

CHAPTER 4

FOOD AS A HUMAN RIGHT

A. Food and Agriculture Organization's Right to Food

The Food and Agriculture Organization is an arm of the United Nations, founded in 1945 and tasked with the burden of addressing world hunger. The FAO is a forum for states to meet and discuss relevant policy issues as well as to develop and share existing policy to address world hunger.¹ The FAO also disseminates information on policy related topics and information concerning development, improvement of agricultural practices and techniques and offers technical assistance with special attention given to the improvement of rural areas and economies in transition.

1) Development

²The FAO follows the mandates handed down from legal instruments within the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. The FAO's Right to adequate food protocol can best be viewed in its individual components. A human rights approach to development is intertwined with basic rights of the individual. Basic rights, often referred to as "birth rights" are seen as basic and fundamental to all people sharing the planet. The concept is fundamental to the concept of the right to food in that food becomes a basic right of all as opposed to a commodity. The imperative in such ideology becomes essential in terms of formulating food strategies. Governments should be used to facilitate, not impede the Right to Food Protocols. Importantly, individuals have the right to channels within their economies to ensure a dignified access to food. That is to say that a government is not charged with the distribution of foods but rather that the system should be people centered. According to the FAO,

¹ FAO Web Site, http://www.fao.org/UNFAO/about/index_en.html.

² Ibid.

foodstuffs are not handouts from responsive governments, charity from religious or other international and national organizations and not a tool for political manipulation. Policy should be a construct of this ideological thinking. Food must be seen as a basic and fundamental human right, not as a charity which flows from rich to poor.

The challenge to an international food rights protocol lives within the realities of the international legal system. Although everyone within the global community has the moral obligation and responsibility of ensuring the right to food, only states have a legal obligation.³ Further, from a legal perspective, only individuals are said to have human rights.

Many problems arise from the accepted traditional development paradigm. There has been an assumption among scholars and policy makers alike that development is the means by which poverty (and ultimately hunger) can be resolved. Moreover that poverty reduction is best realized through developmental equilibrium, which is to say that if "they" have what we have, they will no longer be impoverished. If we look at a contradictory example of say, India, where rapid development and modern agricultural techniques are being adopted at break neck speeds, then how are India's 212 million impoverished people benefiting from development? With this in mind, more and more definitions of development are including a human rights

³The Food and Agriculture Organization of the United Nations, http://www.fao.org/righttofood/index_en.htm International human rights law generally talks about "rights of persons belonging to minorities" rather than "minority rights".

1. The International Covenant on Civil and Political Rights states in Article 27: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language".
2. The United Nations Declaration on the Rights of Indigenous Peoples states in Article 1: "Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms."
3. Article 7:2 states: "Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group."
4. On the other hand, the declaration does not say that these rights are human rights.

perspective. Development as a human right is listed in the “Declaration on the Right to development”, enshrined within the Millennium Development Goals.⁴

2. The Right to Adequate Food: Conceptual Analysis

⁵The Right to Adequate Food is recognized within international law; however the right to food is far from a universal truth. There is an encouraging amount of food rights scripted within development protocols and in some cases have become part of domestic laws. Realistically however, to realize universal food rights entails an analysis of the international food system. The right to food then necessitates direct participation between local, national and international economies. This includes the right to employment allowing for direct participation, through purchasing power, in the local economy. Further food rights must be made available to those who are not able to fully participate within the economy, such as children and the elderly, victims of political instability and warfare as well as the infirm and those incarcerated. In drought and disaster prone areas, natural and manmade, it also means the right to access food reserves, and in times of acute shortages, the right to access international food programs. In the case of food shortages, food rights extend to an appropriate diet. An appropriate diet does more than satisfy daily caloric intake. Appropriate food should be culturally acceptable and free from dangerous contaminants such as pesticides and food additives. The aforementioned ideas form the basis of ⁶food security. Further development should be constructed in such a way as to facilitate these ideas of food security. For example a locally based development scheme would

⁴ One of the final clauses, Article 46:2 states: "In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected."

⁵ The Food and Agriculture Organization of the United Nations, http://www.fao.org/righttofood/index_en.htm. Right to adequate food is a human right, inherent in all people, "to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of people to which the consumer belongs, and which ensures a physical and mental, individual and collective fulfilling and dignified life free of fear."

⁶ The latest definition of food security from the World Food Summit in 1996 is: "Food Security at the individual, household, national, regional and global level is achieved when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life."

facilitate infrastructure between rural areas and allow for market participation locally and nationally.⁷ The assurance of food security requires active participation by stakeholder's and civil society. Civil society is further tasked with applying the rules of corporate social responsibility and alternative models such as fair trade. As we have seen above, human rights are legally binding international instruments. However we have also noted that the universal application of human rights is far from a reality.

⁸Rights enshrined within the International Covenant on Economic, Social and Cultural Rights (ICESCR) provides the basic mechanisms for the right to food.

States that have ratified the ICESCR become duty bearers with legal obligations to fulfill the right to food. Importantly, this means that a state must create the legal, economic, administrative and social frameworks for realization of the right to food. The most fundamental of the ICESCR rights is the right to be free from hunger. This is the most basic and important of the agreements. Anti discriminatory measures are also a key factor in the realization of the right to food, including but not limited to de facto discrimination policies such as income and geographical boundaries. Further food rights cannot be connected to race, religion, sex, age, tribal affiliation, health conditions and/or related matters.⁹ States are also legally bound to facilitate the right to food in states other than their own by providing resource capabilities including food but also technical and financial assistance¹⁰. Importantly, a state that is deficient in providing sustenance for its people must seek the help of the international community. However the question of state interventions has always been a challenging topic of discussion in international relations. ICESCR rules provide a protocol for acceptable behavior and charge states with action in the issue areas that violate the right to food. Moreover a state should not promote policy that adversely affects members in other states. As an example the United States should refrain from selling agricultural products below the cost of production, especially to developing

⁷ The Food and Agriculture Organization of the United Nations, http://www.fao.org/righttofood/index_en.htm.

⁸ *Ibid.*, for additional information on the ICESCR see the General Comment 12 on the right to adequate food adopted by the Committee on Economic, Social and Cultural Rights provides an authoritative interpretation of Article 11 of the ICESCR on the right to food.

⁹ The Right to Food Virtual Library (2007). Food and Agriculture Organization of the United Nations, Right to Food Unit.

¹⁰ *Ibid.*

and traditional agricultural economies and LDCs, where producers may not be able to compete with the artificially low prices from subsidized U.S. agricultural products. Under the same convention ratifying states are in violation if restricting water flow and access to fisheries and indigenous plants and animal species, such as when dams are built in areas of rapid development, decimating local wildlife and aquaculture, to satisfy rapidly industrialized country (RIC) appetites for energy, and denying traditional communities their right to adequate food. Unfortunately the ICERC includes a so called “valid reason clause” which mandates adequate compensation, and is being used as a loophole to skirt the legal obligations of the ICERC covenant. Meanwhile the rule of retrogression¹¹ claims that a significant portion of the treaty prohibits states from suspending existing policies that would inhibit the right to food. A state policy monitoring process should also be in place to review and monitor existing and needed policies in order to ensure a people’s right to food. Moreover the state is bridled with the responsibility of providing a food safety apparatus to ensure that food is nutritious, healthy and safe. Environmental policy is also an integrated part of the right to food policy. Mechanisms are in place within the ICERC to counter procedures that hamper or prohibit the right to food. Moreover full realization of a human rights based approach to the right to food necessitates the free and flowing dissemination of information regarding a peoples right to food and importantly to offer information on redress to violations of that right including information on legal redress and the ability to obtain the channels necessary to obtain legal redress.

Another arm of the United Nations, The International Fund for Agricultural Development (IFAD), was established after the 1974 World Food Conference, and began operations in 1977. An international fund for agricultural development was established to combat the severe food shortages throughout the 1970s. The fund’s aim was bridging the gap in food shortages by supporting rural agriculture development projects. During the meeting of the World Food Summit in 1974, U.S. Secretary of State Henry Kissinger claimed that by 1984,” no man, woman or child would go to bed hungry”. A quarter of a century has passed since the World Food Summit and close to a decade has lapsed since the millennium Development Goals, as of 2004,

¹¹ Retrogression occurs during a reversion to a former state, in this case when states remove laws that would protect food rights.

during the UN Conference on Trade and Development XI (UNCTD) 900 million people were existing on less than U.S. \$1 a day.¹²

B. The World Trade Organization's Agreement on Agriculture: Effective Global Food Supply Protocol or Hindrance to The Right to Food?

The Agreement on Agriculture is a mechanism designed to restrict agricultural policies that distort world price structure. However there is much flexibility in agricultural policy to accommodate national agricultural objectives.

¹³The Agreement on Agriculture (AoA) is a founding piece of the WTO, created during the GATT's Uruguay round and culminating in the formation of the World Trade Organization, providing the rules for international food trade. ¹⁴For the first time food was subjected to rules governing international multilateral trade. ¹⁵The agreement stands on three "pillars", access to markets, export competition and domestic support. ¹⁶Further the WTO terminology for subsidies is identified by "boxes". The symbol of a traffic light is used metaphorically to identify protectionist policies that are permitted. The green box protections are meant to be reduced while the amber and red box items are forbidden. However as protection has been a relatively complex area of negotiation, strictly speaking no red box exists. There is also a "blue box for amber boxed items that have certain exemptions. There are some special exemptions for developing economies. These so called "special safeguards" were put in place to protect developing countries from sudden surges in imports. However, the safeguards were available to states that had non tariff barriers in place

¹² OXFAM International, *The Rural Poverty Trap*, OXFAM Briefing Paper no. 59 (June 2004), pp. 1-25.

¹³ Sophia Murphy, "WTO Agreement on Agriculture: Suitable Model for a Global Food System," *Foreign Policy In Focus* 7, no.8 (June 2002): 1-4.

¹⁴ Actionaid, *The WTO Agreement on Agriculture*, pp. 1-20.

¹⁵ FAO, Economic and Social Development, "Paper No. 6, Measures to enhance agricultural development, trade and food security in the context of the WTO negotiations," in *Agriculture, Trade and Food Security: Issues and Options in the WTO Negotiations From the Perspective of Developing Countries* (report and paper of an FAO Symposium, Geneva, 23 - 24 September 1999), http://www.fao.org/docrep/003/x4829e/x4829e06.htm#P4_42.

¹⁶ See the WTO website for a more detailed explanation of the "The Boxes"

prior to the agreement, which many developing economies did not.¹⁷ Developed countries such as the U.S. and EU also qualify for a large amount of safeguards on agricultural products.

Article 6 of the AoA affords exceptions to domestic subsidies, where the amber box provisions are seen to burden farmers in areas that are only somewhat related to production. These are exempt from reduction mandates at the WTO (AOA).

The second exception within Article 6 of the AoA is the “de minimus”¹⁸ level of support whereby developed countries (such as the U.S. and EU) market pricing support is exempted from restriction if the total amount of support does not exceed 5% of total production value. Direct (financial) and indirect (such as technical assistance) assistance are allowed for rural and agricultural development in developing economies.

The fourth and final exemption in Article six allows subsidies that are deemed to have little or no effect on trade in terms of price distortion. Perhaps the most damaging clause within the AoA,¹⁹ the so called²⁰ “Peace Clause”, which offers developed countries exemption from challenge to subsidies unless they renege on their existing WTO agreements. This clause has afforded the U.S. protection in wheat, rice, cotton and market loans, the E.U. protection for their direct payments to cereals, oilseed, and livestock, and E.U. export subsidies to dairy, cereals and sugar.²¹ Rather

¹⁷ From actionaid, The WTO Agreement on Agriculture, The special safeguard (SSG) provision was introduced to allow countries to impose additional duties in order to protect them from sudden import surges in terms of volumes or low prices. However, in order to qualify for SSG, countries had to have non-tariff barriers (quantitative restrictions on imports) in place at the time tariffication took place under the Uruguay Round. Only 22 developing countries had non-tariff barriers that enabled them to qualify. In contrast, 16 developed and eastern European countries qualified. It is pertinent to note that out of the total number of SSG products (6072) that are available to all 38 countries; only 31.8% products (1930) are available to developing countries as against 68.2 % (4142) to developed countries. Of these, the EU can use SSG against 539 products, the US against 189 products, Canada against 150 products, Australia against 10 products and Switzerland against an astounding 961 products.

¹⁸ WTO, “The Boxes”

¹⁹ The Peace clause expired on December 31st 2003.

²⁰ Center for International Development at Harvard University, Global Trade Negotiations Home Page, <http://www.cid.harvard.edu/cidtrade/issues/agriculture.html>.

²¹ From The Hindu Business line “Life in WTO after the Peace Clause” June 11th, 2004 at www.thehindubusinessline.com/2004/06/11/stories/2004061100081100.htm. Subsidies is categorized under various boxes: Green, Blue and Amber. Green box subsidies

more damaging to developing countries in terms of agriculture is the movement by developed countries of subsidies from the amber box to the blue and ultimately green boxes.

The real devastation from agricultural liberalization may originate from the uneven playing field between the global north and south (see table 3.2). Liberalized markets in developing agricultural economies are subjected to western competition without equal access to western markets. Further WTO liberalization and international lending institution policies from the World Bank and the International Monetary Fund austerity programs have opened developing economies to export driven markets which have then been flooded with cheap agricultural products, further disrupting price structures and discouraging agricultural diversification.

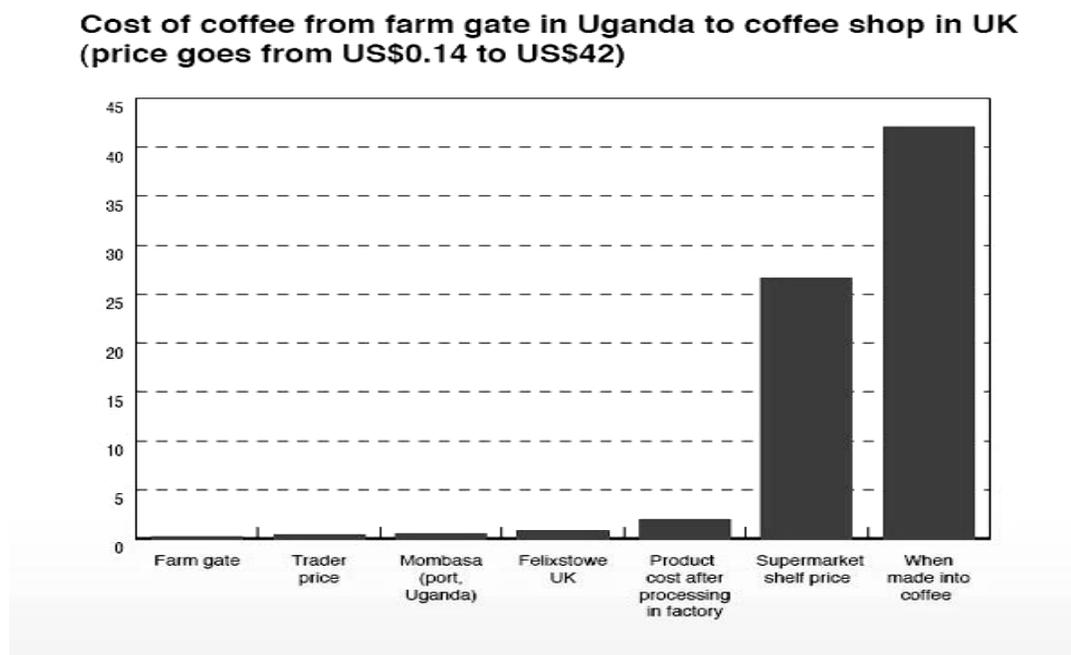
Table 4.1: Differences in agricultural systems in developing and developed countries.

Parameters	Developed Countries	Developing Countries <i>(including least developed countries)</i>
Nature of Agriculture System	Commercial /Export Oriented	Subsistence
Share of GDP	3%	26%
Contribution to foreign exchange	8.3%	27%
Population engaged in agriculture	4%	70%
Market orientation	Strong	Weak
Administrative capacity	High	Low

Source: Actionaid, The WTO Agreement on Agriculture.

are exempt from any action. Blue and Amber cover the aggregate of subsidy measures (ASM). Classification of subsidies turned out to be more metaphysical than economic. Amber box subsidies could face countervailing duties, but members must exercise "due restraint" in imposing them. The Peace Clause stipulated that spending under Blue and Amber boxes could not exceed 1992 levels. None of these subsidies could be challenged on the ground that they violated other agreements such as the Subsidies and Countervailing Measures Agreement (SCM). Under the Peace Clause, agricultural subsidies could not be challenged even if they undercut another member's exports.

Figure 4.1: Cost of coffee from farm gate to the UK.



Source: Green Facts, <http://www.greenfacts.org/en/agriculture-iaastd/1-2/7-small-farmers-trade.htm#0>.

Moreover these liberal market policies cause a commodities crisis for many of the world's poorest nations as a large amount of export earnings are used to buy imports.²² (Burundi as an example has a commodities as percentage of exports of 96%, Yemen at 99 %). Further, austerity has forced the removal of agricultural boards which further weakens farmer's strength in the market. The removal of agriculture boards makes farmers susceptible to price fixing via the consolidation of agricultural companies in the west. This in turn allows agricultural giants to set farm gate prices and capture profit within supply chains by lowering prices, tariff peaks and enabling tariff escalation; these practices in turn punish producers while rewarding manufacturers, wholesalers and retailers. (The retail price for coffee in Europe is 26

²² Oxfam Briefing Paper No. 59. The Rural. Poverty Trap. Why agricultural trade. rules need to change. and what UNCTAD XI Could do about it., June 2004

times the price paid to producers in developing countries, see figure 3.1).²³ Importantly these same manufacturers are using food standards as non tariff trade barriers, restricting sales of goods from small producers in developing countries. This fact is often coupled with weak and inadequate agricultural policies in developing countries which has the dual effect of market exclusion for the producer while opening the developing country to price fixing and an invasion of agricultural markets by large wholesale manufacturing and retail giants. This has certainly been the case in the retail sector, where FDI has allowed for the unchecked growth of retail giants Carrefour, Wal-Mart and Ahold. In turn these retailers demand procurement standards that exclude small-scale producers while encouraging factory-farming agricultural techniques. Although the 2008 U.S. Farm Bill may be a step in the right direction, denying direct support to farmers with substantial incomes from farm produce,²⁴ agricultural subsidies from the US and EU²⁵ allow for the dumping²⁶ of agricultural goods. Dumping floods developing countries with goods priced below market prices, driving farmers from their land and undermining food security, local agricultural markets and food sovereignty. Unfair Trade rules such as many of the multilateral agreements like NAFTA allow for further exploitation. Because of the 10 billion U.S. dollars that subsidizes US corn (maize) producers,²⁷ the NAFTA trade tariff has resulted in a 70%²⁸ drop in prices paid to Mexican producers. This has had a devastating effect on Mexican farmers, if not Mexican society in general.

1). Food Aid

Food aid from the west, while a valuable tool in times of crisis, should not be used as a political tool. Moreover food aid dumping from the west further helps to

²³ Ibid.

²⁴ Reuters, 15 May 2008

²⁵ Julian Binfield, et al., eds., *CAP Reform and the WTO: Potential Impacts on EU Agriculture* (paper presented at the American Agricultural Economics Association Annual Meeting, Denver, Colorado, July 1-4, 2004), pp. 1-22.

²⁶ Dumping' is defined as the sale of products in third markets at less than the cost of production in the exporting country. Dumping from developed countries occurs, in part, because export subsidies bridge the gap between high domestic prices and lower world prices.

²⁷ Oxfam Briefing Paper No. 59. The Rural. Poverty Trap. Why agricultural trade rules need to change. and what UNCTAD XI Could do about it., June 2004

²⁸ North American Free Trade Agreement, www.afsc.org/tradematters/tradeagreements/nafta/htm.

undermine local agricultural markets, drive local producers from their farms and importantly, is often intended to increase market share of agricultural goods for western producers. Agricultural giants Cargill and Archer-Daniels Midland supply a third of U.S. food aid to charitable organizations like C.A.R.E., World Vision and Catholic Relief Services which in turn accounts for four fifths of U.S. aid. U.S. aid in turn amounts to about 60% of the world's food aid²⁹. These firms team with charitable organizations as a means by which to dump surplus grain, keep prices high and establish markets in recipient countries. Generally when one thinks of food aid one envisions feeding people who, temporarily, because of famine, war, drought or some other natural or human-made disaster, are unable to feed themselves. This form of aid is Emergency food aid is most commonly distributed by NGOs or World Food Program (WFP). However, food aid is used in a wide variety of situations including balance of payment transfers for developing countries.³⁰ Food aid providing agricultural and economic development, educational projects and the promotion of food security and nutrition programs referred to as "Project Food Aid" is most often administered by the WFP. Interestingly, a significant amount of aid is sold off to generate capital for governments or NGOs for development and other projects. Food aid sold on the market to generate capital also falls under the Program Food Aid umbrella. The U.S.A. is the largest donor of this type of aid. More commonly food is given in grant form, to sell and on loan in the form of³¹ export credit. Export credit is one of the topics currently on the table for discussion at the WTO. The U.S.A. has been very steady in its insistence on not changing language enshrined in the AoA.

²⁹ Oxfam Briefing Paper No. 59. The Rural. Poverty Trap. Why agricultural trade. rules need to change. and what UNCTAD XI Could do about it., June 2004

³⁰ OXFAM International, *Food Aid or Hidden Dumping?* OXFAM Briefing Paper no. 71 (March 2005), pp. 1-37.

³¹ Export credit supports countries with a variety of financing programs, ECAs, are institutions which act as finance companies for private domestic entities who conduct business abroad. ECAs provide government-backed loans, guarantees and insurance (Trade Credit Insurance) covering both commercial and political risk. Most industrialized nations have at least one ECA, which is usually a national, public or publicly-mandated agency that usually supports companies from their home country. From J&D Financial, <http://www.jdfinancial.com/international-factoring.asp>

C. Corporate Social Responsibility: Can CSR provide fairer trade outcomes?

The World Bank groups defines CSR as “The commitment of business to contribute to sustainable economic development working with employees, their families, the local community, and society at large to improve their quality of life in ways that are both good for business and good for development.”

CSR has the ability to form the basis of a governing body through its global linkages and subsidiaries, through outsourcing manufacturing, the acquisition of resources, and between contract relationships to small and medium enterprises (SME’s). Importantly, where the rule of law is weak or absent, as in many developing countries, CSR legislation is likely to have little effect.³² Therefore a voluntary adoption of CSR may be the most influential in the realization of good governance and best practices. Important business transactions take place between TNC’s, subsidiaries and SME’s which are mutually beneficial for all. SMEs and subsidiaries receive technology transfer, capacity building, business and management strategies and much needed capital. A survey of case studies in the global south shows rapid growth of SME partnerships with TNCs.³³ The other side of the coin reflects the power wielded by the TNCs. While best practices certification by SMEs may be necessary to avoid illegal usage of pesticides and stop deadly e-coli outbreaks, certification and labeling in itself is not a value added commodity,³⁴ requires small scale producers to incur more costs and may be used as a non trade barrier to exclude some farmers from global markets.³⁵ There is however, a growing corporate awareness about the needs of small producers. Chris Anstey, former farmer and retail buyer turned advocate has outlined the following key issues relating to awareness of the needs of small farmers.

³² Anupama Singh, Sudarshana Kundu, and Bill Foster, *Corporate Social Responsibility Through the Supply Chain: MNCs to SMEs* (paper presented at World Bank Institute and School of International and Public Affairs, Columbia University), pp. 1-93, http://info.worldbank.org/etools/docs/library/139585/CSR%20and%20the%20Supply%20Chain%20MNCs%20to%20SMEs.doc#_Toc98667837.

³³ For a compilation of case studies from Africa, Asia, Brazil, Indonesia and Vietnam see *Corporate Social Responsibility Through the Supply Chain: MNCs to SMEs*.

³⁴ Although farmer and product certification may help producers enter specialty markets such as organic fair trade certification and through socially responsible investment portfolios.

³⁵ As in some ISO certification, especially in foodstuffs.

- Let's understand the technical issues and provide support.
- Let's understand how local markets can be improved.
- Let's encourage and nurture cooperation between small farmers.
- Let's identify and share successful business models.

What is missing from the global business conscience is an understanding of what contributions small farmers can and do make to supply chains.³⁶ Global critique of supply chains includes an examination of government policy. Therefore MNEs need an acute awareness of trade policy in areas where they operate and must take into account the ways in which they influence policy decision making at the state level. Future stability in the food supply chains from farmer to retail can be influenced by these policy decisions. Moreover CSR must involve all stakeholders within the supply chains and help them to mature as business for participation in global trade.³⁷ Corporations focus on profit generation with business practices that converge around the maximization of profits. On the other hand, sustainability is becoming a motivating factor for many governments, corporations, and non governmental organizations. Corporations are becoming acutely aware of the importance of their public image while public opinion is converging in areas of environmental concern, pollution and child labor as well as exploitation of labor. One can think of CSR as a governing apparatus for best practices. How a (corporation) conducts business should be based on a moral agenda embedded within the company's vision of CSR. Importantly, the tangible products of CSR are good corporate governance, transparency in business dealings, showing a responsibility to the communities that they operate within and a commitment to becoming good custodians of the environment. Critique of CSR is also vibrant. Many believe that CSR is nothing more than a "smoke-and-mirrors" trick to clean-up tarnished corporate images and

³⁶ Chris Anstey, *Agriculture's big buyers and small farmers – an unfair contest* (2008).

³⁷ Anupama Singh, Sudarshana Kundu, and Bill Foster, *Corporate Social Responsibility Through the Supply Chain: MNCs to SMEs* (paper presented at World Bank Institute and School of International and Public Affairs, Columbia University), pp. 1-93, http://info.worldbank.org/etools/docs/library/139585/CSR%20and%20the%20Supply%20Chain%20%2D%20MNCs%20to%20SMEs.doc#_Toc98667837.

ultimately attract a larger customer base. While a welcome notion many feel that companies are not adequately responding to their social responsibilities and the needs of their communities.

Although viewed by many as a recent phenomenon corporate social responsibility has been developing over time.³⁸ Critiques of large enterprise were expressed during the excessive days of the East India Company. During this time an emergent form of corporate responsibility was taking hold. Quaker based groups and socialists like Engels toyed with the idea of socially responsible business. The Victorian period, while exploitative in many ways, was also a hot-bed of philanthropy.³⁹ During the 1790s the English even boycotted slave harvested sugar. However, recent shifts at the global level are changing the face of CSR. Today a full realization of CSR may have the effect of lessening the reliance on international legal mechanism situated within the confines of international law, to one of participation and self-governance. At the intersection of government, corporations and civil society a newer less coercive more cooperative form of corporate governance is emerging. These changes beg certain questions concerning the voluntary nature of CSR.

Why are corporations, whose overarching goal is profit maximization, at a significant cost to the corporation, establishing voluntary CSR guidelines?⁴⁰

Economists are interested in bargaining as a means to explain the social aspects of business transactions. That is to say that not all business events can be

³⁸ A guide to Corporate Social Responsibility, www6.miami.edu/ethics/pdf_files/csr_guide.pdf.

³⁹ Ibid.

⁴⁰ Tima Bansal, "Best practices in Corporate Social Responsibility," *Ivey Business Journal* (March-April 2006): 1-4. This study of best practices in CSR lists the following motivating factors for inclusion into a corporate model of Best practices in Corporate Social Responsibility

- Include social issues in risk assessment models
- Measure the cost or revenue impact of social issues and use that as criteria in numbers-based business models
- Lengthen decision time horizons
- Take advantage of internal stakeholders' creativity
- Involve external stakeholders formally and informally
- Build social capital within the top management team
- Show impassioned, not impersonal, leadership
- Apply values-based criteria to decisions

explained by market determinants.⁴¹ Moreover, bargaining often disrupts common economic perspectives dealing with the so called “perfect market” where many traders within a market determine the market forces.⁴² Game theory is used to determine the degree of influence of agents (actors) within the market as a set of “live variables” (as opposed to the so called dead variables such as price) which in turn determine negotiation strategies as either “pure”(plays of a particular move) or as “mixed (plays which are random moves).⁴³ The equilibrium is achieved when an actor’s move is an initial response to another actor’s move whereby moves become strategically the best move according to each others play.⁴⁴ Further, game theory can be divided into two areas⁴⁵ cooperative (coalitional) which is determined by an enforceable agreement such as a contract, and⁴⁶ non cooperative (strategic) game theory where individuals interact with each other to achieve their own goals.

⁴⁷A Department of Trade and Industry (DTI) working group defined CSR as “the management of an organization’s total impact on its immediate stakeholders and the society within which it operates.”

The question of voluntary CSR compliance is one of importance when framing a CSR norms debate.⁴⁸ The European Commission states that “companies decide to voluntarily contribute to a better society and cleaner environment” This statement further begs the question: Why would corporations, whose duty rests in the delivery of profits to its shareholders, endeavor in costly social and environmental projects within a system lacking regulation? In this section I propose there is a

⁴¹ Alvin E. Roth, “Bargaining (Economic theories of bargaining),” in *Social Science Encyclopedia*, 2nd ed., eds. Adam Kuper and Jessica Kuper (London: Routledge, 1996), pp. 46-47, <http://kuznets.fas.harvard.edu/~aroth/barg.html>.

⁴² The History of Economic Thought, “Game Theory,” <http://cepa.newschool.edu/het/schools/game.htm>

⁴³ In 1950, John Nash introduced the concept of a "Nash Equilibrium" (NE), which became the organizing concept under Game Theory. Nash followed this up in 1951 with the concept of a "Nash Bargaining Solution" (NBS) for coalitional games

⁴⁴ “Game Theory,” <http://cepa.newschool.edu/het/schools/game.htm>.

⁴⁵ Game Theory.net, “Cooperative game,”

<http://www.gametheory.net/dictionary/CooperativeGame.html>.

⁴⁶ David K Levine, *Economic and Game Theory*, What is game theory?

⁴⁷ EnAct Consulting Company, <http://www.enactconsulting.com/whatCSR.htm>.

⁴⁸ Corporate social responsibility. A business contribution to sustainable development, European Commission Directorate-General for Employment and Social Affairs (2002) at, http://ec.europa.eu/employment_social/soc-dial/csr/csr2002_col_en.pdf

developing and ongoing stakeholder relationship that mandates a commitment to CSR. The notion that corporations determine motives based on stakeholder expectations may seem obvious.

Company stakeholders are financial contributors who directly or indirectly supply resources, take financial risks and benefit from financial gains. However, the stakeholder theory by itself does not fully account for CSR expenditures nor show how these costs may be detrimental or beneficial in terms of a company's overall financial performance. Therefore a stakeholder theory combined with social theory becomes a reasonable tool for further examination of CSR. Within this social perspective, it is impossible to dissect the company from the society it operates within. The social constructivist theory gives credence to the agents as active participants in the formation of social factors and ideas, and within the agent-structure debate, would appear to lessen the strength of the purely market driven forces that tend to see CSR as a net loss to the corporation. Moreover if no initial assets are generated from a company's involvement with CSR, stakeholders may not realize direct financial gains. However the overall satisfaction with a company's performance may be influenced by the stakeholder's perception of a company's involvement in CSR practices. Therefore, a company's overall financial performance may be tied to stakeholder perception (of the company) and therefore management seeks to develop strategies that lead to stakeholder satisfaction.

Exclude direct and indirect gains and it becomes difficult to posit a definition of CSR. However certain normative elements may exist as one writer posits. The following elements were first identified by Buchholtz⁴⁹.

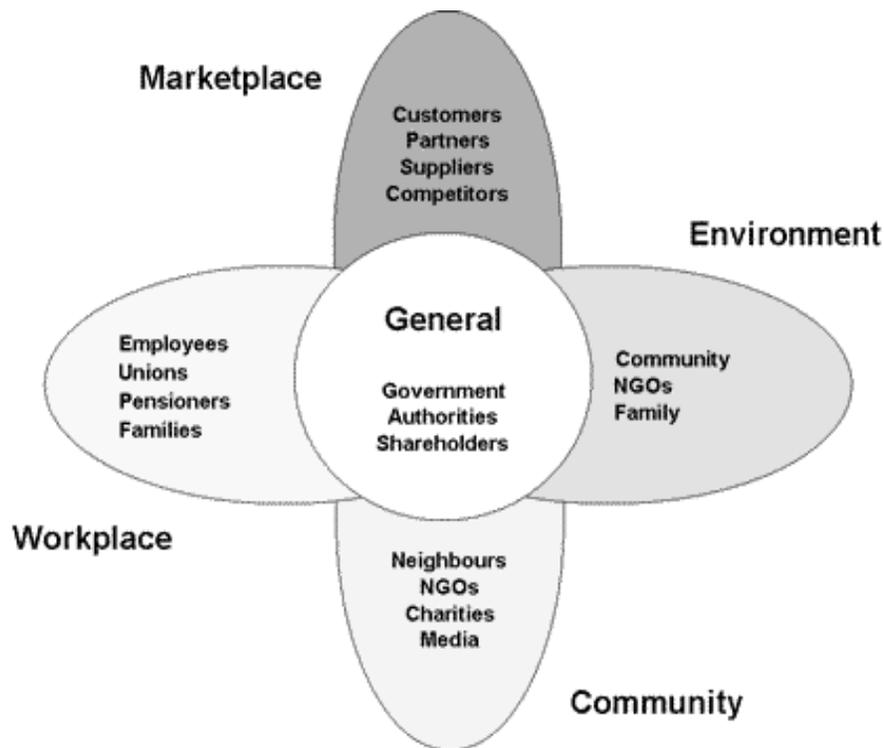
- Companies have responsibilities that go beyond production of goods and assets generation
- These responsibilities including helping to solve social problems, especially the ones they helped to create
- Companies have a broader constituency than stakeholders
- Companies have impacts beyond simple market transactions

⁴⁹ Archie B. Carroll, Ann K. Buchholtz *Business and Society: Ethics and Stakeholder Management* (South-Western College Pub; 2008), 19.

- Companies serve a wider range of values than can be related through economic values

The social imperatives ensclosed within Buchholtz's notion of CSR while compelling, need further anchoring in theory.

Figure 4.2: CSR Stakeholders



Source: ENACT Corporate Consulting, <http://www.enactconsulting.com/>

Social constructivist theory may help to explain the communities converging on the issue area of corporate social responsibility. Social constructivist theory is an epistemology that emphasizes the collective nature of learning.⁵⁰ Cognitivists like Piaget saw knowledge as something constructed by learners in response to their environments. In the realm of international relations social constructivism has become

⁵⁰ The statement "Constructivist epistemology" was first used by Jean Piaget, 1967, in the famous article from the "Encyclopédie de la Pléiade" *Logique et Connaissance scientifique* (Logic and Scientific knowledge), an important text for epistemology. He refers directly to the mathematician Brouwer and his radical constructivism.

a competitor to the dominant approaches in international relations theory. Social constructivists see communications and interactions as fundamental components of the construction of reality, i.e. ideas generate policy and ultimately rules and norms within the international realm. These rules are developed through interaction. In this sense the power of interactive ideations holds an equally important standing in the formation of CSR. Shared expectations of corporations (existing in society), the expectations of stakeholders and the expectations of society, (pursued by civil society), converge to form an amalgam of interactions that may lead to CSR. The issue of shared ideas is most relevant when incorporated into a pragmatist model. Further, the idea of shared interaction is observed through the formation of CSR. The following example helps to remove CSR from the theoretical and bring it into the practical by applying CSR to business management concepts. In this example, ⁵¹CSR can be thought of as management strategies that deal with stakeholder issues. The ENACT Consulting team refers to a number of value added issues available to companies through CSR management techniques. These strategies are compelling in the modern global marketplace and are becoming important parts of corporate pedagogy. For example the ability to capture additional markets through enhanced brand image, trust and good reputation. Including:

- The removal of non-trade barriers through enhanced relationships in local communities
- Keeping licensure intact and avoiding costly fines for non-compliance
- The development of strong consumer relationships
- Attraction and retention of a strong committed workforce

Table 4.2: CSR impact area of Solid Business Reasons

⁵¹ ENACT Consulting is a firm devoted to the implementation of CSR. For more information about their company and a better understanding of practical CSR management strategies, visit their website at <http://www.enactconsulting.com/index.htm>.

General (All areas)	Add value to business Build and protect reputation and license to operate Reduce perceived company risk (a better investment) Manage stakeholder expectations and regulatory pressure Build a sustainable business
Workplace	Preferred employer, recruit talented people Motivation leading to productivity Broader risk management generating rationalization and cost savings Deliver projects easier and on budget
Marketplace	Enhance brand value and customer loyalty Create competitive edge Preferred partner or supplier Improve supply chain performance Better credit & insurance risk
Environment	Improved environmental performance Resource conservation Waste reduction Cost savings
Community	Increased access to local resources Create mutual advantage within the community Protection against adverse reaction Improved security

Source: ENACT Consulting

While the motivation behind a firm's use of CSR may be debatable, one can easily see the advantages available to firms that endeavor in CSR through its potential acquisition of material based assets. This is to say that certain assets may be obtained through the employment of CSR. The stakeholder inclusion as mentioned above is the fulcrum with which to view these material assets. In this case ⁵²the search for

⁵² Manuel Castelo Branco and Lucia Lima Rodrigues, "Corporate Social Responsibility and Resource Based Perspectives," *Journal of Business Ethics* 69, no. 2 (December 2006): 111-132.

motivation based in the desire to do good to behave in a socially acceptable manner based on morality, becomes a weaker theoretical stream in favor of a resource based perspective (RBP). Put another way, companies partake in CSR to further their economic success through social responsibility. While financial influence on the firm's willingness to use CSR is easily quantifiable, CSR's reaction on financial performance is not easily measured.⁵³ However it has been argued that CSR does have the capacity to generate pay-offs. As Moldaschl and Fischer stated, (2004, pg 50) "the firm is a social institution that involves relationships with on going conflict and collaborative elements". This line of thinking would suppose a benefit from the management of these direct stakeholders through a CSR program. Moreover intangible recourses such as company image, corporate culture and employee knowledge of social issues (and the business potential of addressing such issues) will benefit from similar management strategies which are based in CSR. Social pressures from indirect stakeholders, community members, activists, NGOs can potentially be neutralized through CSR. Ethical considerations are therefore the product of a firm's desire to realize a competitive advantage in these market imperfections.⁵⁴ Edith Penrose describes the firm as a "pool" of Recourses. In this respect we can view stakeholders as an intangible set of these Penrosian recourses. In a more modern context "capabilities" refer to organizational processes engaged by people, which must span time and change hands as people enter and exit the firm. From these ideas we can begin to explore the idea of social capital. (Not to be confused with the social in CSR). Nahapiet and Ghoshal define social capital as "the sum of the actual potential resources embedded within, available through and derived from the network of relationships within an individual or social unit". With this as a springboard we can delve further into the notion that actors within the firm, although considered intangible assets, are instrumental to the well being of the firm and must be managed. Further, the elements of social capital can be directly affected through the implementation of CSR realized through the long term stability of employee's, their

¹³¹ Ibid.

⁵⁴ Edith Penrose, *Theory of the Growth of the Firm* (Oxford: Basil Blackwell 1959).

shared ideas, exponential experience within a given field as well as their professional contacts, all of which are served by employee satisfaction. These resources are said to reside within the firm. The ability to appeal to stakeholders (shareholders, customers, rule of law and abide by regulations) is equally served through a healthy corporate image. In this sense we can see the applicability of CSR for management of external resources. CSR can therefore be seen as connected to groups existing within society.⁵⁵ These groups possess certain expectations of corporate behavior that firms must try and identify with and then conform to. In this description the firm's behavior closely resembles normative behavior. Although it can be said that the firm is acting on a set of "norms" based on public expectations of corporate behavior, the firm's motivations are less than altruistic, these are resource management techniques and therefore better situated within the realm of resource based perspectives. To these ends the implementation of CSR becomes almost mandatory in order to preserve market advantage within an imperfect market. Further, in order to meet prevailing stakeholder expectations the firm must appear to be a socially conscious entity and aspire to the social norms that constitute a modern firm. Moreover the employment of technology modifies stakeholder/firm interaction helping to lay the groundwork for a⁵⁶ "customer driven structure". The evolution of communication in the 1980s resulted in a "strategic response" by management that helped to transform management style from a hierarchical management approach to the latter people based capabilities approach.⁵⁷ The rapid advancements in technology (internet and emailing) make possible a consumer voice that would have been impossible a few years earlier. The easy dissemination of information makes possible the shared ideas that can lead to a different geo-political reality. These changing perceptions made

⁵⁵ Branco and Rodrigues, "*Corporate social responsibility and resource based perspective*"s. *Journal of Business Ethics* 69, no. 3(2006) :111-132

Branco and Rodrigues, *Corporate social responsibility and resource based perspectives*.

⁵⁶ Morgon P. Miles, Linda S. Munilla and Jeffery Darroch, "The role of strategic conversations with stakeholders in the formation of corporate social responsibility," *Journal of Business Ethics* 69, no. 2 (December 2006): 195.

⁵⁷ Swapnesh K Masrani International Competition and Strategic Response in the Dundee Jute Industry during the Inter-war (1919-1939) and Post-war (1945-1960s) Period: The Case of Jute Industries, Buist Spinning, Craiks and Scott & Fyfe, pg 4-5

possible through human connectedness may help and modify global business expectations and ultimately lay the foundations for alternative forms of business interactions. Alternately, lack of transparency, accountability and complacency by consumers and businesses allows for massive exploitation along the sourcing linkages within global food supply chains. Local and civic minded production may reduce the negative effects from large global food suppliers.