The Limits of Global Corporations as Self-Governors

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Abstract

Global corporations possess substantial structural power over economic as well as political processes. They proactively seek to translate their power into political influence, and thence private authority. They do so in order to increase their material returns. However, their ultimate aim is to discursively enhance perceptions of their legitimacy in order to be seen as serving societal needs rather than being simply motivated by economic imperatives. As discussed in the transformationalist globalisation literature, this puts them in a strong position to claim the right to share the political power they derive from their private authority with the political power states possess as a result of their sovereignty. But where possible, they seek to be self-governors freed from state regulation, rather than as partners with states. This paper focuses on the growth of, and controversies surrounding, the private governance performed by global corporations, which comprises a spectrum of practices and initiatives from informal industry norms to private international regimes. Cross-national qualitative survey data on the public perception of corporations from the World Values Survey, and the 'key attributes' that produce rankings of the world's most admired companies from Fortune are then analysed. The results demonstrate that contrary to their desire to be seen as possessing the discursive legitimacy to self-govern, public perceptions of global corporations' right to do so are weak by comparison to that of governments and non-government organisations. Furthermore, there is evidence that more traditional concerns such as serving shareholders' interests still strategically dominate global corporations' agendas, and that these are what produce the rankings by their peers in the list of those most admired. Therefore, the conclusion reached is that there is not a close relationship between the private interests of global corporations and the public good, and therefore that their claims of acceptance as legitimate self-governors are weak.

Introduction

Multinational corporations (MNCs) derive their political power from their market control as well as their institutional embedding in their home states, and the states in which they invest. The data indicate that their operations are more geographically concentrated than is often held to be the case as well, so that they are more accurately regarded as regional, and sometimes just national, corporations with global interests (e.g. see Rugman 2005, 2007). In fact, the data show that although FDI stocks have grown more than tenfold from just over US$2 to US$26 trillion over 1990 to 2013 (UNCTAD 2014a, 2014b), the majority of both inward and outward FDI stocks are accounted for by a handful of states in North America, Europe, East Asia and Australia. These factors – market control, geographical concentration and institutional embedding - are the source of their private authority, which global corporations have an interest in enhancing. This is because while their lobbying and connections mean they are in a good position to argue their case, and their structural power means they possess the ability to organize things 'in' and 'out' of politics, even so 'structures do not come with an instruction sheet' (Blyth 2003b). The instructions must be written by purposive political actors, and they then become embedded and endure over time as accepted institutional preferences. This involves not just influencing debates, but framing and constructing them around what is appropriate by discursively creating 'truths', and thence claims of political legitimacy.

One could certainly contend, as for instance Marxists do, that the structural power of global corporations puts them in a strong position to get what they desire without asking for it, or to successfully lobby in their interests if they do need to ask. But institutions are not just a function of material wealth and leverage, nor are they just about efficiently delivering outcomes. They are created and supported by discursive power on the part of purposive actors to produce 'rules of thumb', about what is regarded as normatively right. When what is constructed as right changes, so follows the institutions. By implication so does the ease or difficulty of corporations' ability to achieve their desired outcomes. This is the 'game' that global corporations engage in, as they seek to convince governments and their citizens that they have a legitimate right to the authority they possess.[1] They increasingly claim not just that states should govern in their private interests, on the basis that this equates to the national interest and supports society at large, but that they may be relied on to govern in their own right through self-regulation and private governance initiatives. In so doing, they claim that they are social as well economic in their goals.

With such claims in mind, this paper first considers the private authority that global corporations wield, and how they translate it into private governance. They employ their private authority to informally govern in respect of their interests. They may effectively self-regulate in a more formal sense too. Therefore, a spectrum of possible forms of governance is possible from informal industry norms and practices to more formal self-regulation. The latter is illustrated by industry standard-setting bodies, and the case of the International Organisation for Standardisation (ISO) is used to demonstrate the manner in which corporate self-regulation can both rival and compliment traditional state regulation.

This paper then considers the rationales MNCs' private governance initiatives. There are basically two, and they underlie the concept of corporate social responsibility (CSR): strengthening brand value to serve the material interests of shareholders, and preventing unwanted regulatory intervention.[2] The central point made is that while beneficial outcomes for society may result from self-regulation, nevertheless the democratic legitimacy of the outcomes is questionable. This is because for the outcomes to serve both global corporations and the public at large one would have to believe that the interests of the two are usually synonymous, which is highly unlikely.

This produces a conundrum for states and their societies. Given the political power they undoubtedly possess, it is surely desirable that global corporations be socially responsible. However, their actions do not always equate with the pronouncements they make. This may seem an intuitively straightforward observation, and it presents challenges not just for states and their societies. It presents challenges for global corporations themselves. While they seek to discursively construct their legitimacy, and in so doing increase their private authority and political power, they risk losing it if they do not live up to the socially enlightened motivations they profess. Putting it simply, they can lose discursive legitimacy as well as gain it. The third section therefore contrasts public confidence in corporations with the views of global corporations' board members as to what constitutes an 'admired' company. The former's relatively low confidence in corporations by comparison to governments and NGOs, is contrasted with the latter's greater focus on financial performance and material interests. The case of global tax avoidance is used to illustrate the disconnect between their social and material motivations, and the reason why the existence of this disconnect does not just damage global corporations' brand values and community standing. It also opens the way for them to surrender the political initiative to national and international regulators.

The conclusion reached is that in seeking to establish their legitimacy as socially responsible self-regulators, global corporations' seek to maintain and increase their political power. This may serve the public interest. However, primarily the aim of global corporations is not to share the power that flows from their private authority with states, but to challenge and, if possible, replace the power states possess through their sovereignty. The discursive legitimacy they seek to construct should be seen critically in this light.

Private Authority and Private Governance

As the transformationalist wave was building in conceptualizing globalization, a growing literature on private authority in world affairs also emerged. Rather than stressing the inevitability of neoliberalism and global market forces, those contributing to this literature considered the manner in which private actors like global corporations govern via forming relationships with states, societies and each other (e.g. Cutler et al. 1999a; Haufler 2001; Hall and Biersteker 2002a; Cutler 2003; Sell 2003). Just as states reach agreements to share sovereignty for governance beyond their borders, and construct international regimes to achieve the ends they desire (e.g. see Ruggie 1992, 1998), so global corporations share authority to achieve theirs. In so doing, they 'construct a rich variety of institutional arrangements that structure their behavior' (Cutler et al. 1999b, p.333). They institutionalize the basis for self-regulation, and in so doing enhance their political power in relation to states and their societies. Cutler (2002, pp.28-29) identifies six ways in which they potentially do this, covering a spectrum from informal authority that results in influence, to more formal forms of authority that may be translated into private governance.

Informal Industry Norms and Practices

As a result of tacit understandings and repeated practices within and between firms, corporations promote informal industry norms and practices. As these norms and practices become regularized they often become formalized. For example, most of the British commercial code was initially developed by merchants who desired standards and rules by which to conduct commerce (Haufler 2006). Similarly, European laws surrounding marine industry insurance were originally the standards and codes of practice the industry had adopted for itself (Porter 1993; Haufler 1997). But given the market concentration that characterizes the operations of global corporations, it is also important to stress those informal norms and practices that arise as a result of their global market dominance not just within, but between states. These are not mandated by regulations, nor necessarily reflected in particular states' laws, but global corporations are in a position to standardize goods and services to the extent that over time such standardization comes to have the force of authority.

An emblematic example is Microsoft's operating system which runs on 80 to 90 percent of desktop personal computers worldwide (Statista 2016; see also Haufler 2006, p.91). In addition, there is overwhelming familiarity with its suite of programs, particularly those bundled in *Office*, which is regarded as practically essential on all computers. This gives Microsoft private authority in the sense that the use of either its operating system or its programs is taken for granted. There is no official standard that requires this, no agreement between software providers, and certainly no formal laws regulating that it should be the case. Therefore, it may be hard to sustain the argument that Microsoft 'governs' other than in respect of its own operations. However, its market dominance means it possesses the structural power to control consumers' preferences. This control goes beyond simple economic notions of monopolistic market power. It affects the format in which prose is written (i.e. on *Word*), the way in which data is analyzed and the results reported (i.e. with *Excel*), the nature and structure of public presentations (i.e. using *Powerpoint*) and other aspects of everyday communication and information provision. It also shapes the type and format of the products and services offered by other corporations, which take it for granted that the platform it offers for them must inescapably be part of their business plans.

Coordination Services Firms

Coordination service firms exist whose *raison d'etre* is the promotion, sanctioning and regularization of the behavior and practices of other firms. As Amoore (2006) sees it, they engage in concerted efforts to make states in their 'image', with this also the image they promote for other global corporations. As such, they are global corporations that embody and enact the informal industry norms and practices that are accepted by global corporations and industry associations, and in so doing they govern other corporations and the governments of nations. It might even be said that ultimately this means that they regulate the operation of the global economy.

A good example is the function performed by the three major credit rating agencies: Standard and Poor's, Moody's and Fitch Ratings. As with the market and geographical concentration of global corporations generally, these three firms are US-based (in the case of Fitch Ratings dual US-UK based) and are responsible for 95 per cent of all credit ratings issued worldwide (CFR.org staff 2015; US Securities and Exchange Commission 2012). They make what verge on being official pronouncements of the creditworthiness of both corporations and governments. Therefore, they act as 'reputational intermediaries' (Gourevitch and Shinn 2005, p.114). So do professional services firms in accountancy, law and management consulting. Of these, the 'Big Four' (as they are colloquially known) are PwC, Deloitte, KPMG and Ernst and Young. Together they audit 99 percent of the corporations on the FTSE 100 Index, and offer a variety of advisory and business consulting services to the world's largest global corporations – e.g. PwC provides services to 422 of those listed in the Fortune Global 500 (PwC 2016; Christodoulou 2011). As with credit rating agencies, not only do they dominate the global market for their services, but their headquarters are geographically concentrated in the US and Europe, in the latter case primarily the UK. From there, they operate vast networks of firms owned and managed independently, but sharing a common brand and offering standardized services.

In coordinating these networks from the headquarters in the US and UK, they do not neutrally or simply technically ensure accounting best practice, nor operate from a global perspective about the economy, so much as they promote accounting and financial management standards that are specifically compatible with the Anglo-Saxon (i.e. liberal market economy, or 'LME') form of capitalism (e.g. see Nölke 2010b). While they operate according to the laws in the countries where they offer their services, nevertheless their networks are not vehicles for promoting alternatives forms of corporate order, such as those which characterize Islamic finance or East Asian state-coordinated forms of capitalism. As they justify global corporations' actions and interests 'in an ideological debate about how the corporate system enhances public benefits and the public interest' (Wilks 2013, p.79), the function they serve is not just quasi-regulatory. They are agents of constructing and enhancing the legitimacy and discursive power of global corporations worldwide in a liberal institutional context.

<u>Production Alliances and Subcontractor Relationships</u>

Global corporations, individually and collectively, govern the industrial sectors they control through their production alliances, subcontractor relationships and other complementary activities. They do not just exist as unitary entities, but as networks of operations which they coordinate and control. For example, while the production of computer components could be seen as globally fragmented between many states, it is also controlled by global corporations that oversee the assembly and sale of the final product. These are not so much manufacturers in their own right as they are coordinators of diverse networks of manufacturing, sales and distribution processes (Ernst 2004). Indeed, all global corporations sit atop extensive global supply chains. For example, Nike employs more than 800,000 workers in a global network of 600 factories. It does not own *any* of these, but strategically controls them as a matter of corporate policy from its corporate headquarters in the US, which is also where it conducts its research and development (Dicken 2015, p.160).

The nature of global corporations' networks vary. They may be hierarchical (through vertical integration within a firm with governance of subsidiaries and affiliates based on the headquarters' managerial control); captive (via engagement of small suppliers that are dependent on larger buyers); relational (resulting from complex interactions between buyers and sellers creating mutual dependence); modular (production to a customer's specifications); or market-based (through repeated transactions between parties) (Dicken 2015). Whatever organizational form they take, however they are controlled or coordinated, and whether they are more nationally, regionally or globally focused, are strategic decisions made by global corporations in addition to the nature of the goods and services they provide. Whether their production networks are stable or dynamic are also decisions over which they have discretion. This puts them in a position of power to extract the most favorable conditions from their workforces, such as demanding flexible labor arrangements with less unionization, and higher rates of part-time and temporary contractual work not just in one state, but across the states and regions in which they operate (e.g. see Kalleberg 2009).

They are in a particularly strong position to negotiate with governments to exercise leverage over the economic benefits of their investment choices when first deciding whether or not to invest in a country (Bakir 2015). In the international business literature, this gives rise to what is known as the 'obsolescing bargain model' (e.g. see Eden et al. 2005; Ramamurti 2001; originally Vernon 1971), named as such because a state is in a weaker position to extract demands from a global corporation before it has made the decision to invest in its territory, than once it has decided to do so and its operations are relatively less mobile. As such, its power to dictate the terms of bargaining with the state obsolesce once it has made the decision to invest. But it is not just economic threats and rewards that global corporations potentially offer as a result of their structural and instrumental-relational power. Discursively, with the growth of debates around CSR, they have moved to develop codes of conduct to govern their supply chains that enforce standards and practices in areas beyond production systems (e.g. see Ougaard 2006). In other words, they are not just governing their supply chains and global networks in an operational but in a qualitative sense. The motivations for this are discussed further below.

<u>Cartels</u>

Cartels involve agreements between corporations to control production (e.g. by limiting output), segment markets, fix prices or control technologies. Such behavior was widespread before World War Two but because it is collusive, and by implication anti-competitive, it has since been regarded as undesirable. Therefore, most states now have regulations prohibiting cartels (Porter 1999). However, as corporations have become more global in their operations employing these regulations is not as straightforward as it once was. States now must attempt to make use of their anti-cartel regulations to corporations whose operations cross their borders.

The problematic nature of this is illustrated by the case of Visa and Mastercard. Collectively owned by the banks, they control the vast majority of payments for retail transactions globally, but were prosecuted under US anti-trust legislation. They were charged with using their market dominance and control of the technology and systems for retail payments to fix interchange fees (i.e. the fee paid between banks for transactions using credit cards) at artificially high rates. Visa and Mastercard attempted to settle the case in 2012 by paying retailers over US$6.05 billion in compensation as well as a US$1.2 billion temporary reduction in fees. However, this record settlement was appealed and in 2016 overturned by the US Court of Appeals on the basis of being 'unreasonable and inadequate'. Having commenced in 2005, the dispute remains unresolved (Sidel 2016; Abrams 2016; see also Levitin 2007). If Visa and Mastercard control interchange fees in other states, and if they do so in a similar manner to that alleged in the US, it potentially remains an unresolved issue in multiple jurisdictions. The debate rages on as to the nature of the problem, as well as whether it is a problem, with differing approaches to it taken in different states – e.g. in the case of the EU, interchange fees have been capped under Regulation EU 2015/751 of the European Parliament (Official Journal of the European Union 2015).

It is not just a matter of the wheels of justice turning slowly, and inter-jurisdictionally, but the hidden extensity of cartel-like arrangements. If the reality is global markets characterized by control rather than competition, it is surely natural for global corporations to tend to collude rather than compete for outcomes in their mutual interest. Preventing them from doing so is often only achieved with the help of the those involved. For example, in 2011 the US corporations Procter and Gamble and Unilever were found guilty of fixing the price of laundry powder detergents in eight European countries over 2002-2005. Under EU anti-trust regulations they were ordered to pay fines of €315.2 million in 2011 (Tait and Wilson 2011). The reason why Procter and Gamble and Unilever were fined, and the amount they paid, had at least as much to do with a breakdown of the cartel arrangement as good policing by regulators. In 2008 the German company Henkel, which had been part of the cartel, reported the arrangements in order to secure immunity from fines. Ultimately, the case was prosecuted over 2008-2011 on the basis of the other corporations' cooperation and admissions of guilt. Both were given a 10 per cent reduction in fines imposed for agreeing to settle the case with the European Commission, in addition to prior 50 percent (Procter and Gamble) and 25 percent (Unilever) reductions for agreeing to cooperate in the investigation (European Commission 2011; Corfield 2013).

The case illustrates that limiting the anti-competitive behavior that characterizes cartels may require the cooperation of the very corporations that have the incentive and ability to create them. This is probably why the advice of law firm Clayton Utz to corporations is to be 'first in' (like Henkel) to inform on the operations of other firms if a cartel is suspected, and to be as cooperative as possible with regulators if another cartel member informs first (like Procter and Gamble and Unilever) (Corrigan and Modrak 2010, p.17). Their advice is contained in a compendium of advice from 42 law firms on *Cartel Regulation: Getting the Fine Down in 42 Jurisdictions Worldwide*. The implication of the publication's title, as with the advice from law firms contained therein, is that minimizing penalties when cartels are discovered should be corporations' aim rather than avoiding cartel arrangements in the first place.

<u>Industry Associations</u>

Industry associations coordinate and formally represent the interests of their members, many of which also govern their members' activities. Increasingly, the most important ones operate globally, like the corporations whose interests they represent. They wield their political power in all dimensions (i.e. geographically as well as conceptually) and as such may be seen as the precursors to private international regimes. Some embody aspects of these as well.

The International Chamber of Commerce (ICC), as one of the most established examples, illustrates the point. Since its foundation in 1919 'to represent business everywhere' (ICC 2016a), it has been 'a steadfast rallying point for those who believe…that strengthening commercial ties among nations is not only good for business but good for global living standards and good for peace' (ICC 2016b). As such, it exists to promote not just its members' interests, but to discursively construct these as synonymous with the interests of states and global society. Its governing body, the World Council, 'is the equivalent of the general assembly of a major intergovernmental organization. In this case however, the delegates are business executives and not government officials' (ICC 2016c). Beyond being a 'rallying point' for global corporations, it exists to work with and influence governments and the international organizations to which they belong. In addition, it acts in a similar manner to the WTO's Dispute Settlement Body via the ICC International Court of Arbitration. This resolves business disputes worldwide on the basis that the parties to the Rules of Arbitration choose to follow and be bound its decisions (ICC 2016d). Therefore, the ICC both advocates for and shapes the global agenda for business, and is also a governing body in its own right that makes decisions imposed on its members.

The ICC is explicitly economically oriented, but increasingly there are many global industry associations that are focused on issues beyond those normally associated with business interests. Noticeable among these are those promoting and coordinating CSR initiatives, particularly environmental sustainability. The World Business Council for Sustainable Development (WBCSD) is a good example. Founded in 1995 as a CEO-led organization, its membership comprises the world's most powerful global corporations, as well as a global network of over 65 national and regional business councils involving thousands of business leaders (WBCSD 2016). Since its inception, its central aim has been to 'participate in policy development to create a framework that allows conditions for business to make an effective contribution to sustainable human progress' (WBCSD 2002, p.13). It aims to set the global agenda for corporate environmental sustainability, being the global voice of industry in international organizations such as the United Nations and World Bank, and participating in multilateral negotiations such as those of the United Nations Framework Convention on Climate Change that produce rules for the world (WBCSD 2016). In so doing, it links environmental sustainability with traditional business goals to frame solving environmental problems in economic terms, as opposed to addressing social or scientific imperatives. Ultimately, Kolleck (2013, pp.142-143) sees it as explicitly pursuing 'a strategy of increasing discursive power' so that in representing its members' interests it may 'talk and act like a *Praeceptor Mundi* (global teacher)'.

<u>Private International Regimes</u>

Private international regimes are the highest form of private governance arising from private authority. Defined as 'an integrated complex of formal and informal institutions that (are) a source of governance for an economic issue area as a whole' (Cutler et al. 1999c, p.13), they represent the most formal arrangements by which global corporations translate their authority into governance. They are the potential governance endpoint to which private authority may give rise.

Standard-setting organizations are the most notable among these, such as the International Accounting Standards Board. Comprised of 143 industry bodies from 104 countries, it develops and promotes globally accepted accounting standards (Camfferman and Zeff 2007, p.496). In the process, it basically functions like a state regulator. Others standards bodies do as well, but in most cases it is more accurate to say that they serve this function *with* governments rather than instead of them. For example, the Internet Corporation for Assigned Names and Numbers (ICANN) was established by the US to privatize the management and assignment of internet names and addresses, yet with the US Government still having oversight responsibilities, and a Governmental Advisory Committee drawn from 111 states (Weil 1998; ICANN 2016; ICANN GAC 2016). Standard-setting organizations like these focus on particular industries, technologies and issues, but beyond these the ISO is as comprehensive in its coverage as it is global. In ensuring standards which are universally applied across all manufacturing industries, it also facilitates global trade and investment and therefore plays a central role in the formal economic organization of a globalized world. As such, it is worth discussing in more depth.

Individual corporations cannot be members of the ISO, but the 163 national standards associations to which they and their industry associations belong are (ISO 2016a). For example, the US is represented by the American National Standards Institute which represents the interests of 125,000 companies. Its membership is comprised of a broad range of businesses and industry associations, as well as standard-setting and conformity assessment bodies, trade associations, labor unions, professional societies, consumer groups, academia, and government organizations (ISO 2016b). It is funded through the 'sale' of its standards to its member national associations, which in turn charge a fee to the firms complying with them. Once a standard becomes globally dominant, there is little incentive for firms to adopt alternative standards, effectively ensuring rival standards and standard-setting organizations are financially penalized, and therefore in a weaker position. Given the composition of the ISO's membership, the result is a quasi-public or public-private international regime.

As there are national and regional aspects to the dissemination of the ISO's standards via its membership, so too are there political implications of this in its operations and whose interests it represents. Büthe and Mattli (2011) demonstrate that over time the EU has effectively taken the lead in international standard-setting. Their award-winning study[3] shows the reason why this is the case by employing institutional complementarity theory – i.e. the extent to which domestic and international institutions confer a strategic advantage on the stakeholders 'by amplifying their voices in the international standardization process' (Büthe and Mattli 2011, p.49). They demonstrate that there is greater institutional complementarity between European standard-setting and the ISO than is the case for the US. In what would seem to be a reflection of the different varieties of capitalism exhibited by European states versus the US, the US is characterized by competition and overlap between standard-setting bodies while the EU system is more hierarchical and highly coordinated. They find that the latter is more suited to a globally economically integrated world.[4]

The national and regional aspects of standard-setting reflect a history of differing nationally-specific standards being used as a means of protecting national industries. This is because even when states do not explicitly use standards as non-tariff barriers, differing product standards can increase the cost of foreign goods equal to a tariff rate of 2-10 percent (Chen et al 2006).With the emergence of the ISO, states embraced the opportunity to employ such measures extra-territorially to not just impose the standards that protect their corporations at home, but to project them beyond their borders. Therefore, international standards have come to not just act as 'a lubricant for global trade' (Heires 2008, p.357) on either the basis of market forces or scientific/technical expertise. They have become extensions of the power of economically-dominant states. While either the US or EU system may have served their respective territorial jurisdictions well in the past, global corporations based in the EU are in a position to ‘possess better information about international standardization initiatives and pursue their interests more effectively’ (Büthe and Mattli 2011, p.160). This may change as global economic power shifts. Negotiations in the ISO’s technical committee responsible for bicycle production standards illustrates the point. All ISO members agreed on the standard with the exception of those from China and India. As their corporations are responsible for 90 percent of global bicycle production, to pass it without their support would have meant it was ‘predestined to fail, for it would undermine organizational authority and legitimacy’ (Koppell 2010, p.225). The result was that the standard was sent back for review.

If national standards bodies work with their global corporations and governments to effect favorable ISO standards, and these ‘become de facto requirements for doing business around the world’ (Haufler 2000, p.128), then they become a way of ensuring some states’ standards are globally imposed on others. As a reflection of the institutional entanglement of powerful governments and global corporations, the result is the entrenchment and potential enhancement of the political power of both. Global corporations, with the backing of their states, are in a position to require ‘their partners and subcontractors along supply chains to be certified to ISO standards’ with compliance ‘a condition for access to global markets’ (Heires 2008, p.358). In addition to regulatory competition between industrialized states expressed through the standards adhered to by their global corporations, the implication is that weaker developing states are reduced to being ‘regulation takers rather than regulation makers’ because they and their corporations have fewer resources and weaker national member organizations (Louis and Ruwet 2016, p.8). Another implication is the exclusion of civil society as all states’ citizens have less say in the standards imposed through the ISO and its dominant national standards association members.

On the other hand, the ISO is increasing the scope of activities beyond technical production standards, to standards in management (ISO9000 series), the environment (ISO14000 series) and social responsibility (ISO26000 series). These make global corporations responsible for a wider range of issues beyond adhering to technical specifications, and their development has been driven by global corporations seeking to reduce the potential proliferation of multiple national standards in these areas (Clapp 1998). As the scope of the standards increases, and at the behest of global corporations themselves, this may address the question of developing states and civil society being comparatively ‘voiceless’. The privatization and globalization in governance this produces may mean global corporations willingly become agents of the changes necessary to address their collective concerns. The extent to which their willingness produces beneficial results depends not just on the standards themselves, but on their rationale for self-regulation.

The Rationale for Self-Regulation

The examples presented above demonstrate how private authority may be translated into private governance. The two are mutually reinforcing: the greater the private authority, the greater the potential for private governance, which in turn enhances private authority. Over time, this feedback loop produces an acceptance that self-regulation ‘represents an increasingly viable alternative to the market and the state’ (Porter and Ronit 2006, p.41). It is not the purpose of this book to delve deeply into the mechanisms of public, private and multi-stakeholder governance. Other studies do a fine job of this, such as Bell and Hindmoor (2009) who stress the enduring centrality of the state, and Cashore (2002) and Cashore et al. (2004) who examine the increasing role played by non-state actors (see also Mikler 2008; O'Callaghan and Vivoda 2013). Here the focus is on the political power that lies behind the governance of which global corporations are capable and their motivations for engaging in it. In other words, how global corporations discursively construct their legitimacy to be perceived as effective self-regulators, and whether this stands to reason in the light of the rationale they would have to do so. This raises the question of whose interests global corporations serve. It seems overly optimistic to think the answer to this is the global public interest. There are two reasons for this, neither of which are pejorative so much as they simply stand to reason.

First, a global corporation that prioritizes broader social concerns like environmental sustainability over financial performance puts itself at risk. Unless a business case can be found for, or at least reconciled with such a focus, by definition it must be choosing lower profitability. The risks are fairly obvious for publicly listed global corporations whose shareholders' interests must be served by law, and not just in the states where they are based but wherever they operate. As they are legally obliged to act in their shareholders' interests, publicly listed global corporations which prioritize issues that reduce or risk shareholder returns put not just their profitability but existence at risk. They may face legal action for abrogating their responsibility to maximize profits and dividends,[5] and ultimately open themselves to hostile takeover bids as their share price falls. Before this happens, they may be starved of capital as investors become less enthusiastic about their prospects. Such risks are most acute for LME-based corporations which are not just predominantly reliant on equity rather than debt finance, but on short-term portfolio rather than stable institutional investors (e.g. see Lazonick and O'Sullivan 2004; Culpepper 2011; and in respect of environmental considerations Mikler and Harrison 2013). But in general, it might be regarded as impossible for the interest of society at large to be served by publicly listed corporations at *any* level, whether this be national, regional or global, unless shareholder or consumer activism leads to demands they focus on measures of performance other than, and in preference to, financial returns. Consumers must demand higher priced goods and services, and shareholders riskier or lower returns, because the result is better social and environmental outcomes.

Secondly, even if global corporations do respond to social concerns arising from their operations, those expressed by their consumers are likely to count most. Sadly, there is little evidence that their concerns produce the impacts on firms' financial performance necessary to sting them into action. The well documented exploitative practices in Apple's global supply chain are a case in point. The scandals over recent years surrounding employment conditions in Chinese factories manufacturing its products have received the greatest publicity, particularly those of Foxconn Technology which manufactures its iPhones. Its employees were reported to be living in cramped, unhygienic dormitories, and suffering from sleep deprivation as a result of working up to 100 hours per month in overtime for very low pay (Tam 2010; Adams 2012). Several employees have committed suicide, allegedly because of these appalling conditions. In 2010, 13 workers died from 17 attempts between January and November, after which the company installed safety nets at some of its dormitories to prevent more deaths. The bad publicity resulted in 'ritual burnings' of pictures of iPhones in Hong Kong demonstrations, and a university study of the abusive practices endured by workers at 12 Foxconn factories that characterized them as ‘labor camps’ (Myers 2013, p.11). Apple’s CEO Tim Cook visited China in person in the aftermath of the allegations, independent observers were admitted to the factories, audits conducted, and demands made by Apple that working conditions be improved in light of its own investigations (Schmidpeter and Stehr 2015). Even so, as Adams (2012) noted at the time, ‘Apple is such a hugely popular company and the buzz around the new iPhone is so great, reports of continued worker abuse will not dampen the public’s enthusiasm for Apple products or affect the company stock price’. Far from suffering negative impacts, the data show that in the years following revelations of the suicides Apple was the world’s most profitable mobile phone manufacturer (Myers 2013, p.3). Five years later in 2015, more allegations of exploitative practices emerged five years later in 2015, including other Chinese manufacturers of its products employing workers on the basis of ‘bonded servitude’ by forcing them to surrender ID cards and forfeit a month’s wages in return for employment. Such problems reported in Apple’s *2015 Progress Report* were defended by its Chief Operating Officer, Jeff Williams, as evidence that the company’s processes were working rather than failing (Anon 2015). Presumably Apple hopes the general public agrees.

The exploitation of workers in Apple’s global supply chain is not an isolated example of the negative social and environmental impacts of global corporations. Vogel (2010, p.478) points out that campaigns aimed at US and European firms such as Nike, Home Depot, Shell, Ikea, C&A, Gap, Tiffany and Co, Nestlé, Starbucks, Hennes & Mauritz, Rio Tinto, Freeport Mining and Citibank, have made them ‘public symbols of “corporate irresponsibility”’. Nevertheless, Apple’s response to the allegations – condemnation by its CEO, ongoing reporting and the concern it expresses for allegations as opposed to dismissing them – demonstrates that global corporations are motivated to ensure their reputations are not tarnished by their actions. As Dauvergne (2016) shows, they can and do respond to campaigns by wealthy consumers and shareholders whose social activism has resulted in real changes in global corporations’ supply chains and the products they produce, such as more fuel efficient automobiles and less wasteful packaging. They hardly welcome negative publicity, and there are many examples of them responding to reputational threats.

For example, O’Callghan (2016) analyzes Royal Dutch Shell’s ‘ethical transformation’ from an oil company with a reputation for wreaking social and environmental damage to one that embraces responsible business practices. He identifies 1995 as the company’s *anus horibilis*, and its turning point. Among other scandals in the same year, Shell was attacked for its plans to tow and sink its Brent Spar oil storage facility in the North Sea.[6] This was a huge structure, moored to the sea bed by six anchors, 137 meters tall, weighing 14,500 tones and with a storage capacity for 300,000 barrels of oil (Royal Dutch Shell 2008, p.40). O’Callaghan (2016, p.109) characterizes the ire it attracted from NGOs like Greenpeace, politicians and the public at large as ‘like a runaway train’. The result was the following statement released by the company on 20 June 1995:

> Shell UK aborted the operation because the Shell position as a major European enterprise has become untenable. The Spar had gained a symbolic significance out of all proportion to its environmental impact. In consequence, Shell companies were faced with increasingly intense public criticism, mostly in Continental Northern Europe. Many politicians and ministers were openly hostile and several called for consumer boycotts. There was violence against Shell service stations, accompanied by threats to Shell staff (O’Rourke and Collins 2008, p.95).

Ultimately, Brent Spar was recycled as a ferry terminal in Norway, but the impact on the company's reputation haunted it for a decade afterwards. This is despite it being a founding member of the WBCSD, and accepting international agreements on human rights and greenhouse gas emission reductions to combat climate change. It is also despite it increasing the transparency of its operations, including releasing detailed environmental and social performance data which indicate that the negative impacts of its operations have been greatly reduced – e.g. a two thirds drop in employee and contractor fatalities, a reduction in the need for armed security personnel, and improvements in waste emissions.

The case of Shell's Brent Spar platform therefore illustrates the point that possessing a good reputation is more desirable than the time-consuming advocacy and lobbying necessary for it to be continually asserted. No doubt Apple feels the same way. If global corporations' interests are seen as synonymous with the public good, then they are in a much more politically powerful position. To be clear, this is not an argument about whether or not global corporations are moral, although their actions may be assessed for the extent to which the outcomes they produce are. It is about them acting to maintain and enhance their private authority via increasing perceptions of their legitimacy. It is about them maintaining their discursive power, rather than surrendering their right to set the agenda. These are the motivations behind the global embrace of CSR programs, which emerged in the 1990s. There is still no clear definition of CSR, and from a democratic, as opposed to discursive, legitimacy perspective the *raison d'etre* of global corporations means questions remain as to whether they can and should have social responsibilities in the first place, rather than the elected governments of nations who represent their citizens (Crane 2008, p.4; see also the contributions in Crane et al. 2009). However, if it is accepted that they do, then beyond traditional notions of philanthropy and charity, and beyond a more cynical definition of it as 'crisis scandal response' (Vogel 2010, p.478), CSR suggests an active concern for stakeholders very broadly defined, not just customers and shareholders. It involves a willingness to embrace responsibility for diverse concerns including environmental sustainability, labor standards, human rights, disclosure of information, effective corporate governance, public safety, privacy protection and consumer protection. In other words, to mitigate the negative consequences of *all* business activities on an ongoing basis to prevent, rather than respond to, reputational crises, and in so doing to self-regulate in the public interest.

If the reality lives up to the promise, or if it is at least perceived that it does, CSR programs that enhance corporate reputation may be used as leverage to avoid government regulation. They may also enhance profitability. Margolis and Walsh's (2001) review of the international business literature finds that 68 percent of studies identify a positive correlation between socially responsible firms and profitability, while just 15 percent find a negative correlation. More pragmatically, Vogel (2005, p.17) argues that although 'there is no evidence that behaving more virtuously makes firms more profitable…conversely the fact that CSR does not make firms *less* profitable means that it is possible for a firm to commit resources to CSR without becoming less competitive'. They may also reduce costs and increase access to human and investment capital. This is essentially the argument of Mark Royal, Senior Principal of Hay Group, the consulting firm which undertakes the surveys and analysis to produce the list of the Fortune Global 500's World's Most Admired Companies:

> We know the reputation of a company has an impact on the ability of the company to attract and retain talent. People are anxious to get in the door and take advantage of the opportunity that a successful company such as a most admired company can provide. They may be even willing to accept lower salary

> offers in terms of base pay than might be available elsewhere. It's a real tangible benefit. There are also real benefits in terms of stock price that come from being a most admired company (Fortune 2015b).

The desire of top graduates to work for socially responsible corporations with good reputations means these corporations do not have to be as proactive in attracting them, and can employ them at a discount and retain them, while satisfying the interests of shareholders.

CSR is also unconstrained by national borders. The enhanced discursive power corporate reputation confers potentially convinces governments and the societies they represent to not just accept but to *promote* self-regulation, and to enable corporations to do so globally. As authors like Zadek (2007) and Kolleck (2013) note, global corporations which embrace CSR may do so because of changing attitudes, investor expectations, and public pressures, but they also seek to proactively shape these. Therefore, the political (as opposed to coordinating or administrative) aim of global corporations in exercising private authority and engaging in private governance is to create widely-held norms that give rise to potentially global institutions. In other words, to globally increase their discursive power to claim to be legitimate self-governors. Rather than a confrontational form of politics in which they overtly seek to serve their material interests, or use their structural power to get what they want, discursive power helps to build a sense of 'partnership', cooperation and coordination for self- or co-regulation among 'stakeholders' (e.g. see Utting, 2002).[7]

This is commensurate with the transformationalist wave in conceptualizing globalization, with its notions not of states being overwhelmed by global corporations, nor corporations merely serving national interests, but of the two sharing power to institutionally embed new forms of governance (e.g. see Elbra 2016). If global corporations can widely disseminate norms of socially responsible business behavior then they are potentially agents of real positive effects, in fact a 'race to the top' rather than to the bottom (Vogel 1995; see also Leonard 1988; Cashore et al. 2004; Vogel 2005). The end result may be that private authority comes to resemble not just 'market authority' but also 'moral authority' (Hall and Biersteker 2002b, p.7). If there is a perceived connection between the two, they gain discursive legitimacy: the right to wield power, reframing themselves not as purely profit-seeking entities but 'corporate citizens' that serve society (Wright and Rwabizambuga 2006). However, if the reality is somewhat different so that there is a perceived disconnect, they may also lose it.

The Promise versus the Reality

To possess power is not authority, because authority requires political actors to be perceived as legitimate by those whom they affect or govern in exercising it. As Hall and Biersteker (2002c, p.204) observe, 'as long as there is consent and social recognition, an actor – even a private actor – can be accorded the rights, the legitimacy, and the responsibilities of an authority'.
Do global corporations possess legitimacy sufficient to exercise their private authority as self-governors? This is a hard question to answer because it is so intangible. 'Levels' of discursive power and the legitimacy it 'produces' are very hard to measure. Yet we know discursive power exists and that it grants political actors legitimacy. For example, Nye (2004a, 2004b) stresses the importance of soft power for states. Soft power is basically another name for discursive power, and states with high levels of it are able to be co-opting and mutually-supporting in creating and shaping institutions, to effectively make rules for the world. They do not need to resort to being coercive or punitive, and therefore avoid using harder structural or instrumental-relational forms

of power, such as economic punishments or payments, or the use of military force. Likewise, through their discursive power as opposed to their structural dominance of their industry sectors or relationships with policy-makers, global corporations seek to promote their interests as synonymous with those of states and their citizens, and operating globally to be granted license to act in the interests of *all* states and their citizens. This is why authors like Elbra (2014, p.247) stress that private governance emerges ‘in the shadow of state power, and before societal audiences’ (Elbra 2014, p.247).

The notion that private authority and the potential for private governance to which it gives rise is regarded as legitimate because it achieves the consent of states and their citizens is related to arguments about state-corporate entanglement. In fact, van Ham (2002, 2008) shows that it is possible to approach state soft power from a corporate perspective. He suggests that because the world’s major corporations aim to enhance their reputations to promote their brands, states realize that this can reflect on, and enhance, their soft power. This is because ‘brands are not only seen as the engines of business, but also of politics’ as they deliver ‘a competitive economic *and* political edge’ (van Ham 2002, p.253). Just as states are proactively concerned with increasing their legitimacy and soft power in global affairs, so are corporations by deriving the legitimacy that flows from institutionalizing their perspectives and interests in others. Therefore, both corporations and states deliberately and proactively work together to ‘deliver a message about their value and values to the widest possible audience’ (van Ham 2002, p.251). They understand that ‘their power is greatest when they can ‘inspire rather than control’ (van Ham 2002, p.255), or as Nye (2004a, p.x) puts it, they know the value of having ‘the ability to get what you want through attraction rather than coercion or payments’. Therefore, while the worlds of corporate public relations and international relations may seem quite separate, there is actually considerable overlap in terms of the language, practices and goals employed by states and corporations in increasing their brand and soft power globally.

The World’s Most Admired Companies

Table 5.1 illustrates the links between these worlds. It presents the top ten states in which the Fortune Global 500 are headquartered, and compares them with the headquarters of the Fortune 500 World’s Most Admired Companies and ranking of states’ with the highest levels of soft power in the Soft Power 30.[8] The top ten states for global corporations’ headquarters, which account for 84 percent of those on the Fortune Global 500 list, are also the top ten states for soft power with the exceptions of China and South Korea. In the case of China, despite it embarking on a ‘soft power blitz’ over the course of the past decade, including establishing a global network of Confucius Institutes and an extensive global portfolio of aid and development projects, it is the lowest ranked state in the Soft Power 30. This is due to the country’s poor record in areas such as human rights and freedom of expression (McClory 2015, pp.27-28). What is most noticeable though is that among the top 50 most admired companies, 40 are based in the US while five of the remaining ten are from the states that dominate both rankings for corporate headquarters and soft power. None are Chinese. Therefore, there seems a strong relationship between national economic power, soft power and company reputation, with the US in a dominant position.

Table 5.1: Global Corporations' Headquarters, World's Most Admired Companies, and Soft Power, 2015

	Fortune Global 500	Fortune 500 Top 50 World's Most Admired Companies	States' Soft Power Index (Rank)
USA	128	40	73.68 (3)
China	98	-	40.85 (30)
Japan	54	1	66.86 (8)
France	31	-	73.64 (4)
UK	29	1	75.61 (1)
Germany	28	2	73.89 (2)
South Korea	17	1	54.32 (20)
Netherlands	13	-	65.21 (10)
Switzerland	12	1	67.52 (7)
Canada	11	-	71.71 (5)

Source: Fortune (2015a), Fortune (2015c), Portland Communications (2015).

Table 5.2 focusses on the reason why corporations are on the Fortune 500 World's Most Admired Companies list. The list is compiled annually by Fortune Magazine and is based on questionnaires provided to corporate representatives (Melo and Garrido-Morgado, 2012). The survey takes place in two rounds. Respondents from 668 firms across 29 countries are first asked to rank their industry peers across the nine attributes, one of which is community responsibility. Secondly, the industry leaders who responded to the first round of industry surveys (4,104 in total in 2015) are asked to select their ten most admired corporations overall. This produces the list of the top 50 most admired. A ranking for each firm is therefore produced on the basis of the nine criteria, as well as an overall ranking for the top 50. What is striking about the top five most admired companies is that *none* of them are ranked in the top five for the criteria of community responsibility. In fact, they do not even rank in the top 10. These firms' rankings are derived mostly from other attributes, particularly management quality; quality of products/services offered; innovativeness; and soundness of financial position. In other words, they are admired for focusing on more traditional financial drivers of success.

This is not to say that these other attributes and community responsibility are mutually exclusive. Many of the corporations ranked in the top ten for community responsibility also ranked highly for them too. Disney in particular stands out, but this is probably because as a corporation synonymous with global family entertainment, community responsibility is central to its business case, as opposed to supporting it. The same may be said of Whole Foods Market, which has 'redefined grocery shopping in the US, becoming a stage for artisanal food companies trying to break into the national market' (Fortune 2015c). Therefore it is not so much a global corporation (although it does also have stores in the UK) as one focused on the promotion of community-based food suppliers 'with an unshakeable commitment to sustainable agriculture' as 'America's Healthiest Grocery Store' (Whole Foods Market 2016).[9] The only other attribute in which it is in the top ten is quality of products/services offered, which surely is linked to its focus on community responsibility. Likewise, NEXTEra Energy is a US 'leading clean energy company' whose focus is 'helping solve (sic) America's energy challenges sustainably and responsibly' (NEXTera Energy 2016). In addition to ranking in the top ten for community responsibility, the only other attribute on which it does is innovativeness. Therefore, many of the companies that ranked highest for community responsibility did so because this attribute is central to their business case rather than supportive of it, or they are more locally/nationally rather than globally focused. It is also noticeable that four of them are not ranked in the top 50 most admired at all, and of the others three are headquartered outside the US – i.e. Nestlé, Unilever and Toyota. In other words, while the US dominates as a headquarters for 40 of the 50 most admired global corporations on the list, this is not the case for those that ranked most highly for community responsibility.

Global Corporate Tax Avoidance

The Fortune 500 World's Most Admired Companies list represents the opinion of business 'insiders' from the world's largest, most well-known firms. As such, it can be criticized for presenting their views rather than those whose judgment actually confers or undermines the reputations corporations seek (e.g. see Brown and Perry 1994; Fryxell and Wang 1994). But what it reveals they think matters most has implications for their companies' strategic motivations. The greater importance they accord attributes other than community responsibility suggests CSR is unlikely to be a primary driver for corporations on issues of major global importance. Global corporate tax avoidance is a salient example. It has become a major issue in recent years as companies like Apple, Google, Amazon and Starbucks, all of which are in the world's top five most admired companies, have faced public criticism for their global corporate taxation structures (e.g. see Callaghan 2015). As they operate across multiple jurisdictions, they have taken advantage of opportunities to reduce or eliminate their taxation obligations by shifting the location where they report their profits.

For example, in 2011 Google shifted 80 percent of its pre-tax profits from international subsidiaries to Bermuda where a corporate tax rate of zero applies to the company (Allard 2014). This, and its use of complex tax maneuvers through Ireland and the Netherlands as tax centers due to their low tax rates, means it pays 2.4 percent tax on its non-US revenues (Johnston 2014). Similarly, Apple has created subsidiaries in countries like Ireland to claim that most of its profits are earned either there or in other jurisdictions. These jurisdictions, in turn, do not regard these profits as taxable. Among the most damning accusations levelled at Apple is that in exploiting the gap between US and Irish tax jurisdictions Apple paid *no* tax on income totaling US$30 billion over 2009-2012 through its Irish subsidiary Apple Operations International, and enjoyed a tax rate of 0.05 percent on income of US$74 billion over the same period through Apple Sales International (US Senate Committee on Homeland Security and Governmental Affairs, 2013; for further analysis see Elbra and Mikler 2016).[10]

Table 5.2: Fortune 500 World's Most Admired Companies' Ranked by Key Attributes, 2015

	Community Responsibility	**Management Quality**	**Quality of Products/ Services Offered**	**Innovativeness**	**Value as a Long-Term Investment**	**Soundness of Financial Position**	**Ability to Attract, Develop and Retain Talent**	**Wise Use of Corporate Assets**	**Effectiveness in Conducting a Global Business**
Most Admired									
1. Apple (US)	-[a]	-	4	1	7	3	5	9	3
2. Google (US)	-	6	5	2	3	1	2	-	5
3. Berkshire Hathaway (US)	-	-	-		10	-	-	-	-
4. Amazon (US)	-	-	3	4	-	-	10	-	-
5. Starbucks (US)	-	9	-	8	-	-	-	-	-
Top Ranking for Community Responsibility									
6. Walt Disney (US)	1	1	2	3	1	5	4	1	1
18. Whole Foods Market (US)	2	-	7	-	-	-	-	-	
33. Nestlé (Switzerland)	3	10	6	-	2	4	7	5	2
36. Unilever (UK/Netherlands)	4	-	-	-	-	-	-	-	-
11. Johnson and Johnson (US)	5	-	-	-	9	-	-	-	-
24. Toyota (Japan)	6	-	-	-	-	-	-	-	8
Deere[c] (US)	7	-	-	-	-	-	-	-	-
22. Wells Fargo (US)	8	3	8	-	-	6	-	2	-
US Bancorp (US)	9	2	-	-	6	7	8	4	-
NEXTEra Energy[bc] (US)	10	-	-	10	-	-	-	-	-
Cisco Systems[b] (US)	10	-	-	-	-	10	-	-	-

Source: Fortune (2015c and 2015d)

[a] '-' signifies that the company was not ranked in the top 10

[b] Tied

[c] Not ranked in the top 50 'most admired'.

The global annual tax revenue losses resulting from such arrangements are estimated at US$240 billion (OECD 2015). Commensurate with their dominance of the global economy, the revenue losses to governments from tax avoidance by US-based global corporations alone is estimated to be around 40-50 percent of the total, at $100 billion (Gravelle 2015). That the problem is so large, and global corporations' tax affairs deliberately structured to create it, suggests they are not practicing the responsibility they preach. Their statements in defence of their actions also reveal they are the result of strategic decisions, rather than a failure of commitment. For example, Google's tax arrangements have been defended by its Chairman, Eric Schmidt, in the following terms:

> I am very proud of the structure that we set up. We did it based on the incentives that the governments offered us to operate…It's called capitalism…We are proudly capitalistic. I'm not confused about this (Womack 2012).

It takes no great leap of logic to conclude that the intention behind global corporations' CSR commitments is to offset negative perceptions arising from a primary focus on financial performance and shareholder value. This is supported by studies such as Davis et al. (2016), who find companies with the most extensive CSR programs are also those with the most aggressive tax minimization activities. They conclude not only that 'the payment of taxes is not viewed as an important socially responsible activity' but also that 'CSR and taxes act as substitutes rather than complements' (Davis et al. 2016, p.65).

<u>Community Attitudes</u>

Kolleck (2013, p.147) notes that 'the discursive power of global companies is…based on legitimacy and acceptance of business-friendly norms and ideas'. In propounding norms associated with CSR and making rules that describe appropriate forms of behavior based on their private authority, they must be seen to abide by them, and if they are seen to fail to do so 'they can be sidelined and their credibility and influence may be diminished'. They may even be seen as essentially psychopathic, lacking in empathy, altruism or morality and instead self-interested entities responsible solely to shareholders which must be controlled for the public good to be served (e.g. Bakan 2005). If global corporations' CSR proclamations are widely and increasingly perceived as little more than 'spin', this weakens their discursive power and their legitimacy to wield private authority. If they publicly celebrate and promote their strategies, as companies like Google appear to have done in avoiding paying tax, they risk a skeptical public that rejects their right to self-govern. In the case of tax avoidance, and maybe others, the political 'space' us opened for national regulation and international agreements to control their behavior to be seen as essential, as opposed to relying on them to do the right thing.

There is evidence that this may be the case. Table 5.3 presents responses for the top 10 states where global corporations are headquartered, plus the BRICs, to the fifth wave of the World Values Survey. Conducted over 2005-2009 in 58 countries with over 80,000 respondents, it gives an indication of comparative attitudes across the states surveyed.[11] Respondents' confidence in 'major companies', 'the government', and 'charitable and humanitarian organizations' (i.e. NGOs) are presented.[12] Based on their responses we may infer the degree global corporations are viewed as legitimate political actors by comparison to the others, and by implication the extent to which their reputation allows them to be seen as socially responsible self-governors. With the exception of Japanese respondents, who have low levels of confidence across all categories, the percentage of respondents in industrialized states with ‘a great deal’ of confidence in major companies is remarkably small, especially be comparison to charitable and humanitarian organizations. On average, respondents from these states are around twice as confident in charitable and humanitarian organizations compared to major companies. In the case of the US, UK and Canada the difference is even greater. These are the Anglo-Saxon LMEs, states where there is an institutional acceptance that there should be more of an arm’s-length relationship between the state and the market, and where liberal ideals of free markets and shareholder value predominate. In the case of the US, it is also where most of the world’s major global corporations are headquartered. The greater confidence in government expressed by survey respondents in the BRICs reflects arguments about the heightened role of the state in their economic emergence. Particularly in the case of China, the state capitalism that characterizes the institutional form of its economic relations seems reflected in the near universal confidence respondents have in their government, including a sizeable minority with a ‘great deal’ of confidence. But whatever the differences, in all cases either the government or NGOs engender greater feelings of trust than major companies, the former more so in the BRICs, the latter more so in industrialized states. This suggests that despite their declarations of embracing CSR, by their practices and the perception of these they face major hurdles in establishing the discursive legitimacy necessary to wield their private authority for private governance.

Table 5.3 Confidence in Major Companies, the Government and Charitable or Humanitarian Organizations

	Major Companies			**The Government**			**Charitable or Humanitarian Organizations**		
	Total Confident (%)	A great deal (%)	Quite a lot (%)	Total Confident (%)	A great deal (%)	Quite a lot (%)	Total Confident (%)	A great deal (%)	Quite a lot (%)
Industrialized									
USA	25.6	1.8	23.8	36.8	4.8	32	61.5	9.9	51.6
Japan	36.2	1.7	34.5	29.1	1.5	27.6	25.8	1.4	24.4
France	38.8	4.9	33.9	28.9	2.7	26.2	65.8	18	47.8
UK	33.1	3.2	29.9	32.4	4.8	27.6	70.2	18.1	52.1
Germany	25.1	1.7	23.4	22.7	1.5	21.2	59.8	10.7	49.1
South Korea	50.2	3.2	47	45.6	2.6	43	71.2	10.9	60.3
Netherlands	30.9	1.2	29.7	26.7	0.8	25.9	46.7	5.2	41.5
Switzerland	38.1	2.6	35.5	65.1	7.4	57.7	64.7	8.4	56.3
Canada	34.8	2.5	32.3	36.7	4.4	32.3	73.4	16.3	57.1
AVERAGE	38.5	2.4	36.1	43.5	3.8	39.7	64	10.2	53.8
BRICs									
Brazil	56.8	9.7	47.1	45.9	9.7	36.2	65.6	20.1	45.5
Russia	30.6	3.3	27.3	42.8	5.9	36.9	48.9	12.8	36.1
India	33.6	14.1	19.5	44	18	26	30.8	14.2	16.6
China	41.3	6.2	35.1	87.6	37.5	50.1	51.3	13.6	37.7
AVERAGE	40.6	8.3	32.3	55.1	17.8	37.3	49.2	15.2	34.0
ALL	37.9	6.8	31.1	45.3	13.3	32	57.9	16.6	41.3

Source: World Values Survey (2015)

Conclusion

Corporations able to operate in multiple jurisdictions are organizationally well suited to making global regulations. The knowledge they have of the markets they control, and their expertise in deploying and using their resources across different territories, potentially puts them in a stronger position than states to do so. They also have the incentive to do so, because in preferring (and possessing) market control over competition, and seeking to define the rules by which markets operate, they can create global norms and institutions conducive to their interests. The result is that the 'exercise of corporate power can shape public policy through its influence on states, but it can also create effects that are quite independent of states, but comparable to public policies in their significance' (Porter and Brown 2013, p.107). As states share sovereignty with each other via agreements in intergovernmental and international organizations to achieve governance outcomes they could not achieve individually, so too global corporations share as well as employ their private authority in satisfying their interests. They potentially govern in their own right as well as in relation to states.

Corporations and states have always shared the power they possess as a result of their authority and sovereignty, and therefore public regulations are often a reflection of state-corporate relations that surround and underpin them. Now this is occurring at a global level, and they are potentially in a position to be seen as self-regulators if states and their societies accept that the practices they adopt are in the in the broader interest, and grant them the right to set agendas, whether these be economic, social or political. The political power they may end up exercising is then not simply a matter of issuing 'commands', or of their conditioning the experience of others as a result of their control or underpinning of economic systems. In other words, it is not just a matter of the first two faces of power. Employing their discursive power lends them the legitimacy to convince states and their societies 'that not acceding to their demands will be immoral, destructive of the economy, or have some other negative consequence' (Porter and Brown 2013, p.99).

However, if global corporations are in a privileged position to make rules beyond the borders of states, and if their self-regulatory efforts are relied on because of this privileged position, we should be concerned about their motivations. As the data tend to indicate that their political power, and their exercise of it via their private authority, is driven by market control given their geographical concentration, it would surely be naive to believe their goals and interests are synonymous with the global public good. What serves global corporations' interests is more likely to serve their shareholders' interests, and perhaps the interests of their consumers, especially in their home states. It is more doubtful that it serves the diversity of interests of the global community, and there are indications that even those surveyed in the powerful states in which they are based are skeptical this is the case. There is anything but an obviously symbiotic relationship between the private interests of global corporations and the public good, and if this is asserted then it is likely motivated by those who benefit from it being believed: their board members and shareholders.

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[1] In actual fact, Gramscians would probably agree with this on the basis that the dominant (i.e. hegemonic) discourses reflect the structural basis for the class relations underpinning capitalism.

[2] Related to these, there is a third incentive for global corporations whose operations must be geographically specific, such as mining companies. For them these two broad incentives are crucial in demonstrating they should be permitted a 'social license to operate' where their facilities are located (Burke 1999; Dashwood 2007).

[3] Their book won the International Studies Association's 2012 Best Book Award.

[4] It may also be noted that the institutional complementarity they analyse between the national and international levels is analogous to the rationale for why the institutions that produce states' varieties of capitalism give rise to categories, rather than individual cases, at the national level – i.e. they likewise serve stakeholders' interests.

[5] Strictly speaking, it is not the case that the law in all states requires this. Even so, publicly listed corporations are legally required to act in their shareholders' interests, and their interests are often taken as being served by profitability and paying dividends.

[6] In the same year Shell was also implicated in the execution of a Nigerian activist and eight of his colleagues, known as 'the Ogoni Nine'.

[7] He discusses the manner in which a normative shift towards ecological modernisation as a dominant discourse in environmental politics has occurred, with this led by corporations that stressed their embrace of environmental concern rather than using instrumental-relational and structural power to oppose regulation.

[8] The Fortune 500 World's Most Admired Companies ranks corporations on the basis of management quality; quality of products/services offered; innovativeness; value as a long-term investment; soundness of financial position; ability to attract, develop and retain talent; community responsibility; wise use of corporate assets; and effectiveness in conducting a global business (Fortune 2015c). The Soft Power 30 ranks states on the basis of their political institutions; extent of their cultural appeal; strength of their diplomatic network; global reputation of their higher education system; attractiveness of their economic model; and digital engagement with the world (McClory 2015, p.46).

[9] The same may be said of US Bancorp which Fortune categorizes as a 'superregional' US bank rather than a 'megabank' (Fortune 2015c).

[10] In essence, Apple's subsidiaries collect dividends from most of Apple's offshore affiliates and pay little to no tax on these. In fact, they would seem to exist primarily for this purpose. Apple Operations International receives dividends from Apple's offshore affiliates but has no employees and no physical presence. Apple Sales International contracts manufacturers in China to make Apple products which it then sells to Apple Distribution International. It then pays as little as 2 percent tax on its profits having negotiated this special rate with the Irish government (Anon, 2013).

[11] Like any global survey there are also limitations, such as differing interpretations of the same question depending on social and cultural factors, whether or not the sample may be said to be representative of national values, and the context and timing surrounding the questions asked.

[12] The question they answered is: 'I am going to name a number of organizations. For each one, could you tell me how much confidence you have in them: is it a great deal of confidence, quite a lot of confidence, not very much confidence or none at all?'