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Human Rights as a Critique of Instrumental CSR: Corporate Responsibility Beyond the Business Case

Much has been written, both critically and affirmatively, on instrumental conceptions of CSR. In his 2008 reports, John Ruggie too, relies on such argumentation to ground his tripartite framework which today guides the discussion on business and human rights. Indeed, the so-called business case for corporate responsibility seems particularly plausible in connection with basic human rights. After all, generally heightened public sensitivity toward corporate misdeeds combined with readily available information have greatly raised the stakes for corporations that are exposed for the witting or unwitting reliance, for example, on sweatshops and child labor in their supply chains.

However, in this contribution, I will argue that precisely in the context of human rights, that is, precisely in the context that appears most conducive to the business case argument, its conceptual flaws are exposed most decisively. This holds in particular for the corporate duty to respect human rights as promoted in Ruggie's framework. While the empirical and normative shortcomings of instrumental corporate responsibility are well documented, its fundamental conceptual flaws when invoked in connection with human rights have yet to be pointed out. I will approach this task from three different perspectives:

First, I will show that a *negative* business case for the non-violation of human rights - for example, based on the risk of reputation losses - presupposes a moral obligation for corporations to respect human rights at the outset. In other words, the business case argumentation only works based on the assumption of a prior moral imperative for business to respect human rights. This renders its normative interpretation not only flawed but also futile.

Second, a *positive* business case for the respect of human rights, as opposed to the negative case, hinges on the assumption that respect for human rights belongs to the realm of supererogation, rather than being morally owed. This stands in sharp contradiction with the nature of human rights as moral claims of the most fundamental kind.

Third, I will argue that, implicitly, any normative claim invoking the business case is based on a Darwinian logic of favoring the strong over the weak. This stands in fundamental contradiction to the very idea of human rights. While the business case hinges on catering to the strong, human rights are designed to protect the weak; conceptually, their aims could not be more different.

In sum, invoking the business case to argue for a corporate duty to respect human rights is not only normatively or empirically flawed, but also conceptually. A more plausible alternative is to offer a moral foundation for corporate human rights responsibility. Doing so, as I will argue, will lead us to a more extensive set of obligations than Ruggie proposes. Corporate human rights responsibilities are not limited to the negative duty to respect, but include duties also in the categories of protecting and realizing human rights. If this insight is correct, then even the last remaining possibility for the business case, that is, a business case for corporations' proactive engagement in the realization of human rights, fails conceptually.