THE ADOPTION OF THE UNGP’S AND THE EVOLUTION OF THE CORPORATE RESPONSIBILITY PARADIGM

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The Adoption of the UNGPs and the Evolution of the Corporate Responsibility Paradigm

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Introduction: Co-responsibility in the field of Human Rights

There is an anecdote associated with Milton Friedman which, although it may be apocryphal, is not without interest. He allegedly once said: “Paradigms do not change because people become more aware of them; they change because some people die and are replaced by younger people”. Nonetheless, behind the provocative and exaggerated tone of this comment, there is still an important insight which has always been present in the design of viable and realistic organizational plans for companies: they seek to balance both conviction, on the one hand, and compulsion, on the other. This is evident when we focus on the relation between companies and society and we carry out an analysis of the current state of this question.

In these circumstances, it is undoubtedly necessary to consider many positive aspects of companies: they create employment; they manufacture goods or provide services to meet our needs; they innovate and help the world—or at least in some parts of the world—to become more developed and help societies to progress…

And the negative aspects? This is not the place to list specific examples. Suffice to say that some companies have done things in such a way that they have caused so much damage—including pollution, exploitation of workers, infringement of human rights and the development of harmful products…- that it is hard to see how they have not been forced to close down and been permanently banned from continuing their activity. Many people are inclined to smile cynically when they hear that companies have to earn and maintain the license to operate. The fact is that it is not easy to find a single empirical study which reveals that a company convicted of bad practice or which has confessed to this bad practice has lost the legitimacy provided by the license to operate. They may have some problems with their corporate image, a slight and momentary loss of support, but they continue to operate. At most, they modify their behaviour a little but for these companies it is still business as usual.

However, things are never really the same again. The initial negative reaction eventually dies down and a combination of financial muscle and good marketing end up restoring the company’s reputation. Deep down, however, confidence has been damaged and this is the
quintessence of the intangible –confidence comes from the Latin term fides, which means faith; just as credit is derived from credere, meaning to believe--; since confidence is what makes it possible for there to be a stable, sustainable and mutually beneficial relationship between companies and society.

If we calmly consider what we have just said, I think that here we could propose a theory – which to me seems totally evident – and two corollaries that point to the absolute necessity of ethics and good practice in business management.

The theory can be formulated in the following terms: “It is necessary to establish a new social contract between companies and society that accepts that responsible behaviour is the basis of the relationship between companies and society and also to consider that it is absolutely essential to show a clear and firm intention to respect the Human Rights of all the people related to the company at all times and in all situations”. This is undoubtedly the responsibility of the company. Nonetheless, it is also the responsibility of all of us as stakeholders, since we are not only individuals with legitimate interests to defend, but we are also co-responsible agents of what companies eventually do.

The first corollary states the following: “We must not tolerate the explosive combination of bad manufacturing conditions and unethical patterns of consumption”. The second one states: “It is necessary to remain lucid and to practice responsible consumption, thus avoiding falling into the trap of buying what we do not need with money that we do not have …”. Indeed, irresponsible consumption in the Western World along with unfair working conditions in the Third World create the ideal conditions for companies –not ruthless companies, just companies that have adapted to the incentives offered by the system in a globalized world – to systematically ignore Human Rights.

Therefore, right from the start of this chapter we must highlight the importance of the concept of co-responsibility i.e. the responsibility of everybody –companies, citizens, social organizations, churches, social movements and states – to work for the common good and to fight for the non-negotiable right to personal dignity. Nevertheless, we will leave to one side issues related to the aforementioned agents –whose agenda undoubtedly deserves to be dealt with in more depth in another study – and we will focus our attention on what is directly related to companies and management; and, very specifically, we will concentrate on image, on the paradigm of a company from the very moment it is conceived in theory. This is because, as we know, theories are never neutral; and they always have –for better or worse– certain unavoidable practical effects. The perfect opportunity was provided by the adoption of the United Nation Guiding Principles on Companies and Human Rights (UNGP, 2011), which can help us to define a concept of Corporate Social Responsibility (CSR) which is better adapted to the demands of the present; and to show the way towards a more fruitful relationship between companies –devoted to obtaining financial profits- and the broader demands of society.
Company theories

Throughout the 20th century, different theories were proposed to explain the real nature and behaviour of companies. Indeed, behind every definition of a company there is a theory; and, of course, behind each one of these, more or less explicitly, there is an almost regulatory acceptance—i.e. more or less appropriate and desirable—of a determined model of business management and human behaviour in an organizational context.

Depending on the metaphors used to refer to companies—a jungle, a money-making machine, a game, a battlefield—and on what pre-reflexive image is adopted in regard to companies—among others, and without wishing to be exhaustive: Taylor’s mechanical-engineering images of organization lines; Murray’s psychologist image; McGregor’s sociologist image; Weber’s political image—we will be in a better or worse position to articulate a holistic and complete anthropological vision which, without neglecting any of the key elements of a person, may contribute to an exercise in management in line with the respect for Human Rights that must be demanded throughout all of the value chain.

Among the most commonly cited theories of companies we can highlight, without entering into too much detail, the following: Transaction Cost Theory, Neoclassical Theory of the Firm, Behavioural Theory, Contractual Theory or Agency Theory and Systems Theory. Each one of these approaches, as I have stated in more detail elsewhere (Fernández Fernández, 2009) highlights certain areas of interest in terms of companies but also leaves out of consideration other relevant questions. These gaps and deficiencies make it necessary and desirable to eventually create a more comprehensive conceptual framework, such as the one derived from Stakeholder Theory. Indeed, since some decades ago, we can observe how a great number of management theorists and quite a few academics are gravitating towards the stakeholder approach or one based on a broader vision of companies.

Although the concept of stakeholders, a neologism that leads to a metaphor—literally means “the person who bets”—and we can immediately notice its phonetic similarity with the term stockholder/shareholder which can be defined as “the person who possesses part of a company”, had already been used as far back as the 1960s and 1970s, it was Edward Freeman (Freeman, 1984) who used it systematically and defined a way of approaching stakeholders that can eventually lead to a complete theory of companies and management, opening up a path, perhaps rather timidly, but opening up a path nevertheless—towards what we could call a new paradigm of companies in line with the requirements and circumstances of the 21st century. If we do not wish to be too daring in our use of adjectives and we want to reduce the intensity of the theory, what we cannot deny is that stakeholder theory represents a fortunate metaphor that can set us on the path towards a situation in which companies and the capitalist system itself contribute to a fairer and more beneficial society for everybody.

Over the last quarter of a century from 1984 until today, literature on the subject of stakeholders has grown exponentially. Indeed, it would be impossible to read everything that has been written on the subject over the last thirty years or even to reflect here all of the main ideas which are considered to be—and undoubtedly are— theoretical landmarks and essential references.
Nevertheless, in order to give some idea of the complexity of the subject in a kind of metatheoretical approach, we must draw the reader’s attention to a classification of the perspectives from which the literature has dealt with the subject of stakeholders. One which is now a classic -although it is also the source of some controversy- is the classification proposed by Donaldson and Preston (1995). For these authors, it is possible to distinguish between three aspects of the theory: descriptive, instrumental and normative. The descriptive aspect of the theory would explain and present the nature of the company’s operations. The instrumental aspect establishes that the stakeholder approach to running companies is better in terms of achieving company objectives and targets, including the search for profitability. In turn, the normative aspect of the theory refers to what should be understood to be the function of the company and provides philosophical and ethical guidelines that should be taken into account when managing companies and organizations with an explicit orientation towards moral management (Carroll, 1991).

Nonetheless, this is not the only possible classification nor is it always accepted without any questions or controversy. Therefore, we will just present some of the most characteristic features of the theory, selected from among the vast bibliography with reference to the following statements:

(1) Stakeholder refers to any group or individual that can affect or be affected by the fulfilment of company objectives.

(2) the strategic management of the company should seek not only the fulfilment of the objectives of shareholders, but also those of a broader spectrum of those interested in this question: workers, clients, society as a whole, suppliers, etc. In a sense, this means the possibility of obtaining the licence to operate that in the long term will favour the survival of the company.

(3) the management objective and the basic raison d’être of the company from an ethical point of view (Fernández, 2007) is the long-term maximization of the well-being of all of the stakeholders, whilst complying with the objective of achieving economic-financial results that can satisfy the expectations of shareholders. In order to do this, the company management must know about the values, the interests and the expectations of different stakeholders.

(4) there is a constant and dynamic interrelation between the company, the company management and the moral management of company activity and the actions of managers; because company theory is always set in a moral context and the minimum, non-negotiable basis of this is respect for Human Rights.

(5) the company should be understood and conceptualized as a network of stakeholders who interact with each other in a constant and dynamic way. These interactive relations involve, among other things, the fact that there necessarily have to be some divergent and potentially conflicting interests; this also implies the possibility of establishing alliances between different agents or stakeholder groups.

As we have seen, it can be inferred that although stakeholder theory studies and focuses especially on company management, it does not represent either a complete socioeconomic
and political theory, or a clearly defined ethical theory. Nevertheless, it does contain more than enough elements to trace a company paradigm and a management model wherein respect for Human Rights can and must find its natural place.

The institutional framework of Corporate Social Responsibility

Although there are still some who still support the view of Milton Friedman (Friedman, 1970) when he stated that the only social responsibility of a company is to make money however possible, maximizing its financial value for the owners or the shareholders, as long as they respect the rules of the game. The evidence suggests that in modern day capitalism – capitalism which is in crisis but also globalized and spread by the media and information and communication technologies -this is no longer enough. And it will no longer be enough because consumers who, on the one hand, and the initiatives created by multilateral organisms–and even investors, both private and institutional ones- do not appear to be prepared to allow this.

On the one hand, they are much better informed about the modus operandi of companies; on the other hand, they have gradually gained more power and, above all, they have started to made strong new demands that must be met by companies if they are not to put the viability of their business at risk in the mid-term. One consequence of this new sensibility are the proposals and initiatives that make up what we might the institutional framework of CSR.

There are several initiatives to which we can refer. Some are political decisions taken in the sphere of the European Union that are then transferred to the legislation of member states such as, for example, the National Assignation Plan on Emissions in response to the Kyoto Protocol. Others have in common the fact that they were generated in determined international organisms which then crystallized in certain platforms or alliances. Some examples include, among others, Business for Social Responsibility, CSR Europe, Conference Board of the World Business Council for Sustainable Development, Enhanced Analytic Initiative...

Now let us look in a little more detail at some of the most significant initiatives that make up this institutional framework: Caux Round Table, OECD Guidelines, Global Reporting Initiative, Global Compact. We shall also make some reference to the European model of companies and management that has become established over the last fifteen years approximately and we will see how this movement has adapted in Spain. And finally we will also refer to the United Nations Guiding Principles on Companies and Human Rights (UNGPs, 2011).

1. The Business Principles of the Caux Round Table

The Caux Round Table (www.cauxroundtable.org/) was founded in 1986 with the aim of reducing tensions in international trade, developing constructive social and economic relations between member states and adopting the role that corresponds to companies in terms of searching for international peace and stability.
The axiological cornerstones of Caux are two values that have their origins in two different cultural traditions: the concept of “kyosei” – a Japanese term that means “living and working together for the common good” – and the appeal to the “dignity” of human beings made by the Judeo-Christian tradition, which is essentially the basis of proposals to respect Human Rights. Around these concepts, the following corresponding Principles have been established: 1. The responsibility of companies: not just to shareholders, but to everybody involved in the business. 2. The social and economic impact of companies: in terms of innovation, justice and the world community. 3. The conduct of companies: beyond the letter of the law, towards a spirit of trust. 4. Respect for legality. 5. Support for multilateral trade. 6. Respect for the environment. 7. Prevention of illicit operations.

These principles are proposed as guidelines for companies to develop, check and assess their own principles and to try to put them into practice on a day-to-day basis.

2. OECD Guidelines for Multinational Companies

As far back as 1976, the Organization for Economic Cooperation and Development – OECD (www.oecd.org/corporate/mne/) - had created the first version of their guidelines for multinational companies. Nevertheless, in view of the profound impact of globalization on the economy, in 2000 its members had to carry out an in-depth review of these guidelines in order to adapt them to the current circumstances, establish a firmer basis for them and propose secure values upon which to set up transactions. Although they are not legally binding –nor do they substitute any other legal framework-, these guidelines represent an important message in the form of recommendations that the thirty three governments that make up the OECD send to multinational companies.

These guidelines can be summarized in the following terms: 1. They are voluntary principles and standards of responsible business behaviour, which are wholly compatible with legal requirements. 2. Companies must accept the laws of the countries in which they operate and take into account the interests of multiple stakeholders. 3. Companies must properly, regularly and faithfully provide the relevant information related to their operations, structure, functioning and financial situation. 4. Companies must respect the human rights of workers. 5. They must take into account the need to protect the environment, public health and safety whilst seeking sustainable development. 6. They will reject the practice of bribery, in any of its forms. 7. They will protect the interests of consumers. 8. They will try to transfer technology and will promote training, research and development. 9. Competition will be fair and restrictive practices will be avoided. 10. They will make a loyal contribution to society by paying the taxes that are due wherever they operate.

3. The Global Reporting Initiative

The Global Reporting Initiative (www.globalreporting.org/Pages/default.aspx) came into existence in 1997, and was created by the Coalition for Environmentally Responsible Economies (CERES). Since 2002, it has been an independent organism, an official collaborator on the United Nations Environment Program (UNEP) and one of the centres that cooperate in the framework of the Global Compact of the United Nations, to which we will refer shortly.
The Global Reporting Initiative defines itself as “a multi-stakeholder institutional process” whose mission consists of developing and distributing guidelines which can then be applied to providing information about sustainability. These guidelines have a voluntary nature. Therefore, those companies that wish to can adopt them when providing public opinion with information about the economic, social and environmental aspects of their activities, products and services. The Global Reporting Initiative incorporates the active participation of representatives from the world and business and finance, as well as representatives from environmental organizations, human rights groups, workers organizations and research centres from all over the world.

4. The United Nations Global Compact

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<tr>
<th>Event</th>
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<td>Lisbon Summit</td>
<td>2000</td>
<td>Strategy for growth, competitiveness and social cohesion for 2010 with a special call to companies</td>
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<td>Nice Summit</td>
<td>2000</td>
<td>Social Policy Agenda: reference to the importance of CSR to face the challenges of the new economy</td>
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<td>Gothenburg Summit</td>
<td>2001</td>
<td>Sustainable Development Strategy</td>
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<td>Publication of the Green Paper</td>
<td>2001</td>
<td>Start of the European debate on CSR. Definition of basic concepts</td>
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<td>Publication “CSR: A business contribution to sustainable development”</td>
<td>2002</td>
<td>Summary of the debate generated by the Green Paper. First definition of the direction of the CSR strategy: transparency and convergence</td>
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<td>The European Multi-Stakeholder Forum on CSR</td>
<td>2002 - 2004</td>
<td>Broad debate among all agents. Definitive confirmation of the voluntary principle. Role of the EU, limited to guaranteeing a “favourable environment”</td>
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<td>Re-launch of the Lisbon Strategy</td>
<td>2005</td>
<td>Reorientation of the strategy. Concentration on “Growth and employment”. New reference to companies</td>
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<td>Association for growth and employment</td>
<td>2006</td>
<td>Making Europe a Pole of Excellence in CSR</td>
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<td>Communication and the Commission: “Renewed EU Strategy for 2011-2014 on corporate social responsibility”</td>
<td>2011</td>
<td>In the framework of the Europe 2020 Strategy and in the midst of an economic crisis and the consequent loss of confidence in companies, a new definition of CSR is proposed: “responsibility of companies due to their impact on society”</td>
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The idea of establishing a network called the Global Compact (www.unglobalcompact.org/) was proposed by the then Secretary-General of the UN, Kofi Annan, in January 1999; and it took official shape in New York on the 26th of July 2000. It is an initiative that seeks to create a network between companies, governments, civil society and the UN itself, all united around ten principles which are to be voluntarily observed and are divided into four categories: (1) Human Rights; (2) labour relations –freedom of association, eradication of forced labour and child labour, the fight against discrimination-; (3) ecology –environmental responsibility -; and (4) the fight against corruption. Essentially, it aims to make companies more aware so that, by integrating the aforementioned principles into their strategies and operations, they can be agents that contribute, on the hand, to ensuring respect for Human Rights and, on the other, to solving problems and facing the challenges posed by globalization in the framework of an inclusive and sustainable economy.

Fortunately, this is not just a matter of more or less well intentioned or purely aspirational declarations. Best practice guidelines have also been published which will undoubtedly inspire and help companies that seek to establish policies and practices that aim to fulfil the principles that the Global Compact represents. As an example, we can highlight the publication promoted by the Global Compact of a study written in 2004 by Ursula Wynhoven and Jeff Senne (http://www.unglobalcompact.org/docs/news_events/8.1/EHRBPII_Final.pdf, 2004) and entitled: Embedding Human Rights in Business Practice. This document, promoted jointly by the Global Compact and the Office of the United Nations High Commissioner for Human Rights, describes cases in which the principles were applied and provides information about successful processes and policies for those companies interested in finding some inspiration to establish the procedures that will help them to fulfil the commitments of the Global Compact. Some years later—perhaps as a result of this publication—the UN established its Guiding Principles for Companies and Human Rights.

5. A political proposal for CSR in the European Union

The 2000 Lisbon Summit placed on the Commission’s agenda a strategic objective with profound consequences and a broad economic and social significance: “to ensure that by 2010 the European Union is the most dynamic and competitive knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion”. Since then and right up to the present day, the most representative landmarks in the process are the following:

In the light of the first CSR policies established by the European Union and the consequent debates about this question, we can highlight two key elements that characterize this approach: the questions of regulation and convergence. Regarding the first question, it should be stated that the Commission opted for the happy medium of self-regulation and the establishment of incentive structures. Nevertheless, member states were free to adopt more explicit legislation to ensure fulfilment of the objectives derived from the pro-CSR movement: oblige, facilitate, collaborate and promote. Moreover, these national differences in terms of public policy models represent the second key aspect of CSR in Europe. Without wishing to establish an exhaustive classification, we can speak about some different approaches and perspectives, and different types of emphasis in questions that indicate the
specific nature of each country. In some of them we can highlight above all the question of partnership (Denmark, Finland, Sweden, the Netherlands); in others (Ireland, the United Kingdom) there is a stronger involvement of the company in the community; the question of Corporate Citizenship and the search for sustainable development are more visible in countries such as Belgium, Luxembourg, Austria and Germany. Finally, Italy, Greece, Portugal and Spain focus more on the articulation of the public debates about multi-stakeholders and, at least in the case of Spain, we are in the midst of the process of development of CSR policies.

Indeed, in the case of Spain, we can state that the debate about CSR has become more common and people are more and more convinced of the need to advance in terms of practical proposals and ethical verification (www.foretica.es) on this question. One example would be the creation of a parliamentary sub-commission which published the White Paper on CSR, as well as the establishment of the Forum of Experts (www.mtin.es/empleo/economia-soc/cuerpo.htm) which in 2009 led to the constitution of the State Council for CSR (www.empleo.gob.es/es/sec_trabajo/autonomos/economia-soc/RespoSocEmpresas/consejo_rse/). In order to explain the genesis and the development of this type of debate in our country, we should point out the existence of a long and well established tradition of proposals and initiatives such as the AECA Research Commission—set up by AECA, the Spanish Association of Accountancy and Business Administration—on Corporate Social Responsibility (www.aeca.es); the Forum on Corporate Reputation (www.reputacioncorporativa.org); the Forum for Business and Sustainable Development (www.foroempresasasostenible.org) the Club for Excellence in Sustainability (www.clubsofinalesorganizacion.org); and Corporate Excellence (www.corporateexcellence.org/). The next few months will also see the creation of DIRSE (www.dirse.es/).

The European Commission (European Commission, 2011) published a Renewed EU Strategy 2011-2014 for Corporate Social Responsibility (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0681:FIN:ES:PDF) which begins by assessing the impact of European policy since the publication of the Green Paper. It refers to some undeniable advances which are accredited by objective progress indicators—among others: a number of European companies that are affiliated to the Global Compact, a number of organizations registered in the Environmental Management and Auditing System (EMAS), a number of companies that publish sustainability reports. However, although we must recognize these advances, we must also highlight the challenges that still face us: “Many companies in the EU have not fully integrated social and environmental concerns into their operations and their basic strategy. Indeed, a small minority of companies are still accused of violating human rights and not complying with basic labour laws. Only 15 of the 27 member states of the EU have national policies to promote CSR” (European Commission, 2011: 6). Therefore, the Commission proposes a new definition of CSR: “the responsibility of companies for their impact on society”. And it establishes a plan of action for the period 2011-2014, which seeks to make companies aware that taking social responsibility seriously is in their own interest, since it allows them, on the one hand, to maximize the creation of shared value, and on the other hand, to prevent and reduce any possible adverse consequences of their actions.

The measures proposed in the plan of action include, on the one hand, commitments from the Commission itself, and on the other hand, suggestions for companies, for the member
states and other stakeholders. Specifically, the plan proposes the following: to improve the visibility of CSR and promote good practice through the creation of multilateral platforms in diverse industrial sectors. To improve the monitoring of confidence in companies, opening the debate on the role and the potential of companies in the 21st century, in order to encourage a common interpretation of expectations. To improve the processes of self-regulation and co-regulation, through the creation of a code of good practice. To improve the rewards that CSR provides for the market –consumption, public contracting, ethical and socially responsible investment. To stimulate the improvement in terms of publishing of information of a social and environmental nature by companies. To integrate CSR in education, training and research. To insist on the importance of national and sub-national policies for CSR. In this sense, it states: “The Commission invites member states to create or update, by the middle of 2012, their own plans or national lists of priority actions to promote CSR to support the Europe 2020 Strategy”. It also insists on the need to improve the harmonization of the European and the worldwide approach to corporate social responsibility, paying greater attention to the internationally recognized principles and guidelines to which we have referred previously; showing the importance of CSR in relations with other countries and regions in the world. And very particularly, applying the UNGPs. In this sense, the Commission expressly invited member states to create “by the end of 2012, national plans for the implementation” of the aforementioned Principles.

In this context, we must also include not only the First Draft of the Spanish Strategy for Corporate Social Responsibility, www.corresponsables.com/download/Primer_BORRADOR_Estrategia_Espanola_RSE.pdf, (Ministry of Employment and Social Security, 2013), but also the Plan for Companies and Human Rights, (www.therightsfactory.es/plan-de-empresa-y-derechos-humanos-gobierno-de-espana/) (Office of Human Rights, Ministry of Foreign Affairs and Cooperation) promoted by the government of Spain and which is currently still being discussed. As a consequence of these initiatives, there have also been some important reports published such as the one published by Intermón-Oxfam in 2013 which was entitled: Spanish companies and human rights. The keys to responsible internationalization (www.oxfamintermon.org/es/documentos/12/06/13/empresa-espanola-derechos-humanos (Intermón-Oxfam, 2013). All of this is naturally in line with the Guiding Principles on Companies and Human Rights (www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_SP.pdf), published by the United Nations (United Nations, 2011) which, as its subtitle states, not only aims to respect Human Rights but also to protect them efficiently; and, where appropriate, to remedy the abuses that may have been committed or are still being committed by companies.

The founding principles that the aforementioned report offers in terms of the responsibility that companies have to face in order to respect Human Rights, make it clear that companies must respect those rights and abstain –from a negative point of view- from infringing them; and from a positive point of view, taking pro-active measures in all of their processes and throughout the complete chain of value. In order to comply with that responsibility, companies must have proper policies and procedures which expressly state their commitment to this question, which will have been approved and accepted at the highest level. However, beyond this political declaration, companies have to act with due diligence when articulating effective mechanisms and practices that allow them to check the risks –
with the help of external experts if these are available -, in order to prevent, to mitigate and, if necessary, to repair the damage caused in terms of Human Rights

Evolution towards a paradigm of companies and CSR for modern times

In the light of what we have said previously, it must be clear that it is both desirable and possible to advance towards a style of management which is more efficient and more sustainable, fairer and more responsible. Indeed, it seems reasonable to think that from this conception of companies and management we are in a position to advance in the construction of a company paradigm which is more appropriate to the times we live in and which creates demands that—as we have seen, articulated in diverse institutional and political initiatives—do not appear to be about to change. As we have stated elsewhere (Andreu-Pinillos & Fernández-Fernández, 2011), this will require an evolution in the concept of CSR. An evolution that goes from the superficial and the most visible—the social action of a company—, to something more profound and strategic, linked to the core business and the basic raison d’être—and the mission—of the company.

Nonetheless, the model of a responsible company that appears to be on the horizon and to which we are gradually heading (Fernández Fernández, 2009) is that of an organization which, obviously, has to be ready to efficiently meet economic-financial objectives, in an ever more complex and turbulent environment which is becoming more dynamic and competitive by the day. A company which is strategically oriented to the search for the generation of value and the creation of wealth from a long term management perspective, and the search for sustainable development. In short, a company that is capable of connecting with new social sensibilities; that knows how to properly manage non-tangible assets which, in all probability, are those which are going to be more and more decisive in terms of obtaining a good corporate reputation which is always desirable as well social legitimization, which is absolutely indispensable. And above all, a company that is aware of the ethical dimension of its business and places at the heart of its activities a clear commitment to respect for Human Rights, which will be shown in many diverse and complementary moral options.

This new company—due to its very complexity and due to the multiple interconnections that it will have to be able to establish and manage in the future—is going to require people with skills, styles of management and leadership and sensibilities which are rather different to those which until now have made up the traditional profile of managers and leaders.

In any case, the general lines and characteristic features of the emerging company model could be summarized by the following elements:

(1) conception of the company with a broader base with which different stakeholders can feel identified, understood and fairly treated;

(2) compliance with the law and the will to go further than legal requirements, accepting that certain basic ethical principles are non-negotiable—the main one being undoubtedly respect, protection and defence of Human Rights—which could be represented or not in minimum legal terms;
strategic and integral vision of CSR;

open, frank and transparent dialog with all relevant interlocutors;

acceptance as a key element to value performance – i.e. the functioning of a company and its management – the highly demanding perspective of Triple Bottom Line, which would inform stakeholders not only about economic results– of annual accounts, financial statements, traditional annual management reports - but also reports on the social achievements and the environmental impact of the company’s performance that year.

the search for sustainable profitability in the long term - rather than exclusively short term strategies;

through attention to good Corporate Governance;

searching for “business citizenship” whose goal is the Common Good;

a solid ethical basis, a moral dimension in the management of the company and the moral obligations which are to be expected from excellent and socially responsible management;

placing human beings at the centre of the conscience of the company, human beings with their inalienable rights which stem from their own dignity.

As can we can see, in the end we are dealing with the ethical connection of a process which, in the search for excellence, will never be totally achieved. There will always be some challenges left in terms of innovation, an open door to utopia, a path towards constant improvement, encouraging true visionaries and real business leaders.

Conclusion: Inalienable rights, non-negotiable duties

There is no doubt that there is still a long way to go if we wish to properly institutionalize the ideas that we have just outlined. Moreover, we should not think that somehow we will become capable over night of carrying out such a profound transformation as the one we have described when explaining the main features of the CSR business model that we would like to see implemented in the future. The challenge is enormous, it is true. Therefore, when we analyze what has been achieved in the field of CSR over the last few years, as we have done in another study (Fernández Fernández, 2009), we can identify some gaps and deficiencies in the results; nevertheless, it is also evident that companies appear to be heading in the right direction, at least in the case of the leading companies and organizations.

Furthermore, we could say that very often there are pragmatic reasons why companies commit themselves to aiming for social responsibility in their management –achieving social legitimacy; creating a good image and reputation- as they are searching for sustainable economic profitability. This is what is called the business case. This means that respecting Human Rights is not only good for people but also good for the company. This line of
argument is very common. We have just come across it when we mentioned the new European strategy on for CSR. Specifically, at the beginning of the document the authors stress that “promoting corporate social responsibility is good for companies … and for society as a whole” (European Commission, 2011: 4).

We should not overlook or disdain this motivation. However, we should say that, apart from certain utilitarian considerations –it is good for the company-, it is possible to base the decision for companies to respect Human Rights on more ethical grounds–it is obligatory from a moral point of view – such as the philosophical acceptance that there are certain inalienable rights – Human Rights – which correspond to certain non-negotiable duties. All of this is based on the metaphysical consideration of the dignity of human beings.

This is not the place to present a history of Human Rights or to describe which mechanism managed to give them a boost after the end of the Second World War –with the Declaration of Paris on the 10th of December 1948. Neither can we explore other more systematic considerations. Therefore, we will conclude this chapter, on the one hand, by referring to the evolution and taxonomy of Human Rights; and, on the other hand, by drawing the attention of readers to an intellectual position upon which they can construct a solid philosophical basis. As for the first of these questions, we can identify three time periods in relation to Human Rights. Firstly, there are what we call First Generation Human Rights i.e. civil and political rights, which stress individual freedom. Then we find Second Generation Human Rights, related to economic, social and cultural questions. And finally, nowadays we are witnessing the emergence of Third Generation Human Rights, by which we mean the rights of peoples or the right of solidarity, which include aspirations such as the right to peace or the right to a healthy environment.

Consequently, what fundamental basis can we give to Human Rights? Because these rights, more than just the positive legislations of countries –legal rights-, have a moral nature that gives them an inalienable and universal nature i.e. every human being, just by being human, possesses these rights no matter what country they belong to. As we have seen previously, the philosophical basis lies in the metaphysical fact –beyond the biological reality of the human being as a type of animal- of the dignity of human beings.

Over the course of history, philosophy has tended to emphasize questions such as self awareness and the freedom of self-determination of the will as outstanding features from a philosophical anthropological point of view. This is precisely where we can find legal responsibility for one’s actions and the correlative responsibility for the acts that one commits i.e. the inevitable moral nature of human beings. As we know, for Kant this moral nature separates and distinguishes us from other living creatures and also confers us with the dignity that raises us above animals, thanks to our spirit, and places us in what he memorably defined as the kingdom of ends.

Let us conclude these considerations with the third formulation of the Categorical Imperative by Kant: “act in such a way that you treat humanity, whether in your own or in that of another, always at the same time as an end and never merely as means” (Kant, 2005: 116).
I honestly think it is not easy to find a stronger proposal upon which to base the call to strive in a co-responsible way—as we said at the beginning of these pages: citizens, public administrations, churches, social organizations and, of course, companies—to achieve respect and protection for Human Rights.

Are we really prepared to respect and demand respect for Human Rights? This is certainly a common task and a formidable challenge for the future…

References


The Adoption of the UNGPs and the Evolution of the Corporate Responsibility Paradigm

(Fernández Fernández, J. L., 2015)