) continues that these keywords are not used only in the CSR events, but they appear also in other contexts such as global CSR standards. But it is not just the speech itself, it is also the nods, jokes and expressions of people when they speak that make others understand that they are talking about the same thing. Garsten (ibid.) has suggested that the language of CSR has an exclusionary function, or as I would suggest it also has an unifying function, as every actor begins to use the same language even though they would not agree with “the business version of CSR” (ibid.). Garsten calls this a “discourse coalition” where actors with different perspectives use same “discursive elements” to “keep the coalition together”. However, as much as there is focus on what is said, in my opinion an important aspect of the analysis is also what is not said, or what is intentionally left out of the discursive arena, to borrow Garsten’s terminology.

### 3.1.1 CSR events

For this research I attended in total eight CSR events in Helsinki and in addition I followed the live streaming of two other events outside of Finland that were directly related to my research. So my data consists of in total ten events. As I quickly realised, the most discussed topic during my fieldwork was the corporate responsibility to respect human rights and the regulation of it. This topic was discussed in every event I attended, even though the advertised event program did not mention it directly. For this reason I aimed at attending every possible public event during the time period in order to see if the topic appeared in all of them. Finally, the centrality of this discourse was so obvious that I decided to focus my thesis on the topic of corporate responsibility to respect human rights and human rights due diligence.

Six out of the eight events that I attended were seminars and conferences and they were organised by a variety of actors. One of these events was organised by a Finnish NGO that is focused on promoting ethically produced products. The event took place in a trendy live music venue in the heart of Helsinki. Another event was organised by a

coalition of actors that included a non-profit business network, an embassy and a research institute, and the event took place inside a business office. The largest organiser of events was a Finnish university with a longstanding focus on corporate social responsibility research. In total the university organised three out of these six events. In addition one event was organised by two ministries of Finland that are dealing with CSR.

The registration for these seminars and conferences was open to everyone and usually the events seemed to fill up very quickly. Some events even had waiting lists as not everyone wanting to attend were able to secure a spot. In some cases this resulted in a struggle to find a seat in the event. The seminars seemed to attract CSR professionals from a variety of sectors, such as corporations themselves, but also consultants, politicians, academics and representatives of NGOs.

Majority of the seminars and conferences consisted of keynote speeches, panel discussions and workshops. In total I attended two different workshops. The duration of the events varied greatly as some were a half day events and some lasted for a full workday with post-seminar networking events. All of the events had at least one coffee break in between different sessions that allowed for discussions with the participants. The full day seminars had a lunch break that usually allowed some networking and gave enough time to discuss with people. In addition there was usually a time scheduled for breakfast before the seminar and I made sure to arrive on time in order to discuss with some of the participants before the event started.

Speakers in these six seminars included corporate representatives of Finnish companies, politicians from the main parties, representatives of different Finnish organisations and NGOs. So basically similar actors that were organising the events. In addition, most of the seminars had at least one foreign speaker that was usually an expert on the topic of corporate responsibility to respect human rights and human rights due diligence. During my fieldwork I discovered that the CSR scene in Finland is rather small and same people seemed to attend the events. This observation was later confirmed to me by one of the event organisers, who said that “when you look at the registration lists of these events, it’s the same people who attend these events”. Sometimes these speakers

appeared as keynote speakers or panellists in one event, and then they reappeared in the Q&A session of another event.

These six events that I just described were clearly CSR conferences with a variety of different actors. Two other events that I attended were an interesting contrast to the professional and international atmosphere of the CSR seminars and conferences. One of these events was an “activist evening” organised by a coalition of Finnish NGOs that were advocating for the CSR law based on human rights due diligence. The purpose of the event was to engage “normal citizens” into promoting the CSR law. The other event was a demonstration organised outside of the parliament building. While the seminars directed to CSR professionals and organisations filled up quickly, these “activist events” were clearly lacking participants. The activist evening was organized in a café in Kallio one late evening. When I arrived at the café right before the event started, my initial thought was that I had arrived to a wrong place as there seemed to be only few people inside. Once I confirmed that I had arrived to the right place I found myself a seat and waited...and waited...and waited. Finally the organiser advised that we will still wait for few minutes as they expected more people to show up. This expectation was also visible in the amount of food reserved for the attendants. In the end the organisers almost outnumbered the “activists”. We were total 9 “activists”, including myself. The theme of the event was the CSR law and what ordinary citizens and voters could do to influence the legislation. Out of all the participants only one identified herself as an ordinary citizen. All others seemed to have a professional interest on the topic.

Similarly the demonstration seemed to lack the “ordinary citizens”. When I approached the parliament building in the centre of Helsinki my first impression was again that there is no one there. But as I got closer, I noticed a small group of people at the bottom of the stairs. I soon discovered that majority of them belonged to a cheerleading team that was hired to be a part of the demonstration. Other people were the organizers and media professionals that were preparing a video of the demonstration. Some politicians quickly stopped by and recorded their parts for the video. According to my notes politicians were rushing to their other duties. A group of foreigners passed by and yelled to the “demonstrators” that “you have to be louder”. The whole demonstration seemed more a like filming scene than actually a demonstration. It seemed then that

corporations, CSR experts, NGOs and other organizations are more interested in this the topic than “ordinary citizens”.

In addition to these events that I participated in, I followed two events via online livestreaming. The first event was a UN Forum on Business and Human Rights organised in November 2018 that included speeches by the government representatives of Finland and by Finnish corporations. The UN Forum on Business and Human Rights has been organised every years since 2011, when the UN Guiding Principles on Business and Human Rights were adopted. The second event was a Conference on Business and Human Rights that was convened by the government of Finland in October 2019 while they were still acting as a President of the Council of the European Union.

### 3.1.2 Other materials

The discourse in the previously described events, and the fieldnotes I took from the events that I attended, make up the majority of the material used in this thesis. But as this research is connected to a global discourse, I felt that it is important to analyse the global standards related to the discourse in Finland. So in addition to the events, I have familiarised myself with the global standards underlying the discussion of corporate responsibility to respect human rights. For this thesis I have selected those standards that were frequently mentioned during my fieldwork. These are the UN Guiding Principles on Business and Human Rights (UNGPs) and the OECD Due Diligence Guidance for Responsible Business Conduct (OECD Guidance). These two documents are discussed in the subchapters of chapter 4. I actually familiarised myself with these documents only after attending the first few events and I immediately noticed how the language of these standards was reappearing in the context of Finland.

In addition to these two documents, I collected brochures and other materials from the events and workshops, but these have received less attention in the analysis. But they have nonetheless provided data for this thesis. I also followed the discourse online as the different actors continued to discuss the issues outside of the seminars and used

hashtags provided by the seminar organisers. But as said, these materials have provided more background information and context for the discourse.

### 3.2 Challenges of contemporary ethnography

I have already briefly mentioned some of the challenges I faced in studying CSR phenomenon and doing contemporary ethnography in chapter 3.1. It seems that some of the challenges I faced during my fieldwork are very familiar to other researchers that have tried to grasp a contemporary phenomenon through the ethnographic method (see for example Garsten 2009; Conley and Williams 2008; Riles 2000). At the start of my fieldwork I quickly realised that the study of CSR movement ethnographically can be challenging.

From the beginning of the fieldwork I had several anxieties, especially related to the density of my participant observation (Garsten 2009, 64). It was only later that I realized that the anxieties I was experiencing, where not necessarily caused by the lack of depth or duration of the fieldwork, they were caused by the very nature of the field itself as I will describe in this chapter. I have previous experience form corporate world and I am familiar with the corporate language which helped me to gain some depth into my research from the start. Like Garsten (*ibid.*), I considered my previous experience as an asset instead of an obstacle for the research.

First, as described earlier, the field was not confined to any single location or organisation. This made the field site somewhat scattered and uncertain and quite difficult to track as the events just seemed to appear all of a sudden and in less than a day the field had disappeared again. As Garsten (2009, 58–59) has described, this “discontinuity of the field”, “both in time and space” was at times very frustrating for me as the fieldwork just kept on continuing. However, similarly to Garsten (2009, 60), I slowly began to notice some continuity in the field. First, the discourse seemed to evolve around the same topic, corporate responsibility for human rights and HRDD. Second, as described earlier, I began to notice that same people were attending the events.

Second and related to the first point, the field of CSR is constantly on the move as Garsten describes (2009, 59). Financially it would have been very difficult for a student to follow every event from UN Forums in Geneva to EU presidency events in Brussels physically. Yet alone speaking about gaining access to these events. So as mentioned earlier, some of the fieldwork has also been conducted online by following livestreaming of the events. However, every time there has been a possibility to attend an event in Finland, I did so.

The third challenge was with what Laura Nader (1972) has called “studying up”. Initially I was hoping to get an access to the legalisation discourse through one of the ministries in Finland as Finland was organising ‘round table discussions’ with different stakeholders to discuss the topic. I encountered similar problems that Riles (2000, xv) has described: the ministry officials were busy officials and there was “a certain degree of distrust of outside involvement” even though I tried to explain that I was not interested to expose any sensitive information. It seemed that corporations were actually the most approving of my research as I made several contacts for possible interviews during the seminars. But the difficulty to access the field also appeared in another way. Several other CSR events were organised during the fieldwork time period, especially by a Finnish organization<sup>5</sup> that promotes responsible business, but unfortunately I was not able to gain access. In addition, their events are only open to their members and partners, and they have very high membership fees, which seems to be typical for CSR conferences (see Rajak 2011, 2016).

### 3.3 Ethical considerations and limitations of research

Before commencing my research I familiarised myself with the ethical guidelines of the department of anthropology at the University of Helsinki and committed to following these guidelines during my research. In the beginning of my fieldwork I felt like I did not have any major ethical concerns as the events I was planning to attend were public and some of them were even streamed online. Also several of the speakers in these events were public figures or representatives of organisations, not private persons. In

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<sup>5</sup> Interestingly the name of this organisation means ‘small lies’ in English.



addition I was not studying sensitive matters such as actual human rights violations of corporations so I felt quite at ease with any ethical concerns. However, as my fieldwork progressed I started to reconsider whether my research could have some consequences for the people or organisations being studied.

First, despite of being public events, some corporations have been surprisingly open about their ethical problems concerning human rights. I have made a conscious decision not to disclose any direct quotes from these speeches or discussions and I have also not kept any records of them. In addition, one of the workshops I attended was organised under the Chatham House Rule (see Chatham House n.d.). The Chatham House Rule allows you to share the information received in the event, but not to disclose the speaker. However, I received the access to this workshop by promising not to disclose any information from the workshop, so naturally also this event has been left out from my research.<sup>6</sup>

Second, and related to the first point, I encountered some prejudice against my research. There was concerns that I would somehow jeopardize one person's work with the corporations due to my research. Due to this one incident, I have taken additional discretion to explain in my discussions during the events that the purpose of my research is not to expose any human rights violations made by corporations, or to cause any other harm for that matter, but instead to analyse the current discourse regarding the legalisation of CSR.

Third, the speakers of the events do not know that I am analysing their speeches in my thesis. As mentioned already, the events were public and open for anyone to register as a participant and sometimes the events were even streamed online. So after some discussions in the thesis seminar and with some of the organisers, I came to the conclusion that an informed consent from the speakers themselves was not necessary. Every time I registered for a public event and there has been a possibility to add extra information in the registration form, I have told the organisers that I was doing research for my master's thesis. Not once was my attendance rejected. However, if the public

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<sup>6</sup> Despite of not being able to discuss any of the content of the workshop in my thesis, I found it useful for understanding how due diligence is done in practice and for this I am grateful for the organisers for allowing me to attend.

event included a workshop, I contacted the organiser to get a permission to attend the workshop for research purposes. However, considering that the speakers in these public events were most likely not aware of my research, I feel that it is “good practice” not to mention the speakers, organisations and corporations by their name. So I have anonymised the data throughout this thesis. However, I have had to disclose some descriptive information of the speakers in order for the reader to understand the context as it is relevant for the analysis.

Fourth, I also had several informal discussions with the participants of these events. The people I discussed with knew that I was doing research as I always brought it up in the beginning of the discussions. But it is rather vague if this could be considered as informed consent. The data gathered through these informal discussions will not, however, cause any harm to the subjects due to the nature of the data and their identity cannot be traced due to the large amount of participants in these events. To summarise, I have taken care not to cause any harm to anyone involved and I hope the subjects of this research feel the same.

Finally I want to say few words about the limitations of the research. First, the lack of interviews could be considered as a limitation, but as explained previously I made a conscious decision to leave them out. Second, due to my background in working for a large multinational corporation and having developed a somewhat critical stance towards CSR in practice, I had to consider reflectively how my attitude could influence the outcome of this research. Marc Edelman has made a valid point of the commitment of the ethnographer in studying social movements and how that commitment and presumptions might influence what alternative voices are heard and “how are we to understand movements ... which we may, in fact, not like at all?” (2001, 311). Maybe in my case to say that I do not like CSR at all is a bit too sharp expression, but there could be a risk of being overly critical in my analysis. However, as described earlier in chapter 2.3, my solution for overcoming the possible exaggerated critical analysis, arising from my own prejudices, has been to focus analytically also on the change that CSR can initiate.

## 4 The international guidelines on business and human rights

I begin the analysis with a chapter in which I will describe the international guidelines<sup>7</sup> underlying the discussion on corporate responsibility to respect human rights. I have selected those standards that were frequently mentioned in the discussions during my fieldwork. I will first summarize the UN Guiding Principles on Business and Human Rights (UNGP) and then I will move on to the OECD Due Diligence Guidance for Responsible Business Conduct (OECD Guidance). The two guidelines are closely linked as the OECD Guidance was aligned with the UNGP in order to promote policy coherence, or “a moment of convergence, that set a common shared ideas about what we are actually asking in practice”, as a speaker representing an organisation promoting the UNGP described.

### 4.1 UN Guiding Principles on Business and Human Rights

Twelve years ago, in 2008, UN adopted the ‘Protect, Respect and Remedy’ Framework (hereafter UN Framework) that addresses the issue of corporate responsibility to respect human rights (United Nations 2008). The purpose of the UN Framework was to create an effective global policy that would address the “governance gaps” of the globalised world that allow corporations to violate human rights for their financial benefit (ibid., 3). According to the UN Framework, the issue was that until then there had not been any “authoritative focal point” and consequently there were a mixture of different CSR initiatives and actions that never reached a significant scale (ibid., 4). The purpose of the UN Framework was to set “a foundation on which thinking and action” could be built (ibid.).

Three years later, in 2011, the original UN Framework was followed by ‘UN Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework’ (United Nations 2011) that focuses on the action. Some of the participants in the seminars also called these two UN guidelines the

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<sup>7</sup> Since the Universal Declaration of Human Rights (United Nations 1948) several international standards have been developed that address human rights. A list of these standards is available at the United Nations Office of the High Commissioner for Human Rights website (OHCHR n.d.).

‘Ruggie Principles’ after their creator professor John Ruggie, the former UN Special Representative for Business and Human Rights and an international relations scholar. UNGP is the first global standard on how companies should address human rights in their business activities as it seeks to put the framework into practice. The UN Framework and UNGP identify three core pillars that stipulate the different responsibilities of states and corporations. The three core pillars are: the State<sup>8</sup> duty to protect human rights, the corporate responsibility to respect human rights, and finally the access to remedy in case human rights violations have occurred. (United Nations 2011) In 2012, the UNGP was followed by another guide called ‘The Corporate Responsibility to Respect Human Rights: An Interpretive Guide’ (hereafter Interpretive Guide) that seeks to further explain the second pillar, the corporate responsibility to respect human rights. (United Nations 2012)

It is visible from above that the issue of business and human rights has become a part of the “guidelines culture” (Larsen 2013). As described in chapter 2.2.2, Larsen has noted how especially UN produces multiple guidelines for contested issues. Since its publication, UNGP has received support from states, corporations and civil society (ibid., 2). Next I will discuss the three pillars of the UNGP. The focus is on the language of the document and following Garsten (2009) on the keywords of the CSR discourse. I highlight those sections that were frequently discussed during my fieldwork and I will return to them in the upcoming chapters to show how the different actors discussed and created meanings for the corporate responsibility to respect human rights. Pillars I and II have received more attention in my thesis. This is due to the fact that pillar III, access to remedy, rarely appeared in the discussions during the events or in my informal discussions with the participants of the events.

#### *Pillar I: The state duty to protect human rights*

The first pillar, the duty of the State to protect human rights, is already stipulated in the international human rights law, but states have not been required to specifically regulate

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<sup>8</sup> The UN documents use the word State written in capitals, when they refer to any generic or specific country. This should not be read as a sign of respect. I have used the word State with a capital letter every time I am referring to content of a UN document. For more information please visit the United Nations Editorial Manual (United Nations n.d.)

corporate actions, and especially corporate actions outside of their own territory and jurisdiction. The UNGP addresses this gap by stating that the duty of the State to protect human rights also includes the human rights violations made by corporations. In addition, this includes the corporate actions outside of the state's territory. To put it simply, states have the duty to protect against corporate-related human rights violations both at home and abroad. (United Nations 2011, 3–4)

However, in my opinion, there are some alleviations to the responsibility of the states, which make it possible for the states to commit to the guidelines. According to the UNGP, states are not directly responsible for corporate human rights violations, but they can be, if they are found guilty of not taking “*appropriate steps*” to “prevent, investigate, punish and redress” them (ibid. 3, [emphasis added]). According to UNGP, appropriate steps can be “a smart mix of measures” that include “policies, legislation, regulation and adjudications”, so a mix of mandatory and voluntary practices (ibid., 5). The meaning of appropriate is left vague and this points to the flexibility and the abstract nature of guidelines that Garsten and Jacobsson (2011) have noted.

The important message of the UNGP, a message that was often emphasized in the discussions during my fieldwork, is that states own reputation can be damaged, if they are associated to corporate-related human rights violations, especially made by state-owned enterprises or state-linked agencies, such as export credit agencies and development agencies. In addition to these, state's reputation could also be damaged by their procurement activities, if the business partner violates human rights in their operations. So states do not only have a reputational risk, there could also be financial, political and legal consequences (ibid., 7). Thus states should make clear their *expectations* regarding human rights to all parties they are involved with and provide relevant training and support. (United Nations 2011, 7–8)

The UNGP acknowledges the challenge that's states will face when they have to negotiate different interests in order to achieve “*appropriate balance*” (United Nations 2011, 10 [emphasis added]). According to UNGP this requires that states take a rather “*broad approach*” to business and human rights issues (ibid., [emphasis added]). States may, for example, have existing business obligations with other states under trade

agreements that could restrict their ability to address human rights issues, so states should aim for maintaining an “adequate domestic policy space” and promote policy coherence regarding human rights (ibid., 11 [emphasis added]). In other words, states should aim to maintain a certain degree of sovereignty in order to fulfil their human rights obligations. In addition, UNGP encourages states for *cooperation* in order to *level the playing field* (ibid., 12, [emphasis added]), so that some states would not systematically allow the violation of human rights for economic benefits. States should also use their “leverage”<sup>9</sup> in international organisations through “*capacity-building*” and “*awareness-raising*” to help other states to respect human rights (ibid., 12). Interestingly these obligations of the states resemble the responsibilities of the corporations as described in chapter 5.

### *Pillar II: The corporate responsibility to respect human rights*

The second pillar, the corporate responsibility to respect human rights, differs from the State duty to protect human rights in that it is not recognized by the international human rights law. Instead it is “a global standard of expected conduct” for all corporations, and thus independent from the State duty to protect human rights (United Nations 2011, 14). As such, it could be understood as a “code of conduct” found nowadays in almost every corporation, but in a larger scale. What these code of conducts usually do in the context of corporations is that their existence discharges the obligation as the code of conduct functions as a proof that corporations have taken appropriate steps to address the issue (Bonnitcha and McCorquodale 2017). According to the second pillar, corporations are expected not to cause or contribute to human rights violations “either through their own activities or as a result of their business relationship with other parties.” (United Nations 2011, 15). The pillar applies to all corporations “regardless of their *size*, sector, operational context, ownership and structure” (ibid., 15 [emphasis added]).

In my opinion the second pillar also takes a stance on voluntary promotional CSR activities concerning human rights as it states that corporations “may undertake other

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<sup>9</sup> According to UNGP, “Leverage is an advantage that gives power to influence. In the context of the Guiding Principles, it refers to the ability of a business enterprise to effect change in the wrongful practices of another party that is causing or contributing to an adverse human rights impact.” (United Nations 2012, 12)

commitments or activities to support and promote human rights – – but this does not offset a failure to respect human rights throughout their operations.” (United Nations 2011, 13) Thus, corporations could for example support NGOs in advancing human rights, but this would not remove their obligation to prevent human rights violations in their own operations. In fact, some participants expressed their fear of increasing “rightswashing”<sup>10</sup> during my fieldwork.

How do corporations then prove that they do not violate human rights or that their businesses operations do not have any possible human rights impacts? UNGP holds the existence of policies and processes as a proof that corporations respect human rights. Principle 15 states that “in order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances” (United Nations 2011, 15). These policies and processes include: a public statement of policy, that expresses the expectations of the corporation clearly to all stakeholders; human rights due diligence process; and a remedy process (ibid., 16). Even though the principle applies to all corporations regardless of their size, UNGP acknowledges that for example small and medium-sized enterprises (SMEs) have less resources at their disposal so they should have “in place policies and processes *appropriate* to their *size* and circumstances – – ” (ibid., 15). Especially the size of corporation occurred frequently in the discussions during my fieldwork as I will show in chapter 5.2.

During my fieldwork, the focus seemed to be on the human rights due diligence process, as it was either specifically the topic of the event, or if it was not mentioned in the event program, it was nonetheless discussed during the events. The principle two in the UNGP also dedicated most space for the HRDD process as according to the UNGP, it is the “appropriate method” for addressing the corporate responsibility to respect human rights (United Nations 2011, 5). Thus, the due diligence process seems to be the at the heart of the UNGP, but this has been denied by the creators of the Guiding Principles who state that the “framework is more complex” (Ruggie and Sherman 2017, 923). However, many interpret that the focus in UNGP is on due diligence (see e.g.

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<sup>10</sup> The term “rightswashing” derives from the term “greenwashing” and implies that human rights are used for marketing purposes.

Bonnitcha and McCorquodale 2017) and it was visible also during my fieldwork as I will discuss in chapter 6.2.

So what is exactly HRDD process in UNGP? According to UNGP, the HRDD process “should include assessing actual and potential human rights impacts, – – acting upon the findings, tracking responses, and communicating how impacts are addressed.” (United Nations 2011, 17). OECD has illustrated the HRDD process as a continuous cycle (Figure 1). UNGP does not state specifically how this process should be done, because the process will differ due to, again, the size of corporations, the severity of impacts and the business context (ibid., 18). Again, this indicates the flexibility of the guideline (Garsten and Jacobsson 2011)

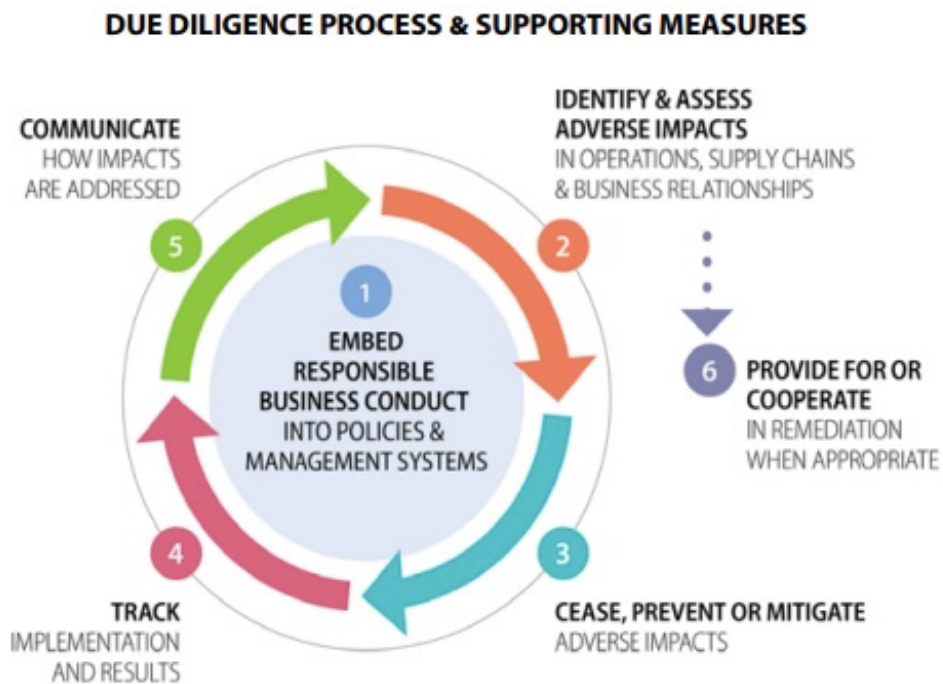


Figure 1. Due diligence process (OECD 2018, 21).

If corporation is found to violate human rights, there is usually similar reputational, financial and legal risks as states have. The assessment of risks is nothing new to corporations so one could assume that it would be rather easy for corporations to incorporate such a human rights risk evaluation process into their existing risk-management systems. But according to UNGP, the emphasis should not only be on the



risk for the corporations themselves, but also “to include risks to rights-holders” (United Nations 2011, 18). If corporations are unable to consult the rights-holders directly, UNGP urges corporations to use independent experts (ibid., 19-20). In addition, UNGP acknowledges that if corporations have very complex value chains “it may be *unreasonably difficult* to conduct due diligence for adverse human rights impacts across them all” (ibid., 18, [emphasis added]). Thus, corporations should direct their *attention* to those human rights that are in greater risk in their industries (ibid., 14, 18) and *prioritize* those that are most severe and possibly irreversible (ibid., 18, 26).

According to UNGP, “*appropriate action*” is determined whether corporation is directly involved in the human rights impact, or whether the corporation is linked to the impact through its business partner (ibid., 21 [emphasis added]). Based on my fieldwork, in Finland corporations do not see themselves as being directly committing human rights violations, so the discourse evolved around the latter case, where corporation is linked to the human rights violation through its subcontractors. So one could expect that the only action is to terminate the relationship with the supplier that violates human rights? But according to the UNGP the appropriate action further depends on how complex the situation is. Action depends on for example how much the corporation has leverage over its business partner. UNGP states that corporations should aim to increase their “*leverage*” by offering, for example “*capacity-building*” to their business partners and through “*collaboration*” with other actors (ibid., 22, [emphases added]). These recommendations are the same as for states as previously described. Appropriate action might also depend on how “*crucial*” the business relationship is (for example there is no other supplier for a specific product), how severe the impact is, and finally whether the termination of the relationship would cause additional human rights impacts (ibid., 22). Thus, ending the business relationship with an unethical business partner does not seem so straightforward as the participants in the events discussed. I will discuss this issue more in chapter 5.3.3. A key feature of human rights due diligence process is also time. According to UNGP human rights due diligence should be a continuous process as the “*risks may change over time*” (ibid., 18). The severity of the human rights impact determines how long corporation should wait to see a change before ending the business relationship. Finally, if a corporation decides to continue the

business relationship, it has to be able to demonstrate that it has taken “ongoing efforts to mitigate the impact” (ibid., 22).

To summarize, human rights due diligence as a risk management process means that corporations investigate what their human rights impacts are, address them, and communicate on those actions through dialogues with relevant parties or formal public reports. During my fieldwork and in the UNGP this practice was referred to as “*knowing and showing*” (United Nations 2011: 16, 23-24), which in my opinion is a shift from the previous practice of “naming and shaming” utilised by global institutions and soft law mechanisms (see e.g. Scheper 2015; Maurer 2005; Zerilli 2010). According to UNGP, the benefit for corporations from this *knowing and showing* is that they can prove that they have taken “every *reasonable* step” in case they face accusations of human rights violations (United Nations , 19 [emphasis added]). In other words discharge their obligation. UNGP states, however, that this does not mean that corporations have been “automatically and fully” absolved from liability (ibid.). In the end, this evaluation would be done by the specific jurisdiction addressing the possible legal case.

According to legal scholars Jonathan Bonnitcha and Robert McCorquodale, the two different understandings of due diligence in the UNGP, as a risk-management process and as a standard of conduct that discharges a responsibility, create confusion about the corporate responsibility to respect human rights (Bonnitcha and McCorquodale 2017). This sparked a defence from the creators of the UNGP, John Ruggie and John Sherman (2017, 923), who argue that Bonnitcha & McCorquodale have falsely associated the legal understanding of the standard of conduct that discharges a responsibility with the corporate responsibility to respect human rights. Instead Ruggie and Sherman state that, “It [the corporate responsibility] is rooted in a transnational social norm, not an international legal norm. It serves to meet a company’s social license to operate, not its legal license; it exists ‘over and above’ all applicable legal requirements – –”. (ibid., 924) This moves the obligation from the legal requirements to the moral expectations that is more vague. Despite of the reply, the possibility for misinterpretation is evident in the UNGP as I have described above.

In general, the language of the UNGP is flexible as it used such words as “reasonable”, “sufficient”, “appropriate” and “adequate”, whose quality and meaning is left vague. Similarly it seems that ‘power’ has been replaced with the word ‘leverage’, whose meaning has been specifically clarified in the document. These words leave room for different interpretations and raise questions about the extent of expected corporate responsibility. In addition, as Werbner (2014, 481) has noted by drawing from Gluckman, such “‘indeterminacy’ allows for ‘judicial discretion’”, so in other words the use of words such as ‘reasonable’ displaces the judgement of appropriate action to other actors, such as lawyers. This is what I understand Larsen (2013, 87) was referring to, when he said that the guidelines move politics to “different arenas and action”, instead of foreclosing the conflictual space as Garsten and Jacobsson (2011) have suggested.

In addition to the confusion described above, the first and second principles have interesting similarities for both the states and the corporation. Both are advised to express their expectations, manage their risks and increase their leverage through capacity-building and collaboration, which might have some unintended consequences and critics could state that it ultimately increases the power of the state and corporate actors.

### *Pillar III: Access to remedy*

The third principle, access to remedy, addresses the State duty to provide an access to remedy for those affected by corporate-related human rights abuses. According to UNGP this can be done either through: State-based judicial or non-judicial grievance<sup>11</sup> mechanisms that could be based for example on mediation (ibid., 30); or via non-State-based grievance mechanisms established by the corporations itself or in collaboration with industry associations or stakeholder groups (ibid., 31). Especially the corporation-based grievance mechanisms would raise some concerns over the credibility of such mechanism. UNGP sets a criteria for such mechanisms, but in my opinion it is not a

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<sup>11</sup> UNGP defines grievance as “a perceived injustice evoking an individual’s or a group’s sense of entitlement, which may be based on law, contract, explicit or implicit promises, customary practice, or general notions of fairness of aggrieved communities.” (United Nations 2011, 27)

definite criteria as again it uses several words, such as reasonable, sufficient and adequate, whose quality and meaning is left vague.

Despite of its evident importance to the people affected by corporate human rights violations, the third principle, access to remedy, received very little attention during my fieldwork. It was generally mentioned in the speeches of the experts, such as lawyers and government officials when they were presenting the UN Guiding Principles, but it was rarely addressed by other actors, such as corporations. There seemed to be a shared understanding that the creation of such mechanism would be very difficult in practice due to the global governance gaps.

#### 4.2 Policy coherence: OECD Guidelines for Multinational Enterprises

UN has urged for policy coherence and it seems that it was achieved through incorporating the human rights due diligence process across different standards. It has turned into what Merry (2006, 19) calls “transnational program transplant”. Another framework that has adopted the UNGP and HRDD is the OECD Guidelines for Multinational Enterprises (OECD 2011). OECD Guidelines are legally non-binding recommendations from OECD member governments<sup>12</sup> to multinational corporations “operating in or from adhering countries” (ibid. 3). The OECD Guidelines were originally adopted in 1976, but they have been reviewed several times due to the changing business environment. The latest review was done in 2011, when the OECD Guidelines were brought in line with the previously described UNGP. This meant that a new chapter on human rights and a recommendation for risk-based due diligence were added to the OECD Guidelines.

In 2018, OECD published another document called ‘OECD Due Diligence Guidance for Responsible Business Conduct’ (OECD Guidance) that aims to create “a common understanding” on due diligence and assist corporations in implementing due diligence process throughout their operations (OECD 2018, 3). The OECD Guidelines are meant

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<sup>12</sup> Currently OECD has 37 member countries out of which 26 countries are in Europe. In addition OECD works closely with Brazil, China, India, Indonesia, and South Africa (OECD 2020).

to provide corporations “with the flexibility to adapt the characteristics, specific measures and processes of due diligence to their own circumstances” (ibid. 9)<sup>13</sup>.

The OECD Guidance clearly states that its approach to due diligence is risk-based, but it seeks to change the corporations’ understanding of “risk” (OECD 2018, 15, 17). Normally corporations see risk as something threatening to themselves, such as financial, market, operational or reputational risks. The OECD Guidance is aligned with UNGP in that it emphasizes the need for corporations to adopt a different understanding of risk into “an outward-facing approach to risk” (ibid. 15) that takes into consideration the risks to people and environment possibly affected by the operations of the corporations. Thus OECD Guidance aims for a mindset change regarding risk.

OECD Guidance does not, however, expect corporations to be purely altruistic. In order to motivate corporations, OECD Guidance lists the benefits to corporations from due diligence as it “can help enterprises create more value” (OECD 2018, 16). Here the value refers also to economic value. According to OECD Guidance, due diligence can contribute to cost-reduction, to better knowledge of supply chains and management of risks (ibid). In addition, OECD Guidance encourages corporations to do human rights due diligence as corporations are already familiar with the due diligence process. By this OECD Guidance refers to the “traditional transactional” or “know your counterparty” (KYC) due diligence processes (ibid. 16). Bonnitcha and McCorquodale state that the adoption of “due diligence” would have been a “clever and deliberate tactic, as it is familiar to business people, human rights lawyers and states, among whom Ruggie sought to build a consensus on his approach (Bonnitcha and McCorquodale 2017, 900).

In my opinion the difference to the financial due diligence process is that the traditional due diligence process is preventive as it is usually done before engaging in business relationship. With human rights due diligence, the issue becomes much more complicated as corporations have already established some of their relationships. That is why OECD Guidance and similarly UNGP call human rights due diligence process

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<sup>13</sup> The OECD has sector-specific due diligence guidance for minerals, agriculture, and garment and footwear, extractives and finance (OECD 2018, 11).

“dynamic” (ibid., 17). It consists of a learning process that is based on “feedback loops”, that will help corporations understand what actions have been successful. OECD states that “in practice the process of due diligence is ongoing, iterative, and not necessarily sequential” (ibid., 10). This can have consequences on the understanding of responsibility as I will show in chapter 6.2.

Finally, OECD Guidance also takes a stand on responsibility. According to the OECD Guidance “due diligence does not shift responsibilities” (ibid., 17). It states that the due diligence recommendation “is not intended to shift responsibilities from governments to enterprises, or from enterprises causing or contributing to adverse impacts to the enterprises that are directly linked to adverse impacts through their business relationship.” (ibid.). This means that for example corporations cannot shift the responsibility of respecting human rights down to their suppliers by stating that they have not been directly involved as Nike did in the example described by Garsten and Hernes (2009, 205). So in my opinion it prevents the discursive strategy what Garsten and Hernes call structural decoupling.

To summarize, both the UNGP and OECD Guidelines aim to establish an authority on the issue of corporate responsibility respect for human rights. Larsen would call this symbolic authority (2013, 89). The guidelines themselves though communicate a questionable consensus as due to their flexible nature they leave several issues to the judgement of the reader. Thus they move the politics to other “arenas and action” (ibid. 87). The frustration of the Finnish state officials dealing with these issues was visible in one of the events I attended, when they described how confusing the guidelines have been and how long it has taken them to understand what is required of them. But they also added that in the end it had taken three years of negotiations with different stakeholders to produce the OECD Guidance, which indicates that the consensus on the content was not so easily reached. Next I will move on to the local context in Finland and look at how the politics of corporate responsibility to respect human rights was played out there.

## 5 The politics of CSR in Finland

The anthropological research on CSR has suggested that CSR policies and guidelines remove the political debates on controversial issues and create a post-political environment that is characterised by consensus. Anthropologists have argued that guidelines do this by introducing apolitical and technocratic processes and use a rhetoric of consensus and harmony that forecloses the conflictual space and make it difficult for actors to express their differing opinions (Rajak 2009, 215–216; Garsten and Jacobsson 2011; 380). Garsten and Jacobsson have showed how this “post-political” governance space was created at the global level in the UN and in the UN Global Compact. However, some anthropologists have argued that this consensus is reached after intense political debates of the content of the UN documents (see for example Merry 2006; Riles 1998). But as I suggested earlier this does not mean that they could not be contested and debated elsewhere.

First I will look at how the issue of responsibility was debated during my fieldwork in Finland. Then I will look at a discursive strategy that in my opinion derives from the UNGP and that several Finnish corporations used in order to displace or decrease their responsibility. Finally I will discuss what kind of rhetoric different actors used in their attempts to reach consensus and mobilise collaborative action locally in Finland.

### 5.1 The debate: “But who has the responsibility?”

The UN Framework states that the corporate responsibility to respect human rights is “the basic expectation society has of business” (UN 2008, 5). It is presented in the document as an unquestionable and rational moral fact. One of the conferences I attended began with this factual assertion, when the host of the event declared that “so we all agree that who has the responsibility”. This happened before the conference had even started properly. A similar statement was asserted by a representative of an NGO in another event, where she declared that “everyone thinks that corporations have the responsibility to follow what happens in these factories”. The ‘we’ and ‘everyone’ could be seen to refer to the society at large, but in the end it seemed that there was very little agreement on who had the responsibility.

In Finland, in October 2018 and in the beginning of my fieldwork, the political climate was especially sensible for political debates as the next parliamentary election was scheduled for spring 2019. The Finnish campaign, that was advocating for the CSR law based on human rights due diligence, was actively promoting their cause to be included in the election platforms of different parties. Instead of the harmony and consensus that Garsten and Jacobsson (2011) described, there were visible debates regarding who had the responsibility for human rights in the global supply chains. Clearly the political debate had been relocated into a new location (Larsen 2013).

In Finland the responsibility was intensely bounced between different actors. For example a representative of a Finnish consumer NGO assigned the responsibility to those who have power by stating that:

*“Well I would start from the fact that whoever has the power has also the biggest responsibility. So these corporations, international corporations, that have more power, they also have the responsibility to make sure that the working conditions are ok, and the workers are paid. – – the consumer can also demand better [conditions] from the corporations, but it cannot be the responsibility of a Finnish consumer to investigate the working conditions, that is the job of the corporation.”*

It was clear that the interests of the speaker affected her statement as she was placing the responsibility on transnational corporations and defending consumers that she was representing in her role as a representative of a consumer NGO. In her reasoning, the power, that she assumed corporations to have, was closely linked to responsibility. In the context of Finland, however, this assignment of responsibility to those who have power, becomes more complicated as I will describe in the next chapter 5.2. This is because Finnish corporations identify themselves as small in the global context, which I argue, derives from the flexibility of the language in the UNGP. However, the speaker left room for the claims of collective responsibility (Rajak 2016) by making responsibility progressive: the more power you have, the more responsibility comes with it. So in the end the statement of the NGO representative does not exclude the responsibility of other actors, thus making the claims for collective responsibility and consensus possible.

In a similar vein, responsibility was sometimes assigned progressively to those who have access to information. A speaker from an organisation representing Finnish trade



unions expressed it as follows: “– – everyone in the supply chain have responsibility, and the one who has access to the information has of course more responsibility – –“. This is related to the concept of transparency. In fact, several Finnish companies stated how they do not know what happens down in their global supply chains, some even suggested that it is impossible to know as they do not have power over their suppliers. A representative of a Finnish company that has production in ‘risk countries’<sup>14</sup> expressed clear frustration when it came to the issues of transparency and ‘knowing’ what happens down in their supply chains. He criticised his industry for being criminal and secretive as no one wanted to openly share their production conditions. But he, and also the representatives of other Finnish companies, stated that even visiting locally does not necessary expose the problems in the supply chains as subcontractors might conceal information from them. Another corporate representative stated the same by saying that “the subcontractors show us what they want to show”. So they had difficulties in accessing the information and thus some of them expressed their lack of leverage and hinted towards decreased responsibility due to this. This again reassigned the responsibility from the Finnish producer to the subcontractor based on the claim that the subcontractor has the power and information so in the end they have the responsibility. This discursive strategy is what Garsten and Hernes (2009, 205) called “structural decoupling”. But as shown by the example of Nike, this does not always silence the criticism. Actually this was confirmed by one of the corporate representatives that for receiving the information they had to rely on third parties and local audits as a tool for transparency. But similarly the participants expressed that these audits have limitations in providing the information especially when it comes to the lower tiers in the supply chain. So whereas Garsten and Jacobsson (2011) saw transparency as being something that corporations had control over if they wanted to, the Finnish corporations emphasised their lack of control over transparency.

The difficulty in accessing the information seemed to move the responsibility to the state, and especially to states of the risk countries, whose representatives were not present in any of the seminars. The speaker from the organisation representing Finnish

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<sup>14</sup> The term ‘risk countries’ was used frequently in the seminars I attended and it referred to for example such countries as India, Pakistan, China, South Africa, where there is a higher risk for human rights violations.

trade unions criticised the current governance gaps and assigned the responsibility to states as follows:

*“-- but all of this comes down to legislation and international treaties and binding regulation, so in the end the state has the responsibility. That is then another issue that some states have bad laws and in some states laws are not respected, and then the other actors have responsibility to take care of that states follow the laws. -- so the problem is in the execution of the laws, but the western consumers can bring up these issues and that way create pressure to the local governments to obey their own laws.”*

So the speaker distributed the responsibility between the states, global institutions and finally the consumer. The effectiveness of consumer decisions and activism to change corporate behaviour was questioned in several occasions in the events. A speaker at the UN Forum summarized it nicely by saying that there are “thousands of SME’s which are not consumer facing” thus consumers have no influence over them. In addition, several Finnish consumer facing companies expressed their scepticism towards consumers. A representative of one Finnish company for example stated that in general consumers are “indifferent” when it comes to the production conditions. Another one emphasised the diversity of consumers by stating that only a small percentage is very conscious, but also this group is very fragmented as these conscious consumers are usually experts in one issue, like for example the production of chocolate. So in general corporations did not see that consumers have much power to change the behaviour of corporations. The doubts of consumer power was also expressed by majority of other actors than just corporations.

So far the responsibility has been assigned to transnational corporations, the states of the risk countries, international organisations and to some extent to consumers. Finally, considering the political climate in Finland at the time, the discourse over who had the responsibility recognised two new subjects (Coombe 2009) into the debate, Finnish politicians and voters. A representative of a Finnish corporation stated that “-- I would put pressure on the politicians --. They should decide how the world is saved, it is not us who run the world”. Thus he displaced the responsibility to the politicians. In his opinion it is not the corporations that are responsible, it is the politicians who should make common rules for everyone, which also he would then accept as long as the rules would be the same for everyone.

When it seemed that there would not be anyone left anymore to assign the responsibility to, it came to the local socio-political context. Before the elections all politicians repeated the same message that is summarised in this quote from a politician: "-- it comes down to the fact that the voters have the responsibility in the next elections". I think I almost had a sigh of relief from all the other actors. The politically controversial debate over who has the responsibility was thus temporarily suspended until the elections. It was the voters that were given the power to decide whether there should be a CSR law that would assign the responsibility to the corporations. Interestingly the anonymous group of consumers had changed into voters in this context. Rajak (2009, 214–215) argued previously that CSR is not driven by policy, but instead it is driven by social relations and power dynamics that interact in changing "socio-economic realities". It seems that the socio-political climate had very much effect at least on the assignment of responsibility in Finland.

As the above description shows, the responsibility seemed to temporarily move from the corporations to the state and finally to the voters. Unlike Dolan and Rajak (2016) have argued, in this case all the actors were displacing the responsibility, not just corporations. Thus I argue that a focus on the discourse and actions of corporations results in a biased analysis and thus the analysis of CSR should include the wider social context and actors as corporations are not separated from the rest of the society.

Finally, the only party that was not assigned the responsibility was NGOs that usually appeared in the seminars and conferences as the local moral authority and arbiter, instead of the corporation, as Dolan and Rajak (2016) have suggested. This came apparent for example in below statement made by a representative of an NGO:

*"I would say that these issues are at times so severe that it is quite luxurious, and sometimes it even feels a little bit of elitist, that we bounce here that who has the responsibility. That is it through regulation or is it consumer responsibility. And the companies say that consumers choose and the consumers say that the lawmaker must legislate. -- but I think everyone should see their role in this. Of course [the question] that who has the responsibility is related to how much one has power, but at times it feels like people try to escape the responsibility by saying that this is not my issue and that actor there should get this fixed."*

The NGO representative moralised other actors and placed himself 'above politics' (Knudsen 2018), into the realm of the "post-political ethics" described by Garsten and

Jacobsson (2011). He did so by appealing to the collective responsibility that is difficult to criticise. I will further discuss how the post-political consensus was created during my fieldwork in chapter 5.3, but before that I want to discuss one discursive strategy used by the corporations to displace responsibility.

## 5.2 A discursive strategy: the size matters

A theme that frequently occurred in all of the events that I attended was the size of the corporation. This topic was discussed in relation to power and leverage. As discussed earlier, the anthropological research on CSR seems to start from the perspective that corporations have power. These studies have mainly been interested on how the practice of CSR allows corporations to further extend their power (Dolan and Rajak 2016b). As I stated in chapter 2.3, the anthropological research on CSR has focused on big multinational corporations, for example such as Nike, Shell, Coca-Cola Company and mining companies (Garsten and Hernes 2009; Shever 2010; Kirsch 2014; Foster 2014). Through my fieldwork I aim to show how the focus on multinational corporations gives only one perspective of CSR. But as discussed in this chapter, the focus on the size can also be utilised by corporations to assert and displace responsibility as Dolan and Rajak (2016b) have suggested.

The discourse on size could be seen to originate from the UNGP, but of course this cannot be argued as a fact. In this sense it remains as an open question whether policy guides practice or vice versa (Rajak 2009). However, the second pillar of the UNGP takes a stand on the size of the corporation and how it affects responsibility. It states that corporations have the responsibility to respect human rights “regardless of their *size* – –” (United Nations 2011, 15 [emphasis added]). This implies that all corporations are responsible. But the flexibility of the guideline becomes immediately apparent. The UNGP states that SMEs have less resources at their disposal so they should have “in place policies and processes *appropriate* to their size and circumstances – –” (ibid., 15). In addition, UNGP states that the process of UNGP will differ due to the size of corporations and that appropriate action depends on how much the corporation has leverage over its business partner (ibid. 18, 22).

During my fieldwork one NGO representative pointed out that these international guidelines do assign responsibility differently depending on the size of the corporation. A ministry official stated first that “the UNGPs don't see any difference in the size of the companies”, but later she made concessions by stating that,

*“ – at the same time I would like to say that I think it's a bit unreasonable to assume that in practice SMEs would be able to do the same things as big multinational companies. – But I would say that bigger companies have much more leverage and much more in their toolkit than small SMEs who don't usually have a person, even a single person responsible for these issues. So all though all businesses are responsible, I would say that some have more tools in their toolkit than others.”*

So in other words, she saw that SMEs have less resources to address the human rights violations. This could be considered as a mitigating circumstance in case there would be a need to evaluate ‘appropriate action’. As one organiser pointed out, the majority of Finnish companies are actually SMEs. A representative of an expert organisation promoting UNGPs stated however that despite of the resource issue, SMEs might have better visibility on what is happening in the corporation than in bigger multinationals, and thus also better leverage to promote discussion on issues they see important.

Interestingly almost all the Finnish corporations emphasized how small they are. A representative of one of the biggest companies in Finland stated that there is an “optical illusion” regarding the size of the Finnish companies. By this he meant that they, as one of the biggest companies in Finland, might be considered big locally, but in the global context they are very small and thus their power to influence things in the supplier countries was non-existent. At times the discussion on the size of corporations even escalated into a comical competition between the companies regarding who is the smallest. One rather large Finnish company for example referred to themselves as “the size of a fly” (“kärpäsen kokoinen”). When the bigger corporations referred to themselves as small, it usually brought up an amused reaction in the audience as people seemed to see this as a strategy to avoid responsibility. In addition, sometimes the discourse regarding the size even made corporations change their opinion of themselves. After a corporate panel discussion, a representative of another large Finnish company for example stated that “I thought we are a big company, but actually we are

quite small”. Thus the exchange of knowledge between the corporations changed their perspective of themselves.

All of the Finnish corporations expressed how they do not have any leverage in the global context. For example one Finnish manufacturer stated that if a corporation of their size would start setting conditions on their suppliers “from the edge of this planet”, the suppliers would tell them to change a factory. When asked whether corporations could use their leverage to influence the states of the risk countries in order to improve human rights, one corporate representative replied that,

*” – frankly we don’t have the time and the possibilities and the resources to start dialogues with the states. They would not even pick up the phone if we would call them, we are so small. But what we can do and what we have done is to walk out of that country. – – the only way to have a dialogue with a state is to vote with one’s feet.”*

In fact, none of the corporations saw that they could make a lasting impact by themselves. Instead they emphasized the importance of collaboration with other corporations and business associations in order to gain some leverage in the global context. One corporation emphasized that they try to improve things as long as possible, but if the supplier is not interested then there is not much they can do.

Based on above, it seems that in Finland corporations were using the corporate size as a discursive strategy to discharge responsibility. This would suggest that the list of discursive strategies made by Garsten and Hernes (2009) is not exhaustive and corporations can adapt and develop different discursive strategies based on the context. The rhetoric of size appeals very much on Finnish corporations as it is a distinct feature of Finland in general to emphasise the smallness of the country. A representative of an NGO acted again as the moral disciplinarian and pointed out that even the small can have an impact and stated that “the change begins from small companies and small people”. Thus, the rhetoric of collective responsibility was again restored despite of the corporate attempts to displace the responsibility.

### 5.3 Post-political collaboration and consensus

Despite of the obvious political debates and discursive strategy to displace responsibility, there has been some indications already how different actors aim to emphasize collective action, collaboration and consensus. So far this has been done mainly by the ethical arbiters, NGOs, but in the next chapters I will describe how the ‘post-political’ (Garsten and Jacobsson 2011) space and ethics were created through partnerships, and by the use of ‘business case’, development, and nationalistic rhetoric.

#### 5.3.1 The partnerships

Dinah Rajak (2011; 2016) has argued through her research of CSR phenomenon that CSR unites unlikely actors into partnerships. She suggests that previously these actors have been more like combatants than collaborators as corporations have formed partnerships with NGOs, labour unions and international organisations. Kirsch (2014) has seen this as a strategy deployed by corporations, but both Rajak and Kirsch acknowledge that also NGOs seek these partnerships in order to facilitate change, or to gain leverage as discussed in the previous chapter. In this chapter I will discuss what kind of partnerships were formed during my fieldwork and how the participants discussed their role in these partnerships.

On a global level, the issue of business and human rights seems to attract more corporations each year. This was pointed out by the UN High Commissioner for Human Rights Michelle Bachelet (2018) in her opening speech for the 7<sup>th</sup> UN Forum on Business and Human Rights that was organised in Geneva, Switzerland in November 2018. She was encouraged by the increase of the business participation in the forum and pointed out that in 2018 corporations represented “one third of all the participants”. She viewed “this as an indication of an increasingly widespread understanding that upholding human rights is the interest of all actors”. The amazement of corporate participation in the UN Forum is also visible in below comment by the Chairman of the UN Working Group on Business and Human Rights, Dante Pesce:

*“This is the first time that we have a CEO panel in any forum, it is the first time that actually we have a waiting list of CEOs willing to speak up, which is completely unbelievable almost. Of course that in itself is a message that we are actually able to get the business voice from the top to speak up and stand up for human rights.”*

As the above excerpt shows, the speakers in the UN Forum saw the participation of corporations as a sign of their morality and willingness to defend human rights. Every year also Finland sends a delegation to the UN Forum on Business and Human Rights that consists of state officials and corporations that share their plans and “best practices” to the forum participants. In addition, during the last couple years, a Finnish organization that promotes responsible business has sent a delegation to the event for information sharing and networking purposes. This delegation has consisted of corporations and NGO representatives. As mentioned in chapter 3.1.1, the CSR scene in Finland is rather small and during my fieldwork some actors seemed to circulate in these events.

The critical scholarship on CSR could interpret the participation of corporations in these global conferences as a strategy to extend their power (see for example Rajak 2016). In 2018 an unusual partnership was formed between a Finnish NGO, Finnish corporations, civil society organisations and trade unions. Previously the Finnish NGO in question has been the main opponent of Finnish corporations. The organisation’s main task has been to expose the global impacts of corporations and thus many corporations have seen the organisation as their main critic. Now these unusual actors had joined their forces into a campaign that was advocating for a new CSR law that would make human rights due diligence mandatory for all Finnish corporations and for corporations operating in Finland.

This campaign was a surprise to many on two different levels. First, there seemed to be some scepticism towards the NGO that they had compromised their principles in order to collaborate with the corporations. The NGO representative acknowledged these doubts and reassured their sovereignty by stating as follows:

*“Now probably quite many of you, and also several others, are thinking that okay, now we have somehow lowered our standards, that we have agreed that we will promote softer laws so that we get companies involved. But this is not what it is about. We have defined ourselves what*



*kind of objectives this law should have and then we have invited companies that are willing to commit to these objectives”.*

As the above statement shows the initiative for the collaboration came from the NGO, not from the corporations themselves. When explaining why they had initiated the campaign, the NGO representative emphasised the need for collaboration in order to facilitate change by saying that “the whole idea behind this campaign is that we cannot do this alone and that is why we have approached, quite exceptionally, corporations and asked them to join this campaign”. This statement from the NGO representative seems to support Rajak’s (2016) argument that due to the inefficiency of governments to regulate corporate behaviour, NGOs need to engage with corporations in order to facilitate change. The difference to Rajak’s study is that in her research the collaboration has usually been between corporations and development NGOs, whereas in this case the collaboration between the NGO and corporations was more like a political campaign prior to the Finnish parliamentary elections that were scheduled for the upcoming spring in 2019. The NGO saw that by including corporations in the campaign they gain enough leverage against the state who seemed reluctant to legislate corporate responsibility to respect human rights. In addition, the NGO representative also explained that of course the purpose of the law would be to end adverse human rights violations, but such a law would also make their work easier, if all the corporations would be required to be transparent of their supply chains. This campaign coalition could be seen as a distinct feature of the “legalisation of CSR age” as the partnerships are extended beyond just development organisations.

The partnership and collaboration of the Finnish campaign coalition was however so exceptional that the NGO representative described how they had been approached by other foreign NGOs to share their secret on how to create such partnerships and engage corporations behind the CSR law. In fact, many seemed perplexed that corporations were actually demanding legislation for themselves and there was some concern over whether they were just in for the “rightswashing”. However, the global guidelines that address the issue of business and human rights emphasise the possible benefits for corporations such as “levelling the playing field” and reduction in reputational risks, which make it possible to find a consensus around otherwise controversial issue. I will discuss the “business case” separately in the following chapter. But what several

companies stated as their reason for joining the campaign and establishing the partnership with their critics was “familiarity”. For example, a representative of a large Finnish retail company emphasized the fact that how easy it would be for them, because they had already started to require human rights auditing from their risk country suppliers in 1999. He did not see that the law would weaken their position in any way, as they have, so to say, their house in order, so they don’t have anything to worry about. In other words their business would continue as usual despite of the partnership in the campaign. But he did admit that the company had considered for a while whether to join the campaign or not. He seemed, however, rather sceptical whether the law would actually be passed. This was reflected in the way he snorted contemptuously and said “of course, if it comes”.

But despite of some scepticism whether the campaign would reach its objective, the enthusiasm around the collective action was tangible. In every seminar collective action was praised as the only way to solve global problems, which corresponds with what Rajak (2016) and Garsten and Jacobsson (2011) have argued in their studies of CSR. As one Finnish corporate representative forcefully expressed it:

*“It is the United Nation sustainable development goals that actually push everybody to collaborate. And to understand that we are not gonna do it, it cannot be states only, it cannot be NGOs only, it cannot be companies alone that do it. We have to do it together.”*

In Finland however, the enthusiasm was not caused only by the rhetoric of collective action and “doing good”. The campaign was using rhetoric that was once again appealing to the Finnish identity. The name of the campaign “ykkösketjuun” means ‘first line’ in English and it refers to the national sport of Finland, ice hockey. The purpose of the campaign was to cheer Finland into the ‘first line’ of countries that have adopted a CSR law, and make Finland a model country for other countries to follow. In my opinion, by using this rhetoric, the campaign was able to foreclose the “conflictual space” in Finland (Garsten and Jacobsson 2011) and “mobilise a range of different actors and organisations” into a common effort “above politics” (Knudsen 2018, 512–13). In this instance it was about making Finland once again the model country for the rest of the world prior to Finland’s EU presidency that was scheduled for 2019.

As Rajak (2016, 41) argues, the commitment to collective action is establishing the “norms of appropriate behaviour”. In fact, during my fieldwork the criticism by the NGO towards corporations seemed to decrease or was non-existent. The NGO did not publicly criticise any of its partner organisations during their partnership. As Rajak (ibid.) pointed out, these corporations at least appear to try to do something and they are thus temporarily released from the criticism. But after the campaign the NGO resumed to criticise at least one of its campaign partners. Thus I would argue that even though the partnerships are seen to silence criticism by foreclosing the conflictual space, these partnerships are not necessarily permanent as this example demonstrates.

### 5.3.2 The business case for respecting human rights

*“Can you then make money out of human rights? That's obviously the thing that investors pretty often think about.” (An academic in accounting)*

Above statement was made by an academic in the discipline of accounting. According to her, it is *obvious* that investors think about how to make money out of human rights. Dinah Rajak has suggested that while claiming to do good, corporations simultaneously commit to the rationality of the market “through the language of ‘the business case for CSR’ – –.” (2016, 31) In this chapter, I will look at how the “language of business case of CSR” appeared in the seminars and how it was used to create consensus. I will argue that instead of being just a deliberate strategy of the corporations to respond to the criticism they face, as Kirsch (2014) would suggest, the corporate actors in Finland actually reason the market rationale to be “common sense”, something quite “obvious” to them. In addition, my research, shows that this business case reasoning is not only limited to corporate actors as it is practiced widely across the different sectors of the society, and sometimes by quite surprising actors, in order to build consensus and engage corporations.

Clifford Geertz (1975) sees “common sense” as “a cultural system”. According to Geertz common sense is “historically constructed” and thus “it can be questioned, disputed, affirmed, developed, formalized, contemplated, even taught, and it can vary dramatically from one people to the next” (ibid. 8). A CEO of a Finnish producer of

hygiene products, that had also joined the campaign advocating the law, said that the law makes “common sense”. Thus, following Geertz’ thinking, I wondered what did she mean with ‘common sense’? The CEO continued to explain that with common sense they (the company) refer to the increased market competition in their industry and how a lot of their competitors in Europe trample human rights. The CEO had no direct proof of it, but she had made the assumption based on the pricing of the competitors and the way they operate. The CEO emphasised that the law would improve their situation in the international market, because then everyone would be forbidden from violating human rights for financial gains. She explained it as follows:

*“Because it's going to be easier also for us, if all the parties we have in the supply chain will do the same. It would make so much easier our life. And it would be beneficial for the business if we can trust that we did it, you did it and everybody is doing the due diligence so it would make it – it's also business sense. Actually it's good for business.”*

So the law makes common sense, or business sense, to them because it improves their business. This reasoning was highlighted by many corporate representatives in different events. The representative of a large Finnish retail company said that you can compete with price, quality and service, but not with human rights. According to him, if companies would stop competing with human rights, they would create healthy competition conditions into the market. Interestingly he did not acknowledge that the first one, price, is usually the factor that contributes to human rights violations in the supply chains as the production is outsourced to countries with cheaper labour costs and consequently worse working conditions (Tsing 2009). I will discuss the discourse on price separately in chapter 5.3.4. A director of another Finnish textile company explained their reason to join the campaign as follows: “We thought 2 seconds if we join this or not. The reason why we joined is capitalism at its best. We just feel that this creates equal rights to do business in Finland and that is why this is a good thing”. Respect for human rights had turned into the rights of business. Thus, corporations see the law as a means to an end, but in their reasoning they prioritize improved competition environment for Finnish companies and improved human rights in the supply chain seem to be a secondary reason.

While majority seemed to be reasoning through increased competitiveness and equal rights to do business, the reputational damages from human rights violations and their

effect on the profit were mentioned by few speakers. For example, the academic of accounting, that I quoted in the beginning of this chapter, stated that investors should pay attention to human rights as they will lose money, if the companies they have invested in are found to violate human rights. In fact, several Finnish companies did not mention reputational damages at all, despite UNGP highlighted their benefits in order to engage companies into doing HRDD. This might be due to the fact that several actors repeated throughout the events that Finnish companies usually respect human rights and human rights violations are the problem of the “others”. For example one union representative argued that Finnish companies already have such high standards when it comes to human rights that “we would not fall behind others”. This way they indicated a higher moral standards than their competitors and suppliers. Thus, it seems that Finnish actors reframed the issue of human rights into a “cultural problem”, where the unethical behaviour of others distorts the market (see Maurer 2005).

However, it was not only corporation representatives that were using the business case reasoning and especially the “competitiveness argument”. This argument was promoted sometimes by the most surprising actors, which again caused some reactions from the audience. In one event, a representative from a Finnish trade union also raised his concerns over the “unequal playing field”, by which he referred to the different rules for corporations in the global context. He stated that equal rules would benefit Finnish employees as well as Finnish companies and companies operating in Finland. Similarly, a politician from the Green League party brought up the competitiveness argument by saying that “it is a proven fact” that responsibility aspects integrated into the production will increase productivity and profitability. The host added that he has been waiting that who will bring up “the king of the arguments, competitiveness” and then it was to everyone’s surprise “a trade union representative” and “a green hippie”. Audience burst into a laughter.

Above description shows how the consensus among the actors was created “through the language of ‘business case for CSR’” (Rajak 2016, 31). This chapter has showed that it was not only the corporations that adopted the “rationality of the market” (ibid.) as other actors utilised it as well for the “national good”, instead of the universal “common good”.

### 5.3.3 From decoupling to development: “We need to educate them!”

In the previous chapter I already argued how Finnish actors saw the respect for human rights as a “cultural problem” (Maurer 2005). In this chapter I will discuss how the corporations discussed their ways to address this cultural problem. As discussed in chapter 2.2.1, one of the discursive CSR strategies identified by Garsten and Hernes (2009, 204) is called “structural decoupling”. Structural decoupling refers to the attempts of a corporation to disassociate itself from practices that can damage their reputation in order to silence criticism. In the example of Garsten and Hernes, Nike had tried to disassociate itself by stating that they do not have any control over their subcontractors. In other words, the violation of human rights was their cultural problem. But this decoupling attempt did not in the end satisfy the critics and Nike was forced to demand actions from its suppliers and communicate the results of these actions to the public. One could ask that why Nike just did not end the business relationship? In the past when a corporation discovered that their supplier had violated human rights, it would have been enough to dissociate oneself from the supplier by terminating the business relationship. This would have functioned as a sanction as it would result in a lost income to the supplier. However, it seems that the issue is more complex as described by several of the companies in the events I attended.

As described in chapter 4.1, in the case of human rights violations UNGP states that appropriate action is determined whether corporation has directly contributed to the human rights violations or through its business partner, and how complex the situation is. In addition, UNGP states that corporations should aim to increase their leverage through capacity-building and collaboration with their business partners. (United Nations 2011, 21-21) The discourse regarding the morally correct action in the case of human rights violations in the supply chains resulted in two different narratives with different courses of action. Consumer NGOs and consumers usually expected that companies do not engage with suppliers that are found to violate human rights. These actors usually demanded the termination of the business relationship and saw it as a way to discipline the unethical suppliers through the market mechanisms. Some corporations had terminated business relationships with their suppliers in the case that suppliers had not improved their working conditions after several requests to do so. Some

corporations had certain issues, such as child labour, which immediately resulted in a termination of the business relationship. A representative of a big industrial company stated that “for example the child labour is really a no-go, then we don't work with the supplier”.

On the contrary, several companies explained that this course of action, the termination of business relationship, is inefficient and surprisingly unethical. For example a representative of a retailer corporation stated that the situation of the workers in the risk country is not going to be improved by terminating the relationship. The legitimation for continuing the business relationships despite of violations seemed to be that the people need their wages in those living conditions. Actually one corporate representative stated that walking away is the “worst thing that you can do to the individuals in that supply chain”. A head of a large electronics company also reasoned that it is morally correct to keep the business relationship. Regarding the termination of the business relationship he stated that:

*“That's a value choice, because then you are taking the responsibility of your full supply chain rather than saying, if there's an issue we walk away from it. You actually try to help them fix it.”*

Similarly the representative of a big industrial company stated that rejecting the supplier is not the right approach. She stated that “it is about cooperation and developing the suppliers so I don't think it's a good way that you reject the supplier. There's anyway going to be someone that starts working with the supplier so it is important to work with the issues – –.” Also a head of an investment fund followed in the same lines and stated that,

*“Quite often the best approach, the most effective approach is that you engage with the company and you strive for positive societal change rather than walk away. And that's how we see it and that's what we've been doing.”*

All the above statements echo the developmentalist discourse of CSR, as more value is put on the development of the suppliers than on the disciplinary actions. Thus I would argue that in the current CSR discourse the structural decoupling that Garsten and Hernes (2009) saw as a corporate strategy has been replaced with the development rhetoric and a commitment to collective action (Dolan and Rajak 2016; Garsten and Jacobsson 2011). In addition, UNGP and OECD Guidance refer to this practice with the

word ‘capacity-building’, which evokes more a sense of professional improvement than the top-down approach of ‘development’. Thus I would argue that in the context of human rights the word ‘capacity-building’ is a strategically deployable shifter (Urciouli 2010) that has replaced ‘development’ in the current CSR discourse.

#### 5.3.4 The elephant in the room – the price

*“Often, exploitation is a choice. The labour cost of producing a t-shirt is 18 cents. If you double their wages, we won't be affected, nor will the company be. It is a choice.”*

Above anonymous quote appeared on a screen behind the panellists in one of the conferences that I attended. The conference had a live commentary board that allowed people to participate into the discussion by submitting text messages that were projected on the screen at the back of the auditorium stage. This was one of the few occasions that the issue of living wage was brought up during the seminars. It felt like the topic was an ‘elephant in the room’<sup>15</sup>.

In fact, the UNGP does not mention wages at all and thus it could be interpreted that the issue is so controversial that it has been left out in order to reach the harmony and consensus on the UN document (Garsten and Jacobsson 2011). Despite of this, a representative of a leading expert organisation on UNGP stated in one of the events that one of the ways that corporations could contribute to the responsibility to respect human rights is by paying living wages. Instead the OECD Guidelines (2018, 39) does list insufficient wages as an example of adverse human rights impact, but it also does not discuss the issue further.

However, the controversiality of the topic was visible in the few occasions that the topic was brought up in the events. During one of the events, there was an ongoing public discussion regarding the wages of farmers in Finland. A representative of a Finnish NGO pointed out that the topic of price has received public attention when it concerns

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<sup>15</sup> ‘Elephant in the room’ refers to a controversial topic that people do not want to discuss (Cambridge University Dictionary 2020a)



people in Finland, but “when you cross the border of Finland, this significant societal problem that would need to be addressed changes into the law of the nature”. By this he referred to the fact that low wages in global supply chains rarely receive public attention as it is considered natural for the wages to be lower in the countries where corporations have outsourced their productions. That is one of the reasons for outsourcing.

In one occasion a Finnish manufacturer representing an industry that is known for its low wages was asked whether they would pay higher salaries to the workers in the low cost countries. The company in question has been very visible in promoting ethical business in their industry. The company representative was clearly baffled by the question and the audience burst into a laughter. He stated after some consideration that “in that case we would prefer to relocate the production back to Finland”. He continued that paying higher wages “would be a very difficult stunt for such a small company“ and the audience laughed again. Seemingly frustrated by the reaction from the audience the company representative pointed out that “ideologically it sounds beautiful and it’s easy to smile and nod in agreement to that question, but unfortunately it would mean that we would have to close up our business at that point”. And this would also mean redundancy in Finland, which silenced the public criticism immediately, as the cultural problem became a national problem.

As above illustration points out, in my opinion both audience and the corporation were facing what Gregory Bateson (2000) calls a “double bind”. By this notion Bateson refers to how in communication there can be conflicting messages out of which neither one is a good option. The corporation could pay higher salaries, but then they would most likely be out of business and it would also mean redundancy at home. In this sense the double bind foreclosed the conflictual space as there seems to be no way out of the situation.

## 5.4 Summary

In this chapter I have tried to show how the political debates have actually moved to other locations, or “arenas and action” as Larsen suggested in his study of global environmental guidelines (Larsen 2013, 87). In addition, I have demonstrated that it is

not only corporations that “assert and displace” responsibility (Dolan and Rajak 2016, 4). By shifting the focus away from solely corporate discourse and actions, it becomes clear that also other actors displace responsibility according to their interests. Finally I have showed that similarly to the global arenas, the actors in Finland aim for consensus through partnerships, ‘business case’ language and development rhetoric. But instead of using the rhetoric of “global post-political ethics” to foreclose the conflictual space (Garsten and Jacobsson 2011), the conflictual space regarding corporate responsibility seems to be closed with a degree of nationalistic rhetoric.

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## 6 The techno-politics of CSR

While the previous chapters have focused on how politics is moved to different arenas and action, this chapter focuses on the how the politics are played in “technical terms” (Larsen 2013, 87). As mentioned earlier, the previous anthropological research on CSR has been critical of the CSR technologies, such as guidelines, standards and audits. Some see that they are strategically deployed by corporations to silence criticism or direct attention from more pressing issues (Kirsch 2014; Garsten and Hernes 2009), while others question their transformative capabilities due to their voluntary and flexible nature (Garsten and Jacobsson 2011). However, Larsen (2013, 86) has pointed out that sometimes guidelines lead to more “harder agreements and instruments”. This seems to be the case in Finland where a CSR law is currently being made. This chapter looks at how the guidelines underlying corporate responsibility to respect human rights and their central technicality, human rights due diligence, were discussed during my fieldwork. First, I will first look at how the possible regulation was discussed. Then, I will focus on the “technical solution” or the “technical little side-line item” (Riles 2011, 1) that is heavily promoted by the UNGP and OECD.

### 6.1 “Reasonable regulation”

*“Then of course I know it's challenging, we heard that as well that it's not easy to make such a regulation or law. So I also feel that the regulation is not the only solution –. We need voluntary actions as well. It's not only about the regulation. But in certain things I think that, in Finnish we would call it maybe 'säällinen sääntely' (reasonable regulation), so kind of certain level of regulation is good. You sometimes need that to push things a little bit further.”*

Above excerpt was made by a corporate representative whose corporation has been publicly accused of sourcing raw materials from risk countries. She had been advocating for the CSR law as she saw it as a way to “level the playing field” as described in chapter 5.3.2. In order to level the playing field, she was in favour of ‘reasonable regulation’ (“säällinen sääntely”), by which she meant that certain level of regulation would be good in order to move things forward. As another expert described, if there is no regulation only some companies that are being transparent of their

production conditions “take the heat” and costs (monetary and PR) for trying to be responsible. He stated that “so what we see now is that companies that are moving into the front of the CSR discussions, are actually the most under fire”. So being responsible is being punished by placing the attention to these corporations that are open for example about the problems in their supply chains.

When the Finnish campaign advocating the CSR law went public in Finland, many seemed to be surprised that there was no laws in Finland that regulate corporate behaviour in their supply chains. I saw astonished posts in the social media when people realised what kind of governance gap there is. This surprise was not, however, limited only to Finland as one of the speakers described during an event. He told that when he became a parliament member in his country, he was surprised how there was not any laws restricting for example child labour in supply chains. He described it as follows:

*“The first thing I did was to look at the law against child labour – –. And there actually isn’t any. – – There is child labour laws [in his country], of course so that children cannot work, but If you have children working over the border, it’s legal, it’s fine. You can import the products they make, you can import the services they perform. Legally, there is no law against it. I thought that there must be a law, but it’s hard to make it stick, hard to make effective, hard to make it implemented. But no, there was no law at all.”*

Similarly, Finland has not had any laws that specifically address the issue of human rights in global supply chains, instead other due diligence and duty of care obligations exist under different national and corporate laws (Heasman 2020). In 2016 Finland had amended its Accounting Act based on an EU directive that requires certain companies to disclose their policies concerning the environment, employees, social issues, human rights, corruption and bribery (Ministry of Economic Affairs and Employment of Finland n.d.). The law applies only to the largest listed Finnish companies, credit institutions and insurance companies with over 500 employees. Based on my calculations at the time, the law applies to less than 1% of the Finnish companies as according to the Statistics of Finland there were 274 companies in 2016 that employed more than 500 employees (Tilastokeskus 2017, 201). In addition, the legislation is very flexible as it does not require companies to present particular information in a certain format. The legislators have left the law flexible so that it could be applied to different sectors that have different CSR challenges. Companies can also decide not to report

information that could damage their commercial position. As one of the experts put it, reporting on human rights violations can be difficult:

*“If you cut down your child labour in your products by 30 percent you cannot put that into your annual report. So companies can easily do the right thing, but it’s very difficult to be proud of it”.*

Despite of being a law, this law could be considered as a “soft law” in the sense that it is based on the same flexibility as the global guidelines (Garsten and Jacobsson 2011). So it does not foreclose the conflictual space, it just “replays the politics in technical terms” as Larsen (2013, 87) put it. One politician summarised the politics of law-making as follows:

*“I believe that some kind of CSR legislation is possible. But I think that what will cause some wrangle is how widely the law should be applied to different corporations and how extensive the reporting and responsibility in the supply chains should be. This is the reality of politics that have to be faced at some point.”*

Before the elections there seemed to be a widely held belief that passing the CSR law would change the game, especially among NGO representatives. This fetishism of the law (Comaroff and Comaroff 2007), that refers to seeing the law as an end in itself rather than as a means to an end, seemed to mobilise a variety of actors against the state. A Finnish politician described that “in Finland the legislation usually proceeds so that the pressure comes from the people and the public discussion, and only after then all parties react to it”. Indeed, at times it felt like the state was reluctant to pass laws meant to control corporations, which could be interpreted as the withdrawal of the state under neoliberal circumstances (Ferguson and Gupta 2002). In fact, during my fieldwork several actors, especially academics and NGOs, accused the government of Finland for ineffectiveness and lack of leadership. However, the ministry officials were explaining their perceived tardiness with practicality and changing power relations in the parliament. A ministry representative stated that:

*“I understand that we have a lot of expectations from our stakeholders and we value that, but at the same time we are from the government side very practical and want to find the solutions that work. And that sometimes can be seen as slowness, or tardiness, but it’s just the way we do things.”*

So it seemed that a law that would address human rights violations outside of the nation borders was challenging to make as described by one of the experts. He explained how

the international free trade agreements prevent for example banning products that have unethical production conditions. He explained that: “if you do that certain countries will be unfairly disadvantaged by those rules and that will jeopardize free trade agreements”. The second obstacle was how to make the law enforceable as the legal system does not have the resources to go abroad to check if violation has occurred. So the question was that how to extend the state’s regulatory power to events that happen outside its borders. A prosecutor had advised the expert as follows: “so he told us that you have to be smart about this law, you have to move the offence to the [country of the corporation], because then it is much easier to prosecute”. In addition, the burden to prove the violation was moved from the prosecutor to the violator itself as the expert explained:

*“In criminal law you would be prosecuted for an offence, and the prosecutor has to prove that you did it. In administrative law it’s the other way around, you have to prove that you didn’t do it. Or you have to prove that your policies are solid and then it’s done. So in administrative law company has to supply information on their policy, they have to supply information on the implementation of their policy, and then if the policy is found lacking, the implementation is found lacking, they are fined based on that. – – This process is called due diligence.”*

As the expert described, the inspiration for this law had been the international guidelines, so a guideline had been turned into a seemingly harder instrument (Larsen 2013). But instead of sanctioning violators of human rights, the law had turned the responsibility to respect human rights into bureaucratic documentation exercise in order to ease the burden of the prosecutors. I will look at the implications of this mundane bureaucratic exercise in the next chapter. But as the discussion shows, somehow the ethical aspect of the law making have been buried under the practicalities.

## 6.2 Human Rights Due Diligence: “a groovy excel”

As mentioned in chapter 4.1, the HRDD process occupied a central position in all of the events that I attended. Some events were specifically focused on the topic with workshops to corporations, while others discussed CSR issues more broadly and HRDD was one of the themes. In general, the events usually had an expert that was explaining the “technicalities” of doing HRDD and emphasising how simple and beneficial the process actually is for corporations. In fact, there seemed to be a widely held consensus

that HRDD is the only way to address corporate human rights violations and the process itself was rarely questioned during my fieldwork. In the discussions of the participants HRDD appeared as a rational and apolitical technocratic process through which corporations could be held accountable and transformed into ethical subjects (Rajak 2009, 215-216).

The use of due diligence as a governance technology is not new. It originates from the corporate world where it has been used in corporate mergers and acquisitions to assess whether there is any risks in the transactions. In fact, as mentioned earlier in chapter 5.3.1, many corporations were supporting the CSR law due to familiarity. Also other actors from NGOs and government officials appealed to corporations to adapt the process “as they were already familiar with it”. As mentioned in chapter 4.1, some legal scholars have already suggested that the adoption of due diligence in the UNGP has been a clever tactic from the creators of the guideline (Bonnitcha and McCorquodale 2017).

However, I will draw from Bill Maurer (2005) who has studied due diligence in connection to offshore finance and suggest that due diligence, and UNGP for that matter, is appealing to corporations also because it evokes the concept of “reasonable”, which was repeatedly stated also in the UNGP. The Cambridge Dictionary (Cambridge University Dictionary 2020b) defines ‘due diligence’ as an “action that is considered reasonable for people to be expected to take in order to keep themselves or others and their property safe”. By adopting the HRDD process, corporations become connected to the notion of “reasonable man”, instead of “the self-interested and rational ‘economic man’, to assess whether or not ‘reasonable care’ has been taken” (Maurer 2005, 483). Thus drawing from Maurer (*ibid.*, 476), due diligence establishes and “recontextualizes” the corporations “in a community of regard”. Thus conducting human rights due diligence could be well interpreted to be a corporate strategy of “ethical self-fashioning” (*ibid.* 476), a way to transform corporations into “conscientious organisations” (Garsten and Hernes 2009, 192).

In practice, according to UNGP and OECD Guidance, human rights due diligence means that you recognize your human rights risks, implement a plan to prevent those

risks and communicate the process to the public. As one expert in a seminar described, the move to treat human rights as a risk will guarantee the attention of the corporations:

*“If you move it from the charity department – from the things that you would like to do, from the things that you think are important and you know the society thinks are important – you move it to the risk management department, the company thinks it’s important.”*

In other words, human rights do not become important for the moral question alone, instead they become important as a risk to be managed, a feature that is characteristic for the post-modern “risk society” (Beck 1992). The expert was very optimistic about the possibilities of the adoption of the HRDD process to manage these risks, but there is a flip side in the due diligence process, which is described by Maurer (2005). Also Maurer notes that due diligence is “the technique held up above all others as the solution to the problems of harmful tax competition –” (ibid. 483). But in his study Maurer shows how “the practice of due diligence enables countries to be taken off the OECD blacklists” (ibid. 476), which were meant to “name and shame” those countries that had unfair tax systems. Maurer argues that “due diligence reconfigures the discussion over ‘harmful tax practices’ by routing it through a species of bureaucratic review that is deemed warrant ethical behaviour” (ibid. 483). In other words, the act of doing due diligence operates as a guarantee that corporation, or in Maurer’s case a country, is ethical and thus discharges them from any criticism, similarly to other CSR technologies (see for example Kirsch 2014; Rajak 2016).

Maurer has also suggested that due diligence institutes “a new discourse of virtue” (2005, 483). During my fieldwork majority of the corporations that appeared in the events seemed to have already implemented the due diligence process into their operations and thus they appeared more virtuous compared to the ones that were lagging behind. At times it did bring to mind “the theatres of virtue”, as Rajak (2016) has described the CSR events. These virtuous corporations were, however, encouraging others to implement the process by appealing to its rationality, not morality. A representative of a retail corporation described how his bureaucratic process had turned into “a groovy excel”. By this he seemed to signal to other participants that there is nothing to worry about, it will be another bureaucratic process in the corporation. In fact, the bureaucratic process was usually the only concern that corporations had regarding the due diligence process. This concern was usually mitigated by the experts



and government officials who stated that corporations can choose the most adverse risks and focus on those. Another corporate representative tried to ease the anxieties of other corporations by saying that after the first time the update will become “significantly easier”. As Maurer (2005, 477) has suggested, and what is also visible in Figure 1. in chapter 4.1 of this thesis, due diligence is indeed a review process that is cyclical, periodical and open-ended, which kind of relieves corporations temporarily as they are “trying to do something” (Rajak 2016, 41). You can always correct your mistakes before you are held accountable. As Maurer (2005, 477) suggests, the process of due diligence “is not geared toward establishing truth or certainty so much as it warrants personal regard and ethical scrutiny”. Thus it would seem that the emphasis is not so much on “knowing” that it is in “showing” to the public that the corporations is an ethical and conscientious organisation.

In a sense, human rights due diligence is a sort of oxymoron and a deployable shifter, as it can simultaneously evoke images of morality and to be used to cover harmful actions. As I have demonstrated, human rights due diligence has made it possible for “people to communicate across social boundaries and political vantage points” and “neutralize critique” as Kirsch (2016, 49) has suggested. In addition, Benson and Kirsch (2010) stated how oxymoron are word pairs where an ideal word such as human rights is paired with a negative word. Due diligence is not necessarily a negative word, but it does evoke a certain degree of vagueness of what is considered reasonable. In addition it seems that the word pair ‘human rights due diligence’ has become to proliferate in the corporate world. The repetition of this oxymoron in global guidelines and conferences has made the term “familiar” and “plausible”, and it has been “legitimized with the government support” both locally and globally (ibid.).

It is obvious that by implementing a HRDD process corporations can claim that they are trying to comply with the requirements of the UNGP and that they are thus acting responsibly. The critical scholarship could see the HRDD process as just another strategy for the corporations to mitigate or displace responsibility with the support of global guidelines and governments. But by drawing from Larsen (2013) and Coombe (2009), I would like to suggest that nonetheless these “technical solutions” and global guidelines initiate change. I will discuss this aspect in the next chapter.

## 7 “The journey” and slowly changing mindset

The anthropological studies of CSR have been sceptical of the transformative power of the movement as the research has often focused on the undesirable effects of CSR. In fact, very few of these studies have focused on the positive narratives. In this final chapter, I will describe how people spoke of change during my fieldwork and how a focus on change could bring a more nuanced analysis of CSR.

As mentioned in the beginning of chapter 4.1, UN adopted the first framework that addresses the corporate responsibility to respect human rights in 2008, so twelve years ago. In the 2018 UN Forum on Business and Human Rights, The Chairman of the UN Working Group Dante Pesce urged the business community to scale and speed up their efforts in terms of human rights by stating that:

*“There is no obstacle really to move faster and to be more ambitious. So we need to hear from the people on the top and we know no one is perfect, we know this is a journey, we know we have obstacles and we have faced, you have faced challenges so that is not new for us. We do not expect perfection.”* (Pesce 2018)

Thus, Pesce was pleading on the business community to not to be afraid of their failures, and instead he urged corporations to step forward and lead the change. Garsten and Hernes (2009, 198) describe how a representative of a large bank described his view on CSR: “We are on a journey in the area of CSR. We have made some progress and we are motivated by that progress. The role of leaders is to serve as missionaries on this journey”. This quote reveals two things. First, as Garsten and Hernes note, the quote shows how the corporate managers enthusiastic of CSR take on the role of missionaries whose purpose is to make a better world. But Garsten and Hernes seem to refer only to the morally higher status of the “conscientious” corporation. Similarly Rajak (2016) seems to refer to this moral aspect by looking at the virtuous corporation. But in my opinion Rajak (2016) and Garsten and Hernes (2009) ignore the active role of corporations in facilitating the change. This was also evident during my fieldwork as expressed by one Finnish corporate manager: “In my case this all starts from the fact that I just want to change the world into a little bit better place so I drive (“draivaan”) the change and demand it”. Yes, he seemed to claim his status as virtuous and morally

above others, but simultaneously he was actively looking to change things which was also visible in the company's marketing efforts during the campaign.

Similarly several of the corporate representatives expressed that they are in the front line of making the change, and highlighted that Finland as a country should do the same, to be the model country for the rest of the world, which reflects the Finnish national pride of being among the top countries in the world. In this way the "meta-communication" of the guideline and CSR discourse had produced a hierarchy of agency and knowledge, "that someone knows better and "acts better", as Larsen (2013, 89, 93) has suggested. I would suggest that at least in Finland, 'the race to the bottom' (after lower prices) is slowly changing to 'the race to the top', where at least some companies compete for the place in the spotlight for the most ethical corporation.

However, the second point is that in addition to this image of an exemplary moral missionaries, corporations were simultaneously self-reflective and self-critical of their business, similarly as Garsten and Hernes (2009, 197) have suggested. A head of an investment company stated that:

*"So instead of just dropping the ball and walking away, we start engaging with the company we have invested in and hope, and really start working for creating that positive change. Are we perfect at that? No definitely not, there's a lot of things that we can improve on and develop our processes and our approaches. But it's, I know it's kind of a cliché to say, but yes, we are on a journey."*

She reflectively acknowledged that they are not yet perfect and can still improve things. A critical scholarship could very well argue that the rhetoric of a "journey" is a corporate strategy to buy time. At least that is what came to my mind initially. But Coombe (2009) has suggested that "new processes of consultation, reciprocation and collaborative practice – – evince an increased ethical sensitivity". By drawing from Coombe and Larsen (2013), I would suggest similarly that the meta-communication, technologies and the corporate self-reflectivity in CSR "evince an increased ethical sensitivity". This ethical sensitivity on the other hand seems to be working in a somewhat slow, invisible and humble way, similar to the CSR technologies, that slowly institute change.

The slow progress appeared in many statements throughout my fieldwork. When asked whether human rights due diligence is just another CSR strategy or it could actually change things, an academic compared it to the changes in the environmental awareness and replied that:

*“When I was a kid, that's a long time ago, longer than I care to remember, things like separating your household garbage, were completely unheard of. Nowadays, if you would do that you would meet with the opprobrium of your neighbours, right? You can't do that. So something has changed over the last 40-50 years in terms of environmental protection. You and I may both agree that it's not nearly enough, but at least the mindset has changed. And my guess would be that with human rights due diligence same thing is happening.*”

The progress in the mindset change regarding human rights in the supply chains was remarked also by other speakers. One of the NGO representatives described the progress as follows:

*“I could add here that I would see that a significant change has happened during the last ten years, in that ten years ago, big Finnish corporations in the clothing industry said to me directly that we do not have any responsibility, we cannot know what happens in our supply chains. So I think there has been significant progress in that now everyone thinks that corporations have the responsibility to monitor what happens in these factories.”*

So according to the NGO representative there had already been significant change in the way people perceived the role of corporations in global supply chains. Similarly one ministry official recounted the progress that she had seen over the years:

*“When we started working with business and human rights after the UN Guiding Principles were approved and we started to talk to business, the first response we got was that – ‘wait, what, do business have human rights?’ (audience laughs) So there was very little... I mean there were companies who were aware of these issues, but that was very rare. So I would say that we have come a long way from there and there is an awareness already and some kind of awareness that business should have a role to play.”*

When asked why the change has been so slow, the ministry official made it into a cultural question and explained it with how the society and corporation have traditionally been separate in Finland:

*“What has made it so slow is that at least from my point of view, in Finland, we have had this very long tradition of that, here is the state*

*and here is the business and the business operates in its own bubble and that's it. So this really requires a mindset change from the side of business. I think we have seen some of it, but it has been very slow. But at least from my point of view I do see evidence of this mindset changing every day. But it's very very slow. -- One of the reasons is that -- the traditional thinking is very strong and has been very strong, but it's slowly changing. And I would... at least I'm still optimistic, I haven't lost my hope."*

In my opinion the ministry official was advocating for collaborative action, where state and corporations would not operate separately from each other, but collaborate in making a change. The “post-political ethics” for the common good are replayed in the context of Finland.

Finally, anthropologists have questioned the transformative capacity of global guidelines and CSR practices. I have already demonstrated how the ideas and practical solutions of the global guidelines spread into other arenas, spark discussion on new topics in other parts of the world, how the “meta-communication” and technical solutions “evinced ethical sensibilities”, to borrow Coombe’s expression, and finally how they initiate change. The professor of law assigned the credit of the mindset change to the creator of UNGP, John Ruggie, by stating that,

*“What he has managed to accomplish over the last 25 years, is indeed that we are all talking now about corporate social responsibility, about Global Compacts, about Guiding Principles. I think for him initially, and probably still, trying to enforce all this was secondary. What mattered to him was changing the mentality. I think he has done an admirable job there. -- If we are looking for concrete results, more prosecutions, more grievance procedures, more people being finding justice or being compensated, then we might be disappointed. But if we look for signs of changing mindsets, then maybe the glass is rather half full.”*

Similarly, I would suggest that the anthropology of CSR could brighten its anthropological lens to see also the other half of the glass. This does not mean that the critical anthropological scrutiny of CSR practices is not needed, it will definitely be a fruitful way to look at also the local effects of human rights due diligence in the future. But I suggest that in addition, to get more nuanced anthropological analysis, the anthropological lens should also consider the slow, but positive effects of CSR.

## 8 Conclusions

I began this thesis by describing the chameleon-like character of the CSR phenomenon and by asking a very broad question that how does CSR reinvent itself in this specific moment in time. As described in this thesis, lately there has been an increasing discussion about the legalisation of CSR. This discourse originates from the growing criticism that corporations are not doing enough to address the problems created by their operations, such as human rights violations. As I discussed in chapter 2, especially anthropologists have been very critical of the CSR phenomenon. From one perspective, anthropologists have argued that CSR is a strategic tool utilised by corporations in order to silence the criticism and extend their power. The other perspective has been critical of the transformative power of the global CSR guidelines.

The purpose of this thesis has been to critically assess the existing anthropological research on CSR through the current public discourse in Finland that has addressed the legalisation of the corporate responsibility to respect human rights. In order to do so, I first introduced the global guidelines that underlie the current discourse on corporate responsibility to respect human rights. These guidelines, such as the UN Guiding Principles on Business and Human Rights and OECD Due Diligence Guidance for Responsible Business Conduct, aim to establish a symbolic authority on the issue of corporate respect for human rights. However, as I have shown, the guidelines do not state any strict requirements on states or corporations to respect human rights. Instead they promote “post-political” ideology of collaborative action and consensus (Garsten and Jacobsson 2011). This has resulted in the fact that the language of the guidelines has been left very vague and flexible. Following Larsen (2013), I have argued that instead of foreclosing the conflictual space, as Garsten and Jacobsson (2011) have suggested, the guidelines, with their ambiguous language, have actually moved the political conflicts into other “arenas and action” (Larsen 2013, 87).

In this specific case, I have looked at how the issue of corporate responsibility to respect human rights was publicly debated in the context of Finland. Through my research in the CSR events in Finland, I have identified the different actors and networks involved in the production of the CSR discourse. Through the analysis of the public discourse, I

have argued that Finnish corporations have adopted a discursive strategy (Garsten and Hernes 2009; Kirsch 2014) from UNGP to silence the criticism they are facing. By appealing to their size, corporations have tried to displace or undermine their responsibility. But as I have demonstrated, it is not only corporations that “displace” responsibility (Dolan and Rajak 2016). The debate over who has the responsibility shows how all the actors displace the responsibility according to their interests.

However, I have also showed how simultaneously the actors aim for a “post-political” consensus (Garsten and Jacobsson 2011). Similarly to the global arenas of CSR, the actors in Finland aim for consensus through partnerships, ‘business case’ language and development rhetoric. The partnerships seem to have the “discursive power” that Rajak (2016) suggested, as they seem to be silencing the criticism. But as I showed this can be temporary as partnerships are never fixed. Similarly, corporations can utilise the partnerships strategically to reach their goals (Kirsch 2014). As my study has shown, the primary reason for the corporations to join the partnership was competitiveness. The improvement of human rights in the supply chains seemed to be a secondary reason for many corporate actors. This ‘business case’ reasoning was utilised by also other actors than corporations, as it was seen to improve the competitiveness of Finland as a whole. But as I have shown, this ‘business case’ reasoning was considered to be “common sense” and not a deliberate strategy. Thus, the consensus was found by appealing to the rhetoric of “national good” in the context of Finland, and not to the “post-political global ethics” as Garsten and Jacobsson (2011) have suggested. This is of course due to the different contexts and scales. The consensus was also found in the way the actors framed the issue of human rights as a cultural problem (Maurer 2005). Due to this, the discourse adopted the rhetoric of development. As I have described, a termination of a business relationships with a supplier that violates human rights was framed as unethical, because then the workers would lose their wages. This makes Finnish corporations appear as “conscientious organisations” (Garsten and Hernes 2009) as their main responsibility is to educate their suppliers on human rights.

Anthropological research on CSR has also been critical of the CSR technologies such as standards and audits. I have critically analysed the discourse on the possible CSR law and its main technology, human rights due diligence. As I have shown, the discourse regarding the law seems to be dominated by the practicalities of making the law rather

than the moral objectives of respecting human rights. Many actors expect that the law has a sanctioning power, but in practice the law will most likely be another administrative law that is very flexible in nature, similarly to the global guidelines. In addition, the technical item promoted for the law, the human rights due diligence process, can be strategically utilised by the corporations. As I have discussed, this bureaucratic process can transform corporations into “conscientious organisations” (Garsten and Hernes 2009) and discharge corporations from criticism (Maurer 2005). Due to the ongoing and cyclical nature of the process, corporations can claim that they are “trying to do something” (Rajak 2016, 41) so the process can temporarily mitigate responsibility.

As I have shown, there is a risk that the CSR law and human rights due diligence will be another phase in the long history of CSR that will be criticised for ineffectiveness. However, as I have discussed by drawing from Larsen (2013) and Coombe (2009), the global CSR guidelines and technologies nonetheless initiate change. I have argued how the ideas and practical solutions of global guidelines spread into other locations and facilitate discourse on controversial issues. In addition, the CSR discourse in Finland has evinced the “increased ethical sensibilities” (Coombe 2009) as actors have been increasingly self-reflective about their behaviour.

Thus, I have argued that the previous anthropological research on CSR has been preoccupied with the questions of power and inequality. This has produced biased analysis as it has mainly focused on the negative effects of CSR. In addition, the existing anthropological research has focused on the actions and discourse of multinational corporations that also gives a biased view of the CSR phenomenon. The analysis of CSR should thus include the wider social context and actors as corporations are not separated from the rest of the society.



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